TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:110-1, Table of Contents; 110-1-5 through 110-1-6; 110-1-8.1; 110-1-8.3 through 110-1-9; 110-1-9.2 through 110-1-9.3; 110-1-10 through 110-1-11; 110-1-13; 110-1-45; 110-1-47 through 110-1-47.2; 110-1-51; 110-1-54.1; 110-3-7.1; 110-3-85; 110-3-146 through 110-3-147; 110-3-150 through 110-3-154.3; 110-3-154.5; 110-3-157; 110-3-163 through 110-3-165.1; and 110-3-166 through 110-3-169.

EXPLANATION: Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.

The proposed revisions amend the rules for licensing requirements for residential, children’s shelters, residential treatment and secure care facilities. Those revisions relating to background investigations and liability insurance are reflective of changes in state statute during the 2008 legislative session. Other revisions include requirements increasing the health and safety of programs and residents as it relates to qualifications of staff, health and safety practices, fire safety, supervision of residents, use of restraints and administrative policies of licensed facilities. Other OKDHS policy revisions reflect clarification of procedure within division policy which will assist in consistent policy interpretation.

OAC 340:110-1-5 is amended to reflect clarification of division practice and procedure with regard to in-home caregiving.

OAC 340:110-1-6 is amended to reflect clarification of division practice and procedure when facilities are given permission to operate.

OAC 340:110-1-8.1 is amended to reflect clarification of division practice and procedure with regard to background investigations and waivers.

OAC 340:110-1-8.3 is amended to reflect clarification of training hours, professional organizations, and other division practice and procedure.
OAC 340:110-1-9 is amended to reflect clarification of division practice and procedure regarding changes in director, primary caregiver and ownership. Revisions also clarify procedures with inactive facilities.

OAC 340:110-1-9.2 is amended to reflect clarification of division practice and procedure regarding the preparation of the summary of facts for complaint investigations.

OAC 340:110-1-9.3 is amended to reflect clarification of division practice and procedure regarding return monitoring visits for non-compliant facilities.

OAC 340:110-1-10 is amended to reflect clarification of division practice and procedure.

OAC 340:110-1-11 is amended to reflect clarification of division practice and procedure.

OAC 340:110-1-13 is amended to reflect clarification of division practice and procedure regarding unlicensed facilities.

OAC 340:110-1-45 is amended to reflect clarification of division practice and procedure when facilities are given permission to operate.

OAC 340:110-1-47 is amended to reflect clarification of division practice and procedure regarding the number of required monitoring visits and changes of ownership.

OAC 340:110-1-47.1 is amended to reflect clarification of division practice and procedure regarding the preparation of the summary of facts for complaint investigations.

OAC 340:110-1-47.2 is amended to reflect clarification of division practice and procedure regarding return monitoring visits for non-compliant facilities.

OAC 340:110-1-51 is amended to reflect clarification of division practice and procedure with regard to background investigations and waivers.

OAC 340:110-1-54.1 is amended to reflect clarification of division practice and procedure regarding unlicensed facilities.

OAC 340:110-3-7.1 and 340:110-3-85 are amended to reflect
clarifications regarding background investigations.

OAC 340:110-3-146 is amended to reflect new definitions used within the residential requirements.

OAC 340:110-3-147 is amended to reflect necessary approvals from OKDHS prior to residents being accepted into care.

OAC 340:110-3-150 is amended to reflect clarification of denial or revocation procedures.

OAC 340:110-3-151 is amended to reflect correction of citation of statute.

OAC 340:110-3-152 is amended to: (1) reflect revisions to administrative policy; (2) notification to licensing; (3) clarifications of reporting obligation of child abuse; and (4) neglect of residential child care facilities.

OAC 340:110-3-153 is amended to reflect mandated legislative changes regarding minimum liability insurance coverage.

OAC 340:110-3-153.1 is amended to: (1) reflect revisions to qualification of executive director and program director; (2) revisions to legislative changes regarding criminal background investigations; and (3) staff orientation and training.

OAC 340:110-3-153.2 is amended to reflect revisions to clarify supervision of residents.

OAC 340:110-3-154 is amended to reflect revisions to admission policies.

OAC 340:110-3-154.1 is amended to reflect revisions: (1) regarding the movement of some health and safety requirements to a new section; and (2) training for staff in programs caring for children birth to five years of age.

OAC 340:110-3-154.2 is amended to reflect revisions with behavior management regarding physical restraint.

OAC 340:110-3-154.3 is amended to reflect revisions for disposing of medication.

OAC 340:110-3-154.5 is amended to correct specific citation language.
OAC 340:110-3-157 is amended to reflect revisions regarding the safety of house parent quarters in facilities and clarify language of requirements.

OAC 340:110-3-163 is amended to reflect revisions regarding prohibited types of fencing, and clarification regarding lighting and windows.

OAC 340:110-3-164 is amended to reflect revisions regarding food service, food protection, communicable disease reporting, and sanitation of equipment and utensils.

OAC 340:110-3-165 is amended to reflect revisions to general fire safety.

OAC 340:110-3-165.1 is a new section created to reflect revisions regarding emergency preparedness for disaster planning and sleep positioning. Other revisions indicate the movement of requirements which previously existed in other sections.

OAC 340:110-3-166 is amended to reflect revisions for regimented residential programs regarding qualifications of executive director.

OAC 340:110-3-167 is amended to reflect revisions for children’s shelters regarding tuberculosis testing, supervision of residents and admission policies.

OAC 340:110-3-168 is amended to reflect revisions for residential treatment facilities regarding supervision of residents, use of portable pools, seclusion, mechanical and chemical restraints.

OAC 340:110-3-169 is amended to reflect revisions for secure care facilities regarding, seclusion, and mechanical restraint.

Original signed on 5-26-09
Mark Lewis, Director
Oklahoma Child Care Services
Sandra Harrison, Coordinator
Office of Legislative Relations and Policy

WF # 09-04 (NAP)
INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

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340:110-1-5. Inquiries

Revised 7-01-09

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

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

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

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

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

(c) In-home caregiver. Family Support Services approves contracted child care when care is provided in the child’s own home. No license is required for this type of care.

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

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

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

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

(B) summer programs that operate less than eight hours per day;
programs where children are limited from enrolling in multiple sessions because of the type of activity or ages accepted;

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

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

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

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

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

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

INSTRUCTIONS TO STAFF 340:110-1-5

Revised 7-1-08

1. The licensing staff is responsible for being familiar with local ordinances affecting child care facilities so that appropriate referrals can be made.

2. The sheriff's or district attorney's office can usually identify Indian tribal land boundaries.

3. To determine exemptions from the Oklahoma Child Care Facilities Licensing Act, licensing staff refers to Section 403(A)(8) of Title 10 of the Oklahoma Statutes to determine whether the program is "designed or intended for child care."
340:110-1-6. Application process

Revised 7-01-09

(a) Application. The licensing staff provides the appropriate application to persons interested in licensure.  ■ 1

1. If requested, a family child care home application is filed and a license issued to a caregiver and spouse. References are obtained for both persons, and both must demonstrate compliance with requirements. A primary caregiver must be identified.  ■ 2

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

(A) child care center; or

(B) family child care home.

3. Care may be provided in a location other than the caregiver’s primary residence.  ■ 3 and 4

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

(b) Permission to Operate. The facility may be granted permission to operate on application status if the licensing staff determines that an applicant is temporarily unable to comply with all licensing requirements, but the services are needed and the non-compliance does not place children at risk of imminent harm. These situations are staffed with the regional program manager for permission to operate. Permission to operate can not exceed 30 days.  ■ 5

(c) Child care provider contract. The licensing staff advises the child care facility of the opportunity to contract with OKDHS for the care of children whose families receive child care assistance, per OAC 340:40-13-5. The licensing staff documents that a child care contract promotional flyer is provided to the facility with contact information for the county child care liaison.  ■ 6

1. OKDHS may contract with a child care facility in another state when a client residing near the Oklahoma border elects to use an out-of-state facility.
(2) The licensing staff responsible for the county in which the client resides verifies the facility is licensed or registered and in compliance with the Civil Rights Act by contacting the state agency responsible for licensing.

(d) **Reopening a family child care home case.** If a family child care home has been closed for less than one year and had a record of compliance prior to closure, the licensing staff may recommend license issuance after one compliant monitoring visit, utilizing previous references. Background investigations must have been obtained within the last year.

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

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

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

   (A) previously obtained director references may be used; and

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

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

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

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

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

(h) **Withdrawal of application.** If a child care facility applicant wishes to withdraw the application prior to issuance of a license and the licensing staff confirms that no children are in care, the licensing staff may close the case unless negative action is warranted.

**INSTRUCTIONS TO STAFF 340:110-1-6**

Revised 7-01-09

1. (a) The appropriate applications are:

   (1) Form 07LC042E, Request for License - Family Child Care Home and Large Child Care Home; or

   (2) Form 07LC004E, Request for License - Child Care Facility, which is used by centers, part-day children's programs, and school-age programs.

(b) Upon receipt of a complete application, the licensing staff enters available information into the database and obtains a case number. An application is considered complete when the following procedures are met:

   (1) all necessary items of information are complete on the application; and

   (2) all supporting documentation has been provided.

(c) Licensing staff verifies identification for family child care applicants by observing a photo identification. A copy of the photo identification is requested and placed in the public licensing record with any confidential information purged.

(d) For a family child care home applicant operating as a sole proprietor, the license is issued in the caregiver's legal name as it appears on the caregiver's Social Security card as verified by licensing staff.

2. When the license is issued to a caregiver and spouse, it is not required that both caregivers be present in the home and providing care at all times, provided two adults are not needed to meet the required adult-child ratio. If
one or both caregivers are employed outside the home, one caregiver must be present in the home during hours of care.

3. When care is provided in a structure on the same property as the caregiver's residence, an alternative compliance is not required. If any part of the main residence is used for child care, the monitoring visit includes the main residence.

4. If a caregiver wishes to provide care in a location that is not a residential family home, an alternative method of compliance must be requested. If a caregiver wishes to provide care in a residential family home other than the caregiver's permanent residence, an alternative method of compliance is not required, and the procedures in (1) through (7) apply.

   (1) The caregiver provides an application that indicates the location of care and the permanent address of the caregiver.

      (A) Household members who reside at the location of care are listed on the application and all adults are required to sign. The caregiver's spouse who resides at the permanent address is not required to sign the application.

      (B) If the spouse's signature is obtained, a computer check to identify prior involvement with OKDHS is completed.

      (C) If the application is a change of address for an existing license, refer to OAC 340:110-1-9(g).

   (2) Licensing staff documents an explanation of this arrangement on Form 07LC080E, Licensing Services Supplemental Information.

   (3) The caregiver signs an agreement that child care will not be provided at the caregiver's permanent address.

   (4) Documentation of criminal background checks is obtained on all adults who reside in the home where child care is provided and on other adults who have access to children in care on a regular basis.

   (5) Any child 12 years of age or younger who does not live in the home where care is provided is counted in the capacity if the child is present during the hours of child care.
(6) This residence is not approved for child care if it is approved for foster care.

(7) Overnight care is not approved in an alternative residence.

5. A monitoring frequency plan of 12 is entered into the database.

6. The Family Support Services (FSS) county child care liaison provides training to the provider on the claims process and offers a contract to the provider. If there is information regarding a criminal conviction or fiscal mismanagement such as inaccurate reporting to Oklahoma Department of Human Services (OKDHS) or other agencies, a copy of the report is sent to the county FSS child care liaison. Refer to OAC 340:110-1-8.1(g)(3).

7. If the location and the ownership remain the same, the same case number may be used. The record clearly reflects the closure and reopening of the facility.

8. Licensing staff conduct a OKDHS computer check on applicable persons prior to permission to operate being given.

9. The dual approval committee consists of representatives from state office Children and Family Services Division, Field Operations Division, and Oklahoma Child Care Services.
340:110-1-8.1. Background investigations

Revised 7-01-09

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

1. any person making application to establish or operate a child care facility;
2. any persons to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers;
3. others who have unsupervised access to children, such as lab students, Work Experience Program (WEP) workers, contracted staff, volunteers, or custodians;
4. adults, including providers' spouse or adult children, who live in the child care facility; and
5. persons age 18 years or older prior to their residence in the facility.

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

(c) Oklahoma State Courts Network (OSCN). The facility's owner, director, or primary caregiver submits a completed Form 07LC096E, Criminal Background Review, to OCCS licensing records office for completion of OSCN criminal history investigation prior to employment for:

1. any person making application to establish or operate a facility;
2. any persons to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers;
3. adults, including providers' spouse or adult children, who live in the child care facility; and
4. persons age 18 years or older prior to their residence in the facility.
(d) **Exceptions.** OSBI, out of state criminal history, and OSCN investigations are not required for:

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

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

1. When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements.
2. Other cases are reviewed only if concerns exist.

(2) When the provider's medical information is confidential or concerns exist, the licensing staff may request information from the provider by requiring the provider to sign Form 08HI003E, Authorization to Disclose Medical Records.

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

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

1. OSBI; and
2. authorized agency in the previous states of residence if the person has resided in Oklahoma for less than three years.

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

(1) an Emergency Order;

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

(3) an injunction;

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

(5) referral for criminal proceedings.

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

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

(2) Review of submitted information and OSCN search is conducted by OCCS licensing records office and will be returned to the facility by the close of the next OKDHS business day.

(j) Waiver.

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

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

(B) whose sentence has not expired for any of the specified crimes.
(2) The decision to grant a waiver is made by the waiver review committee consisting of three OCCS staff. 9 The decision is based on documentation indicating that the health, safety, and well-being of children will not be endangered and must be approved unanimously by the committee. OCCS State Office notifies the provider of the decision in writing. Licensing staff monitors any additional instructions made to the provider and verifies that the waiver notice is posted in the facility. 10 Criteria considered include the:

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

(B) nature of the offense(s);

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

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

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

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

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

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

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

(J) opinions of community members concerning the person in question documented on Form 07LC090E, Waiver Reference, that includes name, address, and phone number of the individual providing the opinion. 11

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

INSTRUCTIONS TO STAFF 340:110-1-8.1

Revised 7-01-09

1. A report obtained from an Indian tribe, private agency, or Oklahoma Department of Human Services (OKDHS) program such as foster care, is
acceptable only with verification that information was obtained from the Oklahoma State Bureau of Investigation (OSBI) within the last 12 months.

2. Local licensing staff verify compliance with background investigations for these individuals and:

   (1) reviews each criminal history report, including out of state reports, and maintains a copy for the licensing record.

   (2) requests a copy of the disposition from the facility if a report includes a charge without a disposition for an offense listed in licensing requirements;

   (3) advises the owner or director that the person does not meet licensing requirements if a report includes a conviction or disposition that includes a plea of guilty or nolo contendere or a pending charge for an offense listed in licensing requirements. Orders of expungement are staffed with the licensing supervisor; and

   (4) may request a copy of police reports if the report contains information regarding behavior that may endanger children.

3. Criminal history report.

   (1) If a criminal history report cannot be obtained from the previous state of residence due to laws in that state restricting the release of such reports, licensing staff instructs the individual to contact the local law enforcement agency for the previous residence to obtain, at minimum, a local criminal history investigation. The licensing staff documents this information on Form 07LC080E, Licensing Services Supplemental Information.

   (2) If a sex offender registry check is not available from the previous state of residence, this is documented on Form 07LC080E.

4. Oklahoma Child Care Services (OCCS) licensing records office conducts an Oklahoma State Courts Network (OSCN) search. A docket search of OSCN includes Oklahoma Court Information System (OCIS) and non-OCIS counties. The court clerk in non-reporting counties where a person resides or is employed is contacted. Information received from a court clerk is documented on Form 07LC080E, Licensing Services Supplemental Information.
5. The check is conducted by name, date of birth, and Social Security number. Documentation of the findings is filed in the confidential section of the case record. A computer check is not completed on the facility director if the facility director is not the owner of the facility.

6. Information from the Child Welfare case is discussed with the licensing supervisor. If concerns exist, the licensing regional programs manager and statewide licensing coordinator or designee are consulted to assist in developing a course of action.

7. If the provider signs Form 08HI003E, Authorization to Disclose Medical Records, a letter may then be sent to the doctor asking if the provider is able to provide care for the number and ages of children in care and including but not limited to type of medication, length of treatment, hospitalizations, or any behavior that would place children at risk.

8. Form 07LC096E, Criminal Background Review, with submitted documentation including any additional information obtained is returned to the facility. A copy of all information is maintained at OCCS licensing records office. Local licensing staff are responsible for verifying compliance with Form 07LC096E for the most recent staff hired during routine monitoring visits.

9. The members of the committee are the statewide licensing coordinator or designee, an assistant licensing coordinator, and the residential programs manager or designee.

10. Forms 07LC087E, Waiver Notification, 07LC089E, Child Care Waiver Request, and 07LC090E, Waiver Reference, may remain in the public file unless they contain information regarding a minor.

11. If received, the opinions of community members are verified by telephone contact with the individual providing the opinion. For employees or household members, these references are verified by the person requesting the waiver. References on all other waiver requests are verified by the licensing staff.
340:110-1-8.3. Certification of facilities to receive a differential quality rating

Revised 7-01-09

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

(b) **Criteria for child care center certification levels.** The levels of certification for child care centers are contained in this subsection.

   (1) **Criteria for one star centers.** A center operating on a permit, license, or provisional license is automatically designated as a one star center.

   (2) **Criteria for one star plus centers.** To be approved as a one star plus center, the owner must complete and submit Form 07LC025E, Request for Child Care Center Star Certification, and meet all the requirements in (A) through (G) of this paragraph. The center may operate on one star plus status for a total of 24 months, which are not required to run consecutively. After 24 months of one star plus certification, the center must be approved for a higher star level, approved for an extension of time to comply, or return to one star status. If the new criteria cannot be met at 24 months, a facility may request an extension of time to comply as set forth in (g) of this Section.

   (A) **Licensing status and compliance.** The program must have a license, provisional license, or permit. The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed. If there are two or more incidents of numerous, repeated, or serious non-compliance with applicable licensing requirements or one serious incident resulting in injury or imminent risk of harm, the request may be denied. The licensing record from the applicant's previous licenses, if any, is considered. Numerous repeated, and serious non-compliance as referenced in OAC 340:110-1-9.3 are considered when approving or denying star certification.

   (B) **Administrative.**

      (i) The director evaluates staff in writing at least annually.

      (ii) All staff have access to licensing requirements.
(C) **Director.**

(i) The director must have documentation of 30 hours of job-related training within the last 12 months prior to application.

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

(iii) In subsequent years, directors must have documentation of 30 clock hours of job-related training per employment year.

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

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

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

(D) **Learning environment.**

(i) The center has and follows current weekly lesson plans appropriate for the developmental needs of all groups of children. Current lesson plans are readily available in each classroom.

(ii) Space for children two years of age and older is arranged in a minimum of five well-defined and equipped interest areas in each classroom to facilitate a variety of activities, which must include block building, dramatic play, manipulative play, art, and book reading. Teachers read to children a minimum of 15 minutes each day.

(E) **Staff.**

(i) At application, center staff employed at the facility for at least 12 months and counted toward meeting the staff-child ratio must have 20 clock hours of
job-related training per employment year. At initial application, training may be counted if training was obtained within the last 12 months or within the staff's employment year. ■ 3

(ii) After initial approval for certification, the training criteria of 20 clock hours of job-related training must be met within the staff's employment year.

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

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

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

(F) Parent involvement. The center involves parents in the activities described in (i) through (viii) of this subparagraph.

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

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

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

(iv) There is a parent resource area with books, pamphlets, and articles on parenting that is accessible and available to parents.

(v) At least two parent meetings with guest speakers or special events are held each year, for example, open house, brown bag lunch, family pot-luck dinners, and children's programs.
(vi) Parents are informed of the center's program by two of these methods: bulletin board, newsletter, parent handbook, Web site specific to each center location, or e-mails.

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

(viii) The program makes a copy of applicable licensing requirements available to parents.

(G) Program evaluation.

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

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

(3) Criteria for two star centers. To be approved as a two star center, the owner of a center must complete Form 07LC025E, Request for Child Care Center Star Certification, and meet all one star plus criteria and the criteria described in (A) through (J) of this paragraph or meet licensing status and compliance described in (b)(2)(A) of this Section and provide documentation that the center is accredited by a national accrediting body approved by Oklahoma Child Care Services (OCCS).

(A) Administrative.

(i) A policy and procedure manual that includes job duties and responsibilities for all staff is maintained on site.

(ii) A minimum of two staff meetings are conducted annually.

(iii) The program must have and follow a salary scale with increments based on job title, level of education, credentials, and years of early childhood experience. Compensation is based upon consideration of education, experience, and performance.

(B) Director. The director is a member of an early care and education professional organization.
(C) **Learning environment.**

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

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

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

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

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

(E) **Master teacher qualification.** Master teachers must be employed and on-site on a full-time basis, and meet and maintain one of the requirements in (i) through (vii).

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

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

(iii) Certificate of Mastery in early childhood education or child development...
from an accredited Oklahoma college or university. ■ 8

(iv) 30 college credit hours from an accredited college or university, including 12 credit hours in early childhood education, child development, or other coursework that supports working with children.

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

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

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

(F) School-age master teacher. In centers licensed as school-age programs or programs where the majority of children are school-age, the master teacher must be employed and on-site at least 50% of the weekly operating hours. The master teacher must currently meet and maintain one of the following:

(i) one of the qualifications in (3)(E); however, a degree or coursework in (3)(E)(iii) through (vii) may also be in elementary education, recreation, or other coursework that supports working with children, families, and the community; or

(ii) 120 clock hours of training within the last five years, one year of full-time experience in a licensed school-age child care program or legally exempt school-age child care program, and every two years receive a minimum score of 5.0 on the School-Age Environment Rating Scale in a classroom where the master teacher is the lead teacher. ■ 9

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

(H) Director as master teacher. The director may be counted as a master teacher only if the licensed capacity minus school-age children is 30 or less. The director may be counted as a master teacher in centers licensed as school-age programs or programs where the majority of children are school-age.
(I) **Parent involvement.** A written report about the child is provided to parents at the annual parent conference. The program maintains a current list of available community resources and assists parents in locating and connecting with these services as needed.

(J) **Program evaluation.** All methods of program evaluation as described in (i) through (iv) of this paragraph must be completed within one year of receiving two star status and repeated as noted.

(i) An approved self-assessment tool is completed every two years and is kept on file at the center.

(ii) The program is assessed every three years using an assessment tool approved by OCCS. This assessment is not required for programs accredited by a national accrediting body approved by OCCS.

(iii) Program goals are established and updated every two years based on information gathered from the completed health and safety checklists, parent and staff surveys, self-assessment, and an assessment tool approved by OCCS.

(iv) The program has a written plan for meeting established goals.

(4) **Criteria for three star centers.** To be approved as a three star center, the owner of a center must complete Form 07LC025E, Request for Child Care Center Star Certification, and meet all one star plus and two star center criteria, except for the assessment in (b)(3)(J)(ii) of this Section, and be accredited by a national accrediting body approved by OCCS.

(c) **Criteria for family child care home certification levels.** The levels of certification for family child care homes are contained in this subsection.

(1) **Criteria for one star homes.** A home operating on a permit, license, or provisional license is automatically designated as a one star home.

(2) **Criteria for one star plus homes.** To be approved as a one star plus family child care home or large family child care home, the owner must complete and submit Form 07LC027E, Request for Family Child Care Home Star Certification, and meet all the requirements in (A) through (F) of this paragraph. A home may operate on one star plus status for a total of 24 months, which are not required to run consecutively. After 24 months of one star plus certification, the home must be approved for a higher star level, approved for an extension of time to...
comply, or return to one star status. If the new criteria cannot be met at 24 months, a facility may request an extension of time to comply as set forth in (g) of this Section.

(A) **Licensing status and compliance.** The home must have a license, provisional license, or permit. The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed. If there are two or more incidents of numerous, repeated, or serious non-compliance with applicable licensing requirements or one serious incident resulting in injury or imminent risk of harm, the request may be denied. The licensing record from the applicant's previous licenses, if any is considered. Numerous repeated, and serious non-compliance as referenced in OAC 340:110-1-9.3 are considered when approving or denying star certification.

(B) **Home provider.** At application, the primary caregiver must have documentation of 20 clock hours of job-related training. At initial application, the training may be counted if training was obtained within the last 12 months or within the primary caregiver's employment year. After approval for certification, the training criteria must be met within the primary caregiver's employment year.

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

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

(C) **Assistant Caregiver.**

(i) Any assistant caregiver employed for at least 12 months must have documentation of 20 clock hours of job-related training per employment year.

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

(iii) The assistant caregiver has a written professional development plan on file in the home. The professional development plan is reviewed annually and updated as needed.
(D) **Learning environment.** A written daily schedule that reflects a balanced program of opportunities for learning, indoor and outdoor play, rest periods, and meals is followed. The daily schedule is posted. **Children are read to** a minimum of 15 minutes each day.

(E) **Parent involvement.** The primary caregiver must provide the methods of parent communication contained in this subparagraph. The primary caregiver:

(i) maintains a signed contract on file for each family that includes, but is not limited to, policy concerning hours, fees, payment schedule, vacation, and termination;

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

(iii) arranges for and documents, at least once per year, a conference with each child's parents. They discuss the child's current progress, accomplishments, and challenges, and set goals together. Documentation of the parent conference is kept with the child's records;

(iv) makes opportunities available for parents to be involved in the program's activities;

(v) has information available about common childhood issues and resources that provide services to parents and children and makes referrals as needed; and

(vi) makes a copy of applicable licensing requirements available to parents.

(F) **Program evaluation.**

(i) Health and safety checklists for both indoor and outdoor spaces are completed annually and kept on file in the home.

(ii) Parents are surveyed every two years to identify strengths and weaknesses of the program and evaluate the program’s effectiveness in meeting the needs of children and parents.

(3) **Criteria for two star homes.** To be approved as a two star home, the owner must complete Form 07LC027E, Request for Family Child Care Home Star Certification, and meet all one star plus criteria and the criteria described in (A) through (E) of this paragraph or meet licensing status and compliance described in
(c)(2)(A) and provide documentation that the home is accredited by the National Association of Family Child Care.

(A) Provider qualifications. The primary caregiver in a family child care home or in a large family child care home must be on-site on a full-time basis and meet and maintain one of the provider qualifications listed in (i) through (viii) of this subparagraph. A person is not counted as a center master teacher, director, or primary caregiver at more than one facility certified for a higher star level unless the facilities are programs that do not operate concurrently at any given time. The qualifying criteria are:

(i) occupational child care competency certificate for Master Teacher or Lead Teacher through an Oklahoma technology center and three months of satisfactory full-time experience in a licensed or legally exempt child care setting;

(ii) current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential;

(iii) Certificate of Mastery in early childhood education or child development from an accredited Oklahoma college or university;■8

(iv) 30 credit hours from an accredited college or university including 12 credit hours in early childhood education, child development, or other coursework that supports working with children;

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

(vi) two or four-year degree from an accredited college or university in early childhood education or child development;

(vii) a valid teaching certificate in early childhood education from the Oklahoma State Department of Education; or

(viii) if approved prior to June 1, 2004, the provider may continue to meet this criteria if the provider maintains 120 hours of job-related training within the last five years, five years of full-time experience in a licensed or legally exempt child care setting, and every two years receives a minimum score of 5.0 on the Family Child Care Environment Rating Scale - Revised. ■11
(B) **Assistant caregiver.**

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

(ii) Assistants are evaluated in writing annually by the owner or primary caregiver.

(C) **Learning environment.** Children have opportunities during the day to access dramatic and manipulative play, blocks, art, and books. The provider has a plan for transition times.

(D) **Parent involvement.**

(i) At least two references for the primary caregiver, including contact information, are available to parents. References from relatives are not accepted.

(ii) The primary caregiver has and uses a system for sharing and communicating with parents the happenings, activities, and related issues about their child's physical and emotional state.

(E) **Program evaluation.** All methods of program evaluation described in (i) through (iv) of this paragraph must be completed within one year of receiving two star status and repeated as noted.

(i) An approved self-assessment tool is completed every two years and kept on file in the home.

(ii) The program is assessed every three years using an assessment tool approved by OCCS. This assessment is not required for programs accredited through the National Association of Family Child Care.

(iii) Program goals are established and updated every two years based on information gathered from the completed health and safety checklists, parent surveys, self-assessment, and an assessment tool approved by OCCS.

(iv) The owner or primary caregiver has a written plan for meeting established goals.

(4) **Criteria for three star homes.** To be approved as a three star home, the owner must complete Form 07LC027E, Request for Family Child Care Home Star
Certification, meet all one star plus and two star home criteria, except for the assessment in (c)(3)(E)(ii) of this Section, and be accredited by the National Association of Family Child Care.

(d) **Approval for certification for homes and centers.** The procedures contained in this subsection are followed for initial approval for certification and requests for higher certification level.

1. The owner submits Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification, and required documentation to OCCS.  ■ 12 & 13

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

   (A) The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed to determine whether the facility meets the compliance criteria.  ■ 14

   If, within the 24 month period reviewed, there are two or more incidents of numerous, repeated, or serious non-compliance as defined in (b)(2)(A) and (c)(2)(A) of this Section or one serious incident resulting in injury or imminent risk of harm to a child, the request may be denied.  ■ 15

   (B) If the facility meets the criteria, the stars outreach specialist updates the licensing database. The stars outreach specialist sends a letter confirming the approval and the effective date.  ■ 16 If numerous, repeated, or serious non-compliance was identified during review of the case for the star certification, the letter includes a statement that these non-compliances are considered and may result in reduction of the star certification if subsequent serious non-compliances occur.

   (C) If the facility fails to meet the criteria, the stars outreach specialist sends a letter identifying all the criteria that have not been met. The application is also reviewed by the stars outreach specialist to determine if another certification level can be met. The stars outreach specialist updates the licensing database accordingly.  ■ 17
(i) If the owner fails to submit Form 07LC025E, Request for Child Care Center Star Certification, or 07LC027E, Request for Family Child Care Home Star Certification, with supporting documentation at least 15 days prior to the end of the one star plus certification period, the star status expires and the database is updated to show the facility has returned to a one star level. This does not constitute a reduction in certification level as set forth in (h) of this Section. The stars outreach specialist sends a letter documenting the return to one star level.

(ii) If the owner applies for but is denied a higher star at 24 months of one star plus, and has not been approved for an extension of time to comply from OCCS, the star status expires and the database is updated to show the facility has returned to a one star level. This does not constitute a reduction in certification level as set forth in (h) of this Section.

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

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

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

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

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

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

(2) Periodic monitoring visits. OCCS staff completes Form 07LC026E, Child Care Center Star Certification Review, or 07LC028E, Family Child Care Home Star Certification Review, a minimum of once per year, and verifies that certification criteria is still current and accurate. ◼ 18

OCCS staff provides written notice to the owner that certification criteria are not being met when: ◼ 19

(A) there is serious non-compliance with requirements, as outlined in (b)(2)(A)(iii) for centers and (c)(2)(A)(iii) for homes;

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

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

(3) Non-compliance. If a facility has serious non-compliance with licensing requirements, the star level of a one star plus, two, or three star facility may be reduced. ◼ 14 & 15

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

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

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

(ii) the facility has serious non-compliance with licensing requirements;

(iii) a serious incident occurs resulting in injury or imminent risk of harm to a child; or
(iv) an Emergency Order or notice of proposed denial or revocation of license is issued.

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

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

(g) Extension of time to comply.

(1) A request for an extension of time to comply may be submitted when:

   (A) violations of star criteria cannot be corrected within the agreed upon plan of correction time; or

   (B) two star criteria cannot be met within 24 months of one star plus certification.

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

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

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

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

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

(2) A reduction may occur when violations are not corrected within the agreed-upon time frame; the facility has serious non-compliance with licensing requirements; a serious incident occurs resulting in injury or imminent risk of harm to a child or a
facility fails to employ a qualified director for a period of six months or more. The procedures in this subsection are followed if a reduction is warranted.

(A) The licensing staff reviews the case with the supervisor and RPM. The decision on whether to make a referral to the stars program manager or designee is made by the RPM and referrals are made in writing to the stars program manager or designee. 24

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

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

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

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

(3) State Office licensing staff update any changes in the star status level and star payment rate following verification of receipt of the certified letter and the administrative review, if requested. 25

(4) The procedures in (A) through (C) of this paragraph are followed when an administrative review is requested.

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

(B) The review is conducted by the stars review panel, which consists of three OKDHS staff persons who have not been involved in the decision to reduce the certification level. The provider may submit written documentation and appear at the administrative review.
(C) When possible, the reviewing panel makes a determination to either affirm or reverse the OCCS decision on the date of the administrative review and announces the decision at the conclusion of the review. Time constraints or the complexity of issues may require the panel to take a matter under advisement. Written findings are completed within ten calendar days from the date of the review.

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

(i) Change in ownership. When there is a change in ownership or change in form of business entity of a family child care home, child care center, part-day children's program, or school-age program, the case is closed and the star status is removed. To be approved for a higher star level, the new owner must complete and submit Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification, and meet all the requirements applicable to the star level for which application is made.

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

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

INSTRUCTIONS TO STAFF 340:110-1-8.3

Revised 7-01-09

1. The months that a one plus facility is inactive, according to OAC 340:110-1-9(n), apply toward the 24-month total. The facility may request a reduction to one star status to avoid violating stars criteria or using one star plus time during inactive status.

2. Numerous non-compliances during the initial licensing visit, prior to permit, may be disregarded when evaluating compliance if all items were corrected in
Military child care programs located in Oklahoma with a provider contract may apply for star certification and submit copies of monitoring visits for the last year to demonstrate compliance with the applicable child care requirements. A visit is made by the stars outreach specialist prior to approval to verify compliance with certification criteria. An annual visit is made to the facility to determine continued compliance, including a review of the monitoring visits for the last 24 months. Out-of-state child care programs are not eligible for star certification.

3. When converting from certification year to employment year, there may be an overlap in training hours. Training counted during the employee's last 12 months may be counted again when reviewing training for the employment year. The employment date for a primary caregiver/owner is based on the date of application for a license. The employment date for a primary caregiver employed by the owner is based on the employee’s hire date.

4. The approved national accrediting bodies are the:

   (1) Association of Christian Schools International's Preschool Accreditation (ACSI);

   (2) National Academy of Early Childhood Programs (NAEYC);

   (3) National Early Childhood Program Accreditation (NECPA);

   (4) Council on Accreditation (COA); and

   (5) National Accreditation Commission for Early Care and Education Programs (NAC).

5. The center provides at least two interest centers outside for children’s use during outdoor play. Interest centers do not have to be permanently set up outdoors or made available during special group activities.

6. A facility licensed for less than 30 children must also have a full-time master teacher. The following may be utilized to determine the number of school-age children expected to be in care upon which to calculate the number of master teachers required; the equipment inventory, floor plan, and prior monitoring reports. School-age children are at least five years of age and attending or have completed kindergarten. This number is subtracted from the licensed capacity.
7. (a) Employment on a full-time basis is generally 30 hours a week during a center’s operating hours. For employment at family child care homes, use 80% of the operating hours, for part-day programs, use 50% of the weekly operating hours.

(b) In collaborations between Head Start, public schools, or child care centers, staff is counted as a master teacher if the person:

   (1) meets employment outlined in Instructions to Staff 9(a);

   (2) has staff records on file; and

   (3) fills the role of master teacher as described in OAC 340:110-1-8.3(b)(3)(G).

8. An accredited college or university is a college or university whose accreditation is accepted by the U.S. Secretary of Education.

9. If a school-age program uses the School-Age Care Environment Rating Scale (SACERS) score to qualify a staff member as a master teacher, the master teacher may continue to meet qualifications with these criteria by maintaining 120 hours of training every five years and a score of 5.0 or higher on SACERS every two years. If a teacher using this option to qualify for two star receives less than a 5.0 on the SACERS, and cannot provide documentation of meeting qualifications with another option, the teacher may be given one additional SACERS. A score of 4.5 or higher may be rounded up to meet the criteria. SACERS scores are not transferable from one program to another.

10. OKDHS OCCS approved assessment tools include:

   (1) Early Childhood Environment Rating Scale Revised (ECERS-R);

   (2) Infant/Toddler Environment Rating Scale Revised (ITERS-R);

   (3) Family Child Care Environment Rating Scale Revised (FCCERS-R);

   (4) School-Age Care Environment Rating Scale (SACERS);

   (5) Child and Caregiver Interaction Scale (V6);

   (6) Arnett Caregiver Interaction Scale;
(7) Early Language and Literacy Classroom Observation (ELLCO); and

(8) Program Administration Scale (PAS).

11. If a primary caregiver was approved for two or three star status prior to June 1, 2004 and qualifies by using option (viii) of OAC 340:110-1-8.3(c)(3)(A), the primary caregiver may continue to meet the qualifications with these criteria by maintaining 120 hours of training every five years and a score of 5.0 or higher on FCCERS-R every two years. If a primary caregiver using this option to qualify for two star receives less than a 5.0 on FCCERS-R, the primary caregiver may be given one additional FCCERS-R to achieve a minimum score of 5.0. A score of 4.5 or higher may be rounded up to meet the criteria. If an existing two or three star provider closes or is reduced, the primary caregiver may not use the 120/5/5 option to meet the home provider qualifications. FCCERS-R scores are not transferable from one program to another.

12. It is the owner's responsibility to initiate the certification process and provide required documentation. Facilities are not required to have a current provider contract to request certification.

13. The stars outreach specialist notifies the licensing staff that an application has been received. The stars outreach specialist determines whether the certification criteria have been met by reviewing the case record and the documentation submitted by the facility.

14. The facility's licensing record of up to 24 months is considered when such a record exists and includes the licensing record from previous licenses, if any.

15. (a) When making the determination to deny or reduce the certification, staff consider:

   (1) duration of the non-compliance;

   (2) degree of risk to children;

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

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

   (5) whether notice was given.
(b) Numerous non-compliances during the initial licensing visit, prior to permit, may be disregarded when evaluating compliance if all items were corrected in a timely manner.

16. The application and training summary must be maintained in the official licensing file, but other documentation may be returned to the facility.

17. Documentation of the reason(s) for denial of the application is kept and the originals are returned to the facility.

   (1) If OCCS staff is contacted to discuss concerns regarding the denial of the application, attempts are made to resolve the matter by making the appropriate referrals based on the reason for denial.

   (2) If the matter is not resolved, OCCS staff advises of the right to file a grievance following the procedure in OAC 340:110-1-15 and sends a copy of the grievance procedure if requested.

   (3) If it is determined that the facility meets a different certification level than applied for, the stars outreach specialist notifies the director or primary caregiver and documents the conversation on Form 07LC080E, Licensing Services Supplemental Information. The director, primary caregiver, or owner may also update the current application or complete a new application for the different certification level.

18. If the director of a center or primary caregiver of a home is not present and the staff in charge is unwilling to complete Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review, the licensing staff leaves a copy at the facility for the director or primary caregiver to complete and mail to OCCS.

19. Documentation considered notice that stars criteria is not being met includes:

   (1) Form 07LC028E, Family Child Care Home Star Certification Review, or Form 07LC026E, Child Care Center Star Certification Review;

   (2) Form 07LC037E, Notice to Comply; or

   (3) inclusion of the statement regarding star reduction in a letter or in the documentation of an office conference:
"A reduction in star certification may occur when violations are not corrected in the agreed-upon time frame, the facility has serious non-compliance with licensing requirements, a serious incident occurs resulting in injury or imminent risk of harm to a child, or an Emergency Order or notice of proposed revocation or denial of license is issued."

20. The time frame for correcting violations is negotiated between the director or primary caregiver and OCCS staff and is based upon the time needed to correct the violation and the level of risk to children. Licensing staff may only offer or accept one plan of correction per violation.

(1) For example, if the facility no longer has a resource center, a reasonable time frame for correction could be two weeks. If not corrected within that time frame, the certification level could be reduced as set forth in OAC 340:110-1-8.3(h). If the facility no longer meets certification requirements because a staff member with master teacher qualifications is no longer employed at the center, it would be reasonable to allow the facility up to 90 days to find a replacement.

(2) When serious violations of licensing requirements occur, the stars program manager or designee may reduce the certification level before the full 90 days.

21. If information is received that a facility does not meet certification criteria, and no written documentation exists, OCCS staff documents the violation on Form 07LC080E, Licensing Services Supplemental Information. The licensing staff contacts by telephone or visits the facility and completes Form 07LC026E, Child Care Center Star Certification Review, or 07LC028E, Family Child Care Home Star Certification Review, to document the violation and plan of correction.

22. Criteria taken into consideration to determine whether to approve or deny an extension request include:

(1) if the request was received timely;

(2) the facility’s record of compliance;

(3) length of time needed;

(4) evidence of effort or actions on the part of the provider to correct the
violations or to meet criteria;

(5) impact on available care in the area for children whose care is subsidized; and/or

(6) proximity of the facility to services, classes, and resources.

23. When a reduction in one star plus, two and three star is initiated due to the issuance of a written Emergency Order or notice of denial or revocation of license, a request for a separate appeal of the star reduction may not be made. Rather, any requests or appeals made to address the action taken regarding the license, must be done in accordance with OAC 340:110-1-9.4 and 340:110-1-10.

24. An agreement for an alternative settlement may be made between the regional programs manager (RPM) and the owner of a facility in lieu of referral for reduction. The alternative settlement should document how the facility will go above and beyond minimum licensing requirements and ensure a higher standard/quality of care. It is the RPM's decision to accept or deny the alternative settlement. If the RPM accepts the alternative settlement, a copy of the agreement is sent to the stars program manager or designee and to the licensing staff. Licensing staff are responsible for monitoring compliance with the alternative settlement. If the decision to refer the case to the stars program manager or designee is made, the documentation attached to the referral is:

(1) a copy of the application for license and supporting proof of ownership;

(2) copies of monitoring visits and complaints where serious non-compliance was documented; and

(3) all pertinent or applicable documentation, including letters, notices to comply, supplemental pages, and complaint summaries; and

(4) all additional information needed to make a decision.

25. In accordance with Form 08CC001E, Child Care Provider Contract, the rate of payment is reduced to the appropriate star level at the expiration of four months from the first day of the month immediately following receipt of the certified letter.
340:110-1-9. Case management

Revised 7-01-09

(a) **Periodic monitoring visits.** The Oklahoma Child Care Services (OCCS) licensing staff makes a minimum of three unannounced monitoring visits to facilities that operate a full-year program and two unannounced monitoring visits annually to facilities that operate less than a full year. ■ 1 Licensing staff varies the time of monitoring visits to include lunch observation and an evening visit to child care centers with extended hours. ■ 2 Weekend monitoring visits are required only when there has been a complaint specific to weekend care.

(b) **Ongoing monitoring.** During each monitoring visit, the licensing staff observes the entire facility, including outdoor play space and vehicles used for transportation, if available. ■ 3 At or subsequent to each visit, licensing staff checks:

1. compliance with licensing regulations;
2. records for new staff including compliance with background investigations in accordance with OAC 340:110-1-8.1;
3. staff training records; ■ 4
4. Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons in accordance with OAC 340:110-1-8.1; ■ 5
5. fire and health inspections within the last 24 months, if applicable; and
6. Form 07LC092E, Insurance Verification, or Form 07LC093E, Insurance Exception Parent Notification, within the last 12 months and if applicable, Form 07LC094E, Insurance Exception Licensing Notification.

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

1. technical assistance to licensees to assist them in meeting minimum requirements; and
2. consultation on various aspects of quality child care.

(d) **Agreements with tribal licensing programs and other monitoring agencies.** OKDHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency. ■ 6
(e) **Equipment inventory.** Licensing staff completes the appropriate Equipment Inventory, Form 07LC006E, 07LC020E, or 07LC024E, prior to a license being issued. The licensing staff or the facility may complete the appropriate Equipment Inventory prior to a change in facility class and prior to an increase in licensed capacity in a child care center, part-day children's program, and school-age program. The purpose of the inventory is to document the equipment available and items needed to comply with the equipment requirements. The licensing staff may conduct a complete inventory any time concern exists about the availability of required equipment. ■ 7

(f) **Change of address.** When a facility moves to a new address, the licensing staff conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements, and obtains an updated application. For child care centers, part-day children's programs, and school-age programs, new fire and health inspections, if applicable, are required. ■ 8 When a change of address involves care provided in a location other than the caregiver’s primary residence refer to OAC 340:110-1-6(a)(3).

(g) **Change in name.** When there is a change in name, licensing staff verifies there is no change in ownership, and documents the change in the case record and database. ■ 9

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

1. verifies the new director meets qualifications;
2. obtains the applicable page of Form 07LC004E, Request for License – Child Care Facility, completed by the new director;
3. obtains references;
4. obtains from the director an appropriate, complete compliance review, Form 07LC069E, 07LC072E, or 07LC073E, if the director has no previous director experience;
5. notifies the new director of current employees that have been granted a waiver; and
6. documents the information on Form 07LC080E, Licensing Services Supplemental Information.

(i) **Change in primary caregiver.** When there is a change in primary caregiver, licensing staff:
(1) verifies primary caregiver meets qualifications;

(2) obtains the applicable page of Form 07LC042E, Request for License – Family Child Care Home and Large Child Care Home, completed by the new primary caregiver;

(3) obtains references;

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

(5) documents the information on Form 07LC080E.

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

(1) the applicable page of Form 07LC042E; Request for License – Family Child Care Home and Large Child Care Home, completed by the new adult household member(s);

(2) background investigations in accordance with OAC 340:110-1-8.1; and

(3) OKDHS computer check.

(k) Change in ownership. When there is a change in ownership or change in form of business organization of a family child care home, child care center, part-day program, or school-age program, the case is closed and a new application is obtained. A permit may be issued if a monitoring visit without numerous, repeated or serious non-compliances was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements. ■ 10

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

(1) The case is closed and a new application is required when a family child care home converts to a child care center, part-day program, or school-age program, or when a child care center, part-day program, or school-age program converts to a family child care home.
(2) Any other request for change in class does not require case closure and documentation includes: § 11

(A) a request in writing from the provider;

(B) a new application with updated information;

(C) documentation that the facility meets the requirements for the requested class type; § 11

(D) an Equipment Inventory, if applicable;

(E) a current approved fire inspection, if applicable;

(F) a current approved health inspection, if applicable; and

(G) database updates to the appropriate class and monitoring frequency plan. § 1

(m) Procedure for increasing or decreasing capacity. When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the licensing supervisor. If the request to increase capacity is due to additional physical space, the facility must not have a history of numerous, repeated, or serious non-compliance, and must provide: § 12

(1) the reason for the increase;

(2) an updated floor plan on Form 07LC057E, Physical Plant, that reflects adequate indoor and outdoor space, toilets, and sinks for the increase and any changes;

(3) fire department approval of any space not previously inspected;

(4) health approval of any space not previously inspected;

(5) an updated Equipment Inventory that reflects adequate equipment for the increase; and

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

(n) Inactive cases. A facility is determined to be in inactive status when care has not been provided for more than 90 days. § 13
(1) A facility wanting to remain open after 90 days submits a request in writing including a statement that the owner will notify licensing when care is resumed. Licensing staff verify compliance with requirements prior to resuming care.

(2) The facility is contacted by licensing staff every four months by telephone or letter to update the facility status.

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

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

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

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

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

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

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

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

(p) **Response to a child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement. ■ 14

(q) **Serious incident reports.** The licensing supervisor submits to the licensing
(r) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E, Licensing Services Supplemental Information, is completed, a copy is sent to the provider, and the data system is updated. ■ 16

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

Revised 7-01-09

1. **Monitoring visits.**

   (1) **Requirements.** After each monitoring visit, the licensing staff enters the monitoring frequency plan that reflects the required number of visits per year on the licensing database. Any changes in the monitoring frequency plan must be reviewed with the supervisor. Examples of the required number of visits include:

   (A) one visit per year for inactive child care centers, part-day, or school-age facilities;

   (B) two visits per year for part-year programs;

   (C) three visits per year for facilities with a history of compliance;

   (D) six visits per year for applications, six-month permits, and changes in facility class except a large family child care home changing to a family child care home; and

   (E) twelve visits per year for seriously non-compliant facilities.

   (2) **Frequency of visits.**

   (A) Facilities that operate part-year require only two visits annually.

   (B) Facilities that operate a full-year program, including those that offer only part-time care during the week, require three visits annually.

   (C) If the licensing staff visits a facility between monitoring visits for purposes such as picking up paperwork, consultation on a specific
issue, verifying a repair has been made or needed items have been purchased, a full monitoring visit is not required.

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

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

(iii) If numerous, repeated, or serious non-compliance is observed during this visit, a complete monitoring visit is conducted.

(3) Reduced visits. If caseloads prevent licensing staff from conducting the required number of monitoring visits, the supervisor consults with the staff on case management, and the number of required visits may be reduced if approved by the regional programs manager (RPM). This adjustment is approved and documented in the case record by the supervisor. Required visits to non-problematic licensed facilities may be reduced by one visit per year for no longer than a one year period.

2. Evening monitoring visits to:

(1) a center are made between 8 and 10 p.m. unless extenuating circumstances exist, such as a complaint regarding a different time period or an unsafe neighborhood. The licensing staff may request that a witness accompany him or her on an evening monitoring visit when:

   (A) the facility is located in a high-crime area; or

   (B) it is determined that a witness is needed to verify licensing staff observations; or

(2) a family child care home are made only when a complaint has been filed regarding evening care or when only evening care is provided.

3. The licensing staff:

(1) documents observations and discussions on the appropriate monitoring report, enters the information from the monitoring report onto the licensing database, provides copies of the monitoring report within five working days to the facility’s owner/operator and files the original in the
facility's file in the Human Service Center; and

(2) when visiting a family child care home:

(A) is cognizant that it is a private home and demonstrates respect for the family's privacy;

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

(C) does not routinely look in drawers and closets, flush toilets, or check water temperature.

4. Training. Licensing staff checks for one-time and annual training requirements at the time of the annual training review or when concerns exist. Training is verified for center staff and home providers who have had an employment anniversary since the last monitoring visit. The information in (1) through (4) of this Instruction is used for the purpose of determining employment date.

(1) A family child care home or large home provider uses the original application date for the current license number.

(2) A family child care home or large home assistant caregiver uses his or her employment date.

(3) Child care center employees use their employment date with that organization. When there is a change in location that is not a change in ownership, an employee’s employment date does not change.

(4) If there is a break in service or a change in ownership, a new employment year begins.

5. Computer checks.

(1) Annual computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on all adults who sign Form 07LC042E, Request for License – Family Child Care Home and Large Child Care Home, and on the owner of a child care center, part-day children's program, or school-age program. These are checked on the computer by date of birth and Social Security number.
(2) Annual docket searches of the Oklahoma State Courts Network include both Oklahoma Court Information System (OCIS), non-OCIS counties, and the court clerk in non-reporting counties are completed on all adults who sign the application and the owner and director of child care center, part-day children's program, or school-age program. These are checked by all known names. The court clerk in counties where a person resides or is employed is contacted if they are non-reporting counties.

(3) Documentation of the computer check is filed in the confidential section of the facility’s case. All other searches are filed in public viewing and meet public inspection requirements in accordance with OAC 340:110-1-14.

6. Cooperative licensing agreement. When there is a cooperative licensing agreement with a tribal licensing program or other monitoring program, the procedures contained in (1) through (5) of this Instruction are followed.

(1) After each monitoring visit, the licensing staff sends a copy of the completed monitoring report to the tribal licensing worker or agency representative assigned to the facility.

(2) Reports of monitoring visits conducted by the tribal licensing worker or agency representative are sent to the licensing staff, who enters the visit into the licensing database identifying it as a visit conducted by the tribe or other monitoring agency. The monitoring visits count toward the required number of visits made to the facility.

   (A) All tribal visits are considered case history. A minimum of two visits per year must be conducted by OKDHS licensing staff.

   (B) An OKDHS licensing monitoring report must be used for case action recommendations.

(3) All information in the licensing file, including confidential information except Child Welfare (CW) reports, is made available to the tribal licensing worker or agency representative upon request.

(4) The licensing staff coordinates, when appropriate, with the tribal licensing worker or agency representative to conduct complaint investigations, complaint follow-up, non-compliance follow-up, and office conferences.
(5) The licensing RPM is responsible for evaluating the effectiveness of the agreement and ensuring collaboration.

7. Equipment inventory. The date of the inventory and any needed equipment is documented on the monitoring report. Only the initial inventory of a new facility and a subsequent inventory to increase capacity are filed in the facility's file.

8. Change of address.

(1) If the new address is outside of the licensing staff's area, the case is transferred to the appropriate licensing staff, who conducts the monitoring visit.

(2) When the licensing staff is notified of the address change, the licensing staff advises the operator to also report the address change to Family Support Services Division (FSSD), county child care liaison.

(3) The new application is for information purposes only. The case is not closed and reopened, and the license number remains the same.

(4) A narrative report that reflects the new address is submitted to the licensing staff's supervisor, the supervisor of the receiving licensing staff, and the FSSD, Child Care Unit. The address, licensing staff, and supervisor are changed on the licensing database by the receiving licensing staff. Critical information on problematic cases is shared with the receiving licensing staff and supervisor.

(5) The licensing staff notifies the statewide licensing coordinator of the name change. The statewide licensing coordinator or designee issues a new license to the facility and a copy is sent to the licensing staff.

9. The licensing staff notifies the statewide licensing coordinator of the name change. The statewide licensing coordinator or designee issues a new license to the facility and a copy is sent to the licensing staff.

10. (a) Types of ownership include:

   (1) sole proprietor;

   (2) corporation;
(3) partnership;

(4) limited liability company; or

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

(b) Licensing staff advises the owner that Form 08CC001E, Child Care Provider Contract, will be canceled when the facility’s case is closed. The owner is referred to the FSSD county child care liaison to request a new contract so that care provided to children of families receiving child care assistance is not disrupted.

11. Change in class.

(1) Change in class includes a family child care home becoming a large child care home, a child care center becoming a school-age program, or a part-day program becoming a child care center.

(2) If a small home that is currently on a six-month permit requests a change in class to a large family child care home, three monitoring visits must be made after the change and prior to issuance of a license.

12. Change in capacity. The procedure for increasing or decreasing capacity of a facility is outlined in (1) through (4) of this Instruction.

(1) Increase. When a facility requests an increase in capacity, the licensing staff:

(A) notifies the fire department to determine whether another inspection or further evaluation is required. The contact is documented on Form 07LC080E, Licensing Services Supplement Information;

(B) ensures that the director completes and submits Form 07LC006E, Equipment Inventory - Child Care Center; 07LC020E, Equipment Inventory - Part-day Children’s Program; or 07LC024E, Equipment Inventory – School-Age Program, that reflects adequate equipment for the increase; and

(C) does not recommend to increase capacity when the facility has numerous, repeated, or serious non-compliance with requirements. When the only serious non-compliance was that the facility exceeded
capacity, the request for increase is staffed with regional program manager for appropriate action.

(2) Decrease. When decreasing capacity, the licensing staff updates the floor plan on Form 07LC057E, Physical Plant, indicating which rooms are available for use by children.

(3) Recommendations to increase or decrease capacity. A recommendation to increase or decrease capacity may be made at any time by submitting a narrative report to the licensing supervisor.

(4) Approval. If change in capacity is approved, the statewide licensing coordinator or designee issues a new license to the facility that reflects the new capacity. A copy of the license is sent to the licensing staff.

13. Licensing staff notifies the appropriate stars outreach specialist and the contract unit via e-mail at childcarecontracts@okdhs.org regarding the status of inactive care and provides the following information:

(1) the reason for inactive status;

(2) the effective date of the inactive status;

(3) the length of time the facility has indicated they anticipate to be inactive;

(4) request contracts to notify OCCS of the decision to either cancel the contract or deactivate the point of service machine; and

(5) OCCS staff notifies contracts via e-mail regarding the date that care was resumed.

14. Child death. When notified of a death the licensing staff:

(1) determines and documents what occurred and whether the facility was in compliance at the time of death. Documentation includes:

    (A) number of children and staff present at time of incident;

    (B) what supervision was provided during this time;

    (C) number of children who experienced injuries or illnesses; and

    (D) any other pertinent information.
when the caregiver last checked on the child;

(D) the caregiver's response upon finding the child;

(E) the names of staff involved; and

(F) notifies the licensing supervisor, county director, licensing RPM, statewide licensing coordinator, and director of Child Care Services of the death; and

(2) considers whether the death is possibly related to sudden infant death syndrome and, if so:

(A) documents:

(i) where the child was sleeping and sleep position;

(ii) the condition of the crib or playpen; and

(iii) observations regarding the bedding, pillows, and other items in the sleeping area;

(B) provides the caregiver the pamphlet, SIDS – What Child Care Providers and Other Caregivers Should Know, OKDHS publication number 94-01;

(C) notifies the licensing supervisor, county director, licensing RPM, statewide licensing coordinator, and director of Child Care Services;

(D) obtains verbal or written verification confirming the cause of death as SIDS; and

(E) notifies the Oklahoma State Department of Health SIDS coordinator, who is available to offer support to the caregiver and family.

15. Serious incident.

(1) Serious incidents include, but are not limited to, incidents:

(A) that result in the serious injury or death of a child, such as a shaken baby, a drowning or near drowning, or a traffic accident resulting in
serious injury;

(B) that place a child at a high risk for death or injury, such as a child leaving a facility without the staff's knowledge, a child left at a location away from the facility, a child left unattended in a vehicle, or a child left alone in a facility;

(C) such as fire, flood, or tornado that result in significant damage to a facility; and

(D) where media involvement is anticipated.

(2) A serious incident report includes:

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

(B) the date and time of the incident;

(C) a description of the injuries to the child(ren) or damage to the facility;

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

(E) a summary of contacts made with other agencies involved in the investigation of the incident, such as CW or the police;

(F) any pertinent information regarding the caregiver's history, such as prior involvement with CW or a history of numerous, repeated, or serious non-compliance with licensing requirements; and

(G) the names of staff involved.

16. The response from Licensing to self-reported non-compliance, per OAC 340:110-1-9.3, is based on the degree of risk to children, whether the provider could have prevented the non-compliance, and the timeliness and effectiveness of the provider's response.
340:110-1-9.2. Complaint investigations

Revised 7-01-09

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

(b) Receipt of the complaint. Complaints may be made to licensing in writing, in person, by telephone, or electronically. ▶ 1

(c) Complaint information. The licensing staff obtains as much relevant information as possible from the complainant. ▶ 2

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

(1) non-compliance with licensing requirements;

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

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

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

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

(A) alleged physical or sexual abuse;

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

(C) distribution of drugs;
(D) children left alone in the facility or in a vehicle;

(E) extreme facility temperatures;

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

(G) threatening or impaired behavior of a caregiver;

(H) severe understaffing or over licensed capacity;

(I) unlicensed facility;

(J) violating an Emergency Order;

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

(L) failure to obtain background investigations.

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

(A) leaving children with an underage staff person;

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

(C) inappropriate discipline where no injury is reported;

(D) broken playground equipment;

(E) injury caused by lack of supervision; or

(F) minor understaffing.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent risk of harm and there are no injuries alleged. Investigations are initiated within 30 calendar days of the date of receipt of the complaint by the licensing staff or immediately if a telephone investigation is appropriate. Examples include:
(A) inadequate meal service;
(B) lack of play equipment;
(C) inappropriate use of television or videos; or
(D) inadequate cleanliness of the facility.

(f) **The investigation.** The licensing staff conducts a full investigation, obtaining sufficient information to make a finding.  ■ 4

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

(1) the alleged non-compliance does not place children at risk of harm, for example, the facility did not serve milk one day or children have head lice;
(2) the facility has not had numerous, repeated, or serious non-compliance; and
(3) a monitoring visit has been made in the last three months during which substantial compliance was documented.

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

(i) **Child abuse and neglect complaints.** Upon receipt of a complaint alleging abuse of a child in care, the licensing staff immediately notifies the licensing supervisor and makes a referral to CW. If the allegation involves child abuse or neglect or a report indicating that a child is in imminent risk of serious physical harm, the licensing regional programs manager is also notified.  ■ 5

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

(1) **Substantiated.** A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates the facility violated any licensing requirement or the Act.
(2) **Unsubstantiated.** A finding of unsubstantiated is made when the information does not lead to a definite conclusion, for example:

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

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

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

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

(1) documents the findings; □ 6

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

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

(4) updates and closes the complaint tracking screen.

(l) **Use of Notice to Comply.** When a serious complaint has been substantiated, the licensing staff advises the facility to correct the violations immediately and requests that the facility complete Form 07LC037E, Notice to Comply, following the procedure in OAC 340:110-1.9.3(d)(7).

(m) **Summary of facts.** Facilities may submit a written request for a summary of the facts used to evaluate and determine the licensing complaint findings. □ 7

**INSTRUCTIONS TO STAFF 340:110-1-9.2**

Revised 7-01-09

1. When the complaint is made in person or by telephone, the licensing staff assists the complainant by:
(1) advising the complainant which allegations represent non-compliance and are enforceable;

(2) responding to the concerns of the complainant;

(3) discussing confidentiality, for example, the identity of the complainant is kept confidential unless legal action or a referral to law enforcement officials becomes necessary;

(4) eliciting appropriate information. When subjective terms such as "drunk" or "crazy" are used, the 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 the licensing staff will make an unannounced visit or a referral of child abuse will be made to Child Welfare (CW) for investigation;

(6) requesting a signed, statement from the complainant when serious violations are involved or a negative sanction may result; and

(7) interviewing the complainant's children if necessary and appropriate.

2. The information requested is recorded on Form 07LC012E, Licensing Complaint, and entered on the complaint tracking system. Allegations are not released to the public until the findings have been determined. The information requested includes:

(1) date and time the complaint was received;

(2) name of the facility, address, and telephone number;

(3) the complainant's name, address, telephone number, and relationship to the facility, such as employee, parent of a child in care, or neighbor;

(4) the complainant's source of information, for example, personal observation or information from another person;

(5) specific information regarding the allegations, including:

(A) a description of the circumstances;
(B) name or identity of staff involved;

(C) child(ren) involved or affected by the alleged non-compliance and their age(s);

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

(E) place where the alleged non-compliance took place;

(F) names of other persons with relevant information; and

(G) whether the complaint has been discussed with the director.

3. The licensing staff makes one of the dispositions in this Instruction.

(1) Complaints or concerns that do not meet the criteria in OAC 340:110-1.9.2(d) are discussed with the complainant, and if appropriate, a referral is made to another entity, such as law enforcement, Family Support Services Division, or the Office for Civil Rights.

(2) A complaint alleging violation of licensing requirements or operation of an unlicensed facility is investigated by licensing staff. This information is recorded as a complaint, regardless of the purpose of the caller. The licensing staff in whose area the facility is located is notified as soon as possible, and Form 07LC012E, Licensing Complaint, is forwarded to the licensing staff.

(3) A complaint alleging child abuse or neglect is immediately referred to Children and Family Services Division (CFSD), CW, with a copy of Form 07LC012E. The referral is documented on the bottom of the form. If an immediate response to the referral is not received, the licensing staff follows up the next working day to obtain a response.

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

(B) If the licensing staff is unsure whether a complaint meets the criteria for investigation by CW, the complaint is referred to CW and the decision to accept the referral is made by CW staff.
(C) Sex play between children is referred to CW for investigation. Licensing investigates this type of allegation with regard to supervision of children.

(4) When a complaint alleging illegal activity is received, the guidelines contained in (A) through (C) of this Instruction are followed.

(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 is filed in the facility record, and the licensing supervisor is notified. It is the responsibility of the licensing staff to follow up with local law enforcement officials to determine and document the outcome of the investigation.

(B) If the complaint includes allegations of illegal drug activity, the complaint is referred to local law enforcement. If the facility has a provider contract, the complaint is also referred to the Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG). The referral to OIG is made on Form 19MP001E, Referral Form, and includes date and contact information regarding the referral to local law enforcement. Upon receipt of the referral, OIG contacts the local law enforcement agency to determine whether the agency or OIG will conduct the investigation or whether a joint investigation will be conducted. It is the responsibility of the licensing staff to follow up with OIG to determine and document the outcome of the investigation.

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

(5) A complaint alleging violation of a person's civil rights is not investigated by licensing and is referred to OKDHS Office for Civil Rights. Licensing staff:

(A) completes Form 14CR001E, Discrimination Complaint – Client or Vendor, and submits to OKDHS Office for Civil Rights; and

(B) obtains mailing information and sends a blank copy of Form 14CR001E, Discrimination Complaint – Client or Vendor, to the
complainant.

(6) Information in a complaint received from another division within OKDHS or an agency responsible for monitoring child care facilities, such as OIG or the local health or fire department, may be deemed valid if documented in writing by the agency representative. It is licensing staff’s responsibility to determine whether the observation is a non-compliance. The facility is advised of the report and given an opportunity to respond.

(7) The licensing supervisor is notified of any complaint:

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

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

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

(D) that was referred to CW or law enforcement; or

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

4. The investigation generally includes:

(1) a review of the allegations to ensure that investigating staff is thoroughly familiar with the details and specific information, and whenever possible, a review of all appropriate OKDHS records to obtain other preliminary information, as appropriate, prior to making the initial contact;

(2) an unannounced visit to the facility. The purpose of the visit and the nature of the complaint are discussed with the operator. Licensing staff does not identify the complainant;

(3) a review of available records, such as the licensing record, attendance records, injury logs, medical and transportation permission records, child care subsidy records, food program records, or police reports;

(4) interviews with the complainant and complainant’s children, if
applicable, and others who may have relevant information, such as facility staff or food program employees. An interview:

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

(B) is generally a face-to-face contact between the licensing staff and the person who may have relevant information. If a person's comments and signature are recorded on Form 07LC080E, Licensing Services Supplemental Information, the person is given a copy of the report. A copy of the report is not provided to the operator;

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

(i) a witness accompanies the licensing staff;

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

(iii) a person elects to have his or her attorney present;

(D) may be conducted outside the facility if the director is uncooperative, if an on-site interview places the interviewee at risk, or if information must be gathered prior to discussion with the operator. Interviews with persons outside the facility are documented on Form 07LC080E, and the interviewed person is given a copy of the report;

(E) with a child, takes into consideration the age and verbal ability of the child, and, preferably, a witness accompanies the licensing staff.

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

(ii) Publication No. 05-57 is provided for parents when a child is interviewed regarding allegations of violations of licensing requirements. Documentation of providing this publication to facilities is made on Form 07LC080E.

(iii) When the licensing staff accompanies CW as part of a joint abuse and neglect investigation, interviews are conducted by the CW
worker, per OAC 340:75-3-8.2;

(5) observations at the facility.

(A) If an investigation is associated with a specific time of day, such as early-morning understaffing, the visit to the facility is made at the time the incident is alleged to have occurred. The licensing staff documents observations by citing the specific conditions observed, for example, the director refused to allow the licensing staff to view the facility’s records of staff criminal history investigations or there were nine two-year-olds with one staff.

(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 checked at each visit. Form 07LC003E, Monitoring Report – Child Care Center, is used to document any non-compliance observed; and

(6) obtaining documentary evidence. Documentary evidence is information that is recorded, such as a CW report, medical and police records, signed statements, or photographs. When documentary evidence is obtained, it is entered in the facility record.

5. Licensing staff procedure.

(1) Whenever possible, the licensing staff accompanies the CW worker on the complaint investigation. However, the licensing staff's role and responsibility is to investigate alleged non-compliance of licensing requirements or the Child Care Facilities Licensing Act.

(2) If the CW worker cannot initiate or conclude an investigation within a reasonable period of time, the licensing staff requests approval from the licensing supervisor and consults with the CW supervisor before proceeding with an investigation. A reasonable period of time means:

(A) the CW investigation of a report that a child is in imminent danger or at risk of serious physical harm is initiated within 24 hours; or

(B) the CW investigation of a report that does not indicate imminent risk of harm to a child and no injuries are alleged is initiated no later than 15 calendar days after the report is accepted for investigation.
(3) The licensing staff interviews the alleged victim and his or her parents, usually in their home, following the guidelines outlined in OAC 340:110-1-9.2 Instructions to Staff 4(4)(E). The licensing staff advises the CW supervisor of the findings, and CW completes its investigation.

(4) If sufficient information is obtained through interviews, observations, or documentary evidence that supports the allegation, and with State Office approval, the licensing staff asks the operator to voluntarily cease care or prohibit the alleged perpetrator from any contact with children pending the outcome of the investigation. The operator is advised of the possibility of an injunction or Emergency Order if the operator refuses and children are considered at imminent risk of harm.

(5) If there is a finding of confirmed child abuse or neglect a copy of the report is sent to the licensing regional programs manager and statewide licensing coordinator or designee.

(6) Following completion of the CW investigation, the licensing staff sends a letter to the operator that includes the findings of the investigation and notice of further action that will be taken, if indicated.

6. The licensing staff enters the findings on the complaint tracking system and completes Form 07LC081E, Licensing Complaint Report Summary, using specific language that is informative to parents.

   (1) On Form 07LC081E, names or identifying information of the complainant, facility staff, children, and their families are not included.

   (2) When a child abuse investigation has been conducted by CW, Form 07LC081E, contains a summary of allegations and findings that does not disclose the identity of the alleged perpetrator or victim, but does allow parents to evaluate the facility. For example, descriptors such as male staff and two-year-old female are not used.

   (3) Form 07LC081E, the monitoring report, a complaint findings cover letter, and Form 07LC037E, Notice to Comply, if applicable, are made a part of the open record. Form 07LC012E, Licensing Complaint, and Form 07LC080E, Licensing Services Supplemental Information, are placed in a confidential file. Interviews with staff, children, collateral witnesses, and complainants are not made part of the public record.
(4) If information regarding a complaint is requested by the public prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings will be released after the investigation is complete and the provider has been notified in writing of the findings.

7. The summary of facts is provided on OCCS letterhead and indicates documents reviewed and the total number of persons interviewed while identifying their relationship to facility such as parents, staff, children, collateral or other agency personnel. Information is provided while protecting confidentiality of all parties. Supervisor approval is necessary before providing the summary to the facility.
340:110-1-9.3. Non-compliance with requirements

Revised 11-20-08

(a) Documentation of non-compliance. The Oklahoma Child Care Services (OCCS) licensing staff clearly and concisely documents on the monitoring report areas of non-compliance and the discussion with the operator. ■ 1

(1) A plan of correction, including a specific agreed-upon time period for correction of the non-compliance, is documented for each non-compliance on the monitoring report. ■ 2

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

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

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

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

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

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

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

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

(B) six or more items documented as non-compliant on the monitoring report for a child care center, part-day children's program, or school-age program with a licensed capacity of less than 60; or
(C) seven or more items for a child care center, part-day children’s program, or school-age program with a licensed capacity of 60 or more. ■ 3

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

(3) Serious non-compliance is a non-compliance with licensing requirements that exposes children to conditions that present an imminent risk of harm. Imminent risk of harm must be assessed based on the age of the child, the amount of time the caregiver was out of compliance, and the efforts of the caregiver to mitigate the risk. Some examples of non-compliance that may be considered as serious are:

(A) staff-child ratio;

(B) supervision of children;

(C) sleep position;

(D) prohibited disciplinary actions;

(E) licensed capacity;

(F) use of passenger restraints;

(G) water activities;

(H) pools and other water hazards;

(I) multiple hazards;

(J) weapons;

(K) reporting child abuse;

(L) prohibiting access to children by a person with a criminal record, health or behavior risk, or failure to obtain background investigations;

(M) administering medication to children;

(N) room temperatures;
(O) heat sources and loss of any utility service;

(P) compliance file and or posting;

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

(R) liability insurance; and

(S) vehicle liability insurance.

(d) **Case management responses to non-compliant facilities.** When there is numerous, repeated, or serious non-compliance, one or more of the actions in (1) through (11) is taken. 

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

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

3. **Non-compliance letters.** A non-compliance letter may be written to the operator. A copy of the non-compliance letter is sent to the owner or registered agent, if applicable, with a copy of the monitoring report.

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

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

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

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

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

(B) If the Notice to Comply is not submitted within the specified time period, the licensing staff contacts the operator and documents the conversation.

(C) If concerns exist or the operator is uncooperative, the licensing staff sends a letter stating that failure to complete a Notice to Comply may result in revocation of license, denial of the application, filing of an injunction, or Emergency Order.

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

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

(B) The conference is documented on Form 07LC003E, Monitoring Report – Child Care Center, which is signed by the licensing staff, the operator, and any witnesses present. This documentation includes a list of every person who is present and the purpose of the conference.

(C) A Notice to Comply is completed if one addressing these issues has not been completed recently.

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

(10) Revocation. The licensing staff may recommend that the application to become licensed be denied or the license be revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children, per OAC 340:110-1-10. 7
(11) **Voluntary cease care.** With State Office approval, the operator is asked to voluntarily cease caring for children.

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

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

- The operator is asked to immediately correct the non-compliance, for example, the staff person will not work at the facility pending the outcome of an investigation.
- The operator is asked to discontinue child care until the non-compliance is corrected or the investigation is complete.
- The operator is asked to voluntarily close the facility.
- The licensing staff requests an Emergency Order, per OAC 340:110-1-9.4, when immediate action is needed to protect children in a child care facility.
- The operator agrees to enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation, per OAC 340:110-1-9.5.
- The licensing staff may recommend that the application be denied or license be revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children, per OAC 340:110-1-10.

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

- unlicensed;
- on application status;
- licensed;
- violating an Emergency Order;
(E) operating during an appeal following revocation or denial and children are at risk; or

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

(f) **Notification to supervisor when children are at risk.** If during a monitoring visit the licensing staff is concerned that the health, safety, or well-being of children is at imminent risk, the licensing supervisor or OCCS State Office staff is contacted immediately for an appropriate response. ■ 9

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

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

(2) Approval of an alternative method of compliance does not set a precedent, and is independently evaluated on the merits of each request.

(3) The facility's record of compliance is taken into consideration in determining whether to approve the request.

(4) An alternative method of compliance is not authorized for critical items affecting the health and safety of a child, such as exceeding licensed capacity or staff-child ratios, fire safety violations, or behavior and guidance violations.

(5) Written notice from OKDHS, Form 07LC075E, Notice of Alternative Compliance, stating the nature of the exception, is posted with the license. ■ 10

**INSTRUCTIONS TO STAFF 340:110-1-9.3**

Revised 7-01-09

1. When documenting non-compliance on the monitoring report, the licensing staff documents what is observed rather than what is needed. For example, the licensing staff writes "milk was not served with lunch" instead of "milk
must be served at lunch."

2. If the time period suggested by the operator for correction of non-compliance is unacceptable to the licensing staff, the licensing staff states the expectation and negotiates an acceptable time period.


   (1) Each numbered item that has been marked as non-compliant on the monitoring report is counted once when there is more than one non-compliance included in that item.

   (2) A non-compliance may qualify in more than one category in determining numerous, repeated, or serious non-compliance.

   (3) If a non-compliance is documented a second time during an agreed-upon plan of correction for licensing, it is not considered again in determining numerous, repeated, or serious non-compliance.

4. Licensing staff must assess both the number and type of non-compliance observed during monitoring visits or substantiated as a result of a complaint investigation.

   (1) The licensing staff response goes beyond documentation of the non-compliance and plan of correction on the monitoring report for any visit that has numerous, repeated, or serious non-compliance.

   (2) The licensing staff advises the supervisor of the planned response and, if the supervisor disagrees, the case history is staffed and a different or additional response may be utilized.

   (3) The response is based on the seriousness of the non-compliance and the demonstrated ability and willingness of the provider to comply.

5. Non-compliance letters are sent within ten working days, and include the date of the monitoring visit and areas of non-compliance. If a critical non-compliance remains uncorrected at the next monitoring visit, a letter documenting both visits and a follow-up visit are required.

6. The timing of return visits is determined by the risk level to children, per OAC 340:110-1-9.2(e). A return visit does not routinely result in a change in the
monitoring frequency plan. However, if subsequent visits require a follow-up, increased monitoring is discussed with the supervisor. When a return visit is conducted, licensing documents staff child ratios and correction of previous non-compliances on the monitoring report. A full visit is completed if numerous, repeated, and/or serious non-compliances are observed.

7. Procedure and documentation for denial or revocation of license. The licensing staff:

   (1) ensures that the non-compliance and a plan of correction are clearly documented on monitoring reports, as well as the facility's action to implement any previous plans of correction;

   (2) notes on the monitoring report that failure to correct the non-compliance may result in revocation of the license, denial of application, filing of an injunction, or issuance of an Emergency Order, as applicable; and

   (3) conducts monitoring visits at least monthly if children are in care to monitor compliance and the plan(s) of correction. The same witness accompanies the licensing staff on monitoring visits whenever possible.

8. The local resource and referral agency is notified, when the application for licensure is denied, or the license is revoked, or if an Emergency Order is issued, by the statewide licensing coordinator.

9. Situations that might warrant supervisory contact include severe overcapacity, a caregiver is incapacitated or appears under the influence of alcohol or drugs, or children appear to be left alone.

10. An alternative method of compliance does not replace plans of correction negotiated between licensing staff and providers. Providers are not encouraged to request alternative methods of compliance if the non-compliance can feasibly be corrected in a reasonable time frame.
340:110-1-10. Revocation or denial of license

Revised 7-01-09

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

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

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

(b) **Licensing staff recommendation.** The licensing staff consults with the licensing supervisor regarding his or her recommendation for revocation or denial. If the licensing supervisor concurs with the recommendation, the decision is discussed with the licensing regional programs manager and the statewide licensing coordinator. If they concur with the decision, licensing staff prepares a detailed summary of monitoring visits, complaints, correspondence, and any other relevant documents. Licensing staff submits the complete case record and the summary, including the recommendation, to the licensing supervisor and notifies the facility in writing that the case has been referred to the statewide licensing coordinator.

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

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

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

(A) a copy of the summary;
(B) a statement regarding the operator's right to appeal the decision;

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

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

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

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

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

(5) Questions from the operator regarding the action and appeal process are referred to the statewide licensing coordinator or designee.

(6) If the operator does not appeal the decision within the designated time period, the statewide licensing coordinator sends a letter to the operator giving notice of the denial or revocation and stating the effective date. The closure date is entered into the database by the statewide licensing coordinator or designee. A copy of the correspondence is sent to the licensing staff.

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

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

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

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

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

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

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

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

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

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

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

   (A) an Emergency Order is requested; or

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

(4) If the decision of OKDHS to revoke or deny a license is upheld during all
appeals, the statewide licensing coordinator sends a letter to the operator that child care must immediately cease. The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. If the operator continues to operate the child care facility, the licensing field staff, in consultation with the statewide licensing coordinator or designee, may request that the local DA pursue an injunction or initiate criminal proceedings, or the statewide licensing coordinator may pursue legal action through the Attorney General.

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

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

(e) Change in ownership during appeal process. If there is a change in ownership during the appeal process, the operator must provide documentation verifying the change. This information is reviewed by the regional programs manager. The statewide licensing coordinator may proceed with the previous owner's denial or revocation.

INSTRUCTIONS TO STAFF 340:110-1-10

Revised 11-20-08

1. The summary is considered a priority and the time frame for completing the summary is established by the Oklahoma Child Care Services (OCCS) licensing regional programs manager in consultation with the statewide licensing coordinator or designee. The summary is reviewed by the licensing supervisor before it is sent to the licensing regional programs manager and statewide licensing coordinator.

2. A complete copy of the case record is maintained in the Human Service Center.

3. A copy of the written notice of the pending action is sent to:

   (1) the licensing staff, licensing supervisor, licensing regional programs manager, and director of Child Care Services;

   (2) the Oklahoma Department of Human Services (OKDHS) Legal Division;
(3) Family Support Services Division, Child Care Unit;

(4) the county director;

(5) the Indian tribe that has issued a license to the facility, if applicable; and

(6) OKDHS Office of Communications.

4. If, after the facility has requested an appeal, a non-compliance letter is deemed necessary due to the non-compliance observed during a monitoring visit, the letter includes the statement that the non-compliance observed during the visit may be added to the summary of violations mailed to the facility on (enter the date the notice was mailed) as notice of the reasons for revocation or denial of the license, and failure to correct the violations may lead to the issuance of an Emergency Order, the filing of an injunction, or both.
340:110-1-11. Voluntary case closures

Revised 7-01-09

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

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

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

INSTRUCTIONS TO STAFF 340:110-1-11

Revised 7-1-08

1. Case closure. If a caregiver is not contacted at home or by telephone after several attempts, a letter is sent stating that the case will be closed if the caregiver does not contact the licensing staff within a specified period of time. A second letter verifying case closure is sent if the caregiver fails to respond. The licensing staff follows the procedure in (1) through (3) to close a case.

   (1) Update database. When a licensed child care facility closes voluntarily, the licensing staff updates the licensing database as soon as possible and sends to the licensing supervisor a copy of the letter that was sent to the facility verifying closure. The closure effective date may not be backdated. The closure date is written on the case folder file tab.

   (2) Confirm discontinuance. If concerns exist, the licensing staff visits the facility to confirm that children are no longer in care.

   (3) Closed files. A file is marked "Do Not Destroy" and stored in the Human Service Center if the case was closed following a history of numerous,
repeated, or serious non-compliance, confirmed child abuse, or when the file may be needed in the future for reasons such as a fraud investigation or unresolved lawsuit. All other files are sent to the Oklahoma Department of Human Services Records Management archives three years after closure and after verification of a computer record of the case.

Revised 7-01-09

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

(b) Procedure for investigating the operation of an unlicensed facility. When information is received regarding the operation of an unlicensed facility, staff conducts a full monitoring visit no later than the next facility business day to assess the necessity of a license. ■ 1-4

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

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

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

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

(ii) has submitted a completed application in accordance with OAC 340:110-1-6; and ■ 5

(iii) meets the following licensing requirements:

(I) all required background information has been provided in accordance with OAC 340:110-1-8.1;

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

(III) required health and safety training is completed; and

(IV) minimum educational qualifications for all positions are met.

(2) If a facility is not granted permission to operate, a follow-up visit is conducted within one facility business day to verify the termination of care and when care of children has not ceased staff proceed with procedures in OAC 340:110-1-9.4. ■ 6
(3) When the necessity of a license is not required, licensing staff documents the investigation of unlicensed operation on Form 07LC080E, Licensing Services Supplemental Information. ■ 7

(c) Documentation of Findings. Following the unlicensed complaint investigation licensing staff proceed with procedures in OAC 340:110-1-9.2(k).

INSTRUCTIONS TO STAFF 340:110-1-13

Revised 7-01-09

1. When information is received from the person providing unlicensed care it is not documented as a complaint. If this information is received by telephone, staff inform the unlicensed facility they have not been given permission to operate and a visit will be made to the facility within the next facility business day.

2. If there is no response at the unlicensed facility, a notice is left requesting the facility contact licensing within 24 hours. When the unlicensed facility is uncooperative in assisting staff to verify the necessity of a license, it is staffed with the regional programs manager.

3. The licensing staff offers technical assistance and consultation to assist the caregiver in meeting licensing requirements.

4. When children are at imminent risk of harm, licensing staff refer to OAC 340:110-1-9.4 for cease care procedures.

5. An application is considered complete when:

   (1) all necessary items of information are complete on the application; and

   (2) all supporting documentation has been provided.

6. The monitoring frequency plan of unlicensed facilities is 12 until licensing staff verify care of children has ceased. Cases are staffed with supervisor for appropriate follow-up as necessary.

7. If a complaint allegation was received regarding unlicensed care, and care was verified, the complaint is ruled substantiated even if unlicensed care has ceased.
340:110-1-45. Application process

Revised 7-01-09

(a) Application packets. Application packets, which include the appropriate licensing requirements and application forms, are provided to potential licensees upon request. ■ 1 This packet includes:

(1) Form 07C040E, Request for License – Child Placing Agency, Residential Child Care, and Children's Shelter;

(2) Form 07LC041E, Staff Information - Child Care Facility; and

(3) Form 07LC043, Child Placing Agency Compliance Review, or Form 07LC056E, Residential Child Care Facility Compliance Review, as applicable. ■ 2

(b) Receipt of application. Upon receipt of the application packet to Oklahoma Child Care Services, the case is assigned a license number and a file is created. ■ 3 Contact is made by phone every two months and documented on Form 07LC080E, Licensing Services Supplemental Information, when children have not been accepted into care. ■ 4

(c) Permission to operate. The facility may be granted permission to operate on application status. If the licensing staff determines that an applicant is temporarily unable to comply with all licensing requirements, but the services are needed and the non-compliance does not place children at risk of imminent harm, these situations are staffed with programs manager for permission to operate. Permission to operate can not exceed 30 days. ■ 5

(d) Reopening a residential child care facility or child-placing agency. A new application must be completed when a residential facility or child-placing agency that has been closed is reopened.

(e) Computer checks. Computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on required persons as in accordance with OAC 340:110-1-51. ■ 6

(f) Withdrawal of application. If a residential child care facility or child-placing agency applicant wishes to withdraw the application prior to issuance of a license and the licensing staff confirms that no children are in care, the licensing staff closes the case.

INSTRUCTIONS TO STAFF 340:110-1-45
Revised 11-20-08

1. If the applicant operates a facility for residential care, the Office of the State Fire Marshal and local health department are notified in writing to request an inspection of the premises.

2. Child-placing agencies use Form 07LC043E, Child Placing Agency Compliance Review; residential child care facilities use Form 07LC056E, Residential Child Care Facility Compliance Review.

3. An application is considered complete when:
   (a) all necessary items of information are complete on the application; and
   (b) all supporting documentation has been provided.

4. The licensing staff makes an appointment to inspect the facility, measure the square footage, draw a floor plan, and determine the licensed capacity. If the facility does not begin operating within six months, the licensing staff contacts the facility or agency to determine whether the application will remain open or be withdrawn.

5. A monitoring frequency plan of 12 is entered into the database.

6. Licensing staff conduct an OKDHS computer check on applicable persons prior to permission to operate being given.
340:110-1-47. Case management

Revised 7-01-09

(a) Periodic visits.

(1) Licensing staff annually conducts monitoring visits to document compliance with the requirements:  ■ 1

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

   (B) two announced, to child-placing agencies.  ■ 3

(2) If caseloads prevent licensing staff from conducting all visits, the programs manager consults with licensing staff on case management, and the number of required visits may be reduced. This adjustment is approved and documented in the case record by the programs manager.

(3) During each monitoring visit, licensing staff:

   (A) observes the entire facility, including outdoor play space and vehicles used for transportation, if available; and

   (B) checks:

      (i) resident files, if applicable;

      (ii) records for new staff including compliance with background investigations in accordance with OAC 340:110-1-51 and copies of Form 07LC041E, Staff Information – Child Care Facility, obtained for the case record;

      (iii) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons in accordance with OAC 340:110-1-51;  ■ 4

      (iv) Form 07LC092E, Insurance Verification, within the last 12 months; and

      (iv) fire and health inspections within the last 12 months, if applicable.

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

(c) **Change of address.** When a facility moves to a new location, licensing staff follows specific procedures to document the move. ■ 5

(1) **Child-placing agency.** When a child-placing agency moves its office, licensing staff:

(A) obtains an updated application; and

(B) files a narrative in the case file stating the new address and finding directions.

(2) **Residential facility.** When a residential program moves, licensing staff:

(A) obtains an updated application;

(B) conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements;

(C) obtains new fire and health approvals;

(D) obtains Department of Environmental Quality approval, if applicable; and

(E) files a narrative in the case file stating the new address and finding directions.

(d) **Satellite office.** When a child-placing program adds a satellite office, licensing staff:

(1) documents the location of each office; and

(2) requests files as needed from satellite locations.

(e) **Change in name.** If the licensing staff verifies there is a change in name but no change in ownership, the change is documented in the case record and the database is updated. ■ 6

(f) **Increase or decrease in licensed capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the programs manager. If the request to increase capacity is due to additional physical space, the required
documentation includes:

(1) reason for the increase;

(2) fire department approval;

(3) health department approval;

(4) physical plant drawing indicating the measurements, total square footage, and number of additional children that can be accommodated; and

(5) additional staff, if applicable. ▲ 7

(g) **Inactive cases.** If children have not been in care or services have not been provided on a regular basis within a 12-month period, the option of voluntary closure is discussed with the provider.

(1) A provider who wants his or her case to remain open must submit a request in writing, including a statement that the provider will notify licensing staff when care or services are resumed.

(2) Licensing staff contacts the provider by telephone or letter periodically to update the provider's status.

(3) Licensing staff visits the inactive facility at least once a year to verify and document compliance with licensing requirements.

(h) **Change in ownership.** If a residential program or child-placing agency assumes new ownership, the case file is closed, and the program must apply for new license under the new owner. A permit may be issued if a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements. ▲ 8

(i) **Response to a child death.** When notified of the death of a child while in child care, licensing staff:

(1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and

(2) visits the facility as soon as possible, unless advised otherwise by law enforcement. ▲ 9
(j) **Serious incident reports.** The licensing staff submits to the programs manager a report of any serious incident. A serious incident includes, but is not limited to, an incident: 10

1. that results in the serious injury or death of a child, such as:
   - (A) shaken baby;
   - (B) drowning or near drowning; or
   - (C) traffic accident resulting in serious injury;

2. that places a child at a high risk for death or injury, such as a child:
   - (A) leaves a facility without the staff's knowledge;
   - (B) is left at a location away from the facility;
   - (C) is left unattended in a vehicle; or
   - (D) is left alone in a facility;

3. that causes significant damage to a facility, such as:
   - (A) fire;
   - (B) flood; or
   - (C) tornado; and

4. where media involvement is anticipated.

(k) **Coordination with state agencies.** Residential licensing staff works cooperatively with the OKDHS Office of Client Advocacy (OCA), the Oklahoma Commission on Children and Youth (OCCY), Oklahoma Health Care Authority (OHCA), law enforcement, and OKDHS Children and Family Services Division (CFSD). 11

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

**Revised 7-1-09**

1. (a) Monitoring visits to residential facilities are documented on Form
07LC058E, Residential Child Care Facility Visit Sheet.

(b) During the annual records check, licensing staff:

(1) checks employee training records;

(2) conducts Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons; and

(3) searches dockets on the Oklahoma State Courts Network (OSCN).

(c) The monitoring report is discussed with the facility’s or agency’s director or staff in charge. The director or staff in charge signs the report, and provides a copy of the monitoring report within five working days to the facility’s owner/operator or agency.

(d) The monitoring report is submitted to the programs manager for review. The original is filed in the facility record.

2. When monitoring residential programs, Form 07LC058E, Residential Child Care Facility Visit Sheet, is used to document compliance with requirements. Also, Form 07LC059E, Residential Child Care Facility – Resident File Review, and Form 07LC050E, Personnel File Review – Agency and Residential Programs, are used if applicable. After each monitoring visit, the licensing staff enters the monitoring frequency plan that reflects the required number of visits per year on the licensing database. Any changes in the monitoring frequency plan must be reviewed with the programs manager. Examples of the required number of visits includes:

(a) one visit per year for inactive facilities;

(b) three visits per year for facilities with a history of compliance;

(c) six visits per year for applications, six-month permits; and

(d) twelve visits per year for seriously non-compliant facilities.

3. When monitoring child placing agencies, Form 07LC022E, Child-Placing Agency – Foster Care File Review, Form 07LC044E, Adoption Services File Review, Form 07LC050E, Personnel File Review – Agency and Residential Program, and/or 07LC065E, Resident Monitoring Report, are completed as
applicable. After each monitoring visit, the licensing staff enters the monitoring frequency plan that reflects the required number of visits per year on the licensing database. Any changes in the monitoring frequency plan must be reviewed with the programs manager. Examples of the required number of visits includes:

(a) one visit per year for inactive facilities;

(b) two visits per year for facilities with a history of compliance;

(c) six visits per year for applications, six-month permits; and

(d) twelve visits per year for seriously non-compliant facilities.


(1) Annual computer checks to identify prior involvement with OKDHS are completed on all adults who sign Form 07LC040E, Request for License – Child-Placing Agency, Residential Child Care, and Children's Shelter. These are checked on the computer by date of birth and Social Security number.

(2) Annual docket searches of the OSCN include Oklahoma Court Information System (OCIS), non-OCIS counties, and the court clerk in non-reporting counties are completed on all adults who sign the application. These are checked by all known names. The court clerk in counties where a person resides or is employed is contacted if they are non-reporting counties.

(3) Documentation of the OKDHS computer check is filed in the confidential section of the facility's case. All other searches are filed in public viewing and meet public inspection requirements in accordance with OAC 340:110-1-55.

5. The database is updated with the new address. The statewide licensing coordinator or designee issues a new license to the facility.

6. The licensing staff notifies the programs manager of the change. The statewide licensing coordinator or designee issues a new license to the facility and a copy is sent to the licensing staff.
7. The programs manager reviews the recommendation and approves the increase. The licensee is notified in writing that the increase has been approved. If an increase in capacity is requested for other reasons than the increase in space, then the recommendation to the programs manager is made in narrative form giving the reason for the increase. The procedure for increasing or decreasing capacity of a facility is outlined in (1) through (4) of this Instruction.

(1) Increase. When a facility requests an increase in capacity, the licensing staff:

(A) notifies the Office of State Fire Marshal to determine whether another inspection or further evaluation is required. The contact is documented on Form 07LC080E, Licensing Services Supplemental Information.

(B) does not recommend to increase capacity when the facility has numerous, repeated, or serious non-compliance with requirements. When the only serious non-compliance was that the facility exceeded capacity the request for increase is staffed with programs manager for appropriate action.

(2) Decrease. When decreasing capacity the licensing staff updates the floor plan on Form 07LC057E, Physical Plant, indicating which rooms are available for use by children.

(3) Recommendations to increase or decrease capacity. A recommendation to increase or decrease capacity may be made at any time by submitting a narrative report to the programs manager.

(4) Approval. If change in capacity is approved, the programs manager or designee issues a new license to the facility that reflects the new capacity. A copy of the license is sent to the licensing staff.

8. Types of ownership include:

(1) sole proprietor;

(2) corporation;

(3) partnership;
(4) limited liability company; or

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

9. When notified of the death of a child in child care, licensing staff:

(1) determines and documents what occurred and whether the facility was in compliance at the time of death, documenting:

(A) number of children and staff present at the time of incident;

(B) what supervision was provided during this time;

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

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

(E) the names of staff involved;

(2) notifies the licensing programs manager and director of Child Care Services; and

(3) considers whether the death is possibly related to sudden infant death syndrome (SIDS). If SIDS is possible, licensing staff:

(A) documents:

(i) where the child was sleeping and sleep position;

(ii) the condition of the crib or playpen; and

(iii) observations regarding the bedding, pillows, and other items in the sleeping area;

(B) provides the caregiver the pamphlet, SIDS – What Child Care Providers and Other Caregivers Should Know, OKDHS publication number 94-01;

(C) notifies the licensing programs manager and director of Child Care Services;
(D) contacts the licensing training coordinator to request that additional information be sent to the caregiver;

(E) obtains verbal or written verification confirming the cause of death as SIDS; and

(F) notifies the Oklahoma State Department of Health SIDS coordinator, who is available to offer support to the caregiver and family.

10. A serious incident report includes:

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

(2) the date and time of the incident;

(3) a description of the injuries to the child(ren) or damage to the facility;

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

(5) a summary of contacts made with other agencies involved in the investigation of the incident, such as CW or the police;

(6) any pertinent information regarding the caregiver's history, such as prior involvement with CW or a history of numerous, repeated, or serious non-compliance with licensing requirements; and

(7) the names of staff involved.

11. Reports from Office of Client Advocacy (OCA), Oklahoma Commission on Children and Youth (OCCY), Oklahoma Health Care Authority (OHCA), law enforcement, and Children and Family Services Division (CFSD).

(1) The programs manager reviews all reports received from OCA, OCCY, and OHCA. Reports are registered by appropriate division support staff.

(A) Documentation of reports received from OCA includes:

(i) date report was received;

(ii) facility name and case number;
(iii) date of investigation;

(iv) investigator assigned to the investigation;

(v) accused caregiver;

(vi) findings;

(vii) date corrective action plan is due;

(viii) date corrective action plan was submitted;

(ix) date licensing staff was notified; and

(x) date information was filed in the case.

(B) Documentation of reports received from OCCY includes:

(i) date report was received;

(ii) facility name and case number;

(iii) date of investigation;

(iv) oversight specialist involved in the investigation;

(v) recommendations;

(vi) date corrective action plan is due;

(vii) date corrective action plan was submitted;

(viii) date licensing staff was notified; and

(ix) date information was filed in the case.

(2) All reports received from OCA, OCCY, OHCA, law enforcement, and CFSD are forwarded to appropriate residential licensing staff to review for possible non-compliances with licensing requirements. If review of information indicates non-compliances, residential licensing staff investigates in accordance with policy regarding follow-up on
non-compliances, OAC 340:110-1-47.2, or a complaint investigation, 340:110-1-47.1.

(3) All information in the licensing file, including confidential information, except CFSD, is made available to OCA, OCCY, and OHCA.
340:110-1-47.1. Complaint investigations

Revised 7-01-09

(a) Legal basis. The Child Care Facilities Licensing Act (Act), Sections 401 et seq. of Title 10 of the Oklahoma Statutes, mandates that the Oklahoma Department of Human Services (OKDHS) conduct a full investigation of a complaint alleging a violation against the Act or any licensing requirement.

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

(c) Complaint information. The licensing staff obtains as much relevant information as possible from the complainant.

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

(1) non-compliance with licensing requirements;

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

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

(e) Disposition of complaints. Upon receipt of a complaint, the licensing staff determines a disposition, as described in this subsection.

(1) A complaint that does not meet the criteria in (d) is discussed with the complainant, and, if appropriate, a referral is made to another entity, such as law enforcement, Office of Juvenile Affairs, Office of Client Advocacy (OCA), OKDHS Children and Family Services Division, or OKDHS Office for Civil Rights.

(2) A complaint alleging violation of licensing requirements or operation of an unlicensed facility is investigated by Licensing Services.

(3) A complaint alleging child abuse or neglect is immediately referred to OCA with a copy of Form 07LC012E, Licensing Complaint. If an immediate response to the referral is not received, the licensing staff follows up the next working day to obtain a response.

(4) When a complaint alleges:
(A) commission of a crime, it is immediately referred to local law enforcement where the facility is located.

   (i) The referral is followed up in writing; a copy is filed in the facility record; and the programs manager is notified.

   (ii) It is the responsibility of the licensing staff to follow up with local law enforcement officials to determine and document the outcome of the investigation; or

(B) illegal drug activity, it is referred to local law enforcement. If the facility has a provider contract, the complaint is also referred to the OKDHS Office of Inspector General (OIG).

   (i) The referral to OIG is made on Form 19MP001E, Referral Form, and includes date and contract information regarding the referral to local law enforcement.

   (ii) Upon receipt of the referral, OIG contacts the local law enforcement agency to determine whether the agency or OIG will conduct the investigation or whether a joint investigation will be conducted. ■ 5

(5) A complaint received from another division within OKDHS or an agency responsible for monitoring residential child care facilities or child-placing agencies, such as the Oklahoma Commission on Children and Youth (OCCY), OCA, or the local health or fire department, is deemed valid if documented in writing by the agency representative. Licensing staff determines whether the observation is a non-compliance. The facility is advised of the report and given an opportunity to respond.

(6) The programs manager is notified of any complaint:

   (A) in which the alleged non-compliance caused or could cause imminent risk of harm to a child in care;

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

   (C) when the alleged non-compliance has been addressed in a previous Form 07LC037E, Notice to Comply;

   (D) that was referred to OCA or law enforcement; or
(E) that is receiving special attention, such as from the media or a legislator.

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

1. **Risk level I complaints.** Risk level I complaints indicate a child is in imminent danger of serious physical injury. The level of risk is not influenced by the removal of a child from the facility if other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt of the complaint by the licensing staff unless awaiting investigation by OCA or law enforcement. Examples of risk level I complaints include:

   - (A) alleged physical or sexual abuse;
   - (B) presence or use of illegal drugs while children are in care;
   - (C) distribution of drugs;
   - (D) children left alone in the facility or in a vehicle;
   - (E) extreme facility temperatures;
   - (F) an infant placed on the stomach for sleeping;
   - (G) threatening or impaired behavior of a caregiver;
   - (H) severe understaffing or over licensed capacity;
   - (I) unlicensed facility;
   - (J) violating an Emergency Order;
   - (K) **required staff** without current cardio-pulmonary resuscitation and first aid training; or
   - (L) failure to obtain background investigations.

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

(A) leaving children with an underage staff person;
(B) alleged physical abuse from a staff person no longer working in the facility;
(C) inappropriate discipline where no injury is reported;
(D) broken playground equipment;
(E) injury caused by lack of supervision; or
(F) minor understaffing.

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

(A) inadequate meal service;
(B) inappropriate use of television or videos; or
(C) inadequate cleanliness of the facility.

(g) **The investigation.** The licensing staff conducts a full investigation, obtaining sufficient information to make a finding. ■ 6

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

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

(2) the facility has not had numerous, repeated, or serious non-compliance; and
(3) a monitoring visit has been made in the last three months during which substantial compliance was documented.

(i) Procedure for investigating allegations of operating an unlicensed facility. When allegations of operating an unlicensed facility are investigated, the procedures contained in OAC:340:110-1-54.1 are also followed.

(j) Child abuse and neglect complaints. Upon receipt of a complaint alleging abuse of a child in care, the licensing staff immediately notifies the programs manager and makes a referral to the Office of Client Advocacy.

(k) Findings. After the investigation is completed, the licensing staff, in consultation with the programs manager, as appropriate, makes a finding as to whether the complaint is substantiated or unsubstantiated.

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

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

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

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

(3) Ruled out. A finding of ruled out is made when a weighing of the information clearly indicates there was not a violation of a licensing requirement or the Act. ■ 7

(l) Documentation of findings. Upon completion of the investigation, the licensing staff documents the findings and notifies the provider in writing.

(m) Notice to Comply. When a serious complaint is substantiated, the licensing staff advises the facility to correct the violations immediately, using Form 07LC037E, Notice to Comply. The facility must complete a plan of correction.

(n) Summary of facts. Facilities may submit a written request for a summary of the facts used to evaluate and determine the licensing complaint findings. ■ 8

INSTRUCTIONS TO STAFF 340:110-1-47.1
Revised 7-01-09

1. When the complaint is made in person or by telephone, the licensing staff assists the complainant by:

   (1) advising the complainant as to which allegations represent non-compliance and are enforceable;

   (2) responding to the concerns of the complainant; and

   (3) discussing confidentiality. For example, the identity of the complainant is kept confidential unless legal action or a referral to law enforcement officials becomes necessary;

   (4) eliciting appropriate information. When subjective terms such as "drunk" or "crazy" are used, the licensing staff attempts 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 the licensing staff will make an unannounced visit or a referral of child abuse will be made to Office of Client Advocacy (OCA) for investigation; and

   (6) requesting a signed, statement from the complainant when serious violations are involved or a negative sanction may result.

2. The information requested is recorded on Form 07LC012E, Licensing Complaint, and entered into the database system. The information requested includes:

   (1) date and time the complaint was received;

   (2) name of the facility, address, and telephone number;

   (3) the complainant's name, address, telephone number, and relationship to the facility, such as employee, parent of a child in care, or neighbor;

   (4) the complainant's source of information; for example, personal observation or information from another person; and

   (5) specific information regarding the allegations, including:
(A) a description of the circumstances;

(B) name or identity of staff involved;

(C) child(ren) involved or affected by the alleged non-compliance and the child(ren)'s age(s);

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

(E) names of other persons with relevant information; and

(F) whether the complaint has been discussed with the facility director.

3. This information is recorded as a complaint, regardless of the purpose of the caller. The licensing staff in whose area the facility is located is notified as soon as possible, and Form 07LC012E, Licensing Complaint, is forwarded to the licensing staff.

4. The referral is documented on the bottom of Form 07LC012E, Licensing Complaint. Complaints referred to OCA include those that allege harm or threatened harm to a child that occurs through non-accidental physical or mental injury, sexual abuse, neglect, or failure or omission to provide protection from harm or threatened harm.

   (1) If the licensing staff is unsure whether a complaint meets the criteria for investigation by OCA, the complaint is referred to OCA and the decision whether to accept the referral is made by OCA staff.

   (2) Sex play between children is referred to OCA for investigation. Licensing investigates this type of allegation with regard to supervision of the children.

5. It is the responsibility of the licensing staff to follow up with OIG to determine and document the outcome of the investigation.

6. (a) The investigation includes:

   (1) a review of the allegations to ensure that investigating staff is thoroughly familiar with the details and specific information, and, whenever possible, a review of all appropriate agency records to obtain other preliminary information as appropriate prior to making the initial contact;
(2) an unannounced visit to the facility. The purpose of the visit and the nature of the complaint are discussed with the operator. The licensing staff does not identify the complainant;

(3) a review of available records, such as the licensing record, children's files, restraint and injury logs, medical and transportation records, food program records, and police reports;

(4) interviews with the complainant and residents of the facility, if applicable, and others who may have relevant information, such as facility staff or food program employees. The interview:

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

(B) is usually a face-to-face contact between the licensing staff and a person who may have relevant information. If a person's comments and signature are recorded on Form 07LC080E, Licensing Services Supplemental Information, he or she is given a copy of the report. A copy of the report is not provided to the operator;

(C) is usually conducted in private and with one person at a time. An exception may be made when a witness accompanies the licensing staff, a parent wishes to be present when his or her child is interviewed, or a person elects to have his or her attorney present;

(D) may be conducted outside the facility if the director is uncooperative, if an on-site interview places the interviewee at risk, or if information is to be gathered prior to discussion with the operator. Interviews with persons outside the facility are documented on Form 07LC080E, and the person interviewed is given a copy of the report;

(E) when with a child, takes into consideration the age and verbal ability of the child. It is preferable that the licensing staff is accompanied by a witness. Parental permission prior to interviewing a child in care is not required when investigating a complaint alleging non-compliance with licensing requirements;

(5) observations at the facility.
(A) When an investigation is associated with a specific time of day, for example, early morning understaffing, the visit to the facility is made at the time the incident is alleged to have occurred. The licensing staff documents observations by citing the specific conditions observed; for example, the director refused to allow the licensing staff to view the facility's records of staff criminal history investigations or there were 16 residents monitored by one staff.

(B) When investigating a complaint at a facility that is time-consuming, stressful, or involves OCA or other auditing entities, or if a full monitoring visit was made within the last month to a facility with a record of compliance, a complete monitoring visit is not required. The complaint visit is documented on Form 07LC080E. The licensing staff documents compliance with those areas relating to the allegation; and

(6) documentary evidence, which is entered in the facility record. Documentary evidence is information that has been recorded, such as an OCCY report, medical and police records, signed statements or photographs.

(b) If sufficient information is obtained through interviews, observations, or documentary evidence that supports an allegation that children are at risk of harm, the licensing staff requests that the operator voluntarily cease care or prohibit the alleged perpetrator from having any contact with children pending the outcome of the investigation. The operator is advised of the possibility of an injunction or Emergency Order if he or she refuses and children are considered at risk of harm.

(c) Following completion of the investigation, the licensing staff sends a letter to the operator that includes the findings of the investigation and notice of further action that will be taken, if indicated.

7. The licensing staff enters the findings on the data base and completes Form 07LC081E, Licensing Complaint Report Summary, using specific language that will be informative to anyone who may review the file.

(1) Names or identifying information of the complainant, children, and their families are not included on Form 07LC081E. When OCA is not involved, names of staff may be used in complaint findings regarding non-compliance with licensing requirements. When a child care provider is identified on Form 07LC081E, it is even more critical to have strong evidence before substantiating the complaint.
(2) When a child abuse investigation has been conducted by OCA, Form 07LC081E contains a summary of allegations and findings that does not disclose the identity of the alleged perpetrator or victim, but does allow persons who are interested to evaluate the facility.

(3) Form 07LC081E, is made a part of the open record. Form 07LC012E, Licensing Complaint, is placed in a confidential file. If the allegations and findings have not been given to the provider in writing, a letter is sent to the provider. Interviews with staff, children, collateral witnesses, and complainants are not made part of the public record.

(4) If information regarding a complaint is requested by the public prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings will be released after the investigation is complete.

8. The summary of facts is provided on OCCS letterhead and indicates documents reviewed and the total number of persons interviewed while identifying the relationship to facility such as parents, staff, children, collateral or other agency personnel. Information is provided while protecting confidentiality of all parties. Programs manager approval is necessary before providing the summary to the facility.
340:110-1-47.2. Non-compliance with requirements

Revised 11-20-08

(a) Documentation of non-compliance. The licensing staff documents clearly and concisely on the monitoring report areas of non-compliance and the discussion with the operator. ■ 1

   (1) A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented on the monitoring report for each non-compliance. ■ 2

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

   (3) The licensing staff requests that the operator sign the monitoring report, explaining that the operator's signature indicates acknowledgment of information recorded.

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

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

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

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

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

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

   (3) Non-compliance letter. A non-compliance letter may be written to the operator. The licensing staff sends a copy of the monitoring report and non-compliance letter to the governing board or owner, if applicable. ■ 4
(4) **Return monitoring visit.** A return monitoring visit may be made if there is repeated, numerous, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time. ■ 5

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

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

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

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

(B) If the operator does not submit the response to Form 07LC037E within the specified time period, the licensing staff contacts the operator and documents the conversation. If concerns exist or the operator is uncooperative, the licensing staff sends a letter stating that failure to complete Form 07LC037E may result in revocation of license, denial of the application, the filing of an injunction, or Emergency Order.

(8) **Office conference.** The licensing staff may schedule an office conference with the operator of the facility. The programs manager is present at the office conference. Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered. The conference is documented on Form 07LC080E, which is signed by the licensing staff, the operator, and any witnesses present. Form 07LC037E is completed if one addressing these issues has not been completed recently.
(9) **Consent agreement.** OKDHS and the operator of the facility may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation.

(10) **Revocation.** The licensing staff recommends that the application for licensure be denied or license revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children. ■ 6

(11) **Voluntary cease care.** With State Office approval, the operator is asked to voluntarily cease caring for children.

(12) **Voluntary closure.** The operator is asked to voluntarily close the facility. ■ 7

(d) **Case management responses when children are at risk.** If the licensing staff documents non-compliance with requirements or is investigating a complaint that children may be at imminent risk of harm, options to consider during consultation with the operator and the programs manager are outlined in this subsection.

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

(2) The operator is asked to voluntarily close the facility.

(3) The licensing staff requests an Emergency Order when immediate action is needed to protect children in a child care facility that is on permit, licensed, on notice of revocation or denial, or operating during an appeal following revocation or denial.

(4) The operator agrees to enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation.

(5) The licensing staff recommends that the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children.

(6) An injunction may be requested when the residential facility or child-placing agency is:

   (A) unlicensed;

   (B) on application status;

   (C) licensed;
(D) violating an Emergency Order;

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

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

INSTRUCTIONS TO STAFF 340:110-1-47.2

Revised 7-01-09

1. When documenting non-compliance on the monitoring report, the licensing staff:

   (1) documents what is observed rather than what is needed. For example, the licensing staff writes "milk was not served with lunch" instead of "milk must be served at lunch";

   (2) discusses areas of non-compliance with the operator and documents the discussion in writing on the monitoring report;

   (3) provides a copy of the monitoring report to the operator and governing board or owner, as applicable; and

   (4) if the person in charge refuses to sign the monitoring report, documents the refusal on the report.

2. Plan of correction.

   (1) If the time period suggested by the operator for correction of non-compliance is unacceptable to the licensing staff, the licensing staff states his or her expectation and negotiates an acceptable time period.

   (2) The plan of correction may include an agreement by the administrator or director to specific conditions, such as agreeing to restrict a person convicted of child abuse from the premises or agreeing not to allow certain staff to transport children because of a prior conviction for driving under the influence (DUI). The agreement:

       (A) is placed in a prominent location in the facility's file, such as stapled inside the front cover, so it is readily seen by anyone reviewing the case record; and
(B) includes the conditions that must be complied with, but does not include confidential information; for example, the caregiver has three DUI convictions or the person restricted from the premises has a child abuse conviction.

3. Licensing staff assesses both the number and type of non-compliance observed during monitoring visits or substantiated as a result of a complaint investigation. Response is based on the seriousness of the non-compliance and the demonstrated ability and willingness of the provider to comply.

   (1) The licensing staff response goes beyond documentation of the non-compliance and a plan of correction on the monitoring report when a monitoring visit involves:

   (A) five or more areas of non-compliance;

   (B) areas of non-compliance that have been repeated three or more times during a 12-month period; or

   (C) non-compliance that is serious or places children in danger.

   (2) The licensing staff advises the programs manager of the planned response and, if the supervisor disagrees, the case history is staffed and a different or additional response may be utilized.

4. A non-compliance letter is sent by licensing staff within ten working days, and includes the date of the monitoring visit and the area(s) of non-compliance. If a critical non-compliance remains uncorrected at the next monitoring visit, a letter documenting both visits and a follow-up visit are required.

5. The timing of a return visit is determined by the risk level to children. A return visit does not routinely result in a change in the monitoring frequency plan. If subsequent visits require a follow-up, increased monitoring is discussed with the programs manager. When a return visit is conducted, licensing documents staff child ratios and correction of previous non-compliance on the monitoring report. A full visit is completed if numerous, repeated, and/or serious non-compliances are observed.

6. Procedure and documentation for denial or revocation of license.

   (1) The licensing staff ensures that the non-compliance and a plan of correction are clearly documented on the monitoring report, and the
facility's action to implement any previous plans of correction. It is noted on the monitoring report that failure to correct the non-compliance may result in, denial of application, revocation of license, filing an injunction, or issuance of an Emergency Order, as applicable.

(2) The licensing staff conducts monitoring visits at least monthly to monitor compliance and the plan(s) of correction. The same witness accompanies the licensing staff on monitoring visits whenever possible.

7. Notification is documented by the licensing staff when the provider voluntarily ceases to operate until the investigation is completed or voluntarily closes the facility, or the district attorney issues an injunction.
340:110-1-51. Background investigations

Revised 07-01-09

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

1. any person making application to establish or operate a residential child care facility and child-placing agency;

2. any person to be employed by a child care facility or child-placing agency, including all caregivers, auxiliary staff, and substitute or assistant caregivers; and

3. others who have unsupervised access to children, such as students, workers, contracted staff, volunteers, or custodians; and

4. adults, including the provider’s spouse or adult children, who live in the child care facility.

(b) Out of state criminal history investigations. A criminal history investigation conducted within the last 12 months by the authorized agency in the previous states of residence is also required for persons in (a)(1) - (4) when they have resided in Oklahoma less than three years.

(c) Oklahoma State Courts Network (OSCN). The facility’s owner or director submits a completed Form 07LC096E, Criminal Background Review, to OCCS licensing records office for completion of OSCN criminal history investigation prior to employment for:

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

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

3. adults, including providers’ spouses or adult children, who live in the child care facility.

(d) Exceptions. OSBI, out of state criminal history, and OSCN investigations are not required for:
(1) staff persons who move to a facility or agency operated by the same organization;

(2) contracted staff persons who provide transportation, lessons, or other services, provided facility staff are present with children at all times;

(3) parent volunteers who transport children on an irregular basis; and

(4) provider’s children who become adults, age 18, during continuous residence at the licensed facility.

(e) **OKDHS background checks.** Prior to permission to operate, computer checks to identify prior involvement with OKDHS are completed by licensing staff on owners and program directors who sign the application. ■ 5

(1) When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements. ■ 6 Other cases are reviewed only if concerns exist.

(2) When the provider's medical information is confidential or concerns exist, the licensing staff may request information from the provider by requiring the provider to sign OKDHS Form 08HI003E, Authorization to Disclose Medical Records. ■ 7

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

(1) the Oklahoma State Bureau of Investigation (OSBI); and

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

(g) **Sex Offender and Mary Rippy Violent Crime Offenders Registries.** According to Section 404.1 of Title 10 and Section 589 of Title 57 of the Oklahoma Statutes, it is unlawful for any person who is required to register pursuant to the Sex Offender Registration Act or the Mary Rippy Violent Crime Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. If it is determined that a facility has violated this Statute, the Oklahoma Department of Human Services (OKDHS) may pursue:

(1) an Emergency Order;
(2) revocation of the license or denial of the application for license;

(3) an injunction; and

(4) referral for criminal proceedings.

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

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

(2) Review of submitted information and OSCN criminal history search is conducted by OCCS licensing records office and will be returned to the facility by the close of the next OKDHS business day.

(i) Waiver. The prohibition for a person with specified criminal history as referenced in (a), (b), and (c) of this Section to be employed or reside in a licensed facility may be waived if requested on Form 07LC089E, Child Care Waiver Request, and signed by the facility's owner or director.

(1) Licensing staff submits completed Form 07LC071E, Licensing Services Waiver Referral, and submits it to OCCS. A waiver is not requested or granted to any person who:

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

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

(2) The decision to grant a waiver is made by the waiver review committee consisting of three OCCS staff. The decision is based on documentation indicating the health, safety, and well-being of children is not endangered and must be approved unanimously by the committee. Criteria considered by the committee include the:

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

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

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

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

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

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

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

(I) statement from the person who has the criminal history; and

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

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

(4) The programs manager notifies the facility of the decision in writing.

(5) Licensing staff monitors any additional instructions made to the program and verifies the waiver notice is posted in the facility.

INSTRUCTIONS TO STAFF 340:110-1-51

Revised 7-01-09

1. A report obtained from an Indian tribe, private agency, or Oklahoma Department of Human Services (OKDHS) program such as foster care, is acceptable only with verification that information was obtained from the Oklahoma State Bureau of Investigation (OSBI) within the last 12 months.

2. Local licensing staff verify compliance with background investigations for these individuals and:
(1) reviews each criminal history report, including out-of-state reports, and maintains a copy for the licensing record.

(2) requests a copy of the disposition from the facility if a report includes a charge without a disposition for an offense listed in licensing requirements;

(3) advises the owner or director that the person does not meet licensing requirements if a report includes a conviction or disposition that includes a plea of guilty or nolo contendere or a pending charge for an offense listed in licensing requirements. Orders of expungement are staffed with the licensing supervisor; and

(4) may request a copy of police reports if the report contains information regarding behavior that may endanger children.

3. The licensing staff documents on Form 07LC080E, Licensing Services Supplemental Information, if a criminal history report cannot be obtained from the previous state of residence due to laws in that state that restrict the release of such reports. Licensing staff instructs the individual to contact the local law enforcement agency for the previous residence to obtain, at minimum, a local criminal history investigation. If a sex offender registry check is not available from the previous state of residence, this is documented on Form 07LC080E.

4. OCCS licensing records office conducts an OSCN search. A docket search of OSCN includes Oklahoma Court Information System (OCIS) and non-OCIS counties. The court clerk in non-reporting counties where a person resides or is employed is contacted. Information received from a court clerk is documented on Form 07LC080E, Licensing Services Supplemental Information.

5. The check is conducted by name, date of birth, and Social Security number. Documentation of the findings is filed in the confidential section of the case record. A computer check is not completed on the facility director if the facility director is not the owner of the facility.

6. Information from the Child Welfare case is discussed with the programs manager, statewide licensing coordinator, or designee. If concerns exist, the programs manager and statewide licensing coordinator are consulted to assist in developing a course of action.
7. If the provider signs Form 08HI003E, Authorization to Disclose Medical Records, a letter may then be sent to the doctor asking if the provider is able to provide care for the number and ages of children in care and including but not limited to type of medication, length of treatment, hospitalizations, or any behavior that would place children at risk.

8. Form 07LC096E, Criminal Background Review, with submitted documentation including any additional information obtained is returned to the facility. A copy of all information is maintained at OCCS licensing records office. Local licensing staff are responsible for verifying compliance with Form 07LC096E, Criminal Background Review, for the most recent staff hired during routine monitoring visits.

9. Forms 07LC087E, Waiver Notification, 07LC089E, Child Waiver Request, and 07LC090E, Waiver Reference, may remain in the public file unless they contain information regarding a juvenile.

10. The members of the committee are the statewide licensing coordinator or designee, assistant licensing coordinator, and the residential programs manager or designee.

11. If received, the opinions of community members are verified by telephone contact with the individual providing the opinion. For employees or household members, these references are verified by the person requesting the waiver. References on all other waiver requests are verified by the licensing staff.
340:110-1-54.1. Unlicensed facilities

Revised 7-01-09

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

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

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

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

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

(i) is in compliance with health and safety requirements without serious non-compliances as referenced in OAC 340:110-1-46(a)(1);

(ii) has submitted a completed application in accordance with OAC 340:110-1-45; and

(iii) meets the following licensing requirements:

(I) all required background information has been provided in accordance with OAC 340:110-1-51;

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

(III) required health and safety training is completed; and

(IV) minimum educational qualifications for all positions are met.
(2) If a facility is not granted permission to operate, a follow-up visit is conducted within one facility business day to verify the termination of care and when care of children has not ceased staff proceed with procedures in OAC 340:110-1-52(f).

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

(c) Documentation of Findings. Following the unlicensed complaint investigation, licensing staff proceed with procedures in OAC 340:110-1-47.1(l).

(d) Procedures for investigating unlicensed out of state child-placing agencies.

(1) The licensing staff mails to the operator the licensing requirements and a letter that includes information about licensure and a request for a response within 14 days.

(2) If a response is not received within ten days, several contacts are made or attempted to encourage the operator of an unlicensed facility to comply with the Act.

(3) If the operator fails to apply for licensure as required by the Act, the licensing staff consults with the programs manager and statewide licensing coordinator for appropriate action which could include the issuance of an Emergency Order.

**INSTRUCTIONS TO STAFF 340:110-1-54.1**

Revised 7-1-09

1. When information is received from the person providing unlicensed care it is not documented as a complaint. If this information is received by telephone, staff inform the unlicensed facility they have not been given permission to operate and a visit is made to the facility within the next facility business day.

2. If there is no response at the unlicensed facility, a notice is left requesting the facility contact licensing within 24 hours. When the unlicensed facility is uncooperative in assisting staff to verify the necessity of a license, it is staffed with the regional programs manager.

3. The licensing staff offers technical assistance and consultation to assist the caregiver in meeting licensing requirements. When children are at imminent risk of harm, licensing staff refer to OAC 340:110-1-52 for cease care procedures.
4. An application is considered complete when:

   (1) necessary items of information are complete on the application; and

   (2) supporting documentation has been provided.

5. The monitoring frequency plan of unlicensed facilities is 12 until licensing staff verify care of children has ceased. Cases are staffed with programs manager for appropriate follow-up as necessary.

6. If a complaint allegation was received regarding unlicensed care, and care was verified, the complaint is ruled substantiated even if unlicensed care has ceased.
SUBCHAPTER 3. LICENSING STANDARDS FOR CHILD CARE FACILITIES

PART 1. REQUIREMENTS FOR CHILD CARE CENTERS

Section
340:110-3-1. Purpose
340:110-3-2. Definitions
340:110-3-3. Necessity and issuance of license
340:110-3-4. Requirements [REVOKED]
340:110-3-5. Organization
340:110-3-5.1. Policy and procedure
340:110-3-6. Records
340:110-3-7. Staff [REVOKED]
340:110-3-7.1. Requirements for child care center employees
340:110-3-8. Staff training [REVOKED]
340:110-3-9. Tuberculosis testing [REVOKED]
340:110-3-9.1. Supervision of children
340:110-3-10. Parent - staff communication
340:110-3-11. Physical facilities
340:110-3-12. Safety and sanitation [REVOKED]
340:110-3-13. Licensed capacity [REVOKED]
340:110-3-14. Indoor equipment
340:110-3-15. Minimum equipment and supplies [REVOKED]
340:110-3-16. Minimum equipment and supplies for each group of four infants [REVOKED]
340:110-3-17. Minimum equipment and supplies for each group of six toddlers [REVOKED]
340:110-3-18. Minimum equipment and supplies for each group of eight 2-year-old's [REVOKED]
340:110-3-19. Minimum equipment and supplies for each group of 12 three-year-old's [REVOKED]
340:110-3-20. Minimum equipment and supplies for each group of 15 four-and-five-year-old's [REVOKED]
340:110-3-21. Minimum equipment and supplies for each group of 20 children age six and older [REVOKED]
340:110-3-22. Outdoor safety and play equipment
340:110-3-23. Program [REVOKED]
340:110-3-24. Suggested full-day program [REVOKED]
340:110-3-25. Care of infants, toddlers, and two-year-olds
340:110-3-25.1. Care of preschool children
340:110-3-25.2. Care of school-age children
340:110-3-25.3. Care of children with disabilities
340:110-3-25.4. Water activities
340:110-3-25.5. Rest time
340:110-3-25.6. Night-time care
340:110-3-26. Behavior and guidance
340:110-3-27. Health
340:110-3-28. Food and nutrition
340:110-3-29. Transportation
340:110-3-30. Night time care [REVOKED]
340:110-3-31. Food service and sanitation requirements
340:110-3-32. Building, equipment, utilities and grounds [REVOKED]
340:110-3-33. Fire safety
340:110-3-33.1. Requirements for drop-in centers
340:110-3-33.2. Requirements for child care centers for sick children
340:110-3-33.3. Requirements for day camps
340:110-3-34. Guidelines for use in the study of day care centers [REVOKED]

PART 2. REQUIREMENTS FOR PART-DAY CHILDREN'S PROGRAMS

340:110-3-35. Purpose and policy of the law
340:110-3-36. Definitions
340:110-3-37. Necessity and issuance of license
340:110-3-38. Requirements
340:110-3-40. Policy and procedure
340:110-3-41. Records
340:110-3-42. Requirements for part-day program employees
340:110-3-43. Supervision of children
340:110-3-44. Physical facilities
340:110-3-45. Indoor equipment
340:110-3-46. Outdoor safety and play equipment
340:110-3-47. Care of infants, toddlers and two-year-olds
340:110-3-48. Learning experiences
340:110-3-49. Water activities
340:110-3-49.1. Rest time
340:110-3-49.2. Behavior and guidance
340:110-3-49.3. Health
340:110-3-49.4. Food and nutrition
340:110-3-49.5. Transportation
340:110-3-49.6. Food service and sanitation requirements
340:110-3-49.7. Fire safety

PART 3. JUVENILE DETENTION FACILITIES [REVOKED]
340:110-3-50. Purpose and policy of the law [REVOKED]
340:110-3-51. License [REVOKED]
340:110-3-52. Legal base [REVOKED]
340:110-3-53. Type of facilities [REVOKED]
340:110-3-54. Requirements [REVOKED]
340:110-3-55. Organization administration and finances [REVOKED]
340:110-3-56. Policy and procedure manual [REVOKED]
340:110-3-57. Admission procedure and criteria [REVOKED]
340:110-3-58. Records [REVOKED]
340:110-3-59. Release policy and procedure [REVOKED]
340:110-3-60. Juvenile rights [REVOKED]
340:110-3-61. Staff requirements [REVOKED]
340:110-3-62. Security and control [REVOKED]
340:110-3-63. Program/services [REVOKED]
340:110-3-64. Physical plant/facility requirements [REVOKED]
340:110-3-65. Food service, sanitation and hygiene [REVOKED]
340:110-3-66. Safety and emergency [REVOKED]

PART 5. REQUIREMENTS FOR FAMILY CHILD CARE HOMES AND LARGE FAMILY CHILD CARE HOMES

340:110-3-80. Purpose and policy of the law
340:110-3-81. Definitions
340:110-3-82. Necessity and issuance of license
340:110-3-83. Family day care home standards [REVOKED]
340:110-3-84. Ages and number of children
340:110-3-85. Requirements for caregivers
340:110-3-86. Home environment
340:110-3-87. Transportation
340:110-3-88. Records
340:110-3-89. School [REVOKED]
340:110-3-89.1. Parent communication
340:110-3-90. Child health
340:110-3-91. Daily routine and equipment
340:110-3-91.1. Rest time
340:110-3-92. Behavior and guidance
340:110-3-93. Infants, toddlers, and two-year-olds
340:110-3-94. Food and nutrition
340:110-3-95. Equipment [REVOKED]
340:110-3-96. References [REVOKED]
340:110-3-97. Fire safety
340:110-3-97.1. Requirements for large family child care homes
340:110-3-98. Guidelines for use in the study of family day care homes [REVOKED]

PART 7. STANDARDS FOR EMERGENCY SHELTERS [REVOKED]

340:110-3-115. Purpose and policy of the law [REVOKED]
340:110-3-116. Definition [REVOKED]
340:110-3-117. License [REVOKED]
340:110-3-118. Standards for shelters [REVOKED]
340:110-3-119. Organization [REVOKED]
340:110-3-120. Administration [REVOKED]
340:110-3-121. Finances [REVOKED]
340:110-3-122. Personnel and staffing policies [REVOKED]
340:110-3-123. Admissions and discharge [REVOKED]
340:110-3-124. Records and reports [REVOKED]
340:110-3-125. Child care and development [REVOKED]
340:110-3-126. Construction and fire safety [REVOKED]
340:110-3-127. Health standards [REVOKED]

PART 8. REQUIREMENTS FOR CHILDREN'S SHELTERS [REVOKED]

340:110-3-130. Purpose and policy of the Law [REVOKED]
340:110-3-131. Definitions [REVOKED]
340:110-3-132. License [REVOKED]
340:110-3-133. Public access to records [REVOKED]
340:110-3-134. Complaint investigation [REVOKED]
340:110-3-135. Revocation of license or refusal to renew [REVOKED]
340:110-3-136. Organization and administration [REVOKED]
340:110-3-137. Personnel [REVOKED]
340:110-3-138. Program requirements [REVOKED]
340:110-3-139. Direct service management [REVOKED]
340:110-3-140. Food and nutrition [REVOKED]
340:110-3-141. Physical environment and safety [REVOKED]
340:110-3-142. Transportation [REVOKED]
340:110-3-143. Construction and fire safety [REVOKED]
340:110-3-144. Health regulations [REVOKED]

PART 9. REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES

340:110-3-145. Purpose and policy of the law
340:110-3-146. Definitions
340:110-3-147. License
340:110-3-148. Technical assistance
340:110-3-149. Complaint investigation
340:110-3-150. Denial or revocation of license
340:110-3-151. Public records
340:110-3-152. Organization and administration
340:110-3-153. Finances
340:110-3-153.1. Personnel
340:110-3-153.2. Supervision of residents
340:110-3-154. Social services
340:110-3-154.1. Program
340:110-3-154.2. Behavior management
340:110-3-154.3. Health and medical services
340:110-3-154.4. Food and nutrition
340:110-3-155. Transportation
340:110-3-155. Personnel [REVOKED]
340:110-3-156. Staff training [REVOKED]
340:110-3-157. Physical facility and equipment
340:110-3-158. Program [REVOKED]
340:110-3-159. Health and medical services [REVOKED]
340:110-3-160. Food and nutrition [REVOKED]
340:110-3-161. Transportation [REVOKED]
340:110-3-162. Behavior management [REVOKED]
340:110-3-163. Buildings, utilities, and grounds regulations
340:110-3-164. Food service and sanitation requirements
340:110-3-165. Construction and fire safety
340:110-3-165. Safety and emergency preparedness requirements
340:110-3-166. Requirements for regimented residential programs
340:110-3-167. Requirements for children’s shelters
340:110-3-168. Requirements for residential treatment facilities
340:110-3-169. Requirements for secure care facilities

PART 11. REQUIREMENTS FOR THERAPEUTIC CAMPS [REVOKED]

340:110-3-180. Purpose [REVOKED]
340:110-3-181. Therapeutic camp [REVOKED]
340:110-3-182. Necessity and issuance of license [REVOKED]
340:110-3-183. Scope of requirements [REVOKED]
340:110-3-184. Organization [REVOKED]
340:110-3-185. Personnel [REVOKED]
340:110-3-186. Programs; rights and responsibilities; discipline; grievances
PART 14. REQUIREMENTS FOR SCHOOL-AGE PROGRAMS

340:110-3-220. Purpose
340:110-3-221. Definitions
340:110-3-222. Necessity and issuance of license
340:110-3-223. Organization
340:110-3-224. Policy and procedure
340:110-3-225. Records
340:110-3-226. Requirements for school-age program employees
340:110-3-227. Supervision of school-age children
340:110-3-228. Parent - staff communication
340:110-3-229. Physical facilities
340:110-3-230. Equipment
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340:110-3-232. Care of school-age children
340:110-3-233. Care of children with disabilities
340:110-3-234. Water activities
340:110-3-235. Night-time care
340:110-3-236. Behavior and guidance
340:110-3-237. Health
340:110-3-238. Food and nutrition
340:110-3-239. Transportation
340:110-3-240. Food service and sanitation requirements
340:110-3-241. Fire safety
340:110-3-242. Requirements for day camps
340:110-3-7.1. Requirements for child care center employees

Revised 7-1-09

(a) **General.** All employees are required to be of good character and possess adequate education, training, and experience to provide them with the skills to perform the essential functions of the job with or without reasonable accommodation. Each employee:

1. provides annual documentation that he or she meets the health and training requirements contained in Licensing Requirements for Child Care Centers, OKDHS Publication no. 84-108;

2. demonstrates the ability to perform essential job functions;

3. recognizes and acts to correct hazards to physical safety, both indoors and outdoors;

4. works with children without recourse to physical punishment, mistreatment, or child abuse; and

5. demonstrates good judgment as evidenced by prudent and responsible behavior that reasonably ensures the health and safety of children in care.

(b) **Criminal history investigations.** Requirements for centers pertaining to criminal history investigations are contained in this subsection.

1. **Owner or director responsibility.** The center's owner or director:

   (A) submits a completed criminal history investigation conducted within the last 12 months including dispositions on all charges and Form 07LC096E, Criminal Background Review, to Oklahoma Child Care Services (OCCS) licensing records office requesting an Oklahoma State Court Network search for:

   (i) any person making application to establish or operate a child care center;

   (ii) each applicant prior to employment, including all caregivers, substitutes, auxiliary staff, and any other person employed by the child care facility or program;

   (iii) adults, including providers' spouses or adult children, who live in the child care facility; and
(iv) persons age 18 years or older prior to their residence in the facility; and

(B) obtains a completed criminal history investigation for persons who have unsupervised access to children, such as lab students, Work Experience Program (WEP) workers, volunteers, contracted staff, or custodians.

(2) **Exceptions.** Criminal history investigations are not required for:

(A) staff who move to a new center operated by the same organization;

(B) contracted staff who provide transportation, lessons, or other services if facility staff are present with children at all times;

(C) parent volunteers who transport children on an irregular basis; and

(D) providers' children who become adults, age 18, during continuous residence at the licensed facility.

(3) **Authorized agencies.** Criminal history investigations are acceptable only when:

(A) conducted by the Oklahoma State Bureau of Investigation (OSBI); and

(B) conducted by the authorized agency in the previous state(s) of residence if the individual has resided in Oklahoma less than three years.

(4) **Sex Offender Registry.** The OSBI report must include a search of Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act.

(5) **Verification of records search.** Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office must be on file at the facility prior to any persons being employed or allowed to live in the facility.

(c) **Restrictions.** Center requirements contained in this subsection restrict certain individuals from employment.

(1) The child care center is restricted from knowingly employing a person who:

(A) has pending charges (unless waived by OCCS), has entered a plea of guilty or nolo contendere, no contest, or been convicted of:

   (i) any criminal activity involving violence against a person;
(ii) child abuse or neglect;

(iii) possession, sale, or distribution of illegal drugs;

(iv) sexual misconduct; or

(v) an act of gross irresponsibility or disregard for the safety of others or a pattern of criminal activity; or

(B) is required to register pursuant to the Sex Offenders Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.

(2) The center director may request a waiver from the requirements in OAC 340:110-3-7.1(c)(1). A waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the Sex Offenders Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.

(A) The waiver request is made in writing to OKDHS and considered by the waiver review committee.

(B) The person for whom the waiver is requested cannot be employed until a decision has been made.

(3) Any person whose health or behavior could endanger the health, safety, or well-being of children is prohibited from the child care center premises and contact with children in care.

(4) An employee under the effects of alcohol, illegal drugs, or medication that impairs functioning is prohibited from providing child care services.

(d) Child abuse. The requirements pertaining to child abuse are contained in this subsection.

(1) Any caregiver who has reason to believe that a child has been abused is required to promptly contact the county office of OKDHS or the statewide toll-free Child Abuse Hot Line, 1-800-522-3511.

(2) Staff are required to cooperate fully in the investigation of any allegation.

(e) Health. Requirements pertaining to employees' health are contained in this
subsection.

(1) **Tuberculosis testing.** The need for tuberculin skin testing of employees is based upon a local identified tuberculosis exposure, the degree of risk of transmission of latent tuberculosis infection, the impact to public health and safety, and the specific recommendations of the Oklahoma State Department of Health.

(2) **Impairment of job performance.** OKDHS Division of Child Care, Licensing Services (Licensing) may require a report of a physical or psychological examination by a licensed physician or mental health professional if it is reported or observed that an employee has a physical, mental, or emotional condition that impairs the employee's ability to perform assigned job responsibilities.

(f) **Employee qualifications.** Requirements applicable to employee positions are contained in this subsection.

(1) **Director qualifications.** Effective January 1, 2005, all directors of child care centers are required to be at least 21 years of age and have obtained and maintain the Bronze level, in accordance with OKDHS Appendix L-2, Oklahoma Director's Credential.

(2) **Master teacher qualifications.** Effective January 1, 2005, all master teachers are required to:

   (A) be at least 18 years of age and have obtained the qualifications at Level III or higher of OKDHS Appendix L-3, Professional Development Ladder; or

   (B) in a program where the majority of children are school-age, the master teacher may have 120 clock hours of Tier II or higher school-age training within the last five years, in accordance with OKDHS Appendix L-1, 480 hours of experience in a program where the majority of children are school-age, and every two years a minimum score of 5.0 on the School-Age Environment Rating Scale in a classroom where the master teacher is the lead teacher.

(3) **Teachers.** Teachers hired after July 1, 1995 are required to:

   (A) be at least 18 years of age; and

   (B) have a high school diploma or GED; or

   (C) have completed the tenth grade and be in the process of obtaining a GED for a period not to exceed 12 months.
(4) **Assistant teachers.** Assistant teachers are at least 16 years of age and required to:

(A) have a high school diploma or GED;

(B) have completed the tenth grade and be in the process of obtaining a GED; or

(C) be currently enrolled in secondary education or the equivalent.

(5) **Permanent substitutes.** Permanent substitutes are required to meet minimum requirements for the position they are filling.

(6) **Temporary substitutes.** Temporary substitutes must be at least 18 years of age.

(7) **Teen aides.** Teen aides must be 13 through 15 years of age.

(g) **Responsibilities.** Responsibilities of employees and volunteers are described in this subsection.

(1) **Director.** The director, or teacher who meets director's qualifications, is present in the center at least 50 percent of operating hours or a minimum of 30 hours a week and is responsible for the day-to-day operation of the center.

(A) When four or more teachers are needed to meet minimum staff-child ratios, the director is free from direct care responsibilities at least three hours per day during operating hours to provide program oversight and staff supervision.

(B) The director, or teacher who meets director's qualifications, is responsible for:

(i) upon employment, providing three references to Licensing, including at least two from the director's most recent employers when applicable. The other reference(s) may be personal, excluding relatives;

(ii) appointing a staff member to take responsibility for the operation of the child care center in his or her absence and posting that person's name in a conspicuous place;

(iii) maintaining a child care center that meets the minimum requirements;

(iv) ensuring that a staff member trained to administer first aid including rescue-breathing and choke-saving measures is present at all times;
(v) submitting to OCCS licensing records office criminal history investigations and obtaining dispositions on any charges shown on the report that lack dispositions;

(vi) ensuring Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office is on file at the facility prior to any person being employed or allowed to live in the facility;

(vii) prior to employing staff, obtaining and documenting three references including at least two from the applicant's most recent employers, when applicable. The other reference(s) may be personal, excluding relatives;

(viii) supervising the conduct of staff, volunteers, substitutes, and others who provide services in the facility; and

(ix) cooperating with licensing staff and other appropriate agencies in maintaining compliance with requirements and in improving the quality of care.

(2) **Master teachers.** At least one full-time master teacher is required for every 60 children for which the center is licensed. The director may be counted as a master teacher if the licensed capacity is 30 or less.

(3) **Teachers.** Teachers have primary responsibility for the direct care of children.

(4) **Assistant teachers.** Assistant teachers work under the on-site supervision of a qualified director or teacher who is readily available at all times.

   (A) A director, master teacher, or teacher does not directly supervise more than two assistant teachers.

   (B) Assistant teachers are not permitted to have sole responsibility for a group of children for more than three hours per day.

(5) **Auxiliary personnel.** Auxiliary personnel, for example, cooks, building custodians, or other personnel who provide indirect services to children:

   (A) demonstrate knowledge and skills necessary to perform their job responsibilities;

   (B) meet applicable requirements for staff caring for children as set forth in this Section if they are responsible for children for any part of the day;
(C) are not included in the staff-child ratio while performing auxiliary functions. Minimal cleaning and food service, for example, light cleaning, picking up toys, sweeping the classroom, and reheating and serving food, are not considered auxiliary functions as long as supervision and program are not adversely affected.

(6) **Volunteers.** Volunteers are required to meet all requirements in this paragraph.

(A) Volunteers and student interns are not included in the staff-child ratio unless they are assigned to the center for at least three consecutive months. Volunteers are permitted to serve as temporary or permanent substitutes.

(B) Volunteers counted in the staff-child ratio meet all requirements in this Part.

(C) Volunteers are under the direct supervision of the director or a designated staff member.

(D) Volunteers who have not met all requirements for teachers are not left in charge of children.

(7) **Substitutes.** Substitutes carry out the assigned responsibilities of the position they are filling.

(8) **Teen aides.** Teen aids:

(A) are not counted toward meeting the staff-child ratio and are not included in the licensed capacity;

(B) must be under the on-site supervision of a master teacher who is at least 18 years of age. One master teacher may supervise no more than two teen aides;

(C) are placed only in groups where at least one staff member is 18 years of age. No more than two teen aides may be assigned to a group of children;

(D) must be at least two years older than the children in the group to which they are assigned;

(E) must be visibly identifiable through means such as name tags or T-shirts; and

(F) are never left alone with children.

(h) **Professional development.** Requirements pertaining to professional development
are contained in this subsection.

(1) **Orientation.** Within one week of employment and prior to having sole responsibility for a group of children, each staff member, including auxiliary staff and permanent substitutes who have been employed 40 hours, receives orientation.

(A) Orientation includes a review of:

(i) infection control;

(ii) injury prevention;

(iii) handling common childhood emergencies, including choking;

(iv) sudden infant death syndrome (SIDS);

(v) shaken baby syndrome;

(vi) the center's policy and procedure and staff responsibility for implementation;

(vii) licensing requirements;

(viii) employees’ assigned duties and responsibilities;

(ix) emergency procedures in the event of injury, severe weather, or fire, including evacuation procedures and routes and location and use of fire extinguishers;

(x) the definition, identification, and mandatory reporting of child abuse and neglect;

(xi) the daily schedule;

(xii) the methods used to inform staff of any special health, nutritional, or developmental needs of children assigned to the caregiver;

(xiii) confidentiality of information regarding children and their families;

(xiv) appropriate use of discipline; and

(xv) transportation and car seat safety.
(B) Documentation includes a statement, signed by the employee and director, in each employee's personnel file attesting to the orientation and review.

(C) New staff have a probationary period of at least 30 days during which they are closely supervised.

(2) **Entry-level training.** Prior to or within three months of employment, staff counted to meet staff-child ratios participate in a Tier II entry–level training course that provides at least 20 hours of training, in accordance with OKDHS Appendix L-1. Directors are not required to have this training. Staff who have previously received this training are not required to repeat it unless there is a two year break in service.

(3) **Health and safety training.** Staff are required to comply with the health and safety training requirements contained in this paragraph.

(A) When children are in care on or off the program premises, including during transportation, staff are present who have current documentation of certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR) as approved by OCCS licensing.

(B) The first aid certification includes the emergency management of:

(i) bleeding;

(ii) burns;

(iii) poisoning;

(iv) choking;

(v) injuries, including insect, animal, and human bites;

(vi) shock;

(vii) convulsions or nonconvulsive seizures;

(viii) musculoskeletal injury, such as sprains and fractures;

(ix) dental emergencies;

(x) head injuries;
(xi) allergic reactions;
(xii) eye injuries;
(xiii) loss of consciousness;
(xiv) electric shock; and
(xv) drowning.

(4) Ongoing training. Requirements of staff for ongoing training are contained in this paragraph.

(A) Director. The director is required to obtain 20 clock hours per employment year of Tier I or higher training, such as professional conferences or from an accredited college, university, or vocational program, in accordance with OKDHS Appendix L-1.

   (i) OKDHS approves training upon request.

   (ii) Training is relevant to job responsibilities and includes center administration or management, age-appropriate childhood education, and infection control.

(B) Staff with children. Each person who is counted toward meeting the staff-child ratio is required to obtain 12 clock hours per employment year of Tier I training, in accordance with OKDHS Appendix L-1, that is relevant to job responsibilities and includes infection control. Formal training is from a source such as professional conferences or from an accredited college, university, or technical school.

   (i) The director assists staff in identifying and selecting training that is varied, appropriate, and builds upon previous training.

   (ii) No more than six hours of self-directed readings, use of videos, or informal on-site training is counted toward the required annual training hours.

   (iii) Reports of self-directed reading are documented and submitted to the director.

   (iv) Training repeated during the employment year is only counted once to meet the training requirement.
(5) **Food service training.** Prior to or within three months of employment, the person primarily responsible for food preparation is required to receive training in:

   (A) nutrition planning;

   (B) age-appropriate food selection;

   (C) food preparation, service, and storage; and

   (D) cleaning and sanitizing equipment and utensils.

(6) **Substitute and volunteer staff training.** Requirements for substitute and volunteer staff are listed in (A) through (C) of this paragraph.

   (A) Temporary substitutes are required to be familiar with center policy and procedure before they are left in charge of a group of children.

   (B) Permanent substitutes are required to meet the requirements for orientation and ongoing training in OAC 340:110-3-7.1(h)(1) and (4).

   (C) Volunteers counted toward meeting the staff-child ratio are required to meet the requirements for orientation and ongoing training in OAC 340:110-3-7.1(h)(1) and (4).

(7) **Documentation of training.** Documentation of training for each staff member is required and includes the topic, source of training, date, and hours.
340:110-3-85. Requirements for caregivers

Revised 7-1-09

(a) **Responsibilities of caregivers.** Responsibilities of caregivers are outlined in this subsection.

(1) **Primary caregiver.** The primary caregiver is present in the home at least 80 percent of weekly operating hours and is responsible for the day-to-day operation of the program. The sole proprietor must be the primary caregiver.

(2) **Care and supervision.** The caregiver provides care and supervision of children at all times, both indoors and outdoors. Supervision of children means observing, overseeing, and guiding a child or group of children including:

   (A) awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed; and

   (B) frequent observation of children in cribs and playpens.

(3) **Supervision of outdoor play.** In addition to the requirements in (2) of this subsection, the caregiver remains outdoors with children at all times to ensure their safety when:

   (A) there is a potentially hazardous situation, such as a pool on the premises or a trampoline in the outdoor play area;

   (B) there is access to a dog(s) outdoors;

   (C) there are children three years of age or younger present; or

   (D) the outdoor area is not completely fenced.

(4) **Supervision of overnight care.** If children are in care overnight and more than one caregiver is required due to the ages and number of children present, at least one caregiver must be awake at all times.

(5) **Assistant and substitute caregivers.** If the primary caregiver employs a person to assist with the care of children or to provide care and supervision in the primary caregiver’s absence, the primary caregiver ensures that the assistant or substitute caregiver is qualified and understands and complies with requirements.
(A) **Required records.** Prior to employment, a staff information form provided by Oklahoma Department of Human Services (OKDHS) is completed and three references are verified. References from relatives are not accepted. Personnel records on all assistant and substitute caregivers are maintained at the home and made available to licensing staff upon request.

(B) **Assistant caregiver.** If an assistant caregiver is employed to meet the required staff to child ratio, the assistant caregiver must be a responsible, mature, healthy person at least 16 years of age. The caregiver is prohibited from leaving children alone in the care of any person younger than 18 years of age.

(C) **Substitute caregiver.** A substitute caregiver, at least 18 years of age, is available to provide care for short periods of time in the absence of the caregiver.

   (i) The substitute caregiver may be used in emergency situations and occasionally in non-emergency situations. In non-emergency situations, the caregiver must notify parents in advance that the substitute will be caring for their child at these times.

   (ii) The name, address, and telephone number of the substitute is provided to OKDHS and is posted with the other required emergency numbers in the family child care home.

(6) **Verification of criminal history investigations.** The family child care owner or primary caregiver is responsible for:

   (A) submitting to Oklahoma Child Care Services (OCCS) licensing records office criminal history investigations and obtaining dispositions on any charges shown on the report that lack dispositions; and

   (B) ensuring Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office is on file at the facility prior to any person being employed or allowed to live in the facility.

(7) **Realistic expectations.** The caregiver demonstrates a capacity for setting realistic expectations for behavior and performance based on the age, abilities, and special needs of the children.

(8) **Constructive influence.** The caregiver's family members and others living in the home accept the children in care and provide constructive influence. There must be indication of a stable and harmonious home life.
(9) **Hazards.** The caregiver recognizes and acts to correct hazards to children's safety, both indoors and outdoors.

(10) **Child abuse reporting.** The primary caregiver, assistant caregiver, and substitute caregiver immediately report any suspicion of child abuse or neglect to the local OKDHS office or the Statewide Child Abuse Hotline, 1-800-522-3511. Failure to report is a misdemeanor offense and upon conviction is punishable by law.

(11) **Notification of Licensing Services.** The primary caregiver notifies Licensing Services:

(A) within 24 hours of the death of a child in care;

(B) within 24 hours of any accident involving transportation unless there were no injuries and only minor damage to the vehicles;

(C) within 24 hours of any changes in liability insurance coverage;

(D) within 24 hours of any injury to a child requiring emergency medical attention;

(E) within 24 hours of any remodeling, changes, or damage to the physical facility that affect compliance with any requirement;

(F) within 24 hours of any known arrest, criminal investigation, criminal charges, or child abuse investigations involving persons who live in the home, provide care, or assist with the care of children;

(G) within 24 hours of any legal action against a caregiver that involves or affects a child in care or the operation of the family child care home;

(H) within 24 hours when an animal bites a child and the skin is broken;

(I) within five days when a person moves into the home; and

(J) at least 30 days in advance of a move from one residence to another unless an emergency exists. The new home must comply with minimum licensing requirements.

(12) **Posting of license.** The permit or license is displayed in the home.

(13) **Other employment.** The caregiver is prohibited from conducting business in
the home during the hours children are in care. The primary caregiver is not employed outside the home during the hours of child care.

(14) **Foster care.** The caregiver may not provide therapeutic foster care. The caregiver may provide foster care only with prior written approval from OKDHS Licensing Services for each child placement.

(A) The written approval includes the number and ages of foster children.

(B) Foster children 12 years of age and younger are counted in the capacity of the family child care home.

(15) **Inactive care.** A primary caregiver is determined to be in inactive status when care has not been provided for more than 90 consecutive days.

(A) Prior to resuming care, the caregiver must notify OKDHS Licensing Services to verify compliance with family child care home requirements.

(B) If care has not been provided for more than 12 consecutive months, the family child care home is closed and must reapply and be approved for a license prior to resuming care.

(b) **Qualifications of caregivers.** Qualifications of caregivers are described in this subsection.

(1) **General.** The caregiver is a responsible, mature, healthy adult who is capable of understanding and complying with minimum licensing requirements and meeting the needs of the children in care. The caregiver demonstrates good judgment, as evidenced by prudent and responsible behavior that reasonably ensures the health, safety, and well-being of children in care.

(A) Primary caregivers applying for a license after October 1, 2007 are at least 21 years of age.

(B) Primary caregivers applying for a license after October 1, 2007 have obtained a high school diploma or General Educational Development (GED).

(C) All caregivers left alone with children have the ability to read and write for keeping required records, reading the licensing requirements, and administering medication.

(D) All caregivers cooperate with licensing staff during monitoring visits and
OKDHS investigations.

(2) **Health.** The requirements relating to the health of the caregiver, assistant caregiver and members of the household are contained in (A) - (C) of this paragraph.

(A) **General health.** All caregivers and all members of the household where licensed care is provided must be in good physical, mental, and emotional health. If it is reported or observed that a caregiver or household member has a physical, mental, or emotional condition that could negatively impact the care of children, a physician's statement is requested.

(B) **Tuberculosis testing.** The need for tuberculin skin testing of employees is based upon a local identified tuberculosis exposure, the degree of risk of transmission of latent tuberculosis infection, the impact to public health and safety, and the specific recommendations of the Oklahoma State Department of Health.

(C) **Immunizations.** There is documentation verifying that all children living in the home have or are in the process of obtaining the required immunizations at the medically appropriate time. The schedule for required immunizations is found in Supplement IX of OKDHS Publication No. 86-104, Licensing Requirements for Family Child Care Homes and Large Family Child Care Homes.

(3) **References.** The primary caregiver submits to child care licensing the names of three references other than relatives, which may include a personal or family physician.

(c) **Background investigations and restrictions for caregivers.** The requirements for background investigations and restrictions for caregivers are contained in paragraphs (1) - (6).

(1) **Criminal history investigations.**

(A) The family child care home owner or the primary caregiver submits a completed criminal history investigation conducted within the last 12 months including dispositions on all charges and Form 07LC096E, Criminal Background Review, to OCCS licensing records office requesting an Oklahoma State Court Network search for:

(i) any person making application to operate a family child care home;
(ii) all caregivers, including primary, substitute, and assistant caregiver, prior to employment and being left alone with children;

(iii) all adults living in the facility; and

(iv) persons age 18 years or older prior to their residence in the facility.

(B) Criminal history investigations are not required for:

(i) provider's children who become 18 years of age during continuous residence in the home; and

(ii) a parent volunteer who transports children on an irregular basis.

(C) Criminal history investigations must be obtained from:

(i) the Oklahoma State Bureau of Investigation (OSBI); and

(ii) the appropriate agency in the previous state(s) of residence if the person has resided in Oklahoma less than three years.

(D) The OSBI report must include a search of the Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act.

(E) Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office must be on file at the facility prior to any persons being employed or allowed to live in the facility.

(2) Child abuse registry check. A child abuse registry check is conducted on all persons who sign the license application. A confirmed allegation of child abuse or neglect is considered when evaluating the qualifications of the applicant and the safety and well-being of the children in care.

(3) Restrictions. Persons who have pending charges (unless waived by OCCS) or are convicted of or enter a plea of guilty or nolo contendere, no contest, to certain crimes cannot be licensed to care for children, live in a family child care home, provide care for children, or be a substitute or assistant caregiver, or be on the premises when children are in care. Those crimes include:

(A) violence against a person;
(B) child abuse or neglect;
(C) possession, sale, or distribution of illegal drugs;

(D) sexual misconduct;

(E) gross irresponsibility or disregard for the safety of others;

(F) animal cruelty; or

(G) a pattern of criminal activity.

(4) Request for waiver. A primary caregiver may request a waiver from the requirement described in paragraph (3). A waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the Sex Offenders Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.

(A) The waiver request is made in writing to OKDHS and considered by the waiver review committee.

(B) The person for whom the waiver is requested cannot be on the premises when children are in care while a decision is pending.

(C) The person for whom the waiver has been denied cannot be on the premises when children are in care.

(5) Endangerment of children. A person whose health or behavior would endanger the health, safety, or well-being of children is not permitted to live in the home or be on the premises when children are in care.

(6) Alcohol, drugs, medication. When children are in care, no caregiver is under the influence of:

(A) alcohol or illegal drugs; or

(B) medication that impairs functioning.

(d) Training requirements. Training requirements for caregivers are contained in (1) - (3) of this subsection. The training listed in paragraphs (2) through (3) is required prior to issuance of the initial permit.

(1) General. The primary caregiver is required to complete 12 clock hours of
training annually through workshops, formal training, videos, or individual job-related readings. Annually, no more than six hours of videos or individual job-related readings is counted toward the required 12 hours.

(2) **CPR and first aid certification.** Prior to permission to operate or issuance of the initial permit, the primary caregiver and any person who cares for children alone, on or off the premises, including during transportation, must have documentation, which is maintained by the caregiver at the facility, of current completed certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR), as approved by OCCS licensing. CPR and first aid certification must be kept current with documentation maintained by the facility.

(3) **Health and safety training.** Prior to issuance of the initial permit the primary caregiver obtains training in:

(A) disease and injury prevention measures;

(B) use of a fire extinguisher; and

(C) health and safety issues, including:

(i) shaken baby syndrome;

(ii) Sudden Infant Death Syndrome (SIDS);

(iii) car seat safety;

(iv) safeguarding the home;

(v) immunizations;

(vi) the definition, identification, and mandatory reporting of child abuse and neglect; and

(vii) behavior and guidance methods.
340:110-3-146. Definitions

Revised 7-1-09

The following words and terms, when used in this Part, have the following meanings, unless the context clearly indicates otherwise:

"Advisory board" means the entity that offers advice and counsel on the operation of a facility.

"Basement" means an area of a building or structure having one-half or more of its clear height below grade level.

"Behavior management" means guidance that provides a learning experience for the child, which contributes to developing the capacity for self-control, self-direction, and the understanding of behavioral consequences.

"Chemical restraint" means medication prescribed by a health professional used to control behavior or to restrict the freedom of movement and is not a standard treatment for the child’s medical or psychiatric condition.

"Child" means any person who has not attained the age of 18.

"Child care staff" means staff, including part-time, on-call and substitute staff, who provide direct care and supervision of residents. To be counted as required child care staff, workers must be engaged in providing care and meet the minimum qualifications for child care staff.

"Children's services" means an educational facility, child welfare agency, child-serving institution, child-placing agency, foster family home, or hospital or mental health treatment facility that serves children.

"Children's shelter" means a non-secure public or private residential program that provides temporary care and supervision for children.

"Contracted personnel" means persons who perform services for the facility who do not have an employee relationship with the facility.

"Custodian" means the adult or agency legally responsible for the child.

"Department" means Oklahoma Department of Human Services (OKDHS).
"Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

"Governing board" means the entity with ultimate responsibility and authority for the overall operation of a facility.

"Grievance process" means an identified procedure followed when a parent, custodian, child, or anyone acting in the child's behalf, wishes to document dissatisfaction regarding the operation of the facility.

"Health professional" means a licensed physician, nurse practitioner, or physician's assistant, as defined by the appropriate state licensing board.

"Interstate Compact on the Placement of Children (ICPC)" means the process mandated by state statute by which children are placed outside of their state of residence. Procedures are carried out by OKDHS Children and Family Services Division.

"Licensed mental health professional" means a person possessing the training, qualifications, and professional recognition in a mental health-related field and who has been issued a license by the appropriate state board.

"Licensed social worker" means a social worker who has been issued a license by the State Board of Licensed Social Workers.

"Licensing requirements for residential child care facilities" means the regulations contained in this Part that constitute the minimum requirements for residential facilities.

"Mechanical restraint" means a device that restricts the movement or function of a child or portion of a child’s body.

"Nonprofit facility" means an operating facility that does not make a profit.

"On-call or substitute staff" means staff available to work during the absence of regular part-time or full-time staff.

"Organizational structure" means the legal basis or ownership of the facility.

"OSDH" means Oklahoma State Department of Health.

"Physical restraint" means using the body to restrict the movement or function of a
child or portion of a child’s body.

"Potentially hazardous foods" means any food that contains milk or milk products, eggs, meat, poultry, fish, shellfish, crustacean, or other ingredients in a form capable of supporting rapid and progressive growth of harmful microorganisms.

"Privately operated facility" means a facility owned and operated by an individual, partnership, corporation, or association, which may be operated on a profit or nonprofit basis.

"Proprietary facility" means a facility that operates on a for-profit basis.

"Psychotropic medications" means medications with well-demonstrated efficacy in the treatment of mental disorders through the modification of behavior, mood, and emotions.

"Publicly operated facility" means a facility operated by a governmental entity.

"Qualified Substance Abuse Professional (QSAP)" means someone who meets the criteria established by the Department of Mental Health and Substance Abuse Services.

"Regimented residential program" means a military-style training program where residents are subject to a controlled and regimented environment that affirms dignity of self and respect for others and includes physical training and discipline.

"Residential child care facility" means a 24-hour residential facility where children live together with, or are supervised by, adults other than their parents or relatives.

"Residential treatment facility" means a facility that cares for children under 24-hour medical care who have emotional, psychological, or mental disorders.

"Seclusion" means the involuntary confinement of a child in a room or area where the child is physically prevented from leaving.

"Secure care facility" means a facility that cares for and supervises adjudicated children in a building in which entering and exiting is prohibited through the use of internal or external locks or through secure fencing around the perimeter.

"Separation" means removing a child from the group or group activity as a method of behavior management.
"Serious incident" means any non-routine occurrence that has an impact on the care, supervision, or treatment of a child or children.

"Service plan" means a comprehensive individualized program of action based on the child’s needs.

"Social services" means services, which may include, but are not limited to, admission assessments, placement services, counseling, casework services to residents and their families, service planning, and discharge planning.

"Social services staff" means facility employees who provide social services.

"Staff member" means any person employed by or working for or with a residential child care facility on a regularly scheduled basis. This includes full-time, part-time, on-call, and substitute staff, whether paid or unpaid.

"Supervision of residents" means overseeing and guiding a child or group of children including awareness of and responsibility for the ongoing activity of each child.

"Support staff" means clerical staff, cooks, building custodians, and other personnel who provide support services to the facility.

"Volunteer" means a person who, of his or her own free will, enters into an agreement with a facility to provide services without monetary compensation.
340:110-3-147. License

Revised 7-1-09

An application for a license is made on forms provided by the Oklahoma Department of Human Services (OKDHS) and in the manner prescribed. A license to operate a residential child care facility is granted on the basis that the facility meets minimum requirements. Children are not accepted into care until authorization is obtained from OKDHS. The license is not transferable. The license is posted prominently in the facility. If the facility changes ownership or location, a new license is obtained.
340:110-3-150. Denial or revocation of license

Revised 7-1-09

When a facility is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) can deny the application or revoke the license. The applicant or licensee receives 30 days notice in writing of the decision and the grounds for such proposed action. The applicant or licensee may protest the decision in writing to the Commission for Human Services within 30 days of receipt of the notice. An administrative hearing will be held at which an opportunity is given to the applicant or licensee to present testimony and confront witnesses. If the decision from the administrative hearing is to uphold the recommendation of OKDHS the applicant or licensee may appeal the decision to the district court of the county where the facility is maintained within ten days. In the event the applicant or licensee does not appeal the decision, the facility must cease operation on the effective date of the action. The responsible entity may not make application for a new child care facility license within Oklahoma for five years following notification to the responsible entity of the license revocation or denial and during an appeal process.
340:110-3-151. Public records

Revised 7-1-09

Files of residential child care facilities maintained by the Oklahoma Department of Human Services (OKDHS) are public records and are open for public inspection. [Oklahoma Public Records Act, 51 O.S. § 24A et seq.] Information obtained by OKDHS from any applicant or licensee regarding children, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a child abuse report or investigation is kept confidential.
340:110-3-152. Organization and administration

Revised 7-1-09

(a) **Statement of intent.** The purpose or function of the residential child care facility is clearly defined in a statement filed with the Oklahoma Department of 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. types of services provided.

(b) **Organizational structure.** The legal basis or ownership of the residential child care facility is fully documented and submitted to OKDHS.

1. **Publicly operated facility.** Documentation identifies the statutory basis of the facility and the administrative framework of the governmental entity that operates the facility.
2. **Privately operated facility.** A privately operated facility submits:
   
   (A) the charter, partnership agreement, constitution, articles of incorporation, or resolution authorizing the facility's operation, as applicable;
   
   (B) names, titles, addresses, and telephone numbers for:
      
      (i) association members or corporate officers for a nonprofit facility; and
      
      (ii) owners, partners, or corporate officers for a proprietary facility.
3. **Changes in ownership and facility name.** OKDHS is notified of any changes in the legal basis for operation, ownership, or name of the facility at least 30 days prior to the changes.

(c) **Governing and advisory board.** A private, nonprofit facility establishes a governing board and may also have an advisory board.
(1) **Meetings.** The governing board meets at least twice a year and maintains accurate minutes of each meeting.

(2) **Responsibility of the governing board.** The governing board maintains ultimate responsibility for governing but, having selected and employed an executive director, delegates to the executive director responsibility for administration of the facility.

   (A) The board assumes joint responsibility with the executive director for general program and policy, funding, and compliance with minimum requirements.

   (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.** A current list of names, titles, addresses, and telephone numbers of the governing board members is submitted to OKDHS.

(4) **Board composition.** The governing board represents the diversity of the community served.

   (A) The board is comprised of a minimum of three members.

   (B) A majority of the members of the board reside in Oklahoma. Multi-state operations, however, may have a governing board outside Oklahoma if they establish local advisory boards that meet the requirements in paragraph (5) of this subsection.

   (C) Facility staff members cannot comprise a majority of the voting members of the governing board for that facility.

   (D) Board members receive an orientation to board responsibilities upon appointment.

(5) **Advisory board.** A private, proprietary facility without a governing board that meets the requirements in OAC 340:110-3-152(c)(1) - (4) establishes an advisory board.

   (A) The advisory board meets at least twice a year.

   (B) The advisory board provides advice and counsel to the facility on the policies and operation of the facility, reflects local concerns, and represents the program to the community.
(C) A current list of names, addresses, and telephone numbers of the advisory board members is submitted to OKDHS.

(D) Facility staff members cannot comprise a majority of the voting members of the advisory board for that facility.

(E) A majority of the members of the advisory board reside in Oklahoma.

(d) **Administrative policy.** Policy is clearly written, current, and available for residents, parents or custodians, staff, and licensing staff to review. Policy is reviewed annually by the governing board. Policy includes, but is not limited to, areas governing:

1. admission and discharge;
2. personnel;
3. volunteers;
4. programs;
5. grievance procedures as approved by OKDHS Office of Client Advocacy;
6. behavior management;
7. mandatory reporting of child abuse;
8. suicide awareness and protocol;
9. medical services;
10. administering and disposing of medication;
11. confidentiality of records;
12. a child absent without permission; and
13. emergency procedures.

(e) **Records and reports.** The records and reports maintained at the facility and available for licensing staff to review are:

1. children’s records;
personnel records;
(3) criminal history investigation records;
(4) orientation and training hour records;
(5) menus of food served to residents;
(6) fire and tornado drill records;
(7) schedules of planned recreational, leisure, or physical exercise activities;
(8) visitation records; and
(9) transportation records.

(f) Notifications. The facility complies with the notification requirements as outlined in this subsection.

(1) The facility notifies Licensing on the next working day in the event of:

(A) temporary or permanent closing of the facility;

(B) a change in the executive director;

(C) changes to liability insurance coverage;

(D) damage to the premises of the facility caused by fire, accident, or the elements that seriously affects the provision of services;

(E) legal action against a facility or staff member that involves a resident or the operation of the facility;

(F) any serious resident injury requiring emergency medical treatment by a health professional; or

(G) the death of a resident.

(2) The facility immediately reports any suspicion of child abuse or neglect to the OKDHS Office of Client Advocacy or the OKDHS 24-hour statewide Child Abuse Hotline 1-800-522-3511. Any staff who has reason to believe that a child has been abused or neglected is responsible to ensure that a report has been made in
accordance with Sections 7102 and 7103 of Title 10 of Oklahoma Statute. Failure to report is a misdemeanor offense and upon conviction is punishable by law.

(3) If a resident is absent without permission, the resident's parents or custodian are notified immediately.
340:110-3-153. Finances

Revised 7-1-09

(a) **Evidence of sufficient funds.** The facility demonstrates evidence of sufficient funds.

(1) A new facility submits a letter to the Oklahoma Department of Human Services (OKDHS) from a certified public accountant that documents the procedures in place for operating the fiscal management system so that the facility’s financial statements can be audited at the end of the first fiscal year of operation.

(2) A new facility submits a budget for the first year of operation to OKDHS. The facility has predictable funds for the first year of operation, as well as reserve funds or documentation of reserve funds.

(3) The facility maintains a written plan of financing that projects sufficient funds to carry out their defined purposes and provide proper care for children.

(b) **Fiscal responsibility.** The facility demonstrates fiscal responsibility.

(1) The executive director maintains complete financial records of all income and disbursements.

(2) If cash funds are received, the executive director requires all persons responsible for handling cash funds to be bonded.

(c) **Accountability.** The facility demonstrates financial accountability.

(1) All financial records pertaining to the facility are audited annually by a certified public accountant, who is not a staff or board member of the facility, or audited in accordance with the governmental funding source.

(2) A copy of the auditor's letter, including a statement verifying that the facility’s financial records accurately reflect its financial operations according to generally accepted accounting principles, is submitted to licensing.

(d) **Insurance.** The facility maintains insurance. Insurance policies are available for licensing staff to review.

(1) The facility is covered by property casualty insurance, unless operated by a government entity that is self-insured in accordance with state law.
(2) The facility is covered by general liability insurance, unless the facility is exempt by state law. **Coverage is at least $200,000 for each occurrence of negligence.**

(3) Any vehicle used to transport children is covered by liability and medical insurance.
340:110-3-153.1. Personnel

Revised 7-1-09

(a) **Personnel policy.** Personnel policy includes, but is not limited to, defining staff, essential job functions, qualifications, and lines of authority.

(b) **Staff and responsibilities.** The facility recruits staff that have specialized skills, knowledge, and the cultural understanding and competencies necessary for quality residential care services.

(1) **Executive director.** The facility employs an executive director, superintendent, or administrator. In the absence of the executive director, a person is designated as in charge.

   (A) The executive director, superintendent, or administrator is responsible for employing persons possessing adequate education, training, and experience to perform the essential functions of the job assigned. The executive director ensures no persons are employed without receipt of Form 07LC096E, Criminal Background Review, completed by Oklahoma Child Care Services (OCCS) licensing records office.

   (B) The executive director is responsible for implementing the policies adopted by the governing board.

   (C) The executive director is responsible for the ongoing operation of the facility.

(2) **Program director.** The program director is responsible for implementing and supervising the facility’s programs and services. The executive director may also serve as the program director, if the director meets the qualifications in OAC 340:110-3-153.1(d)(2).

(3) **Social services staff.** The social services staff is responsible for admission assessments, placement services, counseling, casework services to residents and their families, service plans, service plan reviews, and discharge plans.

(4) **Child care staff.** The child care staff is responsible for meeting the needs of residents, taking into account their age, physical and mental condition, and other factors that affect the amount of attention indicated.

(5) **Support staff.** The support staff is responsible for providing support duties.
(6) **On-call and part-time staff.** On-call and part-time staff is responsible for the duties of the position to which they are assigned.

(c) **Volunteers.** If a facility uses volunteers, the facility has current, written volunteer policy.

1. Volunteers counted in the staff to child ratio meet all requirements for child care staff.
2. Volunteers receive orientation before having contact with residents.
3. Volunteers work under the direct supervision of the executive director or a designated staff member.

(d) **Executive director and program director qualifications.** The executive director, superintendent, or administrator, and program director possess adequate education, training, and experience to perform the essential functions of the position.

1. In a facility 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. A person hired after June 15, 1990, who is solely responsible for direct program supervision, whether the executive director or the program director, meets one of the qualifications in (A) - (D) of this paragraph:

   (A) a bachelor's degree in a behavioral science or other related area of study from an accredited college or university and three years of experience in children’s services;

   (B) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and two years of experience in children’s services;

   (C) a doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and one year of experience in children’s services; or

   (D) for programs specializing in substance abuse treatment, the program director is a Qualified Substance Abuse Professional (QSAP).
(e) **Child care and supervisory staff qualifications.** Child care and supervisory staff possess adequate education, training, and experience to perform the essential functions of the position.

   (1) All child care workers are 21 years of age or older.

   (2) Staff hired after June 15, 1990, have a high school diploma or its equivalent within one year of employment.

(f) **Social services staff qualifications.** Social services staff whether employees or contractors possess adequate education, training, and experience to perform the essential functions of the position.

   (1) Social services supervisory staff, hired after June 15, 1990, who are responsible for developing and implementing the facility's social services program, meet one of the qualifications in (A) - (C) of this paragraph:

      (A) a bachelor's degree in social work from an accredited college or university;

      (B) a bachelor's degree in behavioral science, social science, or other related area of study from an accredited college or university and one year of experience in children's services; or

      (C) for programs specializing in substance abuse treatment, the social services supervisory staff is supervised by a Qualified Substance Abuse Professional (QSAP).

   (2) Social services staff hired after June 15, 1990, who provide only casework services have a bachelor's degree in a related area of study from an accredited college or university.

(g) **Employment requirements.** Staff meet the requirements outlined in this subsection.

   (1) **References.** The facility obtains a minimum of three references for all staff prior to employment.

      (A) References include the date, interview questions, responses, and the interviewer's signature.

      (B) Copies of references are maintained in the employee's personnel record.
(2) **Tuberculin test.** Upon employment, each employee has a documented mantoux (PPD) tuberculin skin test with a booster, if needed, within the previous 12 months, unless the employee shows medical verification of a previous positive skin test.

(A) Only tests read by a physician or nurse are accepted.

(B) Employees with a new positive tuberculin skin test reaction have a chest x-ray. Employees with a previous history of a positive skin test present documentation of a chest x-ray. Further x-rays are not required unless signs or symptoms suggestive of tuberculosis develop.

(C) Employees with a positive skin test reaction submit annual documentation by medical personnel that signs or symptoms of tuberculosis are not present.

(3) **Performance evaluation.** Each employee has a written job performance evaluation at least annually, which is maintained in the employee’s personnel record.

(h) **Criminal history investigations.** Staff criminal history investigations are maintained in a confidential manner, separate from the individual’s personnel record. [10 O.S. § 404.1]

(1) **Owner or executive director responsibility.** Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility submits, prior to employment a completed criminal history investigation conducted within the last 12 months including dispositions on all charges and Form 07LC096E, Criminal Background Review, to OCCS licensing records office requesting an Oklahoma State Courts Network search for:

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

(B) each applicant prior to employment, including all caregivers, substitutes, support staff, and any other person employed by the facility or program; or

(C) adults, including providers’ spouses or adult children, who live in the child care facility.

(2) Obtain a completed criminal history investigation for persons who have unsupervised access to children, such as lab students, Temporary Assistance to Families (TANF) Work Experience Program (WEP) workers, volunteers, contracted staff, or janitors.
(3) **Exceptions.** Criminal history investigations are not required for:

(A) staff who move to a new facility operated by the same organization;

(B) volunteers who have access to children when facility staff are present with children at all times;

(C) contracted staff that provide transportation, lessons, or other services if facility staff are present with children at all times;

(D) providers' children who become adults, age 18, during continuous residence at the licensed facility.

(4) **Authorized agencies.** Criminal history investigations are acceptable only when:

(A) conducted by the Oklahoma State Bureau of Investigation (OSBI); and

(B) conducted by the appropriate agency in the previous state(s) of residence if the individual has resided in Oklahoma less than three years.

(5) **Sex Offender Registry.** The OSBI report includes a search of the Department of Corrections' files maintained by the OSBI pursuant to the Sex Offender Registration Act.

(6) **Verification of records search.** Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office must be on file at the facility prior to any persons being employed.

(i) **Prohibitions.** The facility is restricted from knowingly hiring a person who:

(1) has pending charges (unless waived by OCCS), entered a plea of guilty or nolo contendere, no contest, or been convicted of:

(A) any criminal activity involving violence against a person;

(B) child abuse or neglect;

(C) possession, sale, or distribution of illegal drugs;

(D) sexual misconduct;

(E) gross irresponsibility or disregard for the safety of others;
(F) animal cruelty; or

(G) pattern of criminal activity.

(2) is required to register pursuant to the Sex Offender Registration Act or Mary Rippy Violent Crime Offenders Registration Act. [57 O.S. § 581 et seq.]

(j) Request for waiver. The facility director may request a waiver from the requirements listed in subsection (i) of this Section. However, a waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the Sex Offender Registration Act or any person required to register the Mary Rippy Violent Crime Offenders Registration Act.

(1) The waiver request is made in writing to the Oklahoma Department of Human Services (OKDHS) and considered by the waiver review committee.

(2) The person for whom the waiver is requested cannot be employed until a decision is made.

(k) Restrictions. The restrictions contained in this subsection apply to employees and persons who provide services to the facility.

(1) Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.

(2) If a staff member is alleged to have committed an act described in subsection (i) of this Section, the facility’s executive director determines and documents whether the staff member is removed from contact with children until the allegation is resolved. However, if criminal charges are filed, the accused is removed from contact with children until the charges are resolved.

(3) A person who has received a deferred sentence for any charge in paragraph (1) of subsection (i) of this Section is removed from contact with children for the duration of the deferment.

(l) Orientation. Staff receive orientation within 30 days of employment.

(1) Staff who will work with residents receive orientation before being assigned as the primary staff responsible for residents.

(2) Orientation includes, but is not limited to:
(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 procedure;
(I) the mandatory reporting of child abuse; and
(J) administrative policy and procedure regarding behavior management.

(3) The publication Licensing Requirements for Residential Child Care Facilities OKDHS publication number 86-78 is part of the orientation process and is available to staff at all times.

(4) Orientation may be counted toward the total training hours for the first year.

(m) **Staff training.** Staff meet the requirements for training contained in (1) - (6) of this subsection.

(1) **Training for the administrator and program director.** The administrator and program director obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who have not been employed for a full year. The content pertains to the roles and responsibilities of the position.

(2) **Training for social services staff.** Social services staff, including licensed mental health professionals and those providing casework services, obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who have not been employed for a full year. The content pertains to the roles and responsibilities of the position.

(3) **Training for child care staff.** Child care staff receive training.
(A) Full-time child care staff obtain a minimum of 24 clock hours per calendar year of staff development courses. Hours are prorated at two hours per month for staff who have not been employed for a full year.

(B) Part-time child care staff obtain a minimum of 12 clock hours per calendar year of staff development courses.

(C) On-call or substitute child care staff obtain a minimum of six clock hours per calendar year of staff development courses.

(D) The content for staff development courses for child care staff pertains to the roles and responsibilities of the position assigned.

(E) When residents are in care on the program premises or on any program sponsored field trip, at least one staff is present who has current documentation of certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR). All other child care staff complete training in first aid and CPR, including infant and child if appropriate, within 90 days of employment. Child care staff maintain current training in CPR and first aid thereafter.

   (i) CPR training is conducted by an individual certified as an instructor through the:

      (I) American Red Cross;

      (II) Emergency Medical Services (EMS) Safety Services;

      (III) Emergency Care and Safety Institute;

      (IV) American Heart Association or American Heart sponsored CPR for Family and Friends; or

      (V) American Safety and Health Institute.

   (ii) First aid training is conducted by a person certified as a first aid instructor, or a health professional using a curriculum from an OKDHS approved source through:

      (I) Emergency Medical Services for Children (EMSC) First Care;

      (II) American Red Cross;
(III) EMS Safety Services;

(IV) Emergency Care and Safety Institute;

(V) American Heart Association;

(VI) American Safety and Health Institute;

(VII) American Academy of Pediatrics First Aid for Caregivers and Teachers (PedFACTs); or

(VIII) another OKDHS approved source.

(4) **Training for support staff.** Support staff who occasionally provide instruction or training to residents obtain a minimum of six clock hours of staff development courses per calendar year. The content is relative to the role and responsibility of the position or relative to interacting with residents.

(5) **Behavioral intervention techniques.** Within 30 days of employment, and prior to being solely responsible for residents, child care staff and those support staff that occasionally provide instruction or training to residents complete training or provide proof of current certification in behavioral intervention techniques that includes:

   (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.

(6) **Training for contracted personnel.** Contracted personnel not providing direct care or counted in the supervision ratio are exempt from meeting staff training requirements as listed in OAC 340:110-3-153.1(m)(1) - (5).

(n) **Documentation.** All orientation and training hours are documented and available for licensing staff to review. Documentation includes the names of staff members who attended, course title, course description, date, hours attended, and the trainer or facilitator.
(o) **Personnel records.** Facilities maintain personnel records for each employee.

1. The facility submits to the OKDHS at the time of application:
   
   (A) a current list of employees; and
   
   (B) a staff information sheet, provided by the OKDHS, for each employee.

2. The facility maintains on file a written personnel record for each employee working at the facility, which is kept for at least one year following an employee’s separation from employment. The personnel record includes:
   
   (A) an application, resume, or staff information sheet that documents qualifications for the position;
   
   (B) any health records required by the facility;
   
   (C) documentation of the mantoux (PPD) tuberculin skin test and annual documentation by a health professional for child care staff who have had a positive tuberculin skin test reaction that signs or symptoms of tuberculosis are not present;
   
   (D) documentation from OKDHS on Form 07LC096E, Criminal Background Review, of Oklahoma State Courts Network records search;
   
   (E) documentation from OKDHS on Form 07LC096E, Criminal Background Review, of receipt of Oklahoma State Bureau of Investigation criminal history investigations and when applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years;
   
   (F) three references;
   
   (G) annual performance evaluations and any reports and notes relating to the individual's employment with the facility;
   
   (H) date of employment; and
   
   (I) date and reason for leaving employment.
340:110-3-153.2. Supervision of residents

Revised 7-1-09

(a) The facility employs an adequate number of staff as child care workers to meet the needs of residents, taking into account the residents' ages, physical and mental condition, and other factors that affect the amount of attention and supervision required.

(1) The facility maintains a ratio of one staff person for 10 residents (1:10) during awake hours.

(2) The facility maintains a ratio of one staff person 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 maintains a ratio of one staff person for 12 mothers and their children (1:12).

(b) A child care staff member’s own children living in the residential facility are included when determining staff to child ratios.
340:110-3-154. Social services

Revised 7-1-09

(a) Admission. The facility involves the resident and parents or custodian in the admission process.

(1) Upon admission, an admission assessment is completed for each resident indicating that the placement is appropriate for each resident's needs. The admission assessment is documented and available for licensing staff to review. An admission assessment includes:

   (A) a description of the circumstances that led to the resident’s referral;

   (B) a description of the resident's family, relationship with family members, and relationships with other significant adults and children;

   (C) a description of the resident's current and past behavior, including both appropriate and maladaptive behavior;

   (D) the resident's immunization record, medical and dental history, including any current medical problems;

   (E) the resident's school history, including current educational level, special achievements, and any school problems;

   (F) the resident's history of any other placements outside the home, including the reasons for placement;

   (G) the resident’s mental health history; and

   (H) documentation indicating efforts to obtain any of the identifying information in (A) through (G) of this paragraph, if any information is not obtainable.

(2) Admission of children under five years of age.

   (A) A facility may only accept children under age five when maintaining a sibling group, or maintaining a child with a parent, or when there is a need for special services, such as:

      (i) medical care or monitoring;
(ii) awake supervision; or

(iii) crisis intervention, assessment, or treatment.

(B) If a resident under five years of age is in care at the facility, the admission assessment and the service plan document why this placement is in the resident's best interest.

(3) Persons 19 years of age and older are not admitted to the facility. A facility may continue to serve a person who entered the program prior to his or her 19th birthday through the completion of his or her service plan.

(4) Upon admission, the facility obtains authorization, by the parents' or custodian's signature, for:

(A) authority to provide care;

(B) authority to provide medical care;

(C) financial agreement, if a charge is made for the resident’s care; and

(D) authority to use the resident or the resident's picture in publicity, if applicable.

(5) Residents receive a medical examination by a health professional within 60 days prior to admission or within 30 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 facility.

(6) Upon admission, the facility advises the resident of all rules and regulations of the facility.

(7) The facility documents, by the resident’s and parents' or custodian's signatures, that the resident and parents or custodian have been provided written copies of the facility’s policies, which includes, but is not limited to, resident’s rights, grievance procedures, behavior management policies, trips away from the facility, use of volunteers, and frequency of reports to the parents or custodian.

(8) Acceptance of out-of-state residents is made according to the Interstate Compact on the Placement of Children.

(b) Service planning. The service plan is available for licensing staff to review.
(1) Comprehensive service plan. A written service plan is developed and documented for each resident within 30 days of admission.

   (A) The facility involves the resident and parents or custodian in the development of the service plan. If the parents or custodian do not participate in the development of the service plan, the reason for non-participation is documented in the service plan.

   (B) The service plan identifies and includes:

   (i) the resident’s needs, such as counseling, education, physical health, 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 staff. Individual health needs must be addressed in the facility’s medical plan. Refer to OAC 340:110-3-154.3;

   (iii) the estimated length of stay;

   (iv) goals and anticipated plans for discharge;

   (v) the facility’s plan to involve the residents parents or custodian, including visitation guidelines; and

   (vi) the names and signatures, with the date, of those participating in developing the service plan.

(2) Service plan review. Service plan reviews are available for licensing staff to review.

   (A) The service plan is reviewed within 90 days after it has been developed and at least every six months thereafter.

   (B) The facility involves the resident and parents or custodian in the service plan review. If the parents or custodian do not participate in the service plan review, the reason for non-participation is documented in the service plan.

   (C) The service plan review includes:

   (i) an evaluation of progress toward meeting identified needs;

   (ii) any new needs identified since the plan was developed or last reviewed.
and strategies to meet those needs, including instructions to staff;

(iii) an update of the estimated length of stay and discharge plans, if changed;

(iv) an assessment of the continued appropriateness of placement with the goal of determining whether the resident should be returned home, placed in a foster home, transferred to some other care better suited for the resident’s development, or maintained for a longer period in the child care facility; and

(v) the names, and signatures, with the date, of those participating in the review.

(c) Services. The facility provides or facilitates the provision of services to meet the stated goals of the service plan.

(d) Discharge procedures. The facility involves the resident, parents or custodian, and staff in discharge planning.

(1) Except in an emergency, a resident is not discharged to anyone other than the resident’s parents or custodian without written authorization.

(2) An emergency discharge occurs when a resident presents a danger to self or others. Upon emergency discharge of a resident, the facility informs the parents or custodian immediately.

(3) The person to whom the resident is discharged produces photographic identification and signs the discharge form before leaving with the resident.

(4) The date, time, destination, and circumstances of the resident’s discharge are documented in the resident’s record. The name, address, and relationship of the person to whom the resident is discharged are included in the documentation.

(e) Resident’s records. The facility maintains a written record for each resident, which is retained for three years following the resident’s discharge.

(1) The record includes:

(A) the resident’s name, address, telephone number, Social Security number, sex, race, religion, birth date, and birth place;

(B) the admission assessment;
(C) required authorizations, as specified in OAC 340:110-3-154(a)(4);
(D) medical records;

(E) the comprehensive service plan and reviews;

(F) educational information;

(G) reports of serious incidents, which include, but are not limited to, suicide attempts, injuries requiring medical treatment, runaway attempts, commission of a crime and allegations of abuse, neglect, or abusive treatment. The report includes the date and time of the incidents, the names of all persons involved, the nature of the incidents, and the circumstances surrounding them;

(H) reports of separation, use of physical restraint, and other restrictions;

(I) discharge summary;

(J) signed documentation that the resident and parents or custodian have been provided written copies of the facility's policies on resident's rights, grievance procedures, behavior management policies, trips away from the facility, use of volunteers, and frequency of reports to the parent or custodian; and

(K) grievance forms signed by the person filing the grievance, if grievances were filed.

(2) Resident's records are confidential as defined by federal and state laws.
340:110-3-154.1. Program

Revised 7-1-09

(a) Rights of residents. The facility has current, written clients’ rights policy that supports and protects all residents, which is available for residents, parents or custodians, staff, and licensing staff to review.

(1) Each resident and family is informed, in a language they commonly use, of the facility’s policies and procedures regarding their rights.

(2) Each resident has a right to an individualized plan of care or treatment that focuses the services of the facility toward meeting the resident's needs. Each resident has the right to participate in the development of the plan.

(3) The facility ensures that the resident's rights and responsibilities are protected regarding the items listed in (A) - (Q) of this paragraph.

(A) Personal finances. Each resident is given the opportunity to have and handle money for personal use in accordance with the resident's service plan.

(B) Personal possessions. Each resident is allowed to bring personal possessions to the facility and to acquire personal belongings as permitted by facility policy and procedure.

(C) Personal care and hygiene. Each resident is supplied with facilities and supplies for personal care, hygiene, and grooming.

(D) Clothing. Each resident possesses adequate, clean, well-fitting, and seasonable clothing and has a safe place to keep it.

(E) Community activities. Each resident has the right to community contacts and opportunities for participation in the local community in accordance with the resident's service plan.

(F) Telephone contacts. Each resident has access to a telephone to initiate and receive uncensored personal calls in accordance with facility policy and procedure. The residents have access to an attorney and authorized representative of the referring agency.

(G) Mail. Resident's letters, both incoming and outgoing, are not opened unless there is suspicion of contraband. If 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 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 or custodian prior to the use of any publicity about or related to the resident.

(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.

(J) Grievance. Residents and parents or custodians have the right to file a grievance.

(K) Religious training. Each resident is provided an opportunity to participate in religious services.

(L) Work. Each resident is taught good work habits and is provided with a variety of tasks. Whenever possible, residents earn money through work. Residents are never substituted for employed staff.

(M) Safety. Adequate measures are taken to prevent accidents and to avoid health and safety hazards.

(N) Recreation. Each resident is given time to pursue talents, hobbies, and chosen interests in accordance with the resident’s service plan.

(i) The facility provides a balanced on-grounds or off-grounds recreational program.

(ii) A written schedule of planned recreational, leisure, or physical exercise activities is developed with input from staff members and residents and is kept on file and available for licensing staff to review.

(O) Sleep. The facility provides adequate time and facilities for proper rest and sleep commensurate with each resident’s age, health needs, safety, and activities.
(b) **Visitation.** The facility provides the residents and parents or custodian the opportunity for on- or off-campus visits in accordance with each resident’s service plan.

(1) A record is kept of all visits.

(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 attorney and authorized representative of the referring agency.

(c) **Education.** The facility has a clearly written policy that describes the plans for meeting the educational needs of residents.

(1) Training and education are available to meet each resident’s abilities.

(2) The facility ensures that school-age residents receive the educational instruction to which 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 that any resident who is legally not attending school is either gainfully employed or enrolled in a high school equivalency (GED) program or in a training program that teaches necessary life skills or methods of job acquisition.

(5) Tutoring is provided or arranged by the facility for residents, as needed.

(d) **Care of children birth to five years of age.** Programs caring for children birth to five years of age provide age appropriate activities and equipment. Staff responsible for the care of these children are trained in developmentally appropriate practice.
340:110-3-154.2. Behavior management

Revised 7-1-09

(a) **Behavior management policy.** Behavior management policy includes:

1. goals and purposes of the behavior management program;
2. methods of behavior management;
3. a list of staff authorized to administer the behavior management policy; and
4. methods of monitoring and documenting the use of the behavior management policy.

(b) **Prohibitions.** Except as otherwise authorized in OAC 340:110-3-168 and 340:110-3-169, facility policy prohibits:

1. shaking, striking, spanking, or other cruel treatment;
2. harsh, humiliating, cruel, abusive or degrading language;
3. denial of food or sleep;
4. work tasks that are degrading or unnecessary and inappropriate to the resident’s age and ability;
5. denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;
6. use of chemical agents, including tear gas, mace, or similar agents;
7. seclusion;
8. extreme physical exercise;
9. one resident punishing another resident;
10. chemical restraint;
11. mechanical restraint;
(12) group punishment; and

(13) violating a resident’s rights.

(c) **Separation.** A resident may be removed from the group or group activity as a method of behavior management. The resident remains **alone, but within hearing of an adult in an unlocked, safe, clean, well-lighted, well-ventilated area.** The separation does not exceed one hour in duration.

(d) **Physical restraint.** Restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, a staff member, or others. The restraint technique used must be the least restrictive intervention that will be effective to protect the resident or others from harm. Restraint must be discontinued at the earliest possible time. A written incident report is completed within 24-hours following each use of physical restraint.
340:110-3-154.3. Health and medical services

Revised 7-1-09

(a) Medical plan. The facility has an operational plan to meet the individual medical needs of each resident based on information obtained from the admission assessment, physical examination by a health care professional, and observation during placement.

(b) Physical examination. Each resident receives a physical examination annually, or at more frequent intervals as recommended by a health care professional.

(c) Medical care. Each resident receives proper medical and dental care. When a serious accident or illness occurs to a resident, the facility takes the necessary emergency action and notifies the parents or custodian immediately.

(d) Immunizations. Each resident is immunized against communicable diseases in accordance with the rules and regulations of the Oklahoma State Department of Health.

(e) Medication. The facility has current, written medication policy.

(1) On each shift, a staff member is designated to ensure compliance with the facility’s medication policy.

(2) When any medication is administered to a resident, a precise record is kept that includes:

(A) the resident’s name;

(B) the name of the medication;

(C) the dosage, date and time given, and signature of the person who administered it;

(D) reason the medication is given; and

(E) any unusual reaction. The resident, the parents or custodian, and all staff members responsible for the resident are informed of the side effects of the medication prescribed for the resident.

(3) Prescription medications are administered by the designated staff member only as part of a prescribed therapeutic treatment.

(4) All medications are kept in a locked container and under the supervision of the
designated staff member.

(5) All unused or outdated medication is disposed of per facility policy.

(f) **First aid supplies.** The facility maintains first aid supplies.
340:110-3-154.5. Transportation

Revised 7-1-09

(a) **Vehicle requirements.** Residential child care facilities comply with the vehicle requirements described in (1) - (5) of this subsection. A vehicle used to transport residents:

1. conforms to all applicable state motor vehicle laws and regulations;
2. is maintained in a safe operating condition;
3. has written documentation of regular maintenance of all facility vehicles to include quarterly inspection of tire wear and pressure, brakes, lights, and functioning seat belts;
4. has door locks. The driver is responsible for keeping the doors locked when the vehicle is moving; and
5. has an operable heater that is capable of maintaining a temperature of 65 degrees Fahrenheit in the vehicle, and a ventilation system.

(b) **Driver requirements.** Facilities comply with driver requirements described in (1) and (2) of this subsection. Program staff that drive a vehicle used to transport residents:

1. are 21 years of age or older;
2. possess a valid driver's license appropriate for the type of vehicle driven;
3. do not transport more passengers than the manufacturer's designated capacity for the vehicle;
4. have no conviction within the last three years of driving under the influence of alcohol, drugs, or other impaired driving offense; and
5. designed to transport 10 or more passengers, complete training specific to the safe operation of that type of vehicle within three months of transporting residents.

(c) **Safety practices.** Facilities comply with the safety practices described in this subsection.
(1) The interior of each vehicle is maintained in a clean, safe condition with clear passage to operable doors.

(2) Residents who are transported are properly secured in a child passenger restraint system or individual seat belt. The facility has policies to ensure the safety of residents involved in farm and ranch work. Buses with a capacity of ten or more passengers that meet state and federal requirements for school buses are exempt from this requirement.

(A) Children are transported in compliance with applicable state law. [47 O.S. § 11-1112]

(B) The child passenger restraint system is:

   (i) federally approved;

   (ii) installed according to the manufacturer’s instructions;

   (iii) appropriate to the height, weight, and physical condition of the child, according to the manufacturer’s instructions; and

   (iv) properly maintained.

(3) Each seat belt is properly anchored to the vehicle and fits snugly across the child’s hips or securely anchors car seats.

(4) In accordance with state law, all adult passengers, except those in a full-size school bus, and the driver are properly secured by individual seat belts unless the driver or passenger has written verification from a doctor licensed in Oklahoma that the individual is unable to use a seat belt for medical reasons.

(5) Effective June 2007, programs providing transportation for children younger than six years of age must have one staff person with current documentation of training in an OKDHS approved child passenger safety course. Information from the training is shared with all other staff that transport children. After May 2007, any staff used to meet this requirement have 60 days to obtain this training.

(6) Vehicles containing residents younger than age 12 are never left without adult supervision.

(7) Children age 12 years and younger are prohibited from sitting in the front seat of an airbag equipped passenger vehicle unless an airbag cut off switch is installed.
and activated or if the vehicle has airbags equipped with weight sensitive devices. If a child 12 years or younger must be placed in front of an air bag, because all other positions are taken, it must be a child whose age and weight requires a forward facing harness seat.

(8) A first aid kit is available in the vehicle at all times.

(9) Safe conduct to and from all vehicles and safe off-street loading space is provided to protect children from:

(A) backing vehicles;

(B) being between vehicles; and

(C) all traffic hazards.

(d) Transportation records. Facilities maintain transportation records.

(1) The facility maintains on file the name of each driver who transports residents and a copy of the valid driver license for that person.

(2) In accordance with state law, insurance verification is kept in the vehicle used to transport residents.

(e) Insurance. If the facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility maintains on file a copy of the individual's or firm's insurance coverage.

(f) Emergency planning. The facility has a plan for transporting residents in case of emergency.
340:110-3-157. **Physical facility and equipment**

Revised 7-1-09

(a) **New construction.** Special consideration is given when choosing the site for new construction as to available water for fire fighting and access to all areas of the building for rescue.

(b) **Square footage.** Habitable living area is provided as in (1) - (4) of this subsection, which does not include offices, bathrooms, kitchen, laundry, hallways, furnace, or utility areas.

   (1) There is a total of 150 square feet of habitable living area, including sleeping space, for the first resident and 100 square feet for each additional resident.

   (2) Each sleeping room for more than one resident has 70 square feet for the first resident and 50 square feet for each additional resident.

   (3) Each sleeping room intended for one resident contains 110 square feet.

   (4) All areas counted as habitable space have a minimum ceiling height of seven feet, six inches.

(c) **Basements.** Basements cannot be used for sleeping quarters.

(d) **Mobile homes.** Facilities cannot be located in mobile homes.

(e) **Storage of personal belongings.** Adequate space for storage of personal belongings for each resident is provided.

(f) **Staff sleeping quarters.** Staff sleeping quarters are separate from those of the residents, but near enough to assure supervision.

(g) **Staff space.** Facilities provide sufficient space separate from space used for program and treatment activities for administrative activities, individual counseling sessions, and other staff functions required by the program design.

(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 each six residents. Bathrooms are convenient to sleeping
quarters, living, and recreation rooms.

(2) Flush urinals may be substituted for not more than one-half the required number of toilets when provided to serve 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 provided within easy access of residents.

(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 is sanitized after each diaper change. Staff members wash and scrub their hands thoroughly with dispensable soap and warm running water after each diaper change.

(j) **Sanitation and safety.** All habitable and non-habitable areas are maintained in a clean and sanitary condition, free of litter and hazards.

(1) Harmful substances and objects that are not essential to facility operation are not kept on the premises. Other poisonous, flammable, or harmful materials are kept under lock when not under the supervision of an authorized adult.

(2) All firearms are stored unloaded in a locked container, cabinet, or closet. Ammunition is stored in a locked area separate from firearms.

(3) Every closet door can be opened from inside the closet.

(4) Every bathroom door lock can be unlocked from the outside in an emergency. The opening device is readily accessible to staff.

(5) All rooms used by residents are maintained at an indoor temperature between 65 and 85 degrees Fahrenheit.

(6) Indoor and outdoor recreational equipment and supplies are maintained in good condition, and play areas are free of hazards at all times.

(7) Floors, walls, ceilings, doors, and windows are maintained in good condition.

(8) The exterior foundation, roof, and walls are weather-proofed and maintained in good condition.
(9) All areas used by residents are well-lighted.

(10) The safety and sanitary conditions of house parent quarters is the responsibility of the facility.

(k) Furnishings and decor. The facility supplies comfortable furniture, as appropriate, for all living areas. Furniture for residents’ use is of sufficient quantity and appropriately designed to suit the age, size, and capabilities of the residents.

(1) Each resident has an individual bed that is large enough to adequately accommodate the resident. Each bed has its own mattress and bedding.

   (A) Cribs, port-a-cribs, and playpens may not have more than 2-3/8 inches between slats or between side and end panels.

   (B) Cribs do not have decorative cutout areas in crib end panels or tall decorative knobs on the corner posts.

   (C) Crib or port-a-crib mattresses fit snugly with no more than one inch between the mattress and crib.

   (D) Drop-side latches hold sides securely and are not accessible by the child in the crib.

(2) Every bedroom and bathroom window is equipped with window treatments as needed for privacy.

(3) Broken, defective, or recalled furnishings and equipment are repaired or replaced.

(l) Telephones. An operable telephone is readily accessible to each living unit for emergency use.

(m) Health regulations. The facility complies with licensing regulations for buildings, utilities, grounds and food service sanitation as outlined in OAC 340:110-3-163 and 340:110-3-164 and is inspected annually by the appropriate state agency.

(n) Fire safety. The facility 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 not on local water and sewage supply systems is
inspected annually by the Department of Environmental Quality.
340:110-3-163. Buildings, utilities, and grounds regulations

Revised 7-1-09

The requirements in this Section apply to all residential child care facilities constructed after June 15, 1990. Licensed facilities in operation June 15, 1990 continue to comply with the construction and safety regulations applicable to the issuance of their license.

(1) Building. Buildings used to house residential child care facilities are structurally sound. Structures comply with the building code adopted by the Oklahoma State Fire Marshal Office, the plumbing code, mechanical code, and fuel gas code adopted by the Construction Industries Board and the latest edition of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Standards.

(A) Exterior and interior surfaces are maintained in sound condition, free of holes, peeling paper, and paint.

(B) Windows and doors are in good repair, and free of broken glass or hazards.

(C) Floors are cleanable and in good repair.

(D) All uncovered floors, including concrete and wood floors, are sealed.

(2) Premises. The premises are maintained in accordance with the requirements listed in this paragraph.

(A) The premises are free of harborage for insects, rodents, and other vermin.

(B) Safe, effective measures are taken to minimize the presence of, and to protect against, the entry of vermin.

(C) The premises are otherwise maintained free of hazards to children.

(D) The premises are free of illegal drugs and paraphernalia.

(E) Materials used to prevent egress of children such as barbed wire, electrical fencing, razor and concertina wire are prohibited.

(3) Tobacco use. The facility prohibits the use of any tobacco product by residents. Smoking is prohibited in buildings used by residents or in the presence of residents.
The facility prohibits staff members from using tobacco products in the presence of residents or in any rooms used by residents.

(4) **Screening.** Every window, exterior door, hatchway, or similar device is rodent proof, reasonably water and weather tight, and is kept in working condition and good repair. During the portion of the year when there is a need for protection against mosquitoes, flies, and other flying insects, every door and window is provided with a 16-mesh, properly fitting screen. Air conditioned habitable areas are adequate to meet this requirement when properly operated unless vermin are able to enter to such extent that a nuisance or hazard is created.

(5) **Ventilation.** Each habitable room must be ventilated. Window areas meet requirements of the State Fire Marshal. Non-habitable areas, such as bathrooms and food preparation areas, may provide other approved ventilation systems in lieu of windows or skylights. Adequately designed, maintained, and operated heating and cooling systems are deemed to meet the ventilation requirements.

(6) **Lighting.** All areas used by residents are well-lighted.

(7) **Windows.** Effective July 1, 2009 any new construction or existing space that has not been previously licensed as resident’s sleeping quarters have an exterior window for natural lighting.

(8) **Laundry.** Laundry areas are maintained in a clean, safe condition. Equipment is installed to meet safety requirements.

(9) **Water supply.** The water supply is adequate, of a safe and sanitary quality, meets state quality standards, and is approved by the Oklahoma Department of Environmental Quality (DEQ).

   (A) When not on a public water supply, such as well water, water meets local and state testing requirements and is tested annually.

   (B) All areas where food is prepared or equipment, utensils, or containers are used have hot and cold water under pressure.

(10) **Sewage disposal.** All sewage, including mop water, is disposed of in a public sewage system or, in its absence, in a manner approved by the DEQ.

(11) **Plumbing.** Plumbing is sized, installed, and maintained in a safe manner and in accordance with the Oklahoma Plumbing License Act.
(A) Plumbing constructed after June 1, 1987, is installed in compliance with the International Plumbing Code or applicable local ordinances.

(B) Any cross-connection between the potable water supply and any nonpotable or questionable water supply, or any source of pollution through which the potable water supply might become contaminated is prohibited.

(C) Water closets, lavatories, bathtubs, and showers are properly connected to a water and sewer system approved by the Construction Industry Board and are in good working condition.

(D) Every lavatory basin and bathtub or shower is supplied with hot and cold water under pressure at all times.

(12) **Electrical.** The electrical distribution system is sized, installed, and maintained in a safe manner and in accordance with the Oklahoma Electrical Licensing Act. Portions of the electrical system constructed, repaired, or replaced after June 1, 1987, are installed in compliance with the current National Electrical Code. Lighting is at least 20 foot candles at desk level.

(13) **Garbage and rubbish disposal.** Prior to disposal, all garbage and rubbish containing food wastes or diapers are kept in leak-proof, non-absorbent containers and covered with tight-fitting lids when filled, stored, or not in continuous use.

   (A) The containers are adequate for the storage of all food waste and rubbish accumulating on the premises.

   (B) Each container is thoroughly cleaned when soiled.

   (C) Garbage disposal units, if used, are of suitable construction and installed in compliance with state and local standards.

   (D) All garbage and rubbish are disposed of frequently and in such a manner to prevent a nuisance.

   (E) All hazardous material is disposed of properly.

(14) **Swimming pools.** In accordance with state law, swimming pools used by children in a residential facility are considered public bathing places and must meet the requirements of the Design Standards and Operational Criteria for Public Bathing Places of Oklahoma State Department of Health (OSDH).
(A) If a private swimming pool is used, it then becomes a public pool and must meet the requirements of OSDH.

(B) The use of portable pools is prohibited.

(C) A certified life guard or person having a current water safety certificate or comparable certificate with cardio-pulmonary resuscitation and first aid is in attendance at all times when the pool is in use.

(15) Animals.

(A) Harboring animals on the premises is in accordance with local ordinances.

(B) Animals may be kept on the premises only when the health and safety of each animal and the residents can be reasonably assured.

(C) Animals with which residents have contact are maintained in a state of good health and are free of diseases communicable to humans.

(D) Dogs and cats kept on the premises are vaccinated annually by a licensed veterinarian.

(E) Areas of confinement are cleaned of excrement regularly. Animals are maintained in a visibly clean manner.

(F) The OSDH is immediately notified as required by state law if a resident is bitten by an animal.
340:110-3-164. Food service requirements

Revised 7-1-09

All residential child care facilities comply with the following regulations adapted from the Oklahoma State Department of Health Rules and Regulations pertaining to food service establishments.

(1) General. Food service requirements are listed in this paragraph.

(A) Food is protected at all times from any contamination including cross-contamination between raw and cooked foods, toxic substances, or contamination by insects or rodents while being stored, prepared, displayed, dispensed, packaged or transported.

(B) Equipment and utensils used for food storage, preparation, and serving are maintained in a sanitary condition.

(2) Food supplies. The requirements regarding food supplies are contained in this paragraph.

(A) Food sources. Food is in sound condition, free from spoilage, contamination, filth, adulteration, misbranding, and safe for human consumption.

(B) Home-canned and hermetically sealed food. Individually home-canned food or use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

(C) Milk products. Requirements pertaining to milk products include:

(i) only Grade A pasteurized fluid milk and fluid milk products for drinking are permitted;

(ii) pasteurized dry milk or evaporated milk may be used for cooking purposes only;

(iii) milk and milk products are stored at 41 degrees Fahrenheit or below;

(iv) milk is stored in the original carton; and

(v) milk may be transferred from the original container to pitchers for serving. However, milk removed from the original container may not be returned to the
original container or stored for later use.

(D) **Meat, poultry, and fish.** Meat, poultry, and fish are obtained from approved sources and have been inspected by appropriate governmental authorities. Raw or undercooked animal foods such as rare ground meat, shellfish, or steak are prohibited.

(E) **Ice.** Ice used for any purpose is made from water which comes from an approved source and was manufactured, stored, transported, and handled in a sanitary manner.

(F) **Juice.** Apple juice, apple cider, and beverages containing apple juice are pasteurized or commercially sterile. Juices that bear a warning label are prohibited.

(G) **Sprouts.** Raw seed sprouts are prohibited.

(3) **Potentially hazardous foods.** Requirements pertaining to potentially hazardous foods are contained in this paragraph.

(A) **Cooking.** Potentially hazardous foods are cooked according to food regulations adopted by OSDH.

(B) **Egg products.** Only clean, whole-shell eggs without cracks, which meet applicable grade standards and are held at 41 degrees Fahrenheit during storage, or pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs are permitted.

   (i) Raw unpasteurized eggs are not used in uncooked food, for example, ice cream or eggnog.

   (ii) Eggs are cooked to at least 145 degrees Fahrenheit for 15 seconds. Soft-cooked unpasteurized eggs are prohibited.

(C) **Reheating foods.** Before being served, potentially hazardous foods that have been cooked and then refrigerated are reheated rapidly throughout to 165 degrees Fahrenheit or higher before being served.

(4) **Food protection.** Foods are covered and protected from contamination while being stored, prepared, displayed, or transported.

   (A) Medicines and other hazardous items are stored in a manner that prevents
contamination of food.

(B) Refrigeration units and insulated facilities are required to assure maintenance of all food at 41 degrees Fahrenheit or below except during preparation and service.

(C) A thermometer is located in a conspicuous place in each refrigerator and freezer.

(D) All perishable foods, including fruits and vegetables, are stored at temperatures that will protect against spoilage.

(E) A suitable small-diameter probe thermometer is available to check food temperatures.

(F) All potentially hazardous foods are maintained at safe temperatures, 41 degrees Fahrenheit or below or 135 degrees Fahrenheit or above, except during necessary periods of preparation and service.

(G) Raw eggs are not to be cracked and combined unless used immediately.

(H) Use of unlabeled cans is prohibited.

(I) Use of damaged cans that are bulging or have a broken seal are prohibited.

(J) Frozen food is kept at 10 degrees Fahrenheit or below except when being thawed at refrigerator temperature of 41 degrees Fahrenheit or under cool, potable running water at 70 degrees Fahrenheit or below or microwaved as part of the cooking process.

(K) Cased food in water proof containers may be stored on a floor that is clean and not exposed to moisture.

(5) Food preparation. Food is prepared with a minimum of manual contact on food-contact surfaces and with clean, sanitized utensils.

(A) Whenever there is a change in processing between raw beef, pork, poultry, or seafood, or a change in processing from raw to ready-to-eat foods, each new operation begins with clean, sanitized food-contact surfaces and utensils.

(B) Raw fruits and vegetables are thoroughly washed with potable water before being cooked or served.
(6) **Use of food.** Individual or family-style portions of food once served are not served again. Prepared and unserved food may be properly stored for later service. Wrapped food that remains properly stored and has not been unwrapped may be served again.

(7) **Transporting food.** The requirements for storage, display, and general protection against contamination contained in this Section apply to all food that is transported from one location to another for service.

(A) During transportation, potentially hazardous food is kept at 41 degrees Fahrenheit or below, or at 140 degrees Fahrenheit or above.

(B) During transportation, all food is in covered containers or completely wrapped or packaged to protect it from contamination.

(8) **Catering services.** When catering services are used:

(A) meals are obtained from a food service establishment approved by the health department; and

(B) procedures and equipment for transporting meals are approved by the health department.

(9) **Health and hygiene.** The health and hygiene requirements are listed in (A) - (C) of this paragraph.

(A) Individuals are prohibited from working in any capacity in any area of food service if diagnosed with Salmonella Typhi, Shigella spp., Enterohemorrhagic or Shiga toxin-producing Escherichia coli, Hepatitis A virus, or Norovirus.

(B) Individuals are restricted from working in any area of food service if diagnosed with or a carrier of any communicable disease, or while afflicted with boils, infected wounds, sores, an acute respiratory infection, vomiting, fever, sore throat with fever, or diarrhea.

(C) All individuals wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

(i) Individuals thoroughly wash their hands and the exposed portions of their arms with dispensed soap and warm water for at least 20 seconds before starting work, during work as often as necessary to keep them clean, after handling raw food products and after eating, drinking, using the toilet or
returning from other areas of the facility, or any other contamination.

(ii) Individuals keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(10) **Food equipment, utensils, and storage items.** All equipment and utensils are designed and constructed of safe, non-toxic materials and are smooth, non-absorbent, easily cleaned, durable, and in good repair.

(A) All equipment is installed to facilitate cleaning of the equipment and adjacent areas.

(B) Adequate food service utensils are provided to ensure complete food service for one meal for the licensed capacity of the facility.

(C) Tableware is washed, rinsed, and sanitized after each use and stored in a clean area.

(D) To prevent cross-contamination, kitchenware, utensils, and food contact surfaces of equipment are washed, rinsed, and sanitized after each use.

(E) Cooking devices are cleaned as often as necessary and are free of encrusted grease deposits and other soils.

(F) Non-food contact surfaces of all equipment, including tables, counters, and shelves, are cleaned as often as necessary to keep them free of accumulations of dust, dirt, food particles, and other debris.

(11) **Cleaning and sanitizing equipment and utensils.** Equipment, utensils, and service items are maintained in a sanitary condition by use of one of the methods listed in this paragraph.

(A) **Dishwashing machines.** Commercial or domestic dishwashing machines are acceptable if heat or chemical sanitizing cycles are properly installed and if operated in a manner that allows completion of a sanitizing cycle without opening the machine. Adequacy of the sanitizing cycle is 180 degrees Fahrenheit by heat or 50 parts per million by sanitizer in accordance with Untied States Environmental Protection Agency (EPA)-approved labels.

(B) **Manual cleaning.** Requirements for manual cleaning are in this subparagraph.
(i) If a three-compartment sink or automatic dishwasher is not available, a two-compartment, domestic-type sink may be used when additional vessels are provided to ensure the rinsing and sanitizing of all equipment, utensils, and tableware.

(ii) Equipment, utensils, and tableware are washed, rinsed, and sanitized in the sequence listed in this subparagraph.

(I) Sinks are cleaned prior to use.

(II) In the first compartment, items are thoroughly washed with a detergent in a solution that is kept clean.

(III) In the second compartment, equipment items are rinsed with clean water until they are free of detergent and abrasives.

(IV) In the third compartment, items are sanitized.

(iii) Food-contact surfaces of all equipment and utensils are sanitized by immersion in a clean solution containing any chemical sanitizing agent.

(iv) All items are air-dried in a self-draining position before being stored. No cloth drying is permitted.

(C) **Use of single-service articles.** Facilities that do not have adequate and effective facilities for cleaning and sanitizing utensils use single-service articles for both preparation and service.

(i) Single-service articles are stored in closed cartons or containers which protect them from contamination.

(ii) Single-service articles are used only once.

(12) **Storage area.** Storage areas meet the requirements contained in this paragraph.

(A) Adequate space is provided for the storage of sanitized equipment, utensils, and service items.

(B) Items are stored above the floor in a clean, dry location to protect food contact surfaces from splash, dust, and other contamination.
(C) Only poisonous and toxic materials that are required to maintain sanitary conditions and for sanitation purposes are used or stored in the food preparation area.

(D) Poisonous and toxic materials are identified and used only in accordance with manufacturer's use directions and under conditions that do not contaminate food or constitute a hazard.

(13) Food service hand-washing facilities. Separate hand-washing facilities equipped with hot and cold running water with a mixed-valve faucet are provided in the food preparation area in any facility licensed or remodeled after October 1, 2001 and have a minimum of 100 degrees Fahrenheit at hand-washing sinks. In cottage-type and domestic type residential housing licensed prior to July 11, 1978, hand-washing facilities in a bathroom on the same floor as the kitchen are deemed convenient and adequate.

(A) Dispensed cleansing soap or detergent and sanitary towels, or other hand-drying devices are provided.

(B) Facilities are kept clean and in good repair.

(C) Food preparation and dishwashing sinks are not used for hand-washing purposes.

(14) Food preparation and service areas. Food preparation and service areas meet the requirements listed in this paragraph.

(A) Floors. The floor surface in all rooms or areas in which food is stored or prepared is of smooth, non-absorbent materials.

   (i) Unsealed concrete and carpet are not permitted.

   (ii) Floors are constructed so that they are easily cleaned and are kept in good repair.

(B) Walls and ceilings. Walls and ceilings, in areas in which food is prepared or utensils or hands are washed, are kept in good repair, easily cleaned, and have washable surfaces up to the highest level reached by splash or spray.

(C) Lighting. The requirements addressing lighting are contained in this subparagraph.
(i) All areas in which food is prepared or stored, as well as hand-washing areas, toilet rooms, and garbage and rubbish storage areas, are lit as per International Electrical code.

(ii) All lighting fixtures are shielded.

(D) **Ventilation.** Rooms are properly ventilated as per International Plumbing Code.

(i) All rooms have sufficient ventilation to keep them free from heat, steam, vapors, obnoxious odors, smoke, and fumes.

(ii) Ventilation systems comply with applicable state and local fire prevention requirements and, when ventilated to the outside air, discharge in such a manner as to not create a nuisance.

(E) **Housekeeping.** All areas where food is prepared and served are kept clean, neat, and free from litter and rubbish.

(i) Cleaning operations are conducted in a manner that minimizes contamination of food and food-contact surfaces.

(ii) Soiled linens, coats, and aprons are kept in containers until removed for laundering.

(iii) Live birds or animals are not allowed in any area used for food service operations.
340:110-3-165. Construction and fire safety

Revised 7-1-09

The requirements in this Section establish minimum construction and fire safety requirements for residential child care facilities, which are enforced by the State Fire Marshal.

(1) Approval of residential facilities. The Office of the State Fire Marshal is responsible for approval of all residential child care facilities.

(A) Current state-adopted codes [74 O.S § 317 through 324.21] are enforced for all new construction including additions or major alterations of existing licensed facilities and conversion of buildings not previously licensed as residential child care facilities.

(B) Licensed facilities in operation on the effective date of these regulations comply with the construction and fire safety codes applicable to the issuance of their license.

(C) Clarification regarding codes and enforcement is available from the Office of the State Fire Marshal.

(2) Minimum construction requirements. The facility complies with the construction requirements described in (A) - (E) of this subsection.

(A) Architectural plans are submitted to and approved by Licensing Services and the State Fire Marshal or designee before proceeding with construction.

(B) When choosing the site for new construction, special consideration is given to available water for fire fighting and access to all areas of the building for rescue.

(C) Facilities meet local building, electrical, plumbing, and fire prevention codes. In localities where a building code or Life Safety Code does not exist, construction conforms to the current state-adopted codes.

(D) Building separation and property line setbacks meet requirements of local ordinances. In the absence of such ordinances, the state adopted building code applies.

(E) A mobile home, whether mobile or permanently situated, is not permitted as
a residential child care facility.

(3) **Administration.** The facility complies with the requirements contained in (A) - (E) of this subsection.

(A) **Fire protection plan.** The facility has a written fire protection plan for all persons in the event of fire and evacuation from the building. The plan is the basis of regular fire drills and includes procedures followed under all specific types of emergencies.

   (i) All supervisory personnel have a copy of the facility's fire protection plan.

   (ii) Each employee is familiar with locations and use of portable fire extinguishers.

   (iii) Each staff member is familiar with evacuation procedures and routes.

(B) **Evacuation plan.** Evacuation plans are posted in prominent locations on all floors in each building.

(C) **Emergency numbers.** Emergency telephone numbers are conspicuously posted at the telephone.

(D) **Housekeeping.** The facility:

   (i) prohibits areas under stairs from being used for combustible storage; and

   (ii) ensures that accumulations of papers or trash are removed from the building as soon as possible.

(4) **Exits.** The residential child care facility complies with the requirements pertaining to exits described in (A) - (B) of this paragraph.

   (A) Exits are not blocked.

   (B) Means of exit are adequately lighted by natural or electric light at all times to permit safe evacuation of occupants.

(5) **Fire protection equipment.** Equipment is installed and maintained as required by codes adapted by the Office of the State Fire Marshal.

   (A) **Smoke detectors.** The residential child care facility has operable smoke
detectors located according to NFPA 72 as adapted by the state fire marshal. The detector is powered by battery, alternating current, or other power source. Upon inspection, a battery operated detector found inoperable is replaced immediately with an operable system. For facilities licensed after October 1, 2001 a hard-wired system is installed.

(B) **Fire extinguishers.** Fire extinguishers are provided in accordance with current adapted NFPA standard #10 "Portable Fire Extinguisher."

   (i) All fire extinguishers are inspected, serviced, and tagged annually by a trained individual.

   (ii) Disposable fire extinguishers are prohibited.

(6) **Maintenance of equipment.** All safety equipment, including emergency lighting, commercial stove hoods, sprinkler systems, and any other required safety equipment, is maintained in compliance with current codes or manufacturer's instructions.

(7) **Interior.** The interior of the facility complies with the requirements contained in (A) - (F) of this subsection.

   (A) Changes to interior finish or floor covering meet current codes regarding flame spread rating.

   (B) Furnishings or decorations with an explosive or highly flammable characteristic are prohibited.

   (C) Use of open-face space heaters, unvented space heaters, and portable heating devices is prohibited.

   (D) Heaters, including floor furnaces, are enclosed by a guard when necessary to protect children from hot surfaces.

   (E) The use of temporary wiring or extension cords as permanent wiring is strictly prohibited. Extension bars are acceptable if there is documentation that a circuit breaker or fuse is built into the unit.

   (F) Electrical outlets, which are not in use, are covered with safety devices when children under five years of age are in care.

(8) **Exterior.** Exterior areas are free of trash and tall grass.
340:110-3-165.1. Safety and emergency preparedness requirements

Issued 7-1-09

The requirements in this Section establish safety and emergency preparedness requirements for residential child care facilities.

(1) **Fire drills.** Residents participate in fire exit drills performed at least six times per year on a bimonthly basis with a minimum of two drills conducted at night during normal sleeping hours.

(2) **Tornado drills.** Residents participate in tornado drills conducted each spring.

(3) **Fire and tornado drill records.** Facilities maintain a log of all fire and tornado drills.

(4) **High risk activities.** If the facility allows residents to engage in activities, such as horseback riding, archery, gymnastics, karate, or using firearms, a written plan which ensures the health and safety of residents is maintained on file at the facility. The plan includes:

   (A) qualifications of the supervisor of the activity;

   (B) qualifications of any other staff members necessary for proper supervision;

   (C) number of staff members needed to supervise the activity;

   (D) conditions under which a resident may participate in the activity, such as age and the skill of the resident;

   (E) any necessary special equipment, for example, life jackets or helmets, including the supply and condition; and

   (F) safety practices followed.

(5) **Water activities.** If residents engage in recreational water activities, safety precautions are followed. A person with a current water safety certificate or comparable certificate is in attendance at all times. This person is in the water or is prepared to enter the water at any time.

(6) **Disaster planning.** The facility has a written plan for reporting and protecting from outside threats, and evacuating in case of fire, flood, tornado, blizzard, power
failure, or other natural or man-made disaster that could create structural damage to the facility or pose health hazards.

(7) **Sleep positioning.** To reduce the risk of Sudden Infant Death Syndrome, infants younger than 12 months of age are placed on their back for sleeping unless there is a medical reason documented by a doctor that the infant should not sleep in this position.

   (A) Documentation is maintained at the facility.

   (B) Infants who are able to turn themselves over are placed initially on their back for sleeping but allowed to sleep in a position they prefer.

   (C) Infant and toddler’s heads and faces are not covered.
340:110-3-166. Requirements for regimented residential programs

Revised 7-1-09

(a) **Regimented residential programs.** A regimented residential program is a military style training program under which residents are subject to a controlled and regimented environment that affirms dignity of self and respect for others, and includes physical training and discipline.

(b) **Requirements.** Regimented residential programs comply with the rules contained in OAC 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this Section.

(c) **Administrative policy.** Regimented residential programs comply with the rule contained in OAC 340:110-3-152(d) regarding developing policies. In addition, policy includes guidelines for physical exercise, which ensures the health and safety of residents.

(d) **Executive director qualifications.** The person responsible for program supervision, whether the executive director or the program director, is exempt from meeting the qualifications contained in OAC 340:110-3-153.1(d)(2). One of the qualifications listed in (1) - (3) of this subsection, however, must be met:

1. A bachelor's degree in a behavioral science or other related area of study from an accredited college or university and three years experience in children's services. Military experience may substitute for up to two years of experience in children's services.

2. A master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university, and two years experience in children's services. Military experience may substitute for up to one year of experience in children's services.

3. A doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and one year of experience in children's services. Military experience may substitute for experience in children's services.

(e) **Supervision of residents.** Regimented residential programs comply with the rule contained in OAC 340:110-3-153.2 regarding supervision of residents. When adjudicated juveniles are in care, however, the facility maintains a staff-child ratio of
one to eight (1:8) during waking hours and one to twelve (1:12) during sleeping hours. Staff meeting the 1:12 ratio remain awake.

(f) **Physical examination.** Regimented residential programs are exempt from the rule contained in OAC 340:110-3-154(a)(5) regarding physical examinations within 30 days following admission. Prior to beginning intense physical exercise, however, each child has a physical examination by a health professional who states that the child may participate in a high-impact program.

(g) **Physical facility.** Regimented residential programs are exempt from the rule contained in OAC 340:110-3-157(b)(2)- (3) pertaining to square footage in sleeping rooms. Facilities, however, meet the requirements contained in (1) - (2) of this subsection.

1. Each sleeping room intended for one resident contains 80 square feet.

2. Facilities using barracks for sleeping have a minimum of 40 square feet per resident with no less than three feet between beds.

(h) **Staff sleeping quarters.** A regimented residential program operating with barracks-type sleeping rooms is exempt from the rule contained in OAC 340:110-3-157(f) pertaining to separate sleeping quarters for staff if the staff in the sleeping quarters is the same gender as the residents.

(i) **Toilets, sinks, and bathtubs or showers.** Regimented residential programs are exempt from the rules contained in OAC 340:110-3-157(h)(1). Programs, however, meet the requirements contained in (1) - (3) of this subsection.

1. At least one flush toilet is available for each 12 males in male facilities and eight females in female facilities.

2. At least one wash basin is available for each 12 residents.

3. At least one shower or bathtub is available for each eight residents.
340:110-3-167. Requirements for children's shelters

Revised 7-1-09

(a) **Children's shelter.** A children’s shelter is a non-secure public or private residential program that provides temporary care and supervision for children.

(b) **Requirements.** Children’s shelters comply with the rules contained in OAC 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this section.

(c) **Tuberculin test.** Children’s shelters comply with the rules contained in OAC 340:110-3-153.1(g)(2) regarding tuberculin tests.

(d) **Supervision of residents.** Children’s shelters are exempt from the rules contained in OAC 340:110-3-153.2 pertaining to supervision of residents. The shelter, however, employs an adequate number of staff as child care workers to meet the needs of the residents. All staff members on duty are awake and accessible at all times.

  1. For residents ages 0 to five years of age, the facility maintains a ratio of one staff person for four residents (1:4).

  2. For residents ages six to 11 years of age, the facility maintains a ratio of one staff person for six residents (1:6).

  3. For residents ages 12 – up to 18 years of age, the facility maintains a ratio of one staff person for eight residents (1:8).

(e) **Admission.** Children’s shelters are exempt from the rules contained in OAC 340:110-3-154(a)(1) - (5) regarding admission. Shelters, however, meet the requirements contained in (1) - (7) of this subsection in addition to OAC 340:110-3-154(a)(5) - (7).

  1. Persons 18 years of age and older are not admitted to a shelter. A shelter may continue to serve a person who entered the shelter prior to his or her eighteenth birthday through the completion of his or her placement plan.

  2. The shelter admits only those children for which it has an established operational program.

  3. If a child is admitted by anyone other than a parent or custodian, the shelter documents the attempts to contact the parent or custodian.

  4. Each child and parent or custodian entering the shelter is asked if the child is in
good health and taking any type of medication.

(5) Each child in a shelter receives a health screening by an RN or LPN by the child’s eighth day of care. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a child is transferred from another licensed facility.

(6) If a resident shows symptoms of illness or injury, the parent or custodian is notified for appropriate action.

(7) Upon admission, the facility documents:

(A) child's name, date of birth, Social Security number, sex, race, tribal affiliation, address, and telephone number;

(B) name of parents or custodian, address, phone number, and place of employment;

(C) date and time of admission;

(D) name, phone number, and address of person responsible for bringing the child to the shelter;

(E) reason for referral;

(F) name of staff person on duty at admission;

(G) school the child attends and grade;

(H) description of the child's physical and emotional condition; and

(I) comments that relate to any circumstances concerning the child's placement.

(f) Service plan. Children’s shelters are exempt from the rules contained in OAC 340:110-3-154(b)(1) regarding service plans. A written service plan is developed and documented for each resident within three days of admission. Children's shelters meet the guidelines contained in OAC 340:110-3-154(b)(1)(A) - (B).

(g) Physical facility. Children’s shelters are exempt from the rules contained in OAC 340:110-3-157(b) regarding square footage. Shelters, however, meet the requirements contained in (1) - (5) of this subsection.
(1) Habitable living areas are provided as stated in (2) - (5) of this subsection. This does not include offices, bathrooms, hallways, kitchen, laundry, furnace, utility, or office areas.

(2) There is a total of 100 square feet of habitable living area per resident, including sleeping space.

(3) Each sleeping room for more than one resident contains 50 square feet per occupant.

(4) Each sleeping room intended for one resident contains 80 square feet.

(5) All areas counted as habitable space have a minimum ceiling height of seven feet, six inches.
340:110-3-168. Requirements for residential treatment facilities

Revised 7-1-09

(a) Residential treatment facilities. A residential treatment facility cares for children under 24-hour medical care who have emotional, psychological, or mental disorders.

(b) Requirements. The facility complies with the rules contained in OAC 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this Section.

(c) Personnel. The facility:

   (1) complies with the rules regarding personnel contained in OAC 340:110-3-153.1; and

   (2) employs a psychiatrist and adequate medical staff to meet the medical needs of the residents.

(d) Supervision of residents. The facility is exempt from the rules contained in OAC 340:110-3-153.2 regarding supervision of residents.

   (1) The facility employs a sufficient number of staff as child care workers to adequately supervise and meet the needs of residents. Staff members are awake and accessible at all times.

   (2) The facility maintains a ratio of one staff person for:

       (A) six residents (1:6) during awake hours; and

       (B) eight residents (1:8) during sleeping hours.

   (3) When the admission to a psychiatric residential treatment facility is ordered by a medical doctor, the doors may be locked.

(e) Admission. A health professional reviews and approves the admission assessment within 24 hours of admission.

(f) Service planning. The facility is exempt from the rules contained in OAC 340:110-3-154(b)(1) and (2) regarding service plans.

   (1) The facility meets the requirements contained in:
(A) (1) and (2) of this subsection; and

(B) OAC 340:110-3-154(a)(1)(A) and (B) and (b)(2)(B) and (C).

(2) A written service plan for each resident is:

(A) developed and documented within four working days after admission; and

(B) reviewed at least every five to nine calendar days thereafter unless approved by the Oklahoma Health Care Authority.

(g) **Portable pools.** The facility is exempt from the rules contained in OAC 340:110-3-63(14)(B). Therapeutic water activities are permitted when prescribed by attending physicians, included in a treatment plan and provisions are made to insure hygienic practices. When portable pools are used as part of a therapeutic activity children are directly supervised at all times. Portable pools are:

1. no larger than six feet in diameter; and
2. contain water no more than six inches in depth.

(h) **Discharge procedures.** The facility meets the rules contained in OAC 340:110-3-154(d) regarding discharge procedures. The facility:

1. supplies residents with a prescription for two weeks' worth of medication, if appropriate, upon discharge; and
2. documents in the resident’s record at least one scheduled outpatient follow-up contact within two weeks of discharge.

(i) **Visitation.** The facility is exempt from the rules contained in OAC 340:110-3-154.1(b)(2) regarding visitation restriction reviews. Reasons for visitation restrictions are:

1. explained to the resident and parents or custodian;
2. documented in the resident’s records; and
3. reviewed every seven days.

(j) **Behavior management.** The facility is exempt from the rules contained in OAC 340:110-3-154.2(b)(7), (10), and (11) regarding seclusion and restraint. If the facility
uses seclusion and restraint, it must meet the requirements contained in (1) through (5) of this subsection.

(1) **Seclusion.** Seclusion may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. Resident is released from seclusion when resident 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 with specific verbal authorization of a health professional. The authorization must be written and signed by a health professional within 24 hours.

(B) While in seclusion, a staff member continuously monitors the resident, either in person or with audiovisual equipment, and personally checks the resident's well-being every 15 minutes. The resident receives appropriate medical and psychological services.

(C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.

(D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion.

   (i) Residents age ten years and older do not remain in seclusion longer than two hours or a total of six non-consecutive hours within any 24-hour period.

   (ii) Residents age nine years and younger do not remain in seclusion longer than one hour within any 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

(A) at least 60 square feet and a ceiling height of seven feet, six inches;

(B) a safety glass window, mirror, or camera that allows for full observation of the seclusion room;

(C) no hardware or furnishings that obstruct observing the child at all times;

(D) no hardware, equipment, or furnishings that present a physical hazard or suicide risk;
(E) means for natural or mechanical ventilation;

(F) means for maintaining a temperature between 65 and 85 degrees Fahrenheit;

(G) lighting for all areas of the room; and

(H) an automatic fire suppression system.

(3) **Mechanical restraint.** Mechanical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. Resident is released from mechanical restraint when resident is no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of mechanical restraint.

(A) Mechanical restraint is used only with specific verbal authorization of a health professional. The authorization must be written and signed by the health professional within 24-hours.

(B) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from mechanical restraint.

   (i) Residents age ten years and older do not remain in mechanical restraint longer than two hours.

   (ii) Residents age nine years and younger do not remain in mechanical restraint longer than one hour.

(C) Mechanical restraint is used on the resident in a comfortable and humane manner.

   (i) Resident's hands are not restrained to his or her feet.

   (ii) Mechanical restraints are padded or cushioned.

(D) A staff member continuously monitors, either in person or with audiovisual equipment, the resident and personally checks the resident's well-being every 15 minutes.

(E) The resident receives appropriate medical and psychological services.
(4) **Chemical restraint.** Chemical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. A written incident report is completed within 24-hours following each use of chemical restraint.

   (A) Chemical restraint is used only with specific verbal authorization of a health professional. The authorization must be written and signed by the health professional within 24-hours.

   (B) Chemical restraint is administered to the resident in a humane manner.

   (C) A staff member continuously monitors, either in person or with audiovisual equipment, the resident and personally checks the resident's well-being every 15 minutes.

   (D) The resident receives appropriate medical and psychological services.

(5) **Seclusion and restraint log.** A seclusion and restraint log is kept, and a report containing all information in the log is part of the resident's record. The log includes:

   (A) date and time of placement in seclusion or in restraint;

   (B) name of the health professional authorizing the use of restraint or seclusion;

   (C) reason for the use of restraint or seclusion and other behavior management techniques attempted;

   (D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and

   (E) time the resident is released from seclusion or restraint.
340:110-3-169. Requirements for secure care facilities

Revised 7-1-09

(a) **Secure care facility.** A secure care facility is a facility that cares for and supervises adjudicated children in a building in which voluntary entering and exiting is prohibited through the use of internal or exterior locks or through secure fencing around the perimeter.

(b) **Requirements.** Secure care facilities are required to meet the rules contained in OAC 340:110-3-145 through 340:110-3-165.1 except as otherwise provided in this Section.

(c) **Supervision of residents.** Secure care facilities meet the requirements contained in OAC 340:110-3-153.2 regarding supervision of residents. In addition, staff members remain awake at all times.

(d) **Searches and contraband.** Secure care facilities meet the requirements contained in OAC 340:110-3-152(d) regarding required policies. In addition, secure care facilities have written policy and procedure governing searches and control of contraband.

   (1) Facility policy and procedure includes, but is not limited to:

      (A) control of contraband;

      (B) searches for contraband;

      (C) property searches;

      (D) searches of the facility; and

      (E) visitor searches.

   (2) Residents and visitors are notified that they are subject to search.

   (3) No resident is searched beyond what is necessary to maintain proper security.

   (4) Searches are conducted by a staff member of the same gender as the resident or visitor being searched.

(e) **Door security.** Secure care facilities meet the requirements for door security contained in (1) - (4) of this subsection.
(1) All doors are kept locked that are security perimeter entrances, exterior doors, and doors that the facility administrator determines should be locked. These doors are unlocked only for admission or exit of residents, employees, visitors, or in case of an emergency.

(2) Doors to vacant units, unoccupied areas, and storage rooms are locked when not in use.

(3) Staff members know what doors must be locked and under what circumstances the doors are opened.

(4) Once a door is locked, it is checked to ensure it is secured.

(f) Key control. A secure care facility has a key-control system that includes:

(1) a log, which is available to licensing staff for review, to record the number of keys given out, the location of the lock, the number of keys to that lock, and the names of the employees possessing keys;

(2) a central administrative area from where the keys are issued;

(3) a manner of storage that permits easy determination of either the absence or the presence of the keys;

(4) labeling of all keys and maintenance of at least one duplicate key for each lock; and

(5) fire and emergency keys that are readily accessible.

(g) Weapons. Weapons are not permitted beyond a designated area.

(h) Behavior management. Secure care facilities are exempt from the rules contained in OAC 340:110-3-154.2(b)(7) and (11) regarding seclusion and mechanical restraint. Facilities that use seclusion and mechanical restraint meet the requirements contained in (1) - (4) of this subsection.

(1) Seclusion. Seclusion may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others, or prevent escape. Resident is released from seclusion when resident 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 with specific authorization of the executive director, the administrative person in charge, or a health professional.

(B) When a resident is placed in seclusion, an adult staff member continuously monitors the resident, either in person or through audiovisual equipment, and personally checks the resident's well-being every 15 minutes. The resident receives appropriate medical and psychological services.

(C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.

(D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion. Residents age ten and older do not remain in seclusion longer than three hours or a total of six non-consecutive hours within any 24-hour period. Residents age 9 and under do not remain in seclusion longer than one hour within any 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

(A) at least 60 square feet and a ceiling height of seven feet, six inches;

(B) a safety glass window, mirror, or camera that allows for full observation of the seclusion room;

(C) no hardware or furnishings that obstruct observing the child at all times;

(D) no hardware, equipment, or furnishings that present a physical hazard or suicide risk;

(E) means for natural or mechanical ventilation;

(F) means for maintaining a temperature between 65 and 85 degrees Fahrenheit;

(G) lighting for all areas of the room;

(H) an automatic fire suppression system; and

(I) time resident is released from seclusion.

(3) **Mechanical restraint.** Mechanical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others.
Mechanical restraint may be used when transporting a resident in order to prevent escape, to prevent self-injury, to prevent injury to others, to prevent destruction of property, or to prevent inciteful behavior that jeopardizes security.

(A) Mechanical restraint is used on the resident in a comfortable and humane manner.

(B) Resident's hands are not restrained to his or her feet.

(C) Resident is not restrained to an immovable object.

(D) Resident is released from mechanical restraint when resident is no longer deemed a risk to self, others, or at imminent risk of escape.

(E) A written incident report is completed within 24 hours following each use of mechanical restraint.

(4) **Seclusion and mechanical restraint log.** A seclusion and mechanical restraint log is kept, and a report containing all information in the log is part of the resident's record. The log includes:

(A) the date and time of placement in seclusion or the use of mechanical restraint;

(B) the name of the person authorizing the use of seclusion or mechanical restraint;

(C) the reason for the use of mechanical restraint or seclusion and other behavior management techniques attempted;

(D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and

(E) time resident is released from seclusion or mechanical restraint.

(i) **Emergency numbers.** A secure care facility is exempt from the rules contained in OAC 340:110-3-165(3)(C) regarding posting of emergency telephone numbers. Emergency telephone numbers are readily accessible to staff members.