TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:110-1, Table of Contents; 110-1-4.1; 110-1-6; 110-1-8.1 through 110-1-9; 110-1-9.2 through 110-1-9.4; 110-1-10 through 110-1-10.1; 110-1-13 through 110-1-15; 110-1-43.1; 110-1-45; 110-1-47 through 110-1-47.1; 110-1-51 through 110-1-52; 110-1-54 through 110-1-55; 110-3-2 through 110-3-5; 110-3-6 through 110-3-7.1; 110-3-36 through 110-3-39; 110-3-41 through 110-3-42; 110-3-81 through 110-3-82; 110-3-85; 110-3-88; 110-3-146 through 110-3-147; 110-3-153.1; 110-3-168; 110-3-221 through 110-3-223; 110-3-225 through 110-3-226; 110-5-3 through 110-5-6; 110-5-8; and 110-5-12.

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

The proposed revisions to Subchapters 1, 3, and 5 of Chapter 110 amend rules for child care facilities and child placing agencies relating to the establishment of a child care worker registry (Child Care Restricted Registry). Revisions to Oklahoma Child Care Facilities Licensing Act required the Commission for Human Services to promulgate rules effective July 1, 2010 to establish and maintain this registry that will be accessible to the public through an on-line database.

OAC 340:110-1-4.1 is amended to reflect addition of new division forms developed for the Child Care Restricted Registry. Other form development assists in the process of Emergency Order requests and Alternative Compliance referrals.

OAC 340:110-1-6 is amended to clarify division practice regarding reopening of a family child care home and withdrawal of application.

OAC 340:110-1-8.1 is amended to reflect Child Care Restricted Registry search procedures.

OAC 340:110-1-8.3 is amended to reflect clarifications to division practice.

OAC 340:110-1-9 is amended to reflect clarifications to division practice regarding on-going monitoring, the change in name of facilities and health approval of additional food preparation spaces.

OAC 340:110-1-9.2 is amended to reflect addition of Child Care Restricted Registry procedures regarding complaint investigations
and clarify division practice.

OAC 340:110-1-9.3 is amended to reflect addition of Child Care Restricted Registry procedures regarding non-compliant facilities and clarify division practice regarding alternative compliance requests.

OAC 340:110-1-9.4 is amended to clarify division practice of Emergency Order requests.

OAC 340:110-1-10 is amended to reflect addition of Child Care Restricted Registry procedures regarding revocation or denial of licenses.

OAC 340:110-1-10.1 is issued to reflect policy regarding the Child Care Restricted Registry.

OAC 340:110-1-13 is amended to reflect revisions to unlicensed investigation timeframes.

OAC 340:110-1-14 is amended to reflect revisions to public inspections of licensing files.

OAC 340:110-1-15 is amended to reflect revisions to grievance response procedures.

OAC 340:110-1-43.1 is amended to reflect revision to some form names and addition of forms already being utilized. Other additional forms were developed for the Child Care Restricted Registry.

OAC 340:110-1-45 is amended to clarify division practice regarding the withdrawal of an application.

OAC 340:110-1-47 is amended to reflect clarifications to division practice regarding on-going monitoring, the change in name of facilities, fire approval, health approval of additional food preparation spaces, and closure of inactive facilities.

OAC 340:110-1-47.1 is amended to reflect addition of Child Care Restricted Registry procedures regarding complaint investigations and clarify division practice regarding referrals to Office of Inspector General.

OAC 340:110-1-51 is amended to reflect Child Care Restricted Registry search procedures.

OAC 340:110-1-52 is amended reflect addition of Child Care Restricted Registry procedures regarding revocation or denial of licenses and to clarify division practice of Emergency Orders.

OAC 340:110-1-54 is amended to reflect revisions to grievance response procedures.

OAC 340:110-1-54.1 is amended to reflect revisions to unlicensed investigation timeframes.

OAC 340:110-1-55 is amended to reflect revisions to public inspections of licensing files.

OAC 340:110-3-2 is amended to reflect additions to definitions regarding the Child Care Restricted Registry.
OAC 340:110-3-3 is amended to reflect prohibitions regarding the Child Care Restricted Registry.
OAC 340:110-3-5 is amended to reflect revisions to terms used regarding child welfare investigative findings.
OAC 340:110-3-6 is amended to reflect requirements for Child Care Restricted Registry documentation.
OAC 340:110-3-7.1 is amended to reflect procedures regarding Child Care Restricted Registry and revisions to reporting procedures regarding suspected child abuse or neglect.
OAC 340:110-3-36 is amended to reflect additions to definitions regarding the Child Care Restricted Registry.
OAC 340:110-3-37 is amended to reflect prohibitions regarding the Child Care Restricted Registry.
OAC 340:110-3-39 is amended to reflect revisions to terms used regarding child welfare investigative findings.
OAC 340:110-3-41 is amended to reflect requirements for Child Care Restricted Registry documentation.
OAC 340:110-3-42 is amended to reflect procedures regarding Child Care Restricted Registry and revisions to reporting procedures regarding suspected child abuse or neglect.
OAC 340:110-3-81 is amended to reflect additions to definitions regarding the Child Care Restricted Registry.
OAC 340:110-3-82 is amended to reflect prohibitions regarding the Child Care Restricted Registry.
OAC 340:110-3-85 is amended to reflect procedures regarding Child Care Restricted Registry and reflect revisions reporting procedures regarding suspected child abuse or neglect.
OAC 340:110-3-88 is amended to reflect requirements for Child Care Restricted Registry documentation and revisions to terms used regarding child welfare investigative findings.
OAC 340:110-3-146 is amended to reflect additions to definitions regarding the Child Care Restricted Registry.
OAC 340:110-3-147 is amended to reflect prohibitions regarding the Child Care Restricted Registry.
OAC 340:110-3-153.1 is amended to reflect procedures regarding Child Care Restricted Registry.
OAC 340:110-3-168 is amended to reflect procedures regarding Child Care Restricted Registry.
OAC 340:110-3-221 is amended to reflect additions to definitions regarding the Child Care Restricted Registry.
OAC 340:110-3-222 is amended to reflect prohibitions regarding the Child Care Restricted Registry.
OAC 340:110-3-223 is amended to reflect revisions to terms used regarding child welfare investigative findings.
OAC 340:110-3-225 is amended to reflect requirements for Child Care Restricted Registry documentation.
OAC 340:110-3-226 is amended to reflect procedures regarding Child Care Restricted Registry and revisions to reporting procedures regarding suspected child abuse or neglect.

OAC 340:110-5-3 is amended to reflect additions to definitions regarding the Child Care Restricted Registry.

OAC 340:110-5-4 is amended to reflect prohibitions regarding the Child Care Restricted Registry.

OAC 340:110-5-6 is amended to reflect revisions to reporting procedures regarding suspected child abuse or neglect.

OAC 340:110-5-8 is amended to reflect procedures regarding Child Care Restricted Registry.

OAC 340:110-5-12 is amended to reflect requirements for Child Care Restricted Registry documentation.

Original signed on 6-7-10

Lesli D. Blazer, Director
Oklahoma Child Care Services

Sandra Harrison, Coordinator
Office of Intergovernmental Relations and Policy

WF # 10-02 (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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SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. LICENSING SERVICES - CHILD CARE

340:110-1-1. Purpose
340:110-1-2. Definitions [REVOKED]
340:110-1-3. Legal base and authority
340:110-1-4. Roles and responsibilities
340:110-1-4.1. Forms
340:110-1-5. Inquiries
340:110-1-6. Application process
340:110-1-6.1. Appendices [REVOKED]
340:110-1-7. Disposition of application [REVOKED]
340:110-1-8. Types of issuance
340:110-1-8.1. Background investigations
340:110-1-8.3. Certification of facilities to receive a differential quality rating
340:110-1-9. Case management
340:110-1-9.1. Certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities
340:110-1-9.2. Complaint investigations
340:110-1-9.3. Non-compliance with requirements
340:110-1-9.4. Emergency Order
340:110-1-9.5. Consent agreement
340:110-1-10. Revocation or denial of license
340:110-1-10.1. Child Care Restricted Registry
340:110-1-11. Voluntary case closures
340:110-1-12. TXX-1 Day Care provider Contract [REVOKED]
340:110-1-14. Public inspection of licensing files
340:110-1-16. Certification of child care facilities to care for children with special needs [REVOKED]
340:110-1-17. Child Care Advisory Committee bylaws
340:110-1-20. Professional development of OCCS staff
340:110-1-21. Evaluation of the child care licensing services program

PART 3. LICENSING SERVICES - RESIDENTIAL CARE AND AGENCIES

340:110-1-40. Purpose
340:110-1-41. Definitions
340:110-1-42. Legal base and authority
340:110-1-43. Roles and responsibilities of licensing staff
340:110-1-43.1. Forms
340:110-1-43.2. Appendices [REVOKED]
340:110-1-44. Inquiries
340:110-1-45. Application process
340:110-1-46. Types of issuances
340:110-1-47. Case management
340:110-1-47.1. Complaint investigations
340:110-1-47.2. Non-compliance with requirements
340:110-1-48. Change of address [REVOKED]
340:110-1-49. Increased in licensed capacity [REVOKED]
340:110-1-50. Decrease in capacity [REVOKED]
340:110-1-51. Background investigations
340:110-1-52. Legal actions
340:110-1-53. Case closures
340:110-1-54. Grievance and complaint policy and procedure
340:110-1-54.1. Unlicensed facilities
340:110-1-55. Public inspection of licensing files

PART 5. CHILD CARE SERVICES

340:110-1-70. Purpose
340:110-1-71. Definitions
340:110-1-72. Legal base and authority
340:110-1-73. Overall responsibility as required by state and federal law
340:110-1-74. Office of Child Care Advisory Council [REVOKED]
340:110-1-75. Dependent care planning and development grant funds [REVOKED]
340:110-1-76. Child Care and Development Fund (CCDF)
340:110-1-77. Contracting procedures
340:110-1-78. Monitoring procedures
340:110-1-79. Local projects
340:110-1-4.1. Forms

Revised 7-1-10

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

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

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

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

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

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

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

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

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

(9) **07LC012E, Licensing Complaint.** Form 07LC012E is used to record a complaint against a child care facility.
(10) **07LC014E, Monitoring Report - Family Child Care Home.** Form 07LC014E is used to document compliance with requirements during a monitoring visit to a family child care home and record other information obtained.

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

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

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

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

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

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

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

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

(19) **07LC037E, Notice to Comply.** Form 07LC037E is used by a child care facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.

(20) **07LC038E, Child Information.** Form 07LC038E is used by a child care facility to record enrollment information for a child.
(21) **07LC041E, Staff Information – Child Care Facility.** Form 07LC041E is used to record information regarding child care facility staff persons as required by licensing requirements.

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

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

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

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

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

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

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

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

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

(31) **07LC074E, Request for Extension of Time to Comply.** Form 07LC074E is used by child care providers to request an extension of time to comply with Stars criteria.
(32) **07LC075E, Notice of Alternative Compliance.** Form 07LC075E is used by licensing staff to notify a facility of an approved request for alternative method of compliance.

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

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

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

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

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

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

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

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

(41) **07LC089E, Child Care Waiver Request.** Form 07LC089E is used by a child care facility owner or director to request a waiver for persons with a restricted criminal history.

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

(43) **07LC091E, Change of Ownership.** Form 07LC091E is used by current and prospective owners of facilities to notify licensing of ownership changes.
(44) **07LC092E, Insurance Verification.** Form 07LC092E is completed annually to verify liability insurance coverage.

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

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

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

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

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

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

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

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

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

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

(55) **07LC104E, Restricted Registry Notification to Child Care Facility.** Form 07LC104E is used by licensing records office to notify child care facilities of registration of individuals on the Child Care Restricted Registry.
(56) **Form 07LC105E, Alternative Compliance Referral.** Form 07LC105E, is used by licensing staff to refer an alternative compliance request to State Office personnel.

(57) **Form 07LC106E, Criminal History Review Results.** Form 07LC106E is used to notify facilities of the results of the criminal history review.
340:110-1-6. Application process

Revised 7-1-10

(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 programs manager for permission to operate. Permission to operate cannot 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 subsidized child care benefits, per OAC 340:40-13-5. The licensing staff documents that a child care contract promotional flyer is provided to the facility with contact information for the county child care liaison. ■ 6

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

(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. ■ 7

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

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

   (A) previously obtained director references may be used;

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

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

(f) **Computer checks on license applicants.** Computer checks to identify prior involvement with OKDHS are completed on required persons per OAC 340:110-1-8.1(g). ■ 8

(g) **Family child care homes approved to provide foster care.** A caregiver approved to provide kinship foster care may be licensed as a family child care home. No other foster care placement will be approved. The caregiver cannot be licensed if approved for therapeutic foster care per OAC 340:75-7-19. The approval for dual service is made by the licensing supervisor in writing prior to each child placement, based upon the recommendation of the licensing staff and foster care staff of the child-placing agency. When a joint consensus is not achieved, either division may request a review by the dual approval committee for a final decision. ■ 9 The decision for approval is:

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

(2) documented in the case record; and

(3) reviewed with the provider and foster care worker at least once per year or more often if concerns exist.
(h) **Withdrawal of application.** If a child care facility applicant wishes to withdraw the application prior to issuance of an initial permit the licensing staff:

1. documents this request on Form 07LC080E, Licensing Services Supplemental Information;
2. confirms that no children are in care; and
3. may close the case unless negative action is warranted.

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

Revised 7-01-10

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 conduct a search of Child Care Restricted Registry for the applicant per OAC 340:110-1-10.1(c).

   (c) The licensing staff enters available information into the database, including a monitoring frequency plan of six 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.

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

   (e) 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 Oklahoma Department of Human Services (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) 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 OKDHS or other agencies, a copy of the report is sent to the FSS child care liaison. Refer to OAC 340:110-1-8.1(g).

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 an 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.

10. When a withdrawal of application is requested, the licensing specialist mails a copy of the application to the facility and the original application is maintained in the facility file.
340:110-1-8.1. Background investigations

Revised 7-1-10

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

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

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

(c) Oklahoma State Courts Network (OSCN) search for new facilities.

Prior to the issuance of an initial permit, the facility submits a completed Form 07LC096E, Criminal History Review Request, to OCCS licensing records office for completion of an OSCN criminal history investigation. Upon completion, receives Form 07LC106E, Criminal History Review Results, for:

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

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

(3) adults, including providers' spouse or adult children, who live in the child care facility.
(d) **Oklahoma State Courts Network (OSCN) for existing facilities.** Facilities permitted or licensed after May 21, 2009 submit a completed Form 07LC096E to OCCS licensing records office requesting completion of OSCN criminal history investigation for:

1. any persons prior to employment at a child care facility, including all caregivers, auxiliary staff, substitute or assistant caregivers; and
2. any person age 18 years or older prior to their residence in the facility.

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

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

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

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

(g) **Oklahoma Department of Human Services (OKDHS) background checks.** Prior to permission to operate, computer checks to identify prior involvement with OKDHS are completed on all adults who are required to sign the application for a family child care home license and on the owner of a child care center, part-day children's program, or school-age program.
(1) When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements. Other cases are reviewed only if concerns exist.

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

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

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

(1) OSBI; and

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

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

(1) an Emergency Order;

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

(3) an injunction;

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

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

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

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

(l) Waiver.

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

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

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

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

(A) type of crime or offense for which the person was convicted or disposition that includes a plea of guilty or nolo 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. ■ 13

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

INSTRUCTIONS TO STAFF 340:110-1-8.1

Revised 07-01-10

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. The term new facility applies to:

(1) a first six month permit for a facility;

(2) a first six month permit for change of ownership; or

(3) a facility placed directly on a license. Examples include, but are not limited to:

(A) a facility is reopened per OAC 340:110-1-47; or

(B) changes of ownership that are changes in business entity only.

5. 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.

6. Contracted staff are considered employees when used in staff child ratio.
7. 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.

8. 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.

9. 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.

10. Form 07LC096E, Criminal History Review Request, 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.

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

12. 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.

13. 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 7-1-10

(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 **subsidized** child care benefits 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. 1 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. 2

(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 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 a total of 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 and 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 years as a two or three star center, there must be a master teacher for every 20 children of the licensed capacity. This number does not include school-age children if the majority of children in care are younger than five years of age.

(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. ■ 2

(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. ■ 3 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 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. ■ 17

(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. ■ 20 & 21

(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. ■ 22

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

(1) A reduction in one star plus, two, and three star occurs when OCCS has issued a written Emergency Order or notice of denial or revocation of license. ■ 23

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

(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 kept confidential. When maintained, pay stubs and photos that include children are also kept confidential.

**INSTRUCTIONS TO STAFF 340:110-1-8.3**

Revised 7-1-10

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 a timely manner. 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 7(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 notify 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. 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;

(3) all pertinent or applicable documentation, including letters, notices to comply, supplemental pages, 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 7-1-10

(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 staff sheets and compliance with background investigations per OAC 340:110-1-8.1; ■ 4

(3) staff training records; ■ 5

(4) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons per OAC 340:110-1-8.1; ■ 6

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

(6) Form 07LC092E, Insurance Verification, within the last 12 months, or posting of Form 07LC093E, Insurance Exception 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. ■ 7
(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. ■ 8

(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. ■ 9 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. A new application reflecting the name change is completed. ■ 10

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

1. verifies the new director meets qualifications;

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

3. obtains references;

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

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

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

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

(2) obtains the applicable page of Form 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 History Review Request, must be submitted prior to a new adult household member residing in the home. When there is a new adult household member in a family child care home or large child care home, the required documentation includes:

(1) the applicable page of Form 07LC042E completed by the new adult household member(s);

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

(3) an OKDHS computer check.

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

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

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

(2) Any other request for change in class does not require case closure and documentation includes: ■ 12

   (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; ■ 12

   (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: ■ 13

   (1) the reason for the increase;

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

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

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

   (5) an updated Equipment Inventory 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. ■ 14

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, per OAC 340:110-1-6.

(p) **Response to a child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death, the licensing staff visits the facility as soon as possible, unless advised otherwise by law
enforcement. □ 15

(q) **Serious incident reports.** The licensing supervisor submits to the licensing regional programs manager, county director, and statewide licensing coordinator a report of any serious incident. □ 16

(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. □ 17

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

Revised 7-1-10

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 O7LC080E, 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 p.m. 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. Licensing staff verifies documentation of non-registration on Child Care Restricted Registry on applicable persons per OAC 340:110-1-10.1.

5. 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.


   (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 per OAC 340:110-1-14.

7. 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.

8. 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.

9. 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), 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 Subsidy Section. 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.
11. (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 child care liaison to request a new contract so that care provided to children of families receiving subsidized child care benefits is not disrupted.

(c) If a family child care home changes business entity, the licensing specialist consults with supervisor to determine if a six month permit is required.

12. 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.

13. 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) verifies current fire and health inspections and notifies the fire department to determine whether another inspection or further evaluation is required. The contact is documented on Form 07LC080E, Licensing Services Supplemental 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 RPM 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.

14. 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 Oklahoma Child Care Services (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.
15. 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) 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 OCCS of the death; and

   (2) considers whether the death is possibly related to sudden infant death syndrome (SIDS) 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 OKDHS Publication no. 94-01, SIDS – What Child Care Providers and Other Caregivers Should Know;

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

   (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.
16. 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.

17. 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 7-1-10

(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;

(L) failure to obtain background investigations; or

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

(2) Risk level II complaints. Risk level II complaints do not indicate there is imminent risk of harm, but without intervention, a child may not be safe. Investigations are initiated within 15 calendar days of receipt of the complaint by 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 7-1-10
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) Licensing specialists inform OIG prior to any visits to the facility and consults with them regarding the restrictions of any individuals involved in the allegation.

(D) 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 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; and

(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) OKDHS 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. Licensing staff document on Form 07LC080E the name, address, and Social Security number of any alleged perpetrator in a CW complaint investigation.

(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 the
CW investigation of a report that:

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

(B) 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 Instructions to Staff 4(4)(E) of these Instructions. 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 or substantiated 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 7-1-10

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

(M) failure to obtain background investigations or Child Care Restricted Registry searches;
(N) administering medication to children;
(O) room temperatures;
(P) heat sources and loss of any utility service;
(Q) compliance file and or posting;
(R) cardio-pulmonary resuscitation and first aid training;
(S) liability insurance; and
(T) vehicle liability insurance.

(d) Case management responses to non-compliant facilities. When there is numerous, repeated, or serious non-compliance, one or more of the actions in (1) through (11) is taken. ■ 4

(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. ■ 5

(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. ■ 6 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. ■ 8

(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 discontinue child care until the non-compliance is corrected or the investigation is complete.

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

(4) 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.

(5) 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.

(6) 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:

   (A) unlicensed;

   (B) on application status;
(C) licensed;

(D) violating an Emergency Order;

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

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

(f) Notification to supervisor when children are at risk. If during a monitoring visit 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 with any supporting documentation on Form 07LC061E, Alternative Compliance Request, to the licensing specialist. A separate request is submitted for each requirement for which an alternative method of compliance is requested. ■ 10

(2) Licensing specialist completes Form 07LC105E, Alternative Compliance Referral, and submits all documentation to the statewide licensing coordinator or designee for authorization.

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

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

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

(6) Written notice from OCCS, Form 07LC075E, Notice of Alternative Compliance, stating the nature of the exception, is posted with the license. ■ 11
INSTRUCTIONS TO STAFF 340:110-1-9.3

Revised 7-1-10

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. Licensing specialist reviews all submitted documentation and may request any additional relevant information.

   11. 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.
340:110-1-9.4. Emergency Order

Revised 7-1-10

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

(1) that result in the serious injury or death of a child;
(2) that place a child at a high risk for death or injury;
(3) when compelling evidence of child abuse or neglect exists;
(4) when a child leaves a facility without the staff's knowledge;
(5) when a child is left at a location away from the facility;
(6) when a child is left unattended in a vehicle;
(7) when a child is left alone in a facility;
(8) when there are serious non-compliance issues;
(9) when a person is on the premises whose health or behavior would endanger the health, safety, or well-being of children;
(10) when there is compelling evidence of the presence of illegal drugs and/or drug paraphernalia; or
(11) continued operation of an unlicensed facility.

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

(1) the licensing specialist or the licensing supervisor submits a request for an Emergency Order to the licensing regional programs manager (RPM) or assistant licensing coordinator, or statewide licensing coordinator; ■ 1

(2) the licensing RPM may contact the operator by phone to determine if the
operator will voluntarily cease care of children. A voluntary cease care agreement by the operator does not prohibit the issuance of an Emergency Order; and

(3) a request for an Emergency Order is considered by the licensing RPM, assistant licensing coordinator, or licensing coordinator within one facility business day. The decision to issue an Emergency Order may be made by the licensing RPM. Upon making a decision, the official will:

   (A) issue a written Emergency Order, signed by the approving official and notify the licensing specialist, the licensing supervisor, the assistant licensing coordinator, and statewide licensing coordinator; or

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

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

   (1) basis for the Emergency Order;

   (2) if the facility is to close;

   (3) if children are to be removed from the facility;

   (4) the Emergency Order is effective immediately;

   (5) the Emergency Order remains in effect until modified or rescinded; and

   (6) the right to have a hearing on the Emergency Order.

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

   (1) prior to delivery, the licensing specialist contacts law enforcement and requests assistance in serving the Emergency Order on the operator; and

   (2) an Emergency Order is served on the operator within one business day of issuance, or an alternate date, if approved by an assistant licensing coordinator or statewide licensing coordinator. ■ 2

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

3 Two options available are:

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

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

(f) Duration of Emergency Order.

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

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

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

   (B) issue a modified Emergency Order; or

   (C) rescind the Emergency Order.

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

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

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

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

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

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

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

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

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

**INSTRUCTIONS TO STAFF 340:110-1-9.4**

Revised 7-1-10

1. **Staff:**

   (1) contacts the regional programs manager immediately with a description of the circumstances;

   (2) submits a request for the issuance of an Emergency Order;

   (3) forwards supporting documentation upon request if available;

   (4) documents the above information on Form 07LC080E, Licensing Services Supplemental Information; and

   (5) completes Form 07LC100E, Emergency Order Request.
2. Whenever possible the licensing specialist is accompanied by a witness.

3. Licensing specialists provide Form 07LC088E, Notice of Emergency Order, to parents that are present at the time of the Emergency Order delivery. For parents not notified in this manner, their names and addresses are obtained and Form 07LC088E is mailed to them.
340:110-1-10. Revocation or denial of license

Revised 7-1-10

(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 RPM 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 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 children currently enrolled;

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

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

(3) During the next monitoring visit, the licensing staff and a witness verify that the sign providing notice of proposed revocation or denial is posted. If the sign is not posted, the licensing staff sends a letter to the 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 and to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(7) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The 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 RPM, licensing staff contacts a Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance and submits a referral to the district attorney (DA) on Form 07LC098E, District Attorney Referral, for further action.

(9) Citation Request. A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. The following procedures are followed:
(A) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility.

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

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

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

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

(d) **Appeal process.** The appeal process regarding denial of application or revocation of license is described in this 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. A copy of the cease and desist letter is forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1. The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. If the 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 cannot 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 RPM. The statewide licensing coordinator may proceed with the previous owner's denial or revocation.

INSTRUCTIONS TO STAFF 340:110-1-10

Revised 7-1-10

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 (RPM) in consultation with the statewide licensing coordinator or designee. The summary is reviewed by the licensing supervisor before it is sent to the licensing RPM 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 RPM, and director of Child Care Services;
(2) the Oklahoma Department of Human Services (OKDHS) Legal Division;

(3) Family Support Services Division, Child Care Subsidy Section;

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

Issued 7-1-10

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

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

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

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

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

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

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

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

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

(A) child abuse or neglect;

(B) a crime against a child;

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

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

(A) domestic abuse;

(B) a drug-related offense; or

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

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

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

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

(d) **Restricted Registry search for child care facility owners, employees, and residents.** For individuals identified in (a)(1)-(3), Form 07LC101E, dated within the last 30 days, is submitted to the licensing records office with Form 07LC096E, Criminal History Review Request.

(e) **Registration as a result of findings of abuse or neglect.** Children and Family Services Division (CFSD) or Office of Client Advocacy (OCA) notifies the licensing records office upon substantiated or confirmed findings when the abuse or neglect occurred to children while in the care of a child care facility. The licensing records office verifies appeal status before requesting investigation information from licensing for potential registrants identified in (a)(1)-(3). Investigation information is then forwarded to the restricted registry review committee for consideration per section (h).

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

(g) **Registration as a result of a specified criminal history.** If a criminal history review conducted by the licensing records office reveals an individual is a potential...
registrant as indicated in (b)(3-5), all criminal background information is forwarded to
the restricted registry review committee for consideration per section (h).

(h) **Restricted registry review committee.** The restricted registry review committee
consists of five OKDHS staff who make a determination of registration within 30 days of
receipt of information from the licensing records office.  ■ 6

(1) Criteria considered for registration includes the:

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

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

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

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

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

(F) other documentation submitted indicating that the health, safety, and well-
being of children is endangered.

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

(i) **Restricted Registry notification.** Upon notification of the restricted registry review
committee decision, the licensing records office notifies the potential registrant on Form
07LC102E, Restricted Registry Notification. The notification:

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

(2) advises the potential registrant of their:

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

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

(j) **Restricted Registry appeal process.** A request for an appeal is forwarded to the
licensing records office. ■ 7

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

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

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

(3) notifies licensing staff regarding registration; and ■ 8

(4) enters registrant information on the Restricted Registry database within five business days. ■ 9

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

(m) Request for registration removal. A registrant may request removal after 60 months from the date of being recorded on the Restricted Registry. A request for removal from the Registry is forwarded to the licensing records office for submission to the restricted registry review committee. The restricted registry review committee makes a determination as to removal within 30 days of receipt of notice from the licensing records office. ■ 6

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

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

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

(C) personal statement of rehabilitative efforts; and

(D) length of time on the Restricted Registry.

(2) A decision as to removal is based upon a majority decision of review committee members. ■ 10

(n) Registration removal. Licensing Records office provides notification to the registrant of the committee decision. ■ 11
INSTRUCTIONS TO STAFF 340:110-1-10.1

Issued 7-1-10

1. Contracted staff are considered employees when used in staff child ratio.

2. Licensing is not responsible for conducting the Mary Rippy Violent Offenders search; however, if knowledge is obtained regarding an individual's registration the information is forwarded to the licensing records office.

3. Licensing requests withdrawal of the application. If the application is not withdrawn, licensing proceeds with denial procedures per OAC 340:110-1-10 or 340:110-1-52.

4. Children and Family Services Division (CFSD) and Office of Client Advocacy (OCA) e-mails the licensing records office at OCCSbackground@okdhs.org when the notification letter has been mailed to an individual with confirmed, substantiated-services recommended, or substantiated-court intervention recommended of abuse or neglect that occurred to children while in the care of a child care facility. The licensing records office tracks the status of the appeal process. CFSD and OCA notifies the licensing records office of the request for appeal and the final decision of CFSD or OCA appeals committee, if applicable.

5. Licensing staff forward the Report to the District Attorney and any other supporting documentation to the licensing records office.

6. The members of the restricted registry review committee include three OCCS State Office staff, and one representative from CFSD and OCA. The licensing records office tracks the process.

7. Licensing records office forwards the appeal request to the OKDHS Appeals Unit.

8. Licensing may be required to visit the facility to verify registrant is no longer employed or residing in the facility. If registrant is still employed or residing in the facility licensing staff proceed per OAC 340:110-1-9.3 or 340:110-1-47.2.

9. Registrant’s full name, including aliases, date of registration, date of birth, and Social Security information is entered on the Restricted Registry database. No other information related to the investigation, offense, revocation, or denial is
disclosed to the public.


11. Licensing records office removes registrant from the Restricted Registry database within five business days.

Revised 7-1-10

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

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

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

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

   (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

      (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.

(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 340:110-1-9.2(k).

**INSTRUCTIONS TO STAFF 340:110-1-13**

**Revised 07-1-10**

1. **If there are serious allegations indicating children could be at risk, the situation is staffed with the supervisor for the appropriate time frame for visiting the facility.**

2. 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.

3. 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.

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

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

6. 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.

7. 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.
8. If a complaint allegation was received regarding unlicensed care, and care was verified, the complaint is ruled substantiated even if unlicensed care has ceased.
340:110-1-14. Public inspection of licensing files

Revised 7-1-10

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

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

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

(d) **Preparation of case files for inspection.** The licensing staff carefully reviews the entire record and removes confidential information. □ 1

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

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

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

(h) **Release of confidential information.**
(1) A complete case file that includes confidential information is not released to the public, and may be provided only to certain persons according to applicable laws and regulations, for example, OKDHS Legal Division, Children and Family Services Division, law enforcement officials, and upon order of a court of competent jurisdiction. ■ 2 & 3

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

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

INSTRUCTIONS TO STAFF 340:110-1-14

Revised 7-1-10

1. Oklahoma Child Care Services (OCCS) licensing staff prepares a case to be available for inspection within 24 hours of the request.

   (a) Information that is maintained in a confidential manner and is not made a part of the public record includes:

   (1) names and identifying information regarding children, their parents, and relatives;

   (2) documentation of collateral interviews regarding non-compliance or a complaint;

   (3) reports from Child Welfare (CW), Adult Protective Services, and law enforcement officials regarding an abuse investigation. If an investigation was conducted by CW, a summary of the allegations and findings of an investigation that does not disclose identities but permits the public to evaluate the facility is part of the public record. The name of the CW worker may be included;

   (4) any criminal history investigation report regarding a juvenile;
(5) a criminal history waiver request. The letter granting or denying the waiver may remain in the public file unless it contains information regarding a juvenile;

(6) information regarding a child with a disability;

(7) name and identifying information of a complainant;

(8) documents containing staff salary information;

(9) Social Security, federal identification, and employee identification numbers;

(10) copies of computer checks of Oklahoma Department of Human Services (OKDHS) records;

(11) letters to the police regarding drug allegations unless the police investigation is complete or has been declined, and copies of police reports that are part of a current investigation or that the police have requested remain confidential. However, police incident reports that are made available to the general public may remain in the public record;

(12) information regarding a complaint prior to the completion of an investigation;

(13) a draft denial or revocation summary that has not been issued by OCCS State Office. If the summary has been issued, it may be part of the public record, but the names of children, complainants, and perpetrators in a CW investigation are purged from the record; and

(14) a letter from a parent or the public about a facility that the writer does not want released. Letters and information from training consultants may remain in the public record.

(b) Confidential information is protected by:

(1) removing all protected information from the file, such as the CW report, Form 07LC012E, Licensing Complaint, and Form 08AD006E, Certification for Special Needs Child Care Rate; or

(2) staff must not mark through confidential information on original
documents, for example, Social Security numbers, children's names on a monitoring report, or staff named in a CW investigation. Whenever possible, forms remain in the file with confidential information marked out so that the public has access to as much information as permissible.

2. Release of confidential files. If a licensing file is subpoenaed, licensing staff immediately contacts the statewide licensing coordinator or designee who consults with OKDHS legal division.

3. Confidential records that have been provided by other OKDHS divisions or other agencies, such as CW, Family Support Services, and law enforcement, are kept in a confidential manner.

Revised 7-1-10

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

(b) Grievance or complaint procedure. Persons wishing to file a complaint or a grievance are encouraged to seek informal resolution of their concerns by contacting the appropriate licensing supervisor. Supervisory staff receiving a grievance or complaint will attempt to resolve the matter. ■ 1

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

(2) The licensing supervisor notifies the licensing regional programs manager (RPM) and statewide licensing coordinator that a formal complaint or grievance has been filed and efforts made to resolve the issue. The licensing supervisor responds to written grievances or complaints within 14 days after receipt. ■ 2 & 3

(3) When the grievant or complainant is not satisfied with the proposed resolution, the grievant may appeal the grievance to the RPM, statewide licensing coordinator, director of Oklahoma Child Care Services, associate director for programs, and OKDHS Director, in that order. ■ 2 & 3

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

INSTRUCTIONS TO STAFF 340:110-1-15

Issued 7-1-10

1. If the supervisor is able to determine a non-compliance should not have been documented:

   (1) the supervisor insures the non-compliance is removed from the
database, if applicable;

(2) documents the decision on 07LC080E, Licensing Services Supplemental Information; and

(3) mails a copy of 07LC080E to the facility.

2. When a written grievance is submitted the supervisor:

(1) removes the non-compliance or complaint finding in question from the database while a decision is pending; and

(2) documents the grievance request on 07LC080E.

3. When the decision regarding a grievance is reached:

(1) the appropriate action is taken to reflect the decision in the facility record and on the database;

(2) the decision is documented on 07LC080E; and

(3) correspondence indicating the grievance decision is mailed to the facility.
340:110-1-43.1. Forms
Revised 7-1-10

Forms that apply to this Part are listed in this Subsection.

(1) **07LC005E, Transportation Information.** Form 07LC005E is used by a child care facility director to document compliance with licensing requirements on transportation.

(2) **07LC012E, Licensing Complaint.** Form 07LC012E is used by licensing staff to record a complaint against a child care facility.

(3) **07LC016E, Recommendation for Licensing or Certification of a Child Care Center.** Form 07LC016E is used by licensing staff and supervisors to make recommendations on the licensing or certification of child care facilities.

(4) **07LC021E, Comments and Recommendations Regarding Licensing Requirements.** Form 07LC021E is used to make comments and recommendations pertaining to licensing requirements and policy.

(5) **07LC022E, Child-Placing Agency - Foster Care File Review.** Form 07LC022E is used by licensing staff to record the agency's compliance or non-compliance with licensing requirements for foster home care.

(6) **07LC037E, Notice to Comply.** Form 07LC037E is used by a facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.

(7) **07LC039E, Child Care Staff Health Record.** Form 07LC039E is used to document tuberculosis testing and also used by an examining physician to document an employee's physical exam.

(8) **07LC040E, Request for License - Child-Placing Agency, Residential Child Care, and Children's Shelter.** Form 07LC040E is used by an agency or residential facility to request application for a child care facility license.

(9) **07LC041E, Staff Information – Child Care Facility.** Form 07LC041E is used to record required information regarding child care facility staff.

(10) **07LC043E, Child Placing Agency Compliance Review.** Form 07LC043E is used by licensing staff to assess compliance with child-placing agency
requirements.

(11) **07LC044E, Adoption Services File Review.** Form 07LC044E is used by licensing staff to record the agency’s compliance or non-compliance with licensing requirements for placement of children for adoption.

(12) **07LC047E, Agency Certification Report.** Form 07LC047E is completed by the child-placing agency staff to certify to the Oklahoma Department of Human Services that each foster home or Independent Living arrangement complies with the Licensing Requirements for Child-Placing Agencies.

(13) **07LC050E, Personnel File Review – Agency and Residential Programs.** Form 07LC050E is used by licensing staff to document compliance with personnel record requirements in residential and child-placing agency requirements.

(14) **07LC056E, Compliance Review-Residential Child Care Facility.** Form 07LC056E is used by licensing staff to assess compliance with residential requirements.

(15) **07LC058E, Monitoring Report-Residential Child Care Facility.** Form 07LC058E is used by licensing staff to document compliance with requirements during a visit to a residential facility and record any other information obtained.

(16) **07LC059E, Residential Child Care Facility - Resident File Review.** Form 07LC059E is used by licensing staff as part of the licensing process to document compliance with residential facility requirements.

(17) **07LC060E, Residential Child Care Policy and Records Check.** Form 07LC060E is used by licensing staff to document compliance with residential policy and procedure requirements.

(18) **07LC065E, Resident Monitoring Report.** Form 07LC065E is used by licensing staff to record the agency’s compliance with licensing requirements for independent living programs.

(19) **07LC071E, Licensing Services Waiver Referral.** Form 07LC071E is used by licensing staff when submitting a waiver request to State Office.

(20) **07LC078E, Child-Placing Agency - Record of Foster Home Closure.** Form 07LC078E is used by a child-placing agency to report closure of a foster home.

(21) **07LC079E, Child Death Report.** Form 07LC079E is completed by licensing
staff to record the death of a child while in child care.

(22) **07LC080E, Licensing Services Supplemental Information.** Form 07LC080E is used when additional space for documentation is needed, when a complete monitoring report is not required, to document office and telephone contacts, and to record other information for the licensing record.

(23) **07LC081E, Licensing Complaint Report Summary.** Form 07LC081E is placed in the case record and includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.

(24) **07LC087E, Waiver Notification.** Form 07LC087E is used to inform facilities of a decision regarding a waiver request.

(25) **07LC089E, Child Care Waiver Request.** Form 07LC89E is used by a program director to request a waiver for persons with a restricted criminal history.

(26) **07LC090E, Waiver Reference.** Form 07LC090E is used to obtain references for persons with a restricted criminal history.

(27) **07LC092E, Insurance Verification.** Form 07LC092E is completed annually to verify liability insurance coverage.

(28) **07LC095E, Notice Regarding Unlicensed Care.** Form 07LC095E is provided to facilities during the investigation of unlicensed care.

(29) **07LC096E, Criminal History Review Request.** Form 07LC096E is completed by facilities to request a criminal history review by licensing records office.

(30) **07LC097E, Citation Request.** Form 07LC097E is used when requesting assistance of CLEET-certified officers.

(31) **07LC098E, District Attorney Referral.** Form 07LC098E is used when requesting a DA file criminal charges and/or issue an injunction.

(32) **07LC101E, Restricted Registry Verification.** Form 07LC101E is used by child care facilities and licensing to verify non-registration and registration of individuals recorded on the Child Care Restricted Registry.

(33) **07LC102E, Restricted Registry Notification.** Form 07LC102E is used by the licensing records office to notify individuals of potential registration on the Child Care Restricted Registry.
(34) **07LC103E, Restricted Registry Final Notification.** Form 07LC103E is used by licensing records office to notify individuals of registration on the Child Care Restricted Registry.

(35) **07LC104E, Restricted Registry Notification to Child Care Facility.** Form 07LC104E is used by licensing records office to notify child care facilities of registration of individuals on the Child Care Restricted Registry.

(36) **07LC106E, Criminal History Review Results.** Form 07LC106E is used to notify facilities of the results of the criminal history review.
340:110-1-45. Application process

Revised 7-1-10

(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.

(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.

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

(d) Reopening a residential child care facility or child-placing agency. A new application must be completed when a residential facility or child-placing agency that has been closed is reopened. Prior to the issuance of the license, background investigations must be conducted per OAC 340:110-1-51.

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

(f) Withdrawal of application. If a residential child care facility or child-placing agency applicant wishes to withdraw the application prior to issuance of an initial permit, the licensing staff;
(1) documents this request on Form 07LC080E;

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

(3) may close the case unless negative action is warranted. ■ 7

INSTRUCTIONS TO STAFF 340:110-1-45

Revised 7-1-10

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. Upon receipt of a complete application, the licensing staff conduct a search of the Child Care Restricted Registry for the applicant per OAC 340:110-1-10.1(c). 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.

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. A monitoring frequency plan of six is entered into the database.

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.

7. When a withdrawal of application is requested, the licensing specialist mails a copy of the application to the facility and the original application is maintained in the facility file.
340:110-1-47. Case management

Revised 7-1-10

(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 staff sheets and compliance with background investigations per OAC 340:110-1-51 and copies of Form 07LC041E, Staff Information – Child Care Facility, obtained for the case record;

(iii) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons per OAC 340:110-1-51; ■ 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. A new application reflecting the name change is completed. ■ 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.
When the increase involves new construction, architectural plans approved by the State Fire Marshal are submitted to licensing for approval prior to construction. If the request to increase capacity is due to additional physical space, the required documentation includes:

(1) reason for the increase;

(2) fire department approval;

(3) health department approval of any additional food preparation space not previously inspected;

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

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

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

(3) The 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 Oklahoma Child Care Services is notified within 10 days of receipt of letter.

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

(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. **Prior to the issuance of a permit or license, the facility must be in compliance with background investigations per OAC 340:110-1-51.** A permit may be issued if a monitoring visit without numerous, repeated, or serious non-compliances
was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements. ■ 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, the Oklahoma Commission on Children and Youth, Oklahoma Health Care Authority, law enforcement, and OKDHS Children and Family Services Division.

INSTRUCTIONS TO STAFF 340:110-1-47

Revised 7-1-10

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) verifies documentation of non-registration on Child Care Restricted Registry on applicable persons per OAC 340:110-1-10.1;

      (2) checks employee training records;

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

      (4) 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 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:

(1) one visit per year for inactive facilities;

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

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

(4) 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:

(1) one visit per year for inactive facilities;

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

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

(4) 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) verifies current fire and health inspections and 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 Oklahoma Child Care Services (OCCS); 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 no. 94-01;

(C) notifies the licensing programs manager and director of OCCS;

(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, OAC 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 7-1-10

(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 commission of a crime, including illegal drug activity in the child care facility, it is immediately referred to Office of Inspector General (OIG) and local law enforcement where the facility is located.
(A) The referral is followed up in writing; a copy is filed in the facility record; and the programs manager is notified.

(B) 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.

(C) A referral to OIG is documented on Form 19MP001E, Referral Form.  

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(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;

(L) failure to obtain background investigations; or

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

(2) **Risk level II complaints.** Risk level II complaints do not indicate there is imminent danger of injury, but without intervention a child may not be safe. Investigations are initiated within 15 calendar days of receipt of the complaint by 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.

(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.

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

Revised 7-1-10

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 law enforcement and OIG to determine and document the outcome of the investigation. Licensing specialists inform OIG prior to any visits to the facility.

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 Oklahoma Commission on Children and Youth 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 database 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 division 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.
340:110-1-51. Background investigations

Revised 7-1-10

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

1. any person making application to establish or operate a residential child care facility and child-placing agency;

2. any person to be employed by a child care facility or child-placing agency, including all caregivers, auxiliary staff, and substitute or assistant caregivers;

3. others who have unsupervised access to children, such as students, workers, contracted staff, volunteers, or custodians; and

4. adults, including the provider’s spouse or adult children, who live in the child care facility.

(b) Out-of-state criminal history investigations. A criminal history investigation conducted within the last 12 months by the authorized agency in the previous states of residence is also required for persons in (a)(1) - (4) when they have resided in Oklahoma less than three years.

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

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

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

3. adults, including providers’ spouses or adult children, who live in the child care facility.
(d) **Oklahoma State Courts Network for existing facilities.** Facilities permitted or licensed after May 21, 2009 submit a completed Form 07LC096E, to OCCS licensing records office requesting completion of OSCN criminal history investigation for:

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

2. persons age 18 years or older prior to their residence in the facility.

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

1. any person making application for licensure of a child care facility;

2. any person signing the application as a household member; and

3. any persons to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers.

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

1. staff persons who move to a facility or agency operated by the same organization;

2. contracted staff persons who provide transportation, lessons, or other services, provided facility staff are present with children at all times;

3. parent volunteers who transport children on an irregular basis; and

4. provider's children who become adults, age 18, during continuous residence at the licensed facility.

(g) **Oklahoma Department of Human Services (OKDHS) background checks.** Prior to permission to operate, computer checks to identify prior involvement with OKDHS are completed by licensing staff on owners and program directors who sign the application.

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

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

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

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

1. an Emergency Order;
2. revocation of the license or denial of the application for license;
3. an injunction; and
4. referral for criminal proceedings.

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

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

2. Review of submitted information and OSCN criminal history search is conducted by OCCS licensing records office and results are returned to the facility on Form 07LC106E, Criminal History Review Results, by the close of the next OKDHS
business day for new facilities and by the close of the fifth OKDHS business day for existing facilities. ■ 10

(3) Hospitals contracting with the Oklahoma Health Care Authority are exempt from submitting a criminal history review request to OCCS licensing records office. Documentation of all criminal history records searches is maintained at the hospital and is available for review by OCCS.

(k) Waiver. The prohibition for a person with specified criminal history as referenced in (a), (b), and (c) of this Section to be employed or reside in a licensed facility may be waived if requested on Form 07LC089E, Child Care Waiver Request, and signed by the facility's owner or director. ■ 11

(1) Licensing staff completes and submits Form 07LC071E, Licensing Services Waiver Referral, to OCCS. A waiver is not requested or granted to any person who:

(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. ■ 12 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 7-1-10

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. The term new facility applies to:

   (1) first six-month permit for a facility;

   (2) first six-month permit for change of ownership; or

   (3) facility placed directly on a license. Examples include, but are not limited to:

   (A) a facility is reopened per OAC 340:110-1-47; or

   (B) changes of ownership that are changes in business entity only.

5. 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.

6. Contracted staff are considered employees when used in staff child ratio.

7. 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.

8. 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.

9. 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.

10. Form 07LC096E, Criminal History Review Request, 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.

11. 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 juvenile.

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

13. 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.
340:110-1-52. Legal actions

Revised 7-1-10

(a) Failure to meet requirements. When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented, or when an operator is unable to comply with the requirements, or fails to protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny or revoke the license. Denial or revocation of a license is based on observation, investigation, and documentation that the operator is unable or unwilling to comply with minimum requirements.

(1) Denial of a license is recommended for a facility or agency that has filed an application for license.

(2) Revocation of a license is recommended for a facility or agency that is currently licensed.

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

(1) An office conference with the operator is scheduled to develop the consent agreement. The programs manager is present at the meeting. The operator may bring legal representation.

(A) The programs manager determines the minimum terms that are acceptable to avoid negative sanctions. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance.

(B) The agreement may include emergency voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility, and specific staff training, drug testing, and medical or psychological evaluation.

(C) Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the programs manager and the OKDHS Legal Division.
(2) The operator is required to prominently post a copy of the consent agreement in the residential facility or child-placing agency. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(3) The licensing staff mails a copy of the consent agreement, with a cover letter to parents or guardians of children currently housed at the facility. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(4) The licensing staff conducts monitoring visits at least monthly while the consent agreement is in effect. The same witness accompanies the licensing staff on monitoring visits whenever possible.

(5) Any violation of the terms of the consent agreement is:

   (A) documented on Form 07LC080E, Licensing Services Supplemental Information; and

   (B) considered grounds for proceeding with license revocation or denial.

(6) The residential child care facility or child-placing agency is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

(c) Denial or revocation of license. The licensing staff consults with the programs manager regarding the denial or revocation recommendation.

   (1) The licensing staff prepares a summary of non-compliance and submits it to the programs manager for review, with a recommendation to approve, disapprove, or delay decision pending further investigation.

   (2) When the programs manager approves the denial or revocation, it is reviewed by the OKDHS Legal Division. The director of Child Care Services or designee has final approval of denial or revocation.

   (3) Notification of proposed denial or revocation is sent by certified mail to the operator, and to the OKDHS Legal Division, at least 30 days prior to the effective date of the proposed action, and includes:

     (A) copy of the recommendation summary;
(B) notice of the operator’s right to appeal the decision; ■ 2

(C) statement that the law requires notice in writing of the denial or revocation be given to parents or custodians of children attending the facility. The operator is instructed to submit to OKDHS the names and addresses of currently enrolled children; and

(D) sign providing notice of proposed denial or revocation that must be prominently posted in the facility.

(d) **Appeal.**

1. An appeal of the decision to deny or revoke license must be submitted to the Oklahoma Commission for Human Services by the operator within 30 days of receipt of the notice. If the operator does not appeal the decision within the time period, the programs manager sends to the operator by regular mail a notice of denial or revocation that includes the effective date. This is also forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1. ■ 3

2. If an appeal is made by an operator to OKDHS, a hearing is scheduled by the OKDHS Appeals Unit. The operator is notified of the hearing by personal service, or by delivery to the proper address by certified mail, at least two weeks prior to the date of the hearing.

3. If the administrative hearing officer upholds the OKDHS decision, the hearing officer provides a written notice at the conclusion of the hearing, which contains an explanation of appeal rights.

4. The facility may continue to operate during any appeal process unless an Emergency Order is in effect.

   (A) The licensing staff conducts monitoring visits at least once a month, unless advised otherwise in writing by the programs manager or designee, and is accompanied by the same witness whenever possible.

   (B) If at any time during the appeal process OKDHS believes the health, safety, or well-being of children is at risk:

      (i) an Emergency Order is requested; or

      (ii) following consultation with the programs manager or designee, the
licensing staff contacts the district attorney (DA) of the local county or Attorney General and requests that an injunction be filed.

(e) **Child care discontinued.**

(1) If the decision of OKDHS to deny or revoke is upheld during all appeals, the programs manager informs the operator in a letter that child care must immediately cease. This is also forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

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

(B) If the operator continues to maintain and operate the residential child care facility or child-placing agency after a final decision to deny or revoke license, the licensing staff consult with the programs manager regarding following procedures in (i) - (l) of this Section.

(2) If the OKDHS decision to deny or revoke is not upheld, OKDHS takes action to implement the decision within ten days.

(3) When OKDHS denies or revokes a facility's license, the responsible entity can not make application for a new residential child care facility or child-placing agency license within Oklahoma for five years.

(f) **Emergency Order.** An Emergency Order may be issued by OKDHS when immediate action is needed to protect the health, safety, or well-being of children in a child care facility or served by a child-placing agency.

(1) If the operator is unwilling to voluntarily correct the hazardous situation, the licensing staff notifies the programs manager of the circumstances. If the programs manager agrees that an Emergency Order is warranted, all supporting documentation is given to the director of Oklahoma Child Care Services (OCCS) for review. The written order is issued and signed by the programs manager. If the risk is such that children must be immediately removed from the residential facility or placement through a child-placing agency, the director of OCCS may give verbal approval for removal of children.

(A) The administrator or director and parents or custodians are told that the facility will not be open on the following day; or parents or custodians are contacted to pick up their children immediately.
(B) If every effort has been made to reach the parents or custodians, and children are at immediate risk of harm, the programs manager contacts law enforcement to remove the children.

(2) The Emergency Order states the existence of an emergency and sets forth remedies such as removal of children from the facility or closure of a facility. The order is effective immediately and includes the right to appeal the decision.

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

(4) The Emergency Order may be rescinded when the programs manager verifies correction of the hazardous situation. Upon receipt of such documentation, the director of OCCS notifies the operator in writing that the order has been rescinded.

(5) The operator may request a hearing by filing a written request within ten days of receipt of the Emergency Order. The hearing is conducted within ten days from receipt of the operator's request.

(6) If operator disagrees with the results of the administrative hearing, the operator may appeal to the district court within 30 days of the decision of the administrative hearing officer.

(g) Rescinding the order. The Emergency Order may be rescinded when the licensing staff verifies correction of the hazardous situation. Upon receipt of such documentation, the programs manager notifies the operator in writing that the order has been rescinded.

(h) Hearing process.

(1) The operator may request a hearing by filing a written request within ten days of receipt of the Emergency Order. The hearing is conducted within ten days from receipt of the operator's request. An OKDHS hearing officer conducts the hearing.

(2) If the results of the OKDHS hearing are disputed, the operator may file an appeal in district court within ten days of the decision.

(i) Violation of the Emergency Order. If an operator violates the conditions set forth in the Emergency Order, the licensing specialist, after consultation with the programs manager, contacts a Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance and makes a referral to the DA for further action.
(j) **Citation Request.** A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. Procedures regarding citation request are:

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

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

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

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

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

**INSTRUCTIONS TO STAFF 340:110-1-52**

**Revised 7-1-08**

1. The licensing staff documents the consent agreement on the database.

2. Questions from the operator regarding the action and appeal process are referred to the programs manager or designee.

3. The closure date is entered into the computer by the programs manager or designee. A copy of the correspondence is sent to the licensing staff.
340:110-1-54. Grievance and complaint policy and procedure

Revised 7-01-10

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

(b) **Grievance or complaint procedure.** A person who wishes to file a grievance or complaint is encouraged to seek informal resolution by contacting the programs manager, who will seek to resolve the matter. 1 If a resolution is not reached at this level, the grievant is requested to file a written request with the director of Oklahoma Child Care Services (OCCS). The director of OCCS responds to written grievances or complaints within 14 days after receipt. 2 & 3 When the grievant or complainant is not satisfied with the proposed resolution, the grievance may be appealed to:

1. the associate director for programs; and
2. the Director of OKDHS.

INSTRUCTIONS TO STAFF 340:110-1-54

Issued 7-01-10

1. **If the programs manager is able to determine that a non-compliance should not have been documented:**

   1. the programs manager insures the non-compliance is removed from the database, if applicable;

   2. documents the decision on 07LC080E, Licensing Services Supplemental Information; and

   3. mails a copy of the 07LC080E to the facility.

2. **When a written grievance is submitted:**
(1) the non-compliance or complaint finding in question is removed from
the database while a decision is pending; and

(2) the grievance request is documented on 07LC080E, Licensing Services
Supplemental Information.

3. When the decision regarding a grievance is reached:

(1) the appropriate action is taken to reflect the decision in the facility
record and on the database;

(2) the decision is documented on 07LC080E; and

(3) correspondence indicating the grievance decision is mailed to the
facility.
340:110-1-54.1. Unlicensed facilities

Revised 7-1-10

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

(b) 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 three facility business days to assess the necessity of license.

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

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

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

      (i) is in compliance with health and safety requirements without serious non-compliances as referenced in OAC 340:110-1-46(a)(1);

      (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 14 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 program 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 7-1-10

1. If there are serious allegations indicating children could be at risk the situation is staffed with the supervisor for the appropriate time frame for visiting the facility.

2. 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.

3. 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.
4. 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.

5. An application is considered complete when:

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

   (2) 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 programs manager 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.
340:110-1-55. Public inspection of licensing files

Revised 7-1-10

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

(b) **Licensing records.** All OKDHS records of facilities required to be licensed under Sections 401 through 410 of Title 10 of the Oklahoma Statutes that are considered public records are open and available for public inspection during reasonable hours. However, information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to Section 406 of Title 10 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits the public to evaluate the facility.

(c) **Location of case records.** Child care facility licensing records are located in the OKDHS Human Service Center of the licensing staff and are inspected at that location. Licensing records may be inspected by the public in the presence of licensing staff.

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

(e) **Fees for photocopying.** For photocopy fee information refer to OAC 340:2-21-16.

(f) **Release of confidential information.** A complete case file that includes confidential information may be provided only to certain persons according to applicable laws and regulations, such as the OKDHS Legal Division and Division of Children and Family Services, law enforcement officials, and upon order of a court of competent jurisdiction.

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

**INSTRUCTIONS TO STAFF 340:110-1-55**

Revised 7-1-10
1. Oklahoma Child Care Services (OCCS) licensing staff prepares a case to be available for inspection within 24 hours of the request. Information that is maintained in a confidential manner and is not made a part of the public record includes:

   (1) names or information regarding children, their parents, or relatives;

   (2) documentation of collateral interviews regarding non-compliance or a complaint;

   (3) reports from Office of Client Advocacy (OCA), Oklahoma Commission on Children and Youth, or law enforcement officials regarding an abuse investigation. If an investigation was conducted by OCA, a summary of the allegations and findings of an investigation that does not disclose identities but permits the public to evaluate the facility is part of the public record. The name of the OCA worker may be included;

   (4) any criminal history investigation report involving a juvenile;

   (5) a criminal history waiver request if it contains information regarding a juvenile;

   (6) information regarding a child with a disability;

   (7) name and identifying information of a complainant;

   (8) staff reference letters when confidentiality is requested by the person providing the reference;

   (9) Social Security numbers, federal identification numbers, and employee identification numbers;

   (10) copies of computer checks of Oklahoma Department of Human Services (OKDHS) records;

   (11) letters to the police regarding drug allegations unless the police investigation is completed or has been declined, and copies of police reports that are part of a current investigation or that the police have requested remain confidential. Police incident reports that are made available to the general public may remain in the public record;
(12) a draft denial or revocation summary that has not been issued by OKDHS State Office. If the summary has been issued, it may be part of the public record, but the names of children, complainants, and perpetrators in an OCA investigation are purged from the record;

(13) a letter from a parent or the public about a facility that the writer does not want released; and

(14) reports from OCA.

2. Release of confidential files. If a licensing file is subpoenaed, licensing staff immediately contacts the statewide licensing coordinator or designee who consults with OKDHS Legal Division.
340:110-3-2. Definitions

Revised 7-1-10

The following definitions apply unless the context clearly indicates otherwise.

"Assistant teacher" means a staff person who works under the on-site supervision of a qualified teacher or director.

"Auxiliary personnel" means cooks, building custodians, or other individuals who provide support services to the facility.

"Auxiliary spaces" means areas that are not used for children's care or play.

"Certified Childcare Professional (CCP) credential" means a national credential awarded to an individual who has educational and experiential activities that promote skill development in professional ability areas.

"Child care center" means a facility that provides care for children and operates more than 30 hours per week.

"Child Care Restricted Registry" or "Restricted Registry" means a registry for registrants who are prohibited from being licensed, working, or residing in child care facilities as defined in Section 405.3 of Title 10 of Oklahoma Statutes.

"Child Development Associate (CDA) Credential" means a national credential awarded to an individual who has successfully completed a CDA assessment by demonstrating competence in 13 functional areas.

"Child passenger restraint system" means an infant or child passenger restraint system, for example, a car seat, that meets the federal standards for crash-tested restraint systems as set by the United States Department of Transportation.

"Child with disabilities" means a child who has a physical or mental impairment and/or emotional disturbance that results in substantial limitations in areas such as self-care, language, learning, mobility, or self-direction.

"Day camp" means a program that serves only school-age children and operates during regular school vacations for no more than 12 hours per day.

"Department" means the Oklahoma Department of Human Services (OKDHS).
"Drop-in program" means a child care program that provides care for children on an occasional basis where no child attends more than six hours per day for a maximum of 24 hours a week with an allowance for six extra hours per child three times per year.

"Fall zone" means the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land.

"Infant" means a child from birth up to 12 months of age.

"Infection control" means the policies, procedures, and techniques used to control and prevent the spread of infection, for example, hand-washing, sanitizing, personal hygiene, diapering and toileting, appropriate handling and disposal of soiled or contaminated items, sick child exclusion policies, and immunization policies.

"Limited food service" means the preparation or serving of only non-potentially hazardous foods for immediate consumption using single-service articles.

"Master teacher" means a staff person who supports other teaching staff with responsibilities such as program development, weekly lesson plans, use of space and equipment, interactions with parents, and program evaluation.

"Non-registrant" means an individual that is not recorded on the Child Care Restricted Registry.

"Parent" means a child's father, mother, or other person who has legal custody or guardianship of the child.

"Permanent substitute" means a substitute teacher who has worked more than 40 hours at the child care center.

"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.

"Preschool child" means a child age three to five years who has not entered kindergarten.

"Registrant" means an individual that is recorded on the Child Care Restricted Registry.

"School-age child" means a child who is at least five years of age and who is attending or has completed kindergarten.
"Supervision of children" means the function of observing, overseeing, and guiding a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed. It requires physical presence, knowledge of activity requirements and children's needs, and accountability for their care.

"Teen aide" means a 13- to 15-year-old who works under the direct supervision of a master teacher and is not considered in the staff-child ratio as a staff or as a child.

"Temporary substitute" means a substitute teacher who has worked 40 hours or less at the child care center.

"Toddler" means a child who is 12 months to 24 months of age.

"Tribal country land" means land that is tribally owned, considered trust or restricted land, and some dependent Indian communities over which the tribe has exclusive jurisdiction.

"Unitary materials" means rubber mats or a combination of rubber like materials held in place by a binder, glue, that may be poured in place at the playground site and when cured forms a unitary shock absorbing surface.

"Unsupervised access" means a person being present with children without a staff member being present.

"Volunteer" means a person who provides services to the center without cost or compensation.
340:110-3-3. Necessity and issuance of license

Revised 7-1-10

(a) In accordance with Section 401 of Title 10 of the Oklahoma Statutes, no child care facility may be operated or maintained after June 30, 1964, unless licensed by the Oklahoma Department of Human Services (OKDHS).

(b) Child care facilities that are required to be licensed by OKDHS do not include programs that operate:

1. 15 hours or less per week;

2. during typical school hours by a public or private school that offers elementary education from kindergarten through third grade; or

3. on tribal country land or federal property.

(c) An application for a license is made on forms provided by OKDHS in the manner prescribed.

(d) Pursuant to the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 et seq.], persons identified as a registrant on the Child Care Restricted Registry are prohibited from:

1. licensure as a child care facility;

2. employment in a child care facility; and/or

3. residing in a child care facility.

(e) An unlicensed child care center may not advertise as licensed.

(f) Children are not accepted into care until permission is obtained from OKDHS.

(g) No other activity or business unrelated to child care is permitted in the child care center during the time child care is provided. A business located in the same building as the center is required to have its own entrance, bathrooms, and proper fire rated separation.

(h) OKDHS may deny an application or revoke a license if a licensee violates any provisions of the Oklahoma Child Care Facilities Licensing Act. [10 O.S. § 401 et seq.]
No application is denied or license revoked unless the license holder is given 30-day notice in writing of the grounds for the proposed revocation or denial. If the revocation or denial is protested within 30 days of receipt of the written notice, a hearing is conducted.

(i) When OKDHS denies or revokes a child care center's license, the responsible entity cannot 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.
340:110-3-5. Organization

Revised 7-1-10

(a) Responsible agent. A child care center is operated by a public or private organization or an individual.

(1) A public child care center is created and exists by an act of the state, county, city, or other political subdivision and operated under the control of a governmental agency.

(2) A not-for-profit center operates under a governing board responsible for developing policies and establishing and maintaining a sound financial structure.

(3) A proprietary child care center's owner is responsible for the policy and financial structure of the child care center.

(b) Purpose. A statement defining the purpose or function of the child care center is filed with the Oklahoma Department of Human Services (OKDHS) and includes:

(1) ages of children accepted;

(2) hours of operation; and

(3) type of care and services offered.

(c) Notifications. Requirements pertaining to notifications are contained in this subsection.

(1) The items posted in a prominent place where staff, parents, and others may view them are the:

   (A) center's license, permit, or notice of denial or revocation of license;

   (B) name of the person responsible for the center during the director's absence;

   (C) notice of the requirement to report suspected child abuse and neglect;

   (D) notice prohibiting smoking anywhere in the facility while children are in care;

   (E) emergency procedures;
(F) weekly menu of all food provided by the center; and

(G) evacuation plan.

(2) The items accessible in a place where staff, parents, and others may easily view them are:

(A) the daily program schedule;

(B) record of dates when fire and tornado drills were conducted, per OAC 340:110-3-11(c)(2);

(C) a time schedule for use of outdoor play space if the center is licensed for 24 or more children and has outdoor play space of less than 75 square feet per child, per OAC 340:110-3-11(d)(2); and

(D) a certificate of One Star Plus, Two Star, or Three Star status, if applicable.

(3) Form 07LC093E, Insurance Exception Notification, if applicable per OAC 340:110-3-5.1(c), is posted in clear view of the main entrance to the facility.

(4) A notice of staff-child ratios and group size is posted in every room where children are in care.

(5) In accordance with Section 7103 of Title 10 of the Oklahoma Statutes, any person who has reason to believe a child has been abused or neglected is required to report the matter promptly to the statewide toll-free Child Abuse Hot Line, 1-800-522-3511. It is a misdemeanor for any person to fail to report.

(6) The center is required to notify the OKDHS Oklahoma Child Care Services (OCCS) Licensing Services (Licensing) on the next working day of:

(A) a temporary, unscheduled, or permanent closing of the center;

(B) a change in the director;

(C) changes in liability insurance coverage;

(D) any damage to the facility that affects the amount of usable square footage or compliance with any requirement;

(E) legal action against a center or staff person that involves or affects a child in
care or the operation of the center;

(F) any known criminal charges or child abuse investigations involving staff that are pending or have had a disposition;

(G) an accident involving transportation unless there were no injuries and only minor damage to the vehicles;

(H) any injury to a child requiring emergency medical attention; and

(I) the death of a child that occurred while the child was in care.

(7) The center is required to notify Licensing at least 30 days prior to:

(A) a change in ownership or sponsorship;

(B) a change in name of the center;

(C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;

(D) the anticipated closing or relocation of the child care center; and

(E) a proposed change in the licensed capacity.

(d) Public access to records-Compliance Posting.

(1) Items posted within clear view of the main entrance are:

(A) OKDHS provided "Notice to Parents"; and

(B) Form 04CP004E, Child Welfare Investigative Summary Notification to OCCS with confirmed or substantiated findings for 120 days from the completion of the investigation.

(2) The granted waiver notification for individuals who have criminal histories as defined in Section OAC 340:110-3-7.1(c) are posted in a prominent place for as long as they are employed or living in the facility.

(e) Compliance file. A compliance file that is accessible to staff, parents, and others contains:
(1) the most recent child care licensing monitoring report provided by the licensing specialist;

(2) the following documents issued by Licensing within the last 120 days:
   
   (A) child care licensing monitoring reports and licensing correspondence;
   
   (B) Form 07LC037E, Notice to Comply;
   
   (C) licensing complaints; and
   
   (D) Form 04CP004E, Child Welfare Investigative Summary Notification to OCCS with findings of unconfirmed or unsubstantiated to include findings of services not needed, ruled out, or services recommended; and

(3) Form 04CP004E with findings of confirmed or substantiated, for one year from the completion of the investigation.

(f) **Effect of change in ownership or location on license.** When a center changes ownership or location:

   (1) the license is not transferable and is returned to OKDHS; and
   
   (2) the center is required to meet current licensing requirements.
340:110-3-6. Records

Revised 7-1-10

(a) **Center records.** Oklahoma Department of Human Services (OKDHS) staff have access to all records and reports addressed in this Section.

(b) **Children's records.** Records are obtained at the time of admission for each child in care, including teen aides, regardless of the length of time the child is in care.

(1) Children's records are kept at the center, available to staff during all hours of child care, and are kept current.

(2) Identification and health records are collected and maintained on file at the child care center via forms provided by OKDHS or on other forms that contain:

(A) the child's name, date of birth, name of parent(s), home address, parent(s)' places of employment, and telephone numbers;

(B) the name and telephone number of a responsible person to contact in an emergency if the parent(s) cannot be located promptly;

(C) permission of the parent authorizing the center to transport the child for emergency medical care;

(D) name of the person(s) permitted to pick up the child;

(E) health information. The center is prohibited from obtaining information or health records from the parent solely for the purpose of screening out or denying care to a child with particular types of disabilities;

(F) routine care, including instructions for eating, sleeping, toileting, or diapering;

(G) individual special needs to the extent voluntarily disclosed by the parent, including:

   (i) behavior and guidance;

   (ii) communication; and

   (iii) positioning;
(H) parental permission, if given, to consult with appropriate health and child development professionals;

(I) individual medical emergency plan;

(J) current immunization record;

(K) name, address, and telephone number of a physician to call in an emergency;

(L) date of acceptance and withdrawal from the child care center; and

(M) medication and transportation permission, if applicable.

(3) The center is required to maintain readily available attendance records including child's arrival time and departure time for a minimum of 120 days.

(c) Teen aide records. In addition to the required records for teen aides listed in OAC 340:110-3-6(b), a written agreement signed by the parent or guardian of the teen aide must be maintained on file at the facility. The agreement includes:

(1) the duties and responsibilities of the teen aide;

(2) the name of the master teacher responsible for supervising the teen aide; and

(3) the written consent of the parent or guardian for the child to work as a teen aide.

(d) Staff records. Records on all employees including substitutes are completed and maintained at the facility or made available to Licensing. Staff records include:

(1) staff information forms provided by OKDHS that are submitted to Licensing within two weeks of employment and include:

(A) name, birth date, address, telephone number, and Social Security number;

(B) education;

(C) references, including previous employers if any, and the name, address, telephone number, and dates of employment; and

(D) a statement regarding criminal history;
(2) criminal history investigations with records maintained in a confidential manner and not made a part of the individual's personnel records pursuant to Section 404.1 of Title 10 of the Oklahoma Statutes;

(3) a report of an examination by a licensed physician or mental health professional when there is concern about an employee's ability to perform normal duties because of a possible physical, mental, or emotional problem;

(4) documentation of orientation and training;

(5) attendance records for each staff person and substitute staff that reflect days and hours worked and that are maintained for 120 days;

(6) documentation of request and/or results of a criminal history review;

(7) documentation that the individual is a non-registrant on the Child Care Restricted Registry; and

(8) when applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years.
340:110-3-7.1. Requirements for child care center employees

Revised 7-1-10

(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, Oklahoma Department of Human Services (OKDHS) Publication no. 84-08, Licensing Requirements for Child Care Centers;

(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 submits to the licensing records office:

(A) documentation of a search conducted within the last 30 days of the Child Care Restricted Registry;

(B) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and

(C) a criminal history review request on a form provided by licensing requesting an Oklahoma State Courts Network (OSCN) 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

(D) 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 conducted by the:

(A) Oklahoma State Bureau of Investigation (OSBI); and

(B) 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 Oklahoma Department of Corrections files maintained by the OSBI pursuant to the Sex Offender Registration Act.

(5) Verification of records search.

(A) Prior to issuance of initial permit or change of ownership. The facility must receive criminal history review results from the Oklahoma Child Care Services (OCCS) licensing records office for all employees and/or any persons 18 years of age or older who live in the facility.
(B) **Existing facilities.** The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees prior to employment and prior to any persons 18 years of age or older being allowed to live in the facility. This request for review must be maintained on file at the facility while awaiting the results.

(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 Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.

(2) The child care center is restricted from knowingly employing or allowing a registrant to reside in the facility.

(3) The center director may request a waiver from the restrictions in (c)(1)(A) of this Section.

   (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.

(4) A waiver may not be granted to any person:
(A) convicted of a sex offense pursuant to the Sex Offender Registration Act;

(B) required to register under the Mary Rippy Violent Crime Offenders Registration Act; or

(C) identified as a registrant on the Child Care Restricted Registry.

(5) 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.

(6) 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 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.** OCCS, Licensing Services 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 **General Educational Development (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) 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;

(vii) supervising the conduct of staff, volunteers, substitutes, and others who provide services in the facility; and

(viii) 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 aides:

(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 (h)(1) and (4) of this Section.
(C) Volunteers counted toward meeting the staff-child ratio are required to meet the requirements for orientation and ongoing training in (h)(1) and (4) of this Section.

(7) Documentation of training. Documentation of training for each staff member is required and includes the topic, source of training, date, and hours.
340:110-3-36. Definitions

Revised 7-1-10

The words and terms used in this Part shall have the following meanings unless the context clearly indicates otherwise.

"Auxiliary spaces" are areas not used for children's care or play.

"Child" means a person under the age of 18 years.

"Child care/day care center" (hereafter referred to as "child care center," referred to by statute as "day care center") means a facility that provides care for eight or more children and operates for more than 30 hours per week.

"Child Care Restricted Registry" or "Restricted Registry" means a registry for registrants who are prohibited from being licensed, working, or residing in child care facilities as defined in Section 405.3 of Title 10 of Oklahoma Statutes.

"Department" means the Oklahoma Department of Human Services (OKDHS).

"Fall zone" means the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land.

"Hazard" means an identifiable situation that is likely to inflict injury or cause harm.

"Infant" means a child 0 through 9 months of age.

"Infection control" means the policies, procedures, and techniques used to control and prevent the spread of infection, for example hand washing, sanitizing, personal hygiene, diapering and toileting, appropriate handling and/or disposal of soiled items, sick child exclusion policies, and immunization policies.

"Limited food service" means the preparation and/or service of only non-potentially hazardous foods for immediate consumption using single-serving articles for preparation and service.

"Non-registrant" means an individual that is not recorded on the Child Care Restricted Registry.

"Parent" means a child's father, mother or other person who has legal custody or guardianship of the child.
"Part-day children's program" means a facility which provides care and supervision for eight or more children and which operates for more than 15 but less than 30 hours per week.

"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.

"Preschool child" means a child three to five years of age who has not entered kindergarten.

"Registrant" means an individual that is recorded on the Child Care Restricted Registry.

"School-age child" means a child who is at least six years of age or who is attending or has completed kindergarten.

"Supervision of children" means the function of observing, over-seeing and guiding a child or group of children. This includes awareness of and responsibility for the on-going activity of each child and being near enough to intervene if needed. It requires physical presence, knowledge of activity requirements and children's needs, and accountability for their care.

"Toddler" means a child 10 through 23 months of age.

"Volunteers" means persons who provide services to the program without cost or compensation.
340:110-3-37. Necessity and issuance of license

Revised 7-1-10

(a) In accordance with Section 401 of Title 10 of the Oklahoma Statutes, no child care facility may be operated or maintained unless licensed by the Oklahoma Department of Human Services (OKDHS). Under the Oklahoma Child Care Facilities Licensing Act (Act), a child care facility is a public or private residential facility, child placing agency, foster family home, group home, child care center, part-day child care program, or family child care home. In order to provide care for children in a child care facility, a license is required to be obtained from the OKDHS which is issued on the basis of meeting minimum requirements essential for the health and welfare of children in care.

(b) An application for a license is made on forms provided by OKDHS and in the manner prescribed.

(c) Pursuant to the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 et seq.], persons identified as a registrant on the Child Care Restricted Registry are prohibited from:

   (1) licensure as a child care facility;

   (2) employment in a child care facility; and/or

   (3) residing in a child care facility.

(d) No business unrelated to child care is conducted in a part-day children's program during the time care is provided.

(e) Children are not accepted into care until permission is obtained from OKDHS.

(f) A business located in the same building as the program is required to have its own entrance, bathrooms and be separate from children.

(g) OKDHS may revoke a license if a licensee violates any provisions of this Act. No license is revoked or renewal refused unless the holder of such license is given 30 days notice in writing of the grounds of the proposed revocation or refusal. If the revocation or refusal is protested within 30 days of receipt of the written notice, a hearing is conducted.

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

Revised 7-1-10

(a) **Sponsor.** A part-day children's program may be sponsored by a public or private group or by an individual. It may be operated by public or private community organizations or by private ownership.

(b) **Purpose.** A statement defining the purpose or function of the part-day child care program is filed with the Oklahoma Department of Human Services (OKDHS). The statement includes:

   1. the licensed capacity;
   2. ages of children accepted;
   3. hours of operation;
   4. type of care; and
   5. services offered.

(c) **Responsible agent.** The responsible agent for the different types of child care facilities is given in (1) – (3) of this subsection.

   1. A not-for-profit children's program operates under a governing board responsible for developing policies and establishing and maintaining a sound financial structure.
   2. A proprietary program's owner is responsible for the policy and financial structure of the program.
   3. A public program is created and exists by act of the state, county, city, or other political subdivision. The operation remains under the control of a governmental agency.

(d) **Notifications.** Requirements pertaining to notifications are contained in this subsection.

   1. The items posted in a prominent place where staff, parents, and others may view them are:

      (A) the program's license, permit, or notice of denial or revocation of license;
(B) name of the person responsible for the program during the director's absence;

(C) notice of the requirement to report suspected child abuse and neglect;

(D) notice prohibiting smoking anywhere in the facility while children are in care;

(E) the daily program schedule;

(F) emergency procedures;

(G) weekly menu of all food provided by the program;

(H) evacuation plan; and

(I) a record of monthly fire drills.

(2) Form 07LC093E, Insurance Exception Notification, if applicable per OAC 340:110-3-40(c), is posted in clear view of the main entrance to the facility.

(3) In accordance with Section 7103 of Title 10 of the Oklahoma Statutes, any person who has reason to believe a child has been abused or neglected is required to report the matter promptly to the statewide toll-free Child Abuse Hot Line, 1-800-522-3511. It is a misdemeanor for any person to fail to report.

(4) The program is required to notify Licensing Services on the next working day of:

(A) unscheduled or permanent closing of the program;

(B) a change in the director;

(C) changes in liability insurance coverage;

(D) any damage to the facility that affects the amount of useable square footage or compliance with any requirements;

(E) legal action against a program or staff person, which pertains to licensing requirements;

(F) any known criminal charges or child abuse investigations involving staff, which are pending or have had a disposition;
(G) an accident involving transportation unless there were no injuries and only minor damage to the vehicles;

(H) any injury to a child requiring emergency medical attention; and

(I) the death of a child, which occurred while the child was in the program.

(5) The program is required to notify Licensing Services at least 30 days prior to any of the proposed changes listed in paragraphs (A) – (E) of this subsection:

(A) a change in owner(s) or sponsorship;

(B) change in name of the program;

(C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;

(D) anticipated closing or relocation of the program; and

(E) proposed change in the licensed capacity of the program.

(e) **Public access to records - Compliance Posting.**

(1) Items posted within clear view of the main entrance are:

(A) OKDHS provided "Notice to Parents"; and

(B) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with confirmed or substantiated findings for 120 days from the completion of the investigation.

(2) The granted waiver notification for individuals who have criminal histories as defined in section OAC 340:110-3-42(c) are posted in a prominent place for as long as they are employed or living in the facility.

(f) **Compliance file.** A compliance file accessible to staff, parents, and others contains:

(1) the most recent child care licensing monitoring report provided by the licensing specialist;

(2) the following documents issued by Oklahoma Child Care Services (OCCS) within the last 120 days:
(A) child care licensing monitoring reports and licensing correspondence;

(B) Form 07LC037E, Notice to Comply;

(C) licensing complaints; and

(D) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with findings of unconfirmed or unsubstantiated to include findings of services not needed, ruled out, or services recommended; and

(3) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with findings of confirmed or substantiated, for one year from the completion of the investigation.

(g) **Effect of change in ownership or location on license.** When changing ownership or location:

(1) the license is not transferable and is returned to OKDHS; and

(2) the program is required to meet current licensing requirements.
340:110-3-41. Records

Revised 7-1-10

(a) Program records. Licensing staff have access to records and reports in accordance with the requirements contained in this Section.

(b) Children's records. Records are obtained for each child in the program at the time of admission and regardless of the length of time in the program.

(1) All records are kept current.

(2) Identification and health records are kept on forms provided by Oklahoma Department of Human Services (OKDHS) or on other forms that contain:

   (A) the child's name, date of birth, name of parent(s), home address, parents' place of employment, and telephone numbers;

   (B) the name and telephone number of a responsible person to contact in an emergency if the parent(s) cannot be located promptly;

   (C) permission of the parent authorizing the center to transport the child for emergency medical care;

   (D) name of person(s) permitted to pick up the child;

   (E) health information;

   (F) current immunization record;

   (G) name, address, and telephone number of a physician to call in an emergency;

   (H) date of acceptance and withdrawal from the program; and

   (I) medication and transportation permission if applicable.

(3) Children's records are kept at the facility and available to staff during all hours of program operation.

(4) Daily attendance records for each child are maintained and kept readily available for a minimum of 120 days.
(c) **Staff records.** Staff records that are required to be completed and maintained at the facility or made available to licensing are:

1. staff information sheets provided by OKDHS that include:
   - name, date of birth, address, telephone number, and Social Security number;
   - education;
   - references including previous employers if any and the name, address, telephone number, and dates of employment; and
   - a statement regarding criminal history and child abuse investigations.

2. criminal history investigations with records maintained in a confidential manner and not made a part of the individual's personnel records pursuant to Section 404.1 of Title 10 of the Oklahoma Statutes;

3. staff health records, which include at a minimum a report of an examination by a licensed physician or mental health professional when there is concern about an employee's ability to perform normal duties because of a possible physical, mental, or emotional problem. See OAC 340:110-3-42(b)(3) and (4) and (c) regarding requirements for employees;

4. attendance records for each staff;

5. documentation of request and/or results of a criminal history review;

6. documentation that the individual is a non-registrant on the Child Care Restricted Registry; and

7. when applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years.
340:110-3-42. Requirements for part-day program employees

Revised 7-1-10

(a) General. All employees are required to be of good character and possess adequate education, training, and experience for the work they perform to provide them with the skills to perform the essential functions of the job with or without reasonable accommodation. Each employee is required to:

(1) provide documentation annually that he or she meets the health and training requirements contained in this Part;

(2) recognize and act to correct hazards to physical safety, both indoors and outdoors;

(3) be able to work with children without recourse to physical punishment, mistreatment, or child abuse; and

(4) demonstrate good judgment as evidenced by prudent and responsible behavior that reasonably ensures the health and safety of children in the program.

(b) Criminal history investigations. Requirements for programs pertaining to criminal history investigations are contained in this subsection.

(1) Owner or director responsibility. The program's owner or director submits to the licensing records office:

(A) documentation of a search conducted within the last 30 days of the Child Care Restricted Registry;

(B) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and

(C) a criminal history review request on a form provided by licensing, requesting an Oklahoma State Courts Network search for:

(i) any person making application to establish or operate a part-day children's program;

(ii) each applicant prior to employment, including all caregivers, substitutes, auxiliary staff, and any other person employed by the program;
(iii) adults, including providers' spouses or adult children, who live in the facility; and

(iv) persons age 18 years or older prior to their residence in the facility.

(2) **Owner or director responsibility.** Program's owner or director 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.

(3) **Exceptions.** Criminal history investigations are not required for:

(A) staff who move to a new program 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.

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

(A) Oklahoma State Bureau of Investigation (OSBI); or

(B) authorized 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 must include a search of the Oklahoma Department of Corrections files maintained by the OSBI pursuant to the Sex Offender Registration Act.

(6) **Verification of records search.**

(A) **Prior to issuance of initial permit or change of ownership.** The facility must receive criminal history review results from the OCCS licensing records office for all employees and/or any persons 18 years of age or older who live in the facility.

(B) **Existing facilities.** The facility must submit a criminal history review request
on a form provided by OKDHS to the OCCS licensing records office for all employees prior to employment and prior to any persons 18 years of age or older being allowed to live in the facility. This request for review must be maintained on file at the facility while awaiting the results.

(c) Restrictions. Program requirements contained in this subsection restrict certain individuals from employment.

(1) The program is restricted from knowingly employing a person who:

   (A) 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) gross irresponsibility or disregard for the safety of others; or

   (B) is required to register pursuant to the Sex Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.

(2) The child care program is restricted from knowingly employing or allowing a registrant to reside in the facility.

(3) The program director may request a waiver from the restrictions in (1) of this subsection.

   (A) The waiver request is made in writing to Oklahoma Department of Human Services (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.

(4) A waiver may not be granted to any person:

   (A) convicted of a sex offense pursuant to the Sex Offender Registration Act;
(B) required to register under the Mary Rippy Violent Crime Offenders Registration Act; or

(C) identified as a registrant on the Child Care Restricted Registry.

(5) Any person whose health or behavior would endanger the health, safety, or well-being of children is prohibited from being on the premises or having contact with children in care.

(6) 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 program complies with the requirements pertaining to child abuse contained in this subsection.

(1) Any staff who has reason to believe that a child has been abused is required to promptly contact 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 contained in this subsection are met.

(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) Other health problems. If it is reported or observed that an employee has a physical, mental, or emotional condition that impairs his or her ability to perform assigned job responsibilities, a report of a physical or psychological examination by a licensed physician or mental health professional may be required by Licensing.

(f) Employee qualifications. Program employees are required to comply with the requirements contained in this subsection which are applicable to their positions.

(1) Director. A director hired after the effective date of these requirements is required to be at least 21 years of age, have a high school diploma, or General Educational Development and one year of satisfactory experience in a child care or part-day children's program.

(2) Teachers. Teachers hired after the effective date of these requirements are
required to be at least 18 years of age.

(3) **Assistant teachers.** Assistant teachers are at least 16 years of age.

(g) **Responsibilities.** Program employees are required to comply with applicable requirements contained in this subsection.

(1) **Director.** The director is the person responsible for the day-to-day operation of the program and is responsible for:

   (A) appointing a staff member to take responsibility for the operation of the program in the director's absence;

   (B) maintaining a facility that meets the minimum requirements;

   (C) submitting to OCCS licensing records office criminal history investigations and obtaining dispositions on any charges shown on the report that lack dispositions;

   (D) obtaining and documenting three references, excluding relatives, for new staff;

   (E) supervising the conduct of staff, volunteers, or others who provide services in the facility; and

   (F) cooperating with licensing representatives and other appropriate agencies in maintaining compliance with requirements or improving the quality of care.

(2) **Teachers.** Teachers have primary responsibility for the direct care of children.

(3) **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 or teacher does not directly supervise more than two assistant teachers.

   (B) Assistant teachers do not have sole responsibility for a group of children for more than three hours a day.

(4) **Volunteers.** Volunteers counted in the staff-child ratio are required to meet all requirements set forth in this Part; and are under the direct supervision of the director or a designated staff member.
(5) **Substitutes.** Substitutes are required to carry out the assigned responsibilities of the position they are filling.

(h) **Professional development.** Requirements pertaining to professional development contained in this subsection are met.

(1) **Orientation.** Each director and staff member is required to receive orientation to include:

   (A) infection control;

   (B) injury prevention;

   (C) handling common childhood emergencies, including choking;

   (D) the program’s policy and procedure and staff responsibility for implementing them;

   (E) requirements for Part-day Child Care Programs;

   (F) staff’s assigned duties and responsibilities;

   (G) emergency procedures in the event of injury, severe weather, fire, including use of fire extinguishers, and similar emergency equipment;

   (H) the definition, identification, and mandatory reporting of child abuse and neglect;

   (I) the daily schedule;

   (J) the method used to inform staff of any special health, nutritional, or developmental needs of children in the program; and

   (K) confidentiality of information regarding children and their families.

(2) **Health and safety training.** All staff are required to comply with the health and safety training requirements contained in this paragraph.

   (A) There is staff on or off the program premises whenever children are in care including during transportation, 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, for example, 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.

(3) **Ongoing training.** The director and staff are required to obtain training that is relevant to job responsibilities including age-appropriate childhood education. Training may include workshops, conferences, use of videos, and other such training.

(4) **Food service training.** Within one year of employment, the person primarily responsible for food service 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.

(5) **Documentation of training.** Training is documented for each staff member and include the topic, training provided, and date.
340:110-3-81. Definitions

Revised 7-1-10

The following words and terms, when used in this Subchapter, have the following meaning, unless the context clearly indicates otherwise:

"Assistant caregiver" means a person at least 16 years of age who assists the caregiver in caring for children.

"Child" means a person younger than 18 years of age.

"Child Care Restricted Registry" or "Restricted Registry" means a registry for registrants who are prohibited from being licensed, working, or residing in child care facilities as defined in Section 405.3 of Title 10 of the Oklahoma Statutes.

"Department" means the Oklahoma Department of Human Services (OKDHS).

"Family child care home" means a family home that provides care and protection for seven or fewer children for part of the 24-hour day.

"Infant" means a child younger than 12 months of age.

"Large family child care home" means a residential family home that provides care and supervision for eight to twelve children for part of the 24-hour day.

"Non-registrant" means an individual that is not recorded on the Child Care Restricted Registry.

"Parent" means any adult who is legally responsible for the child, such as a mother, father, grandmother, grandfather, aunt, uncle, or legal guardian.

"Primary caregiver" means the caregiver who is present in the child care home and is responsible for the day-to-day operation of the program.

"Registrant" means an individual that is recorded on the Child Care Restricted Registry.

"Substitute caregiver" means a person who is designated by the primary caregiver to provide substitute child care for short periods of time.

"Toddler" means a child 12 months up to 24 months of age.
"Relative" means a person with the relationship, whether by marriage, blood, or adoption, of:

(A) parent;
(B) grandparent;
(C) brother;
(D) sister;
(E) step-parent;
(F) step-sister;
(G) step-brother;
(H) uncle;
(I) aunt; or
(J) cousin.
340:110-3-82. Necessity and issuance of license

Revised 7-1-10

(a) License required. No child care facility may be legally operated or maintained in the State of Oklahoma after June 20, 1964, unless licensed by the Oklahoma Department of Human Services (OKDHS).

(b) Application for license. Application for license is made on forms provided by OKDHS and in the manner prescribed.

(c) License issued. In order to provide care for children in a child care facility, a license is obtained from OKDHS that is issued on the basis of meeting minimum requirements essential for the health, safety, and well-being of the children in care.

(1) Children are not accepted into care until permission is obtained from OKDHS.

(2) The license granted applies to the ownership and location specified at the time the license is issued. If ownership or location changes, OKDHS is notified.

(3) The license is not transferable.

(4) Pursuant to the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 et seq.], persons identified as a registrant on the Child Care Restricted Registry are prohibited from:

   (A) licensure as a child care facility;

   (B) employment in a child care facility; and/or

   (C) residing in a child care facility.

(d) Application denied or license revoked. OKDHS may deny an application or revoke a license if the applicant or licensee violates any provision of the Oklahoma Child Care Facilities Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes, or rules of the Commission for Human Services.

(1) No application is denied or license revoked unless the licensee is given 30 days notice in writing of the grounds for the proposed denial or revocation.

(2) If the denial or revocation is protested within 30 days of receipt of the written notice, a hearing is conducted.
(3) When OKDHS denies an application or revokes a license, the responsible entity cannot make application for a new child care facility license within Oklahoma for five years following notification to the responsible entity of the application denial or license revocation; and during the appeal process.
340:110-3-85. Requirements for caregivers

Revised 7-1-10

(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 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.

(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 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 OCCS 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 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 to the licensing records office:

(i) documentation of a search conducted within the last 30 days of the Child Care Restricted Registry;

(ii) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and

(iii) a criminal history review request on a form provided by licensing, requesting an Oklahoma State Courts Network search for:

(I) any person making application to operate a family child care home;

(II) all caregivers, including primary, substitute, and assistant caregivers,
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 the:

(i) Oklahoma State Bureau of Investigation (OSBI); and

(ii) 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 Oklahoma Department of Corrections files maintained by OSBI pursuant to the Sex Offender Registration Act.

(2) Child Abuse Registry Check. A Child Abuse Registry check is conducted on all persons who sign the license application. A confirmed or substantiated 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) Verification of records search.

(A) Prior to issuance of initial permit or change of ownership. The facility must receive criminal history review results from the OCCS licensing records office for all employees and/or any persons age 18 years or older who live in the facility.

(B) Existing facilities. The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees prior to employment and prior to any persons age 18 years or older being allowed to live in the facility. This request for review must be maintained on file at the facility while awaiting the results.
(4) **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.

(5) The owner or primary caregiver is restricted from knowingly employing or allowing a registrant to reside in the facility.

(6) **Request for waiver.** A primary caregiver may request a waiver from the restrictions described in paragraph (4).

(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.

(D) A waiver may not be granted to any person:

(i) convicted of a sex offense pursuant to the Sex Offender Registration Act;

(ii) required to register under the Mary Rippy Violent Crime Offenders Registration Act; or
(iii) identified as a registrant on the Child Care Restricted Registry.

(7) **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.

(8) **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.
340:110-3-88. Records

Revised 7-1-10

(a) General requirements. Children's records are kept on forms provided by the Oklahoma Department of Human Services (OKDHS) or on forms containing the same information. Records are kept current and easily accessible. OKDHS staff is allowed access to all records.

(b) Caregiver records. Records on all caregivers, including the primary caregiver, assistant caregivers, and substitute caregivers, are completed and maintained in the home. Records include:

1. staff information forms provided by OKDHS;
2. criminal history investigations with records maintained in a confidential manner;
3. documentation of training;
4. attendance records for each caregiver that reflect days and hours worked and are maintained on file for 120 days;
5. documentation of request and/or results of a criminal history review;
6. documentation that the individual is a non-registrant on the Child Care Restricted Registry; and
7. when applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than the last three years.

(c) Children's identification and health records. Identification and health records include:

1. the child's name, date of birth, name of parent(s), home address, parents' place of employment, and telephone numbers;
2. the names and telephone numbers of responsible persons to contact in an emergency if a parent cannot be located promptly;
3. permission of a parent authorizing the caregiver to transport the child to emergency medical care;
(4) names and relationships of persons authorized to pick up the child;

(5) health information, including record of immunizations;

(6) name, address, and telephone number of the child's physician;

(7) if applicable, medication and transportation permission; and

(8) the date child began care.

(d) Attendance records. Daily attendance records, including arrival and departure times, are maintained for each child and maintained on file a minimum of 120 days.

(e) Public access to records - Compliance Posting.

(1) Items posted within clear view of the main entrance are:

   (A) OKDHS provided Form 07CL084E, Notice to Parents; and

   (B) Form 04CP004E, Oklahoma Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with confirmed or substantiated findings for 120 days from the completion of the investigation.

(2) The granted waiver notification for individuals who have criminal histories as defined in OAC 340:110-3-85(c) are posted in a prominent place for as long as they are employed or living in the facility.

(f) Compliance file. A compliance file accessible to staff, parents, and others contains:

(1) the most recent child care licensing monitoring report provided by the licensing specialist;

(2) the following documents issued by Licensing within the last 120 days:

   (A) child care licensing monitoring reports and licensing correspondence;

   (B) Form 07LC037E, Notice to Comply;

   (C) licensing complaints; and

   (D) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with findings of unconfirmed or unsubstantiated
to include findings of services not needed, ruled out, or services recommended; and

(3) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with findings of confirmed or substantiated, for one year from the completion of the investigation.
340:110-3-146. Definitions

Revised 7-1-10

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 Restricted Registry" or "Restricted Registry" means a registry for registrants who are prohibited from being licensed, working, or residing in child care facilities as defined in Section 405.3 of Title 10 of Oklahoma Statutes.

"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, 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.

"Non-registrant" means an individual that is not recorded on the Child Care Restricted Registry.

"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.

"Registrant" means an individual that is recorded on the Child Care Restricted Registry.

"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 7-1-10

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. Pursuant to the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 et seq.], persons identified as a registrant on the Child Care Restricted Registry are prohibited from:

(1) licensure as a child care facility; and/or

(2) employment in a child care facility.
340:110-3-153.1. Personnel

Revised 7-1-10

(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.

   (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 listed in subsection (d)(2) of this Section.

(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 these qualifications:

   (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 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
(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 to the licensing records office, prior to employment:

(A) documentation of a search conducted within the last 30 days of the Child Care Restricted Registry for persons (C)(i) - (ii);

(B) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and

(C) a criminal history review request on a form provided by licensing requesting an Oklahoma State Courts Network search for:

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

(ii) each applicant prior to employment, including all caregivers, substitutes, support staff, and any other person employed by the facility or program; or

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

(2) **Unsupervised access to children.** The facility obtains a completed criminal
history investigation for persons who have unsupervised access to children, such as lab students, Temporary Assistance for Needy 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 Oklahoma Department of Corrections files maintained by the OSBI pursuant to the Sex Offender Registration Act.

(6) **Verification of records search.**

(A) **Prior to issuance of initial permit or change of ownership.** The facility must receive criminal history review results from the OCCS licensing records office for all employees.

(B) **Existing facilities.** The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees, prior to employment. This request for review must be maintained on file at the facility while awaiting the results.

(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.]

(3) is a registrant on the Child Care Restricted Registry.

(j) Request for waiver. The facility director may request a waiver from the restrictions listed in subsection (i) of this Section.

(1) The waiver request is made in writing to 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.

(3) A waiver may not be granted to any person:

(A) convicted of a sex offense pursuant to the Sex Offender Registration Act;

(B) required to register under the Mary Rippy Violent Crime Offenders Registration Act; or

(C) identified as a registrant on the Child Care Restricted Registry.

(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 **OKDHS publication no. 86-78**, Licensing Requirements for Residential Child
Care Facilities, OKDHS 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 subsection (m)(1) - (5) of this Section.

(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 OKDHS at the time of application:

(A) a current list of employees; and

(B) a staff information sheet, provided by 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 of request and/or results of a criminal history review;

(E) documentation that the individual is a non-registrant on the Child Care Restricted Registry;

(F) other applicable criminal history records;

(G) three references;

(H) annual performance evaluations and any reports and notes relating to the individual's employment with the facility;

(I) date of employment; and

(J) date and reason for leaving employment.
340:110-3-168. Requirements for residential treatment facilities

Revised 7-1-10

(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) **Criminal background investigations.** Hospitals contracting with the Oklahoma Health Care Authority (OHCA) are exempt from submitting a criminal history review request to Oklahoma Child Care Services (OCCS) licensing records office. Documentation of all criminal history records and Child Care Restricted Registry searches are maintained at the hospital and available for review by OCCS.

(d) **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.

(e) **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.

(f) **Admission.** A health professional reviews and approves the admission assessment within 24-hours of admission.
(g) **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(b)(1)(A) and (B) and (b)(2)(B) and (C).

2. A written service plan for each resident is:
   
   (A) developed and documented within four working days after admission; and
   
   (B) reviewed at least every five to nine calendar days thereafter unless approved by OHCA.

(h) **Portable pools.** The facility is exempt from the rules contained in OAC 340:110-3-163(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.

(i) **Discharge procedures.** The facility meets the rules contained in OAC 340:110-3-154(d) regarding discharge procedures. The facility:

1. supplies the resident 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.

(j) **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.

(k) 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.
340:110-3-221. Definitions

Revised 7-1-10

The following definitions apply unless the context clearly indicates otherwise.

"Assistant teacher" means a staff person who works under the on-site supervision of a qualified teacher or director.

"Auxiliary personnel" means cooks, building custodians, or other individuals who provide support services to the facility.

"Auxiliary spaces" means areas that are not used for children's care or play.

"Child" means a person under the age of 18 years.

"Child Care Restricted Registry" or "Restricted Registry" means a registry for registrants who are prohibited from being licensed, working, or residing in child care facilities as defined in Section 405.3 of Title 10 of Oklahoma Statutes.

"Child with disabilities" means a child who has a physical or mental condition that results in substantial limitations in self-care, language, learning, mobility, or self-direction.

"Day camp" means a program that serves only school-age children and operates during regular school vacations for no more than 12 hours per day.

"Department" means the Oklahoma Department of Human Services (OKDHS).

"Fall zone" means the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land.

"Infection control" means the policies, procedures, and techniques used to control and prevent the spread of infection, for example, hand-washing, sanitizing, personal hygiene, diapering and toileting, appropriate handling and disposal of soiled or contaminated items, sick child exclusion policies, and immunization policies.

"Lead teacher" means a staff person who is responsible for duties such as program development, implementation, and evaluation.

"Limited food service" means the preparation or serving of only non-potentially hazardous foods for immediate consumption using single-service articles.
"Non-registrant" means an individual that is not recorded on the Child Care Restricted Registry.

"Parent" means a child's father, mother, or other person who has legal custody or guardianship of the child.

"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.

"Registrant" means an individual that is recorded on the Child Care Restricted Registry.

"School-age child" means a child who is at least five years of age and who is attending or has completed kindergarten.

"School-age program" means a program that provides care and supervision for school-age children, for example, before-school and after-school programs, extended-day programs, day camps, summer camps, and summer park programs.

"Supervision of children" means the function of observing, overseeing, and guiding a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed. It requires physical presence, knowledge of activity requirements, and children's needs, and accountability for their care.

"Teen aide" means a 13- to 15-year-old who works under the direct supervision of a lead teacher and is not considered in the staff-child ratio as a staff or as a child.

"Volunteer" means a person who provides services to the program without cost or compensation.
340:110-3-222. Necessity and issuance of license

Revised 7-1-10

(a) In accordance with Section 401 of Title 10 of the Oklahoma Statutes, no child care facility may be operated or maintained after June 30, 1964, unless licensed by the Oklahoma Department of Human Services (OKDHS).

(b) Child care facilities required to be licensed by OKDHS do not include programs that operate:

   (1) 15 hours or less per week; or

   (2) during typical school hours by a public or private school that offers elementary education from kindergarten through third grade.

(c) An application for a license is made on forms provided by OKDHS in the manner prescribed.

(d) Pursuant to the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 et seq.], persons identified as a registrant on the Child Care Restricted Registry are prohibited from:

   (1) licensure as a child care facility;

   (2) employment in a child care facility; and/or

   (3) residing in a child care facility.

(e) An unlicensed program may not advertise as licensed.

(f) Children are not accepted into care until permission is obtained from OKDHS.

(g) Claims as to standards of care or specialized service are prohibited from being made or placed in advertisements unless the program has staff members who are professionally qualified to offer such specific services.

(h) OKDHS may revoke a license if a licensee violates any provisions of this act. No license is revoked or denied unless the license holder is given 30 days notice in writing of the grounds for the proposed revocation or denial. If the revocation or denial is protested within 30 days of receipt of the written notice, a hearing is conducted.
(j) When OKDHS denies or revokes a program’s license, the responsible entity cannot make application for a new child care facility license within the state for five years following notification to the responsible entity of the license revocation or denial; and during an appeal process.
340:110-3-223. Organization

Revised 7-1-10

(a) **Responsible agent.** A school-age program is operated by a public or private organization or an individual.

   (1) A public school-age program is created and exists by an act of the state, county, city, or other political subdivision and operated under the control of a governmental agency.

   (2) A not-for-profit school-age program operates under a governing board responsible for developing policies and establishing and maintaining a sound financial structure.

   (3) A proprietary school-age program's owner is responsible for the policy and financial structure of the program.

(b) **Purpose.** A statement defining the purpose or function of the program is filed with Oklahoma Department of Human Services (OKDHS) and includes:

   (1) licensed capacity;

   (2) ages of children accepted;

   (3) hours of operation; and

   (4) type of care and services offered.

(c) **Notifications.** Requirements pertaining to notifications are contained in this subsection.

   (1) The items displayed in a prominent place where staff, parents, and others may view them are:

      (A) the program's license, permit, or notice of denial, or revocation of license;

      (B) name of the person responsible for the program during the director's absence;

      (C) notice of the requirement to report suspected child abuse and neglect;
(D) notice prohibiting smoking anywhere in the facility while children are in care;

(E) the daily program schedule;

(F) emergency procedures;

(G) weekly menu of all food provided by the program;

(H) evacuation plan;

(I) dates fire and tornado drills were conducted; and

(J) a time schedule for use of outdoor play space if the program is licensed for 24 or more children and has outdoor play space of less than 75 square feet per child.

(2) Form 07LC093E, Insurance Exception Notification, if applicable per OAC 340:110-3-224(c), is posted in clear view of the main entrance to the facility.

(3) In accordance with Section 7103 of Title 10 of the Oklahoma Statutes, any person who has reason to believe a child has been abused or neglected is required to report the matter promptly to OKDHS. It is a misdemeanor for any person to fail to report.

(4) The program is required to notify Licensing Services by the next working day of:

(A) a temporary, unscheduled, or permanent closing of the program;

(B) a change in the director;

(C) changes in liability insurance coverage;

(D) any damage to the facility that affects the amount of usable square footage or compliance with any requirement;

(E) legal action against a program or staff person that involves or affects a child in care or the operation of the program;

(F) any known criminal charges or child abuse investigations involving staff that are pending or have had a disposition;

(G) an accident involving transportation unless there were no injuries and only
minor damage to the vehicles;
(H) any injury to a child requiring emergency medical attention; and
(I) the death of a child that occurred while the child was in care.

(5) The program is required to notify Licensing at least 30 days prior to:
(A) a change in ownership or sponsorship;
(B) a change in the name of the program;
(C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;
(D) the anticipated closing or relocation of the program; and
(E) a proposed change in the licensed capacity.

(d) Public access to records - Compliance Posting.

(1) Items posted within clear view of the main entrance are:
(A) OKDHS provided "Notice to Parents"; and
(B) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with confirmed or substantiated findings, for 120 days from the completion of the investigation.

(2) The granted waiver notification for individuals who have criminal histories as defined in OAC 340:110-3-226(c) are posted in a prominent place, for as long as they are employed or living in the facility.

(e) Compliance file. A compliance file is accessible to staff, parents, and others contains:

(1) the most recent child care licensing monitoring report provided by the licensing specialist;

(2) the following documents issued by Licensing within the last 120 days:
(A) child care licensing monitoring reports and licensing correspondence;
(B) Form 07LC037E, Notice to Comply;

(C) licensing complaints; and

(D) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with findings of unconfirmed or unsubstantiated to include findings of services not needed, ruled out, or services recommended; and

(3) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services, with findings of confirmed or substantiated, for one year from the completion of the investigation.

(f) **Effect of change in ownership or location on license.** When a program changes ownership or location:

(1) the license is not transferable and is returned to OKDHS; and

(2) the program is required to meet current licensing requirements.
340:110-3-225. Records

Revised 7-1-10

(a) **Program records.** Licensing staff have access to all records and reports addressed in this Section.

(b) **Children's records.** Records are obtained at the time of admission for each child in care, including teen aides, regardless of the length of time the child is in care.

(1) Children's records are kept at the program, are available to staff during all hours of child care, and are kept current.

(2) Identification and health records are kept on forms provided by Oklahoma Department of Human Services (OKDHS) or on other forms that contain:

(A) the child's name, date of birth, name of parent(s), home address, parent(s)' places of employment, and telephone numbers;

(B) the name and telephone number of a responsible person to contact in an emergency if the parent(s) cannot be located promptly;

(C) permission of the parent authorizing the program to transport the child for emergency medical care;

(D) name of person(s) permitted to pick up the child;

(E) health information;

(F) current immunization record. If a school-age program is located in a school that maintains current immunization records, duplicate records are not required;

(G) name, address, and telephone number of a physician to call in an emergency;

(H) date of acceptance and withdrawal from the program; and

(I) medication and transportation permission if applicable.

(3) The program is required to maintain readily available attendance records for each child for a minimum of 120 days.
(c) **Teen aide records.** In addition to the required records for teen aides listed in OAC 340:110-3-6(b), a written agreement signed by the parent or guardian of the teen aide must be maintained on file at the facility. The agreement includes:

1. the duties and responsibilities of the teen aide;
2. the name of the lead teacher responsible for supervising the teen aide; and
3. the written consent of the parent or guardian for the child to work as a teen aide.

(d) **Staff records.** Staff records are completed on forms provided OKDHS and maintained at the facility or made available to Licensing. Staff records include:

1. name, birth date, address, telephone number, and Social Security number;
2. references, including previous employers if any, and the name, address, telephone number, and dates of employment;
3. a statement regarding criminal history and child abuse investigations;
4. criminal history investigations maintained in a confidential manner and not part of the individual's personnel records, pursuant to Section 404.1 of Title 10 of the Oklahoma Statutes;
5. a report of an examination by a licensed physician or mental health professional when there is concern about an employee's ability to perform normal duties because of a possible physical, mental, or emotional problem;
6. documentation of orientation and training;
7. attendance records for each staff person;
8. documentation of request and/or results of a criminal history review;
9. documentation that the individual is a non-registrant on the Child Care Restricted Registry; and
10. when applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years.
340:110-3-226. Requirements for school-age program employees

Revised 7-1-10

(a) General. All employees are required to be of good character and possess adequate education, training, or experience to provide them with the skills to perform the essential functions of the job with or without reasonable accommodation. Each employee is required to:

(1) provide annual documentation that he or she meets the health and training requirements contained in OKDHS Publication no. 97-10, Licensing "Requirements for School-Age Programs and Summer Day Camps";

(2) demonstrate the ability to perform assigned job responsibilities;

(3) recognize and act to correct hazards to physical safety, both indoors and outdoors;

(4) be able to work with children without recourse to physical punishment, mistreatment, or child abuse; and

(5) demonstrate 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 programs pertaining to criminal history investigations are contained in this subsection.

(1) Responsibility of owner or director. The program's owner or director submits to the licensing records office:

(A) documentation of a search conducted within the last 30 days of the Child Care Restricted Registry;

(B) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and

(C) a criminal history review request on a form provided by licensing, requesting an Oklahoma State Courts Network search for:

   (i) any person making application to establish or operate a school-age program;
(ii) each applicant prior to employment, including all caregivers, substitutes, auxiliary staff, and any other person employed by the program;

(iii) adults, including providers' spouses or adult children, who live in the facility; and

(iv) persons age 18 years or older prior to their residence in the facility.

(2) **Responsibility of owner or director.** Program's owner or director 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.

(3) **Exceptions.** Criminal history investigations are not required for:

(A) staff who move to a new program 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.

(4) **Authorized agencies.** Criminal history investigations are accepted only when conducted by:

(A) the Oklahoma State Bureau of Investigation (OSBI); and

(B) the authorized 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 must include a search of Oklahoma Department of Corrections' files maintained by OSBI pursuant to the Sex Offender Registration Act.

(6) **Verification of records search.**

(A) **Prior to issuance of initial permit or change of ownership.** The facility must receive criminal history review results from the OCCS licensing records office for all employees and/or any persons 18 years of age or older who live in
(B) Existing facilities. The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees prior to employment and prior to any persons 18 years of age or older being allowed to live in the facility. This request for review must be maintained on file at the facility while awaiting the results.

(c) Prohibitions to employment. The program is prohibited from knowingly employing a person who:

(1) has entered a plea of guilty or nolo contendere, no contest, or has 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; or
   
   (E) gross irresponsibility or disregard for the safety of others;

(2) is required to register pursuant to the Sex Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.

(d) Registrant Prohibitions. The program is restricted from knowingly employing or allowing a registrant to reside in the facility.

(e) Request for a waiver. The program director may request a waiver from the restrictions.

(1) The waiver request is made in writing to OKDHS and considered by the waiver review committee.

(2) The person for whom the waiver is requested is not employed until a decision has been made.

(3) A waiver may not be granted to any person:
(A) convicted of a sex offense pursuant to the Sex Offender Registration Act;

(B) required to register under the Mary Rippy Violent Crime Offenders Registration Act; or

(C) identified as a registrant on the Child Care Restricted Registry.

(f) Restrictions.

(1) Any person whose health or behavior would endanger the health, safety, or well-being of children is prohibited from being on the premises or having contact with children in care.

(2) An employee who is under the effects of alcohol, illegal drugs, or medication that impairs functioning is prohibited from providing child care services.

(g) 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 statewide toll-free Child Abuse Hot Line, 1-800-522-3511.

(2) Staff are required to cooperate fully in the investigation of any allegation.

(h) 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 OCCS 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.

(i) Employee qualifications. Requirements applicable to employee qualifications are contained in this subsection.
(1) **Director.** The director of a school-age program is required to be at least 21 years of age and have:

(A) a high school diploma or General Educational Development (GED) and two years of satisfactory full-time experience in a related school-age, educational, or child care setting;

(B) a high school diploma or GED and 12 college credit hours in child development, elementary, or secondary education, or a closely related subject and one year of satisfactory experience in a related school-age, educational, or child care setting;

(C) an associate or bachelor degree with at least 12 college credit hours in child development, elementary or secondary education or a closely related subject; or

(D) a high school diploma or GED and successful completion of a school-age child care training program that meets the criteria approved by the Child Care Advisory Committee.

(2) **Lead teacher.** Lead teachers are required to be at least 19 years of age and have:

(A) a high school diploma or GED and one year of satisfactory full-time experience in a related school-age, educational, or child care setting;

(B) a high school diploma or GED and 12 college credit hours in child development, elementary, or secondary education or a closely related subject;

(C) an associate degree with at least six college credit hours in child development, early childhood, elementary, or secondary education or a closely related subject; or

(D) a high school diploma or GED and successful completion of a school-age training program that meets the criteria approved by the Child Care Advisory Committee.

(3) **Teachers.** Teachers hired after September 1, 1997 are required to:

(A) be at least 18 years of age;

(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:

(A) have a high school diploma or GED; or

(B) are currently enrolled in school.

(5) **Substitutes.** Substitutes must be at least 18 years of age. Substitutes who have worked more than 40 hours in the program are required to comply with the minimum requirements for the position they are filling.

(6) **Teen aides.** Teen aides are at least 13 years of age.

(j) **Responsibilities of employees and volunteers.** Responsibilities of employees and volunteers are described in this subsection.

(1) **Director.** The director, or on-site staff person who meets director's qualifications, is present at the program at least 50 percent of operating hours or a minimum of 30 hours per week and is responsible for the day-to-day operation of the program.

(A) When four or more teachers are needed to meet minimum staff-child ratios, the director is free from direct care responsibilities at least one hour per day during operating hours to provide program oversight and staff supervision.

(B) The director, or on-site staff person 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 program in his or her absence and posting that person's name in a conspicuous place;

(iii) maintaining a facility 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) 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;

(vii) supervising the conduct of staff, volunteers, or others who provide services in the facility; and

(viii) cooperating with licensing staff and other appropriate agencies in maintaining compliance with requirements and in improving the quality of care.

(2) **Lead teachers.** At least one full-time lead teacher is required for every 60 children for which the program is licensed. The director may be counted as a lead teacher.

(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, lead 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 except for special activities.

(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; and

   (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 may not be included in the staff-child ratio unless they are assigned to the program 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.

(7) **Substitutes.** Substitutes carry out the assigned responsibilities of the position they are filling.

(8) **Teen aides.** Teen aides:

(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 teacher who meets lead teacher qualifications. One lead 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 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.

(k) **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, receives orientation.

(A) Orientation includes a review of:
(i) infection control;

(ii) injury prevention;

(iii) handling common childhood emergencies, including choking;

(iv) the program's policy and procedure and staff responsibility for implementation;

(v) licensing requirements;

(vi) employees' assigned duties and responsibilities;

(vii) emergency procedures in the event of injury, severe weather, or fire, including use of fire extinguishers;

(viii) the definition, identification, and mandatory reporting of child abuse and neglect;

(ix) the daily schedule;

(x) the methods used to inform staff of any special health, nutritional, or developmental needs of children assigned to the caregiver; and

(xi) confidentiality of information regarding children and their families.

(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) 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.

(3) **Ongoing training.** Requirements of staff for ongoing training are contained in this paragraph.

(A) **Director.** The director is required to obtain 40 clock hours of training every two years by obtaining 20 clock hours of training annually from an OKDHS approved source, such as professional conferences or an accredited college, university, or vocational program.

   (i) OKDHS OCCS approves training upon request.

   (ii) Training is relevant to job responsibilities and includes program administration or management, age-appropriate childhood education, and
(B) **Staff with children.** Each person who is counted toward meeting the staff-child ratio is required to obtain 24 clock hours of training every two years, by obtaining 12 clock hours of training annually that is relevant to job responsibilities and includes infection control.

(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.

(4) **Food service training.** 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.

(5) **Substitute and volunteer staff training.**

(A) Substitute and volunteer staff are required to be familiar with program policy and procedure before being left in charge of a group of children.

(B) Volunteers who are counted to meet the staff-child ratio meet the requirements for ongoing training in (k)(3) of this Section.

(6) **Documentation of training.** Documentation of training for each staff member is required and includes the topic, training provided, date, and hours.
340:110-5. Definitions

Revised 07-1-10

The following words and terms, when used in this Subchapter, have the following meaning unless the context clearly indicates otherwise:

"Adoption agency" means an agency that has been licensed as a child-placing agency for the purpose of placing children into adoptive families.

"Advisory board" means the entity that offers advice and counsel on the operation of a child-placing agency.

"Agency" means child-placing agency.

"Auxiliary personnel" means cooks, building custodians, or other personnel who provide support services to the agency.

"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 that contributes to developing the capacity for self-control, self-direction, and an understanding of behavioral consequences.

"Child" means an unmarried or unemancipated person younger than 18 years of age.

"Child Care Restricted Registry" or "Restricted Registry" means a registry for registrants who are prohibited from being licensed, working, or residing in child care facilities as defined in Section 405.3 of Title 10 of Oklahoma Statutes.

"Child care staff" means staff who provide direct care and supervision of children.

"Child-placing agency" means a private agency that is licensed by Oklahoma Department of Human Services (OKDHS) and provides social services to children and their families that supplement, support, or substitute parental care and supervision for the purpose of safeguarding and promoting the welfare of children in adoptive homes, foster homes, and independent living programs.

"Child with special needs" means a child who, because of age, ethnic origin, physical, mental, or behavioral problems, or sibling group for whom placement for
adoption is difficult.

"Custodian" means the adult or agency legally responsible for the child.

"Department" means the OKDHS.

"Emergency foster care" means foster home care provided to a child when an emergency exists or initial placement does not exceed 30 calendar days.

"Foster home" means a home which provides full-time substitute family care for a child for a planned period when the child's own family cannot provide care.

"Foster home agency" means an agency licensed as a child-placing agency for the purpose of certifying foster homes.

"Foster parent(s)" means the person(s) providing foster home care for a child placed by the child-placing agency.

"Governing board" means the entity with ultimate responsibility and authority for the overall operation of a private, nonprofit facility.

"Health professional" means a licensed physician, nurse practitioner, or physician's assistant, as defined by the appropriate state licensing board.

"Independent living (IL) program" means a residential program that places youth, at least 16 years of age, in a living situation supervised by a licensed child-placing agency with the goal of preparing the youth for living independently without supervision.

"Indian child" means any unmarried or unemancipated person younger than 18 years of age who is a member of an Indian tribe or eligible for membership and is the biological child of a member of an Indian tribe. [10 O.S. § 40.2]

"Infant foster care" means a category of foster care when the foster home provides care to infants only.

"Interstate Compact on the Placement of Children (ICPC)" means the process mandated by state statute to ensure protection and services to a child when the child is placed in or out of the state of Oklahoma and other states that are members of the ICPC.

"Legal risk placement" means placement of a child when consent to adoption or permanent relinquishment of parental rights for adoption has not been obtained from
both birth parents and parental rights have not been previously terminated.

"Long-term foster care" means foster home care when the initial placement plan exceeds 30 calendar days.

"Non-registrant" means an individual that is not recorded on the Child Care Restricted Registry.

"On-call or substitute staff" means staff available to work during the absence of regular part-time or full-time staff.

"Openness in adoption" means the pre- or post-placement exchange of information, communication, or contact between birth families and adoptive families.

"Placement plan" means a component of the service plan or agreement that contains plans for the placement of the child that best meet the child's needs.

"Post-adoption services" means direct or referral services available through the child-placing agency to birth and adoptive parents and the adopted child after the adoption is finalized.

"Post-placement supervision" means supervision and services provided after the child is placed with an adoptive family.

"Proprietary facility" means a facility that operates on a for-profit basis.

"Registrant" means an individual that is recorded on the Child Care Restricted Registry.

"Serious incident" means any non-routine occurrence that has an impact on the care, supervision, or treatment of a child.

"Service plan or agreement" means a comprehensive individualized program of action for the child and the child's family, if parental rights have not been terminated, developed by the child-placing agency in cooperation with the child and family or custodian. It establishes specific outcomes and time frames based on the:

(A) child's age and level of functioning; and

(B) family's ability and willingness to participate.

"Social services staff" means child-placing agency employees who provide social
services that include, but are not limited to:

(A) casework services to children and their families;
(B) adoptive child and family studies;
(C) placement services;
(D) certification of agency facilities;
(E) admission assessments; and
(F) service planning.

"Volunteer" means a person who willingly enters into an agreement with an agency to provide certain specified services without compensation.
340:110-5-4. License

Revised 7-1-10

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 child-placing agency is granted on the basis that the agency meets minimum requirements for child-placing agencies. The license is not transferable. The agency may not operate until permission is obtained from OKDHS. Pursuant to the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 et seq.], persons identified as a registrant on the Child Care Restricted Registry are prohibited from:

1. licensure as a child care facility; and/or

2. employment in a child care facility.
340:110-5-6. Organization and administration

Revised 7-1-10

(a) **Purpose.** The purpose or function of the child-placing agency (agency) is clearly defined in a statement filed with the Oklahoma Department of Human Services (OKDHS). This includes the philosophy, goals and objectives, ages and characteristics of children accepted for care, geographical area of service, and types of services provided.

(b) **Organizational structure.** The legal basis or ownership of the agency is fully documented and submitted to OKDHS with the initial application for a license.

   (1) **Publicly operated agency.** Documentation of a publicly operated agency identifies the statutory basis of the agency and the administrative framework of the governmental entity that operates the agency.

   (2) **Privately operated agency.** A privately operated agency submits:

      (A) as applicable, the charter, partnership agreement, constitution, and articles of incorporation resolution authorizing the agency operation;

      (B) the names, titles, addresses, and telephone numbers for:

      (i) association members or corporate officers for nonprofit agencies; or

      (ii) owners, partners, or corporate officers of for-profit agencies;

      (C) the physical address in Oklahoma where child-placing business is conducted; and

      (D) a notification informing OKDHS of any change in the legal basis for operation or ownership before the change occurs.

(c) **Governing and advisory boards.** Private nonprofit agencies establish a governing board and may also have an advisory board. Private for-profit agencies without a governing board have an advisory board.

   (1) The governing board:

      (A) meets at least twice a year and maintains accurate minutes of each meeting;
(B) maintains ultimate responsibility for governing and delegates responsibility for administration of the agency to the executive director;

(C) specifies in the constitution and bylaws the responsibilities of and relationship between the governing board and executive director, and submits them to OKDHS;

(D) submits to OKDHS a current list of names, titles, addresses, and telephone numbers of the members of the governing board;

(E) members receive an orientation to board responsibilities upon appointment; and

(F) is composed of a minimum of five members, the majority of whom:

   (i) may not be made up of agency staff members; and

   (ii) reside in Oklahoma. Multi-state operations may have a governing board outside Oklahoma if they establish local advisory boards that meet the requirements in this subsection.

(2) The advisory board:

   (A) meets at least twice a year;

   (B) is comprised of members, the majority of whom:

       (i) reside in Oklahoma; and

       (ii) may not be staff members of the agency;

   (C) provides advice and counsel to the agency on the policies and operation of the agency, reflects local concerns, and represents the program to the community; and

   (D) submits to OKDHS a current list of names, addresses, and telephone numbers of the members of the advisory board.

(d) **Policy.**

   (1) Agency policy:
(A) is clearly written and kept current;

(B) includes, but is not limited to, areas governing personnel, admission, program, behavior management, and care of children; and

(C) is available at the agency for Licensing staff to review.

(2) The agency maintains current written policy and procedure:

(A) regarding a child who is absent without permission. If a child is not located, the agency immediately notifies the child's custodian and the appropriate law enforcement agency. Efforts to locate the child and notify appropriate persons are documented;

(B) regarding grievance issues related to children. Grievance policy and procedure are explained, and a copy is provided to each child and the child's parents or custodian;

(C) regarding religious training that is made known to the child and family prior to admission or placement. All children are provided an opportunity to participate in religious services;

(D) for the care of children, including medical services and safe transportation by staff, volunteers, and foster parents, that complies with all applicable state laws; and

(E) for reporting child abuse and neglect.

(e) **Notifications.** The agency:

(1) notifies Licensing:

(A) on the next working day when:

(i) the agency is temporarily or permanently closed;

(ii) the executive director is changed; or

(iii) damage to the premises caused by fire, accident, or the elements seriously affects the provision of services;

(iv) changes to liability insurance coverage; and
(B) prior to making any program change;

(2) submits a detailed written report for any serious incident involving staff or children, including, but not limited to:

(A) suicide attempts;

(B) injuries requiring medical treatment;

(C) runaways;

(D) commission of a crime; and

(E) allegations of abuse, neglect, or mistreatment. The date and time of the incident, name(s) of the staff and children involved, the nature of the incident, and the circumstances surrounding it are included in the report.

(i) In accordance with Section 7103 of Title 10 of the Oklahoma Statutes, any person who has reason to believe a child has been abused or neglected is required to report the matter promptly to the statewide toll-free Child Abuse Hot Line, 1-800-522-3511.

(ii) Failure to report abuse or neglect of a child is a misdemeanor offense and upon conviction is punishable by law.

(f) Records. Agency records pertaining to child-placing activity are maintained within the state of Oklahoma and are made immediately accessible to authorized representatives of OKDHS.

(g) Legal compliance. The agency follows all applicable state and federal laws, including:

(1) The Oklahoma Adoption Code, Sections 7501-1.1 through 7505-7.2 of Title 10 of the Oklahoma Statutes;

(2) The Interstate Compact on the Placement of Children, Section 571 of Title 10 of the Oklahoma Statutes; and

(3) Federal and state Indian Child Welfare Acts, Section 1901 et seq. of Title 25 of the United States Code and Sections 40 through 40.9 of Title 10 of the Oklahoma Statutes.

Revised 7-1-10

(a) **Required staff.** The child-placing agency (agency) employs:

(1) an executive director or administrator. In the absence of the executive director or administrator, a person is designated in charge who is immediately accessible in person or by phone to authorized representatives of the Oklahoma Department of Human Services (OKDHS);

(2) a child placement supervisor responsible for all placements in out-of-home care and final approval of all home studies;

(3) social services staff responsible for providing social services, including, but not limited to:
   
   (A) casework services to children and their families;

   (B) adoptive child and family studies;

   (C) placement services;

   (D) certification of agency facilities;

   (E) admission assessments; and

   (F) service planning;

(4) child care workers, if applicable; and

(5) sufficient clerical staff to keep correspondence, records, bookkeeping, and files current and in good order.

(b) **Volunteers.** If volunteers have contact with children in care, the agency:

(1) has current written volunteer policy to protect the children's health, safety, and well-being that includes:

   (A) selection and screening criteria, including a criminal history records search in accordance with Section 404.1 of Title 10 of the Oklahoma Statutes; and
(B) requirements for:

   (i) orientation; and

   (ii) supervision; and

(2) provides orientation before volunteers have contact with children.

(c) **Personnel policy.** Written personnel policy is available to staff defining job responsibilities, qualifications, and lines of authority.

   (1) The executive director or administrator is responsible for employment and dismissal of personnel.

   (2) Agency policy includes availability of on-call and substitute staff.

   (3) The agency obtains a minimum of three written references to include the most recent employer, if applicable, for all staff prior to employment.

      (A) When written references cannot be obtained prior to employment, telephone interviews are conducted and documented which include dates, interview questions, responses, and the interviewer's signature. Written references are required after 30 days.

      (B) Copies of references are maintained on file.

   (4) Tuberculosis skin testing is not required to qualify for employment. The agency requires employees to comply with the Oklahoma State Department of Health recommendations regarding tuberculosis skin testing when a local tuberculosis exposure is identified.

(d) **Criminal history records search.** The executive director or administrator submits to the licensing records office:

   (1) documentation of a search conducted within the last 30 days of the Child Care Restricted Registry for persons included in (3)(A) - (B);

   (2) a completed criminal history records search conducted within the last 12 months including dispositions on all charges and

   (3) a criminal history review request on a form provided by Oklahoma Department of Human Services (OKDHS) requesting an Oklahoma State Courts Network search
for:

(A) any person making application to establish or operate a child-placing agency;

(B) all applicants for employment prior to being employed; and

(C) all persons 18 years of age or older who reside in the facility, including providers' spouses and adult children.

(e) Unsupervised access to children. The agency obtains a completed criminal history records search for persons who have unsupervised access to children, or who are counted to meet staff-child ratios, such as volunteers.

(f) Exceptions. Criminal history investigations are not required for:

(A) staff who move to a new agency operated by the same organization; and

(B) parent volunteers who transport children on an irregular basis.

(g) Authorized agencies. A criminal history records search is obtained from:

(A) the Oklahoma State Bureau of Investigation (OSBI); and

(B) the authorized agency in a person's previous state of residence if the person has resided in Oklahoma less than three years.

(h) Sex Offender Registry. The OSBI report must include a search of Oklahoma Department of Corrections' files maintained by OSBI pursuant to the Sex Offender Registration Act.

(i) Verification of records search.

(A) Prior to issuance of initial permit or change of ownership. The agency must receive criminal history review results from OCCS licensing records office for all employees.

(B) Existing agencies. The agency must submit a criminal history review request on a form provided by OKDHS to OCCS licensing records office for all employees prior to employment. This request for review must be maintained on file at the agency while awaiting the results.

(j) Prohibitions. The agency is prohibited from knowingly hiring or allowing any person
to provide services to children for whom there is documented evidence or reason to
believe that the person would endanger the health, safety, or well-being of children or
other persons. Included is any person who has been:

(1) convicted of, whether by verdict or plea of guilty or nolo contendre, no contest, or
received a suspended sentence for, a sex crime pursuant to Section 581 of Title 57
of the Oklahoma Statutes;

(2) convicted of, whether by verdict or plea of guilty or nolo contendre, no contest:

(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; or

(E) gross irresponsibility or disregard for the safety of others;

(3) identified by a court as a perpetrator of child abuse or neglect or has made an
admission of guilt to a person authorized by state or federal laws or regulations to
investigate child abuse and neglect; or

(4) identified as a registrant on the Child Care Restricted Registry.

(k) Request for waiver. The agency may request a waiver from the restrictions
contained in subsection (j)(2) and (3) of this Section.

(1) The waiver request is submitted in writing to OKDHS and considered by the
residential licensing programs supervisor and includes:

(A) the type of crime or offense for which the person was convicted or a finding
was made;

(B) the nature of the offense(s);

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

(D) circumstances surrounding commission of the offense(s) that demonstrate
the likelihood of repetition;
(E) the number of offenses for which the person was convicted or findings made;

(F) the length of time since the last conviction or finding;

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

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

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

(J) opinions of reliable community members concerning the person in question.

(2) The person for whom the waiver is requested may not be employed by the agency or have access to children until a decision is made and written notification is received.

(3) A waiver may not be granted to any person:

(A) convicted of a sex offense pursuant to the Sex Offender Registration Act;

(B) required to register under the Mary Rippy Violent Crime Offenders Registration Act; or

(C) identified as a registrant on the Child Care Restricted Registry.

(1) Restrictions. The restrictions contained in this subsection apply to employees and persons who provide services to the agency.

(1) A person who is employed by the agency or provides services to the agency 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 (j) of this Section, a determination is made and documented as to whether the staff member is removed from contact with children until the allegation is resolved. If criminal charges are filed, the accused is removed from contact with children until the charges are resolved.

(3) A person who received a deferred sentence for any charge in subsection (j)(2) of this Section is removed from contact with children for the duration of the deferment.

REQUIREMENTS FOR CHILD-PLACING AGENCIES  REVISED 7-1-10
340:110-5-12. Personnel records

Revised 7-1-10

(a) The child-placing agency (agency) keeps on file a written personnel record for every staff person working at the agency. The personnel record includes:

   (1) an application, resume, or staff information sheet provided by the Oklahoma Department of Human Services that documents qualifications for the position;

   (2) health records as required by the agency;

   (3) three written references obtained prior to employment. References:

       (A) include the date, interview questions, responses, and the interviewer's signature; and

       (B) are maintained in the employee's personnel record;

   (4) reports and notes relating to the person's employment with the agency and job performance evaluations;

   (5) dates of employment; and

   (6) date and reason for leaving employment.

(b) Personnel records are maintained for a minimum of five years after a staff member's separation.

(c) Records of criminal history investigations are maintained in a confidential manner and kept separate from the person's personnel record and includes:

   (1) documentation of request and/or results of a criminal history review;

   (2) documentation that the individual is a non-registrant on the Child Care Restricted Registry; and

   (3) other applicable criminal history records.

(d) Licensing has access to personnel and any other confidential records relevant to the facility's employees.