**POLICY TRANSMITTAL NO. 11-18**

**OKLAHOMA CHILD CARE SERVICES**

**DATE: JUNE 13, 2011**

**DEPARTMENT OF HUMAN SERVICES**

**OFFICE OF INTERGOVERNMENTAL RELATIONS AND POLICY**

**TO:**

ALL OFFICES

**SUBJECT:**

MANUAL MATERIAL

OAC 340:110-1-4 through 110-1-6; 110-1-8 through 110-1-8.1; 110-1-9 through 110-1-9.3; 110-1-10 through 110-1-10.1; 110-1-13 through 110-1-14; 110-1-20; 110-1-43 through 110-1-47.2; 110-1-51; 110-1-54.1; 110-1-55; 110-3-37; 110-3-222; and 110-5-8.

**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 the rules to: (1) clarify division policy and practice assisting in the consistent enforcement of licensing requirements; (2) include additional division forms; and (3) increase quality criteria for facilities participating in the differential quality rating system.

OAC 340:110-1-4 is amended to clarify procedures regarding referral of facilities to local city officials.

OAC 340:110-1-4.1 is amended to reflect addition of new division forms.

OAC 340:110-1-5 is amended to clarify division practice.

OAC 340:110-1-6 Instructions to staff (ITS) are amended to clarify division practice regarding withdrawal of applications.

OAC 340:110-1-8 is amended to clarify division practice regarding approval of subsequent permits.

OAC 340:110-1-8.1 ITS are amended to clarify division practice regarding out-of-state background investigations and clarify other division practices.

OAC 340:110-1-9 is amended to reflect clarifications to division practice regarding on-going monitoring and change of address procedures when a facility is in inactive status.

OAC 340:110-1-9.1 is amended to clarify division practice regarding
approvals of facilities for certification for the care of children with disabilities.

OAC 340:110-1-9.2 is amended to clarify division practice and complaint overviews.

OAC 340:110-1-9.3 is amended to clarify division practice regarding non-compliances and office conference procedures with facilities.

OAC 340:110-1-10 is amended to clarify division practice when recommending a denial of application or revocation of license.

OAC 340:110-1-10.1 is amended to clarify division practice regarding referrals to the licensing records office regarding child welfare investigations.

OAC 340:110-1-13 is amended to clarify division practice regarding unlicensed investigation documentation.

OAC 340:110-1-14 is amended to clarify division practice regarding release of public information.

OAC 340:110-1-20 ITS are amended to clarify division procedures regarding approval for employee training.

OAC 340:110-1-43 is amended to clarify procedures regarding referral of facilities to local city officials.

OAC 340:110-1-43.1 is amended to reflect addition of new division forms.

OAC 340:110-1-44 is amended to clarify division practice.

OAC 340:110-1-45 ITS are amended to clarify division practice regarding withdrawal of applications.

OAC 340:110-1-46 is amended to clarify division practice.

OAC 340:110-1-47 is amended to reflect clarifications to division practice regarding on-going monitoring, change in executive director and change of address procedures when a facility is in inactive status.

OAC 340:110-1-47.1 is amended to clarify division practice and complaint overviews.
OAC 340:110-1-47.2 is amended to clarify division practice regarding non-compliances and office conference procedures with facilities.

OAC 340:110-1-51 ITS are amended to clarify division practice regarding out-of-state background investigations and clarify other division practices.

OAC 340:110-1-54.1 is amended to clarify division practice regarding unlicensed investigation documentation.

OAC 340:110-1-55 ITS are amended to clarify division practice regarding release of public information.

OAC 340:110-3-37 is amended to reflect consistent language with other policy sections.

OAC 340:110-3-222 is amended to reflect consistent language with other policy sections.

OAC 340:110-5-8 is amended to reflect corrected policy citation formatting.

Original signed on 5-11-11

Lesli D. Blazer Director
Oklahoma Child Care Services

Sandra Harrison, Coordinator
Office of Intergovernmental Relations and Policy

WF # 10-14 (NAP)
INSTRUCTIONS FOR FILING MANUAL MATERIAL

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

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

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340:110-1-4. Roles and responsibilities

Revised 7-1-11

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

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

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

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

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

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

4. facilitate or sponsor training for child care providers; and

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

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

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

INSTRUCTIONS TO STAFF 340:110-1-4

Revised 7-1-11
1. (a) The county director’s responsibilities in relation to local licensing staff are to:

   (1) provide office space, equipment, supplies, computer technical support, and clerical support;

   (2) include licensing in staff meetings when subjects relating to policy and procedure are discussed; and

   (3) assist in disciplinary actions and hiring of new staff.

(b) Oklahoma Child Care Services (OCCS) State Office staff provides consultation for licensing field staff on interpretation of the Oklahoma Child Care Facilities Licensing Act, Oklahoma Department of Human Services policy, licensing requirements, and other child care services. The statewide licensing coordinator, assistant licensing coordinator, and regional programs managers provide technical assistance for licensing field staff on case actions, legal actions, and complaint investigations. OCCS State Office staff meet regularly with licensing field staff in supervisory, regional, and statewide meetings to obtain input from the field, clarify policies and requirements, and provide training.

2. Staff teaching at a college or a technology center must complete Form 11AD042E, Request for Approval of Other Employment, and follow policy per OAC 340:2-1-8. Restrictions for providing training, formal teaching, and Child Development Associate (CDA) involvement are identified in (1) through (3) of this paragraph.

   (1) Staff are restricted from accepting payment from child care providers.

   (2) While teaching at a college or technology center, staff need to explain they are not acting in the role of a licensing specialist or representing OCCS. Questions regarding licensing or enforcement are addressed by the student’s licensing specialist. Staff are restricted from teaching:

      (A) anyone from a facility that they monitor;

      (B) classes on facility premises; and

      (C) during work hours without taking approved leave.
(3) **Staff providing CDA services are restricted from:**

(A) observing or providing consultation on-site to a facility if they are teaching a CDA or Child Development block course; and

(B) being a CDA advisor for someone on their caseload.

3. Some examples of methods to increase community awareness are newspaper articles, participation in Week of the Young Child, speaking to local organizations, and displays at community events.
340:110-1-4.1. Forms

Revised 7-1-11

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 the 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.

(58) **Form 07LC107E, Child Care Restricted Registry Notice.** Form 07LC107E is used as additional notification to facility employees and residents of the Child Care Restricted Registry registration process.
340:110-1-5. Inquiries

Revised 7-1-11

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

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

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

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

(b) **Tribal facilities.** Child care facilities on Indian tribal land do not require a state license but may request licensure.

1. Facilities that are licensed by a tribe with whom OCCS has a cooperative licensing agreement and that care only for Indian children do not require a state license, but may request licensure.

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

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

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

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

1. determines the necessity for a license according to Section 403 of Title 10 of the Oklahoma Statutes.

Additional exemptions for programs that are not designed or intended for child care include:

1. programs that operate less than eight weeks annually;
(B) summer programs that operate less than eight hours per day;

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

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

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

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

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

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

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

INSTRUCTIONS TO STAFF 340:110-1-5

Revised 7-1-11

1. It is not licensing staff's responsibility to have knowledge of or enforce local ordinances, but refer facilities to local officials for specific ordinance information.

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

3. Military base facilities may obtain a child care subsidy contract; however, they must be a one star plus level or higher. Staff responsible for the star program coordinate this with contracts. These facilities receive a license number unique to this circumstance.

4. To determine exemptions from the Oklahoma Child Care Facilities Licensing Act, licensing staff refers to Section 403(A)(8) of Title 10 of the Oklahoma Statutes to determine whether the program is "designed or intended for child care."
(1) Exemptions include programs serving children three years of age and older offering elementary education in grades kindergarten through third grade. Home schooling is considered a private school and is exempt, including children three through five years of age. If licensed and home schooling is only a part of their program, all requirements must be met, including capacity. Home schooling of the caregiver's children or others, during the hours of child care is not considered other employment.

(2) A school-age program that operates two hours per day after school, during school holidays, and/or parent teacher conferences, but not during the summer months is exempt.
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 staffers 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 7-1-11

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
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.

11. When an application can not be approved due to a facility not meeting minimum licensing requirements, licensing staff discuss with the facility the withdrawal of their application. If a facility declines to withdraw, refer to supervisor for appropriate action. Written request from the facility for withdrawal is not required; however, licensing staff document in a letter or on Form 07LC080E:
(A) specific requirements that are not met;
(B) licensing’s request for the withdrawal of their application; and
(C) facility’s response to request for withdrawal.
340:110-1-8. Types of issuance

Revised 7-1-11

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

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

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

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

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

   A. Form 07LC004E, Request for License - Child Care Facility and proof of ownership;

   B. verification of approved director credential and required master teachers;

   C. Form 07LC002T, Staff Summary;

   D. Form 07LC041E, Staff Information - Child Care Facility, for each staff person;

   E. Form 07LC057E, Physical Plant, including drawing and calculation;

   F. verification of adequate equipment for the recommended capacity; 1
(G) documentation of fire department approval within the previous 12 months; ■ 2

(H) documentation of health approval within the previous 12 months if meals are prepared and served; ■ 3

(I) Form 07LC003E, Monitoring Report – Child Care Center, Form 07LC010E, Monitoring Report – Part-Day Children's Program, or Form 07LC023E, Monitoring Report – School-Age Program; and

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

(2) Family child care homes. The items required to be on file for issuance of a six-month permit for a family child care home are:

(A) Form 07LC042E, Request for License – Family Child Care Home and Large Child Care Home;

(B) Form 07LC086E, Staff Information - Family Child Care Home, for primary caregiver;

(C) Form 07LC086E, Staff Information - Family Child Care Home, for assistants and substitutes, prior to their employment;

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

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

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

(c) Second and subsequent six-month permits. If additional six-month permits are recommended, the procedures in this subsection are followed. ■ 4

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) daily program schedule;

(B) updated Form 07LC002T, Staff Summary;

(C) outdoor play schedule, if applicable;

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

(E) statement of completed compliance review, if applicable; 5

(F) director's references;

(G) one-week sample menu;

(H) documentation of fire department approval within the previous 24 months; 2

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

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

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

(iii) If programs are licensed for 25 or more children, approval from Department of Environmental Quality (DEQ) is required when not on a public water supply system; and 3

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

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

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

(C) updated Form 07LC002T, Staff Summary;

(D) Form 07LC020E, Equipment Inventory – Part-Day Children's Program, or 07LC024E, Equipment Inventory – School-Age Program, as applicable;

(E) statement of completed compliance review, if applicable; 5

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

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

(H) documentation of fire department approval within the previous 24 months; 2

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

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

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

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

   (iii) If programs are licensed for 25 or more children, approval of DEQ is required when not on a public water supply system; and 3

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

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

   (A) one-week sample menu;
(B) references;

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

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

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

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

(f) Evaluation and disposition.

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

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

INSTRUCTIONS TO STAFF 340:110-1-8

Revised 7-1-11

1. (a) The licensing staff explains the Equipment Inventory to the applicant and provides Form 07LC006E, 07IC020E, or 07IC024E. Facilities must have all equipment for their licensed capacity. Prior to recommending a six-month permit, the licensing staff verifies the amount of indoor basic and outdoor play equipment, but does not need to conduct a full inventory unless it appears there is not adequate play equipment for the licensed capacity. A full inventory of the play equipment must be conducted by the licensing staff prior to issuance of the license.

(b) The director may request an increase in capacity during the permit period by documenting additional equipment. The licensing staff visits the facility to verify equipment only if concerns exist.

2. If the facility is located in a community without a local fire department, the licensing staff provides the statewide licensing coordinator or designee with the facility's name, address, finding directions, and telephone number. The
statewide licensing coordinator or designee sends a request for an inspection to the State Fire Marshal. If an inspection has been made but a copy of the fire department report is not available, the licensing staff may contact the fire department by telephone to obtain verbal approval. The conversation is documented on Form 07LC080E, Licensing Services Supplemental Information.

3. (a) If problems exist with water, sewage, or waste removal, such as sewage surfacing over a septic tank, the licensing staff contacts the Department of Environmental Quality (DEQ). DEQ assesses the caregiver a fee for the inspection.

(b) If an inspection has been made but a copy of the health department report is not available, the licensing staff may contact the Oklahoma State Department of Health by telephone to obtain verbal approval. The conversation is documented on Form 07LC080E.

4. Licensing staff date subsequent permits the last day of the month of the expiring permit. The licensing staff and supervisor evaluate whether the facility has had numerous, repeated, or serious non-compliance and considers the most appropriate responses, per OAC 340:110-1-9.3. The date of this discussion is documented.

5. The compliance review is required for a new director who has no previous director experience. The review may also be used as a learning tool for a director or facility staff to review licensing requirements. The licensing staff provides the facility director with a copy of a compliance review at the initial application visit with instructions to return it when completed. The licensing staff evaluates the completed review and discusses any concerns with the director. The discussion is documented on a monitoring report and the completed compliance review is returned to the director.

6. When the licensing supervisor disagrees with the recommendation, the licensing supervisor discusses areas of disagreement with the licensing staff. The licensing supervisor makes the final recommendation.
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

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

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

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

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

5. (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. ■ 4

(c) Oklahoma State Courts Network (OSCN) search for new facilities. ■ 5

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: ■ 6

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

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

3. (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. ■ 15

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

INSTRUCTIONS TO STAFF 340:110-1-8.1

Revised 7-1-11

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. If the therapists or other service providers provide services on the premises, it is the facility's responsibility to verify these individuals have criminal background checks. If the parents sign the children in and out when they are involved in the services and services occur in unlicensed space, this removes the center from background responsibility.

4 Out of state 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.

(3) A facility may request an alternative method of compliance for out of state or out of country background checks for purposes of employment. Licensing staff or the licensing records office provides the appropriate Form 07LC061E, Alternative Compliance Request. Facilities have 30 days to obtain the background information. Requests of extensions are submitted to and approved by the licensing records office. While background information is pending, the individual is restricted from being left alone with children. Facilities must submit to the licensing records office:

(A) a completed Form 07LC096E, Criminal History Review Request, and other necessary OSBI background information;

(B) a completed Form 07LC061E; and

(C) verification of other state(s) and/or countries background request.
5. 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.

6. 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.

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

8. OKDHS system is checked for previous involvement with child welfare and adult protective services. Compare the dates of involvement with the dates of birth to verify involvement either as an adult or child. 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.

9. 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.

10. 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.
11. 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.

12. When an employee with a waiver moves to a new facility having the same owner, a new request from the new facility is required using the original waiver information.

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

14. 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.

15. 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.
340:110-1-9. Case management

Revised 7-1-11

(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

(b) Ongoing monitoring. During monitoring visits, 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 & 5
3. staff training records; ■ 6
4. Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons per OAC 340:110-1-8.1; ■ 7
5. fire and health inspections within the last 24 months, if applicable; ■ 8
6. Form 07LC092E, Insurance Verification, within the last 12 months, or posting of Form 07LC093E, Insurance Exception Notification; and
7. other documentation requiring renewal.

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

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

(d) Agreements with tribal licensing programs and other monitoring agencies. OKDHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency. ■ 9
(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. ■ 10

(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. ■ 11 When a change of address involves care provided in a location other than the caregiver's primary residence refer to OAC 340:110-1-6(a)(3).

(g) **Change in facility name.** When there is a change in facility name, licensing staff verifies there is no change in ownership, and documents the change in the case record and database. A new application reflecting the facility name change is completed. ■ 12

(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 ■ 13
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, typically the case is closed and a new application is obtained. Prior to the issuance of a permit or license, the facility must be in compliance with background investigations per OAC 340:110-1-8.1. A permit may be issued if a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements. ■ 14

(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:  

- (A) a request in writing from the provider;
- (B) a new application with updated information;
- (C) documentation that the facility meets the requirements for the requested class type;
- (D) 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.

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

- (1) the reason for the increase;
- (2) an updated floor plan on Form 07LC057E, Physical Plant, that reflects adequate indoor and outdoor space, toilets, and sinks for the increase and any changes;
- (3) fire department approval of any space not previously inspected;
- (4) health approval of any additional food preparation space not previously inspected;
- (5) an updated Equipment Inventory 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. ■ 17

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

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

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

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

(5) Licensing staff visits the inactive facility at least once a year to verify compliance with licensing requirements until closure is final. ■ 18

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

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

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

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

(3) If care has not been provided for more than 12 consecutive months, licensing staff sends a letter to notify the owner of case closure unless OCCS is notified within 10 days of receipt of letter.
(4) The family child care home and large child care home is closed and must reapply and be approved for a license prior to resuming care, per OAC 340:110-1-6.

(p) **Response to a child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement. ■ 19

(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. ■ 20

(r) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E, Licensing Services Supplemental Information, is completed and the data system is updated. A letter to include a copy of Form 07LC080E is provided to the facility. ■ 21

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

Revised 7-1-11

1. **Monitoring visits.**

   (1) **Staff safety.** Safety concerns regarding facility monitoring are staffed with a supervisor for appropriate action. Appropriate action may include the utilization of a witness and/or coordination with law enforcement officials.

   (2) **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.

(3) Frequency of visits.

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

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

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

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

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

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

(4) 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. 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.

(2) facilities with limited hours of operation such as weekends or evenings
are only made during their hours of operation, unless complaint allegations require other observation times or concerns exist. Varying times of visits are not required. Specific hours of operation are documented in the case record.

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;

   (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;

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

       (D) monitors vehicles annually and when concerns exist.

   (3) when visiting a child care center, part-day, or school-age program, monitors vehicles, when available, during routine monitoring visits.

4. Licensing maintains facility staff sheets in the case file for one year after their employment has ended. Staff sheets must be purged for public viewing. Licensing staff verifies documentation of non-registration on Child Care Restricted Registry on applicable persons per OAC 340:110-1-10.1.

5. Document employee Social Security name changes on 07LC080E and attach to the staff sheet. If the director's name changes, also notify the Center for Early Childhood Professional Development due to implications with the director credential.

6. 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.

7. Computer checks.

(1) Annual computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on all adults who sign Form 07LC042E, Request for License – Family Child Care Home and Large Child Care Home, and on the owner of a child care center, part-day children's program, or school-age program. These are checked on the computer by date of birth and Social Security number.

(2) Annual docket searches of the Oklahoma State Courts Network (OSCN) 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) Review of annual OKDHS computer and OSCN searches are required only from the last date of annual review.

(4) While documentation of the OKDHS computer and OSCN check is filed in the confidential section of the facility's case, copies of the searches are not required unless new information is found. All other searches are filed
in public viewing and meet public inspection requirements per OAC 340:110-1-14.

8. Licensing views on-going fire and health inspections and copies are not required for the case file. If the inspection has licensing violations, document this as a non-compliance. A copy is only needed if problematic.

9. 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.

10. 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.

11. 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 owner 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.

(6) When a child care center, part-day, or school-age program has a change in address, current employees do not acquire a new employment date or a new background check.

12. 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.

13. When requested, directors are provided a copy of the waiver letter that is required to be posted.

14.(a) Changes of ownership are staffed with regional programs managers for appropriate action.
(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.

15. 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.

16. 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.

17. 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 being 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.

18. A full visit is conducted 12 months from the last full visit not from the time the facility was considered inactive.

19. 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.

20. 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.

21. Only owners, directors, or primary caregivers of a facility can self-report. If other facility employees self-report non-compliances, it is considered a complaint.

(1) Form 07LC080E is not maintained in the facility's compliance file; however, the letter is maintained in the facility's compliance file and states:

(A) date of the report;

(B) description of the non-compliance;
(C) facility’s plan of correction;

(D) Form 07LC037E, Notice to Comply, if applicable; and

(E) states "a self-reported serious non-compliance may be considered when reviewing the case for a negative action or a stars reduction."

(2) 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.

(3) If required, a follow-up visit is entered as "other contacts" on the data system.
340:110-1-9.1. Certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities

Revised 7-1-11

(a) **Purpose.** Certification is the process through which Oklahoma Child Care Services (OCCS) licensing staff documents that a child care facility meets certification requirements for a child with disabilities. □1

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

(2) To qualify for the higher rate the:

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

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

   (C) child must be receiving benefits from at least one of the sources in this subparagraph.

   (i) Supplemental Security Income (SSI) benefits.

   (ii) SoonerStart, early intervention program for children birth to age three.

   (iii) Special Education Services, public school program for children ages three and older.

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

(1) Upon receipt of Form 08AD006E, Certification for Special Needs Child Care Rate, the licensing staff contacts the facility by phone within five working days when a monitoring visit has been made in the last four months. When a monitoring visit has not been made within the last four months the licensing staff visits the child care facility within ten working days. □2

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

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

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

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

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

(i) The center director and at least one person who works directly with the child must receive training. It is preferable that all staff persons who work with the child are trained. 4

(ii) As staff changes occur, a new director or new staff persons who work directly with the child must obtain training within six months of that assignment.

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

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

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

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

(A) the needs of the child change; or

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

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

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

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

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

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

(1) Periodic monitoring visits. During periodic monitoring visits, the licensing staff completes Form 07LC008E and verifies that certification requirements are met, including:

(A) the enrollment status of the child;

(B) staff present with first aid and CPR training;

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

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

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

(2) Violations. All violations observed are documented on page 4 of the monitoring
report, and a plan of correction is developed with agreed-upon time frames for correction of violations. If there are serious or ongoing violations of certification requirements, a letter is sent to the operator documenting the violations and plan of correction, and a copy is sent to the parent(s) of the child with special needs who is affected by the violation(s).

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

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

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

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

4. A request for an administrative review must be submitted in writing by the facility to the statewide licensing coordinator or designee within seven calendar days of receipt of the letter. An administrative review is conducted within ten calendar days of receipt of the request.

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

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

7. A provider may reapply for certification when compliance with certification requirements has been reestablished.
INSTRUCTIONS TO STAFF 340:110-1-9.1

Revised 7-1-11

1. Military child care facilities that have an Oklahoma Department of Human Services (OKDHS) subsidy contract, may be certified even though they may not be licensed. All other certification criteria is required.

2. Form 08AD006E, Certification for Special Needs Child Care Rate, is completed and signed with any discussion recorded on the monitoring report.

3. (a) Consultation may be provided by a health professional, a child guidance specialist, a SoonerStart provider if the child is under three years of age, a public school teacher familiar with that child, a Head Start Disabilities Services Coordinator, or a consultant through the Center for Early Childhood Professional Development.

   (b) If the on-site consultation will delay the approval for certification by more than 30 days, the provider may be approved for certification prior to the on-site consultation criteria being met if a reasonable plan of correction has been documented in writing. The provider’s attempts to schedule the on-site consultation are documented by licensing staff on Form 07LC080E, Licensing Services Supplemental Information.

4. This training may have been obtained earlier as this training is required only one time and does not need to be current. Licensing may encourage more current training.

5. If licensing staff receives information that the needs of the child as recorded on Form 08AD006E have changed, licensing staff documents the information on Form 07LC080E and notifies Family Support Services Division of the change. If the category of disability on Form 08AD006E increases, a new on-site consultation must be completed.

6. If a facility is certified to provide care to a large number of children, the licensing staff may review certification requirements at a time other than a periodic monitoring visit.

7. If a child leaves a facility and returns within six months, a new Form 08AD006E is not completed, unless the care needs of the child have changed. A visit to the facility is made within ten days to verify that certification criteria
continue to be met.
340:110-1-9.2. Complaint investigations

Revised 7-1-11

(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.

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

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

   (4) updates and closes the complaint tracking screen.

(l) **Use of Notice to Comply.** When a 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.** Facility owners, directors, or primary caregivers may submit a written request for a summary of the facts used to evaluate and determine the licensing complaint findings.  ■ 7

(n) **Complaint overview.** Licensing staff complete an overview of completed complaint investigations on Form 07LC080E. This overview provides a summary of the
INSTRUCTIONS TO STAFF 340:110-1-9.2

Revised 7-1-11

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 action 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, even if the activity occurred when children were not in care. 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 discussed with the complainant. The complainant is referred to the facility in efforts to resolve the issue. If the complaint remains unresolved, licensing staff refer the complainant to the Office for Civil Rights.

(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, requested to complete Form 07LC037E, Notice to Comply, if applicable, 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;

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

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

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

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 and documented on the monitoring report. Should numerous, repeated, and/or serious non-compliance be observed a full monitoring visit is conducted; 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 O7LC080E 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 owner to voluntarily cease care or prohibit the alleged perpetrator from any contact with children pending the outcome of the investigation. The owner is advised of the possibility of an injunction or Emergency Order if the owner 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. After initiating the complaint, licensing staff must continue to make progress with the investigation in efforts to complete it as soon as possible.
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) When a non-compliance other than the original complaint allegation(s) is identified, staff document non-compliances:

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

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

(C) in the plan of correction.

(2) When a specific allegation within a key word is unsubstantiated, but a different non-compliance(s) within a key word category is identified, staff unsubstantiate the specific allegation and document the new non-compliance. Confirm understaffing even if understaffing is in an age group that is different than the allegation. Document this circumstance as in (1) of this Instruction.

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

(4) 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.

(5) 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.

(6) 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
7. When requested in writing, the written 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. Child Welfare reports are identified as an agency document. Supervisor approval is necessary before providing the written summary to the facility.

8. The overview is used for review by supervisors and state office personnel and includes:

   (1) number of persons interviewed and their relationship to the facility;

   (2) observations regarding the allegations;

   (3) documents and records reviewed; and

   (4) information used to determine the findings.
340:110-1-9.3. Non-compliance with requirements

Revised 7-1-11

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

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

3. 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 caregiver's efforts to mitigate the risk. Serious non-compliances are identified through licensing observations, confirmed complaint investigations, and/or self-reported incidences. Some examples of non-compliance that may be considered as serious are:

(A) staff-child ratio;

(B) supervision of children;

(C) 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. 

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

   (C) A Notice to Comply is completed if one addressing these issues has not been completed recently.
(9) **Consent agreement.** OKDHS and the owner 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 owner is asked to voluntarily cease caring for children.

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

(e) **Case management responses when children are at risk.** 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 owner is asked to discontinue child care until the non-compliance is corrected or the investigation is complete.

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

(4) 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 owner 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 7-1-11

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. Due dates of corrections are realistic. The following statement may be utilized when facilities are not meeting their plan of correction timeframes: "The facility continues to be in non-compliance without an acceptable plan of correction." Discuss concerns with the regional programs manager or assistant licensing coordinator.


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

Revised 7-1-11

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

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

(1) When the recommendation is approved by the 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 owner. The director of Child Care Services or designee has final approval of the revocation or denial.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) an Emergency Order is requested; or

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

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

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

(6) When OKDHS denies or revokes a facility's license, the responsible entity 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 owner 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 7-1-11

1. Denial and revocation letters for family child care indicate the denial or revocation is for both a Family Child Care Home and a Large Child Care Home.

2. The assistant statewide licensing coordinator will determine if a licensing summary will be written by the licensing staff and submitted with the case record. The licensing summary contains a detailed summary of monitoring visits, complaints, correspondence, and office conferences conducted with the facility. The summary is considered a priority and the time frame for completion is established by the 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 along with the case record to the RPM and statewide licensing coordinator.

3. A complete copy of the case record is maintained in the Human Service Center.
4. 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;

   (6) OKDHS Office of Communications; and

   (7) the child care resource and referral organization.

5. 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

Revised 7-1-11

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

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

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

(3) any individuals age 18 years or older, prior to their residence in a 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, nolo contendere, no contest, or a conviction for the following felony 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, nolo
contendere, no contest, or a conviction within the five-year period preceding the application date for licensure, prior to employment and residence, for the following felony offenses:

(A) domestic abuse;

(B) a drug-related offense; or

(5) an individual required to register pursuant to Sex Offender Registration Act or Mary Rippy Violent Crime Offenders Act. ■ 2

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

(1) registrant, licensing documents contact with owner on Form 07LC080E, Licensing Services Supplemental Information, regarding their registration. ■ 3

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

(d) Restricted Registry search for child care facility owners, employees, and residents. For individuals identified in (a)(1)-(4), 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. Licensing staff notifies the licensing records office upon receipt of substantiated or confirmed findings when the abuse or neglect occurred to children while in the care of a child care facility. ■ 4 The licensing records office verifies appeal status before requesting investigation information from licensing for potential registrants identified in (a)(1)-(4). ■ 5 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), and waiver process is complete, 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.

(1) Criteria considered for registration includes the:

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

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

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

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

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

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

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

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

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

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

(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 is 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 7-1-11

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. (a) Upon completion of a child welfare investigation, licensing requests the following information from child welfare:

   (1) **04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Services;**

   (2) **Report to the District Attorney; and**

   (3) **04KI019E, Notification Concerning Findings of Child Abuse/Neglect, for reports for all alleged perpetrators containing substantiated findings.**

   (b) Licensing staff emails the licensing records office at OCCSRestrictedRegistry@okdhs.org and provides:

   (1) the date of **Form 04KI019E, Notification Concerning Findings of Child Abuse/Neglect;**
(2) child welfare referral number;

(3) perpetrator's name, address, birth date, Social Security number; and

(4) facility name, address, and license number.

(c) Office of Client Advocacy (OCA) forwards investigations of abuse or neglect to the OCCS programs manager.

(d) The licensing records office tracks the status of the appeal process. Children and Family Services Division (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 7-1-11

(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).  All case staffings and discussions of case actions are documented on Form 07LC080E, Licensing Services Supplemental Information, and maintained in the case file.

INSTRUCTIONS TO STAFF 340:110-1-13

Revised 7-1-11

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. Concerns regarding staff safety are discussed with the supervisor to determine if utilization of a witness and/or law enforcement is appropriate.

2. When information is received from the person providing unlicensed care it is 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 must cease care. A visit will be made to the facility within three facility business days.

3. Other complaint allegations are not addressed if the facility is not providing care or is exempt from licensing. If exempt care is provided, request a written statement verifying their operating hours. If the facility is pursuing a license then all allegations are investigated.

4. If applicable, documentation of non-compliances includes "the facility does not have a license as required by law." This is documented in the area of "additional non-compliances" section with the added written notation of "necessity and issuance of a license."

5. If the facility is exempt due to relative care, no further verification is required unless concern exists or there is a history of providing unlicensed care. Documentation includes the names and relationship of children present. Concerns are staffed with the supervisor. If additional complaints are received, request parent names for interviews to verify relationship.
6. **If the unlicensed facility is advertising only and has no children in care, application procedures per OAC 340:110-1-6 are followed.**

7. 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.

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

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

10. **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.

11. **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.

12. **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 7-1-11

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

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

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

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

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

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

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

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

(ii) **Release of information over the telephone.** Information on public view may be released over the telephone, including completed complaint information. If more information is requested, the file may be viewed at the county office. ❄️ 4

**INSTRUCTIONS TO STAFF 340:110-1-14**

Revised 7-1-11

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

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

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

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

   (C) 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;

**(D)** any criminal history investigation report regarding a juvenile;

**(E)** 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;

**(F)** information regarding a child with a disability;

**(G)** name and identifying information of a complainant;

**(H)** documents containing staff salary information;

**(I)** Social Security, federal identification, Internal Revenue Service information, and employee identification numbers;

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

**(K)** 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;

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

**(M)** 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

**(N)** 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.

**(2)** Confidential information is protected by:

**(A)** 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

(B) 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.

4. Completed complaint information that may be released includes:

(1) complaint keywords;

(2) complaint findings; and

(3) the number of complaints received within a specific time period.
340:110-1-20. Professional development of OCCS staff

Revised 7-1-11

(a) Licensing staff training. All Oklahoma Child Care Services (OCCS) licensing staff are required to receive job-related training on an annual basis. This includes the new worker licensing training required for all new licensing staff. An annual training plan is developed for each employee with the employee's supervisor. ■ 1

(b) Professional development of OCCS staff. OCCS may award scholarships for coursework leading to a master's degree in early childhood education at an Oklahoma public university. The program may be discontinued at any time based on unavailability of funding.

(1) Scholarships are awarded to employees based upon supervisory recommendation and selection by the OCCS Education Assistance Committee. ■ 2 Preference is given to staff who have three years of Oklahoma Department of Human Services (OKDHS) employment.

(2) Applications are not accepted for participants while in probationary status or a trial period or during any level of corrective discipline. Once approved, any continued participation is based upon supervisory approval, satisfactory job performance appraisal, and OCCS Education Assistance Committee approval.

(3) Participation is limited to two courses per semester per person.

(c) Scholarship requirements.

(1) Mandatory service requirement. The OCCS Education Assistance Committee establishes conditions of a mandatory service requirement for participants in the scholarship program. The service requirement is included in a written contract between OCCS and the participant.

(2) Grade report. At the end of each semester, scholarship recipients submit a copy of their grades to their supervisor and to the OCCS Education Assistance Committee.

(3) Reimbursement requirement. Exceptions to the reimbursement requirement may be granted, at the discretion of the OCCS Education Assistance Committee, for serious illness, injury, or a personal situation requiring the recipient to withdraw from school. The OCCS Education Assistance Committee specifies and includes the terms of reimbursement in a contract between OCCS and the participant. Unless an
exception is granted by the OCCS Education Assistance Committee, reimbursement to OKDHS for the cost of tuition, books, fees, and other expenses incurred is required and a recipient is not permitted to enroll in further courses until the debt is paid in full when a recipient:

(A) withdraws from a class;

(B) earns a grade below "C" in any class;

(C) receives a grade of "incomplete" that is not converted to an acceptable grade during the next semester; or

(D) is removed from the program by the university.

(4) Use of leave. With supervisory approval, scholarship recipients may use educational leave up to 160 hours per year. Such requests are submitted and approved in accordance with OKDHS:2-1-42. Attendance at night or weekend classes does not qualify the recipient for compensatory time.

(5) Application. Applications and supporting documentation for the scholarship program are submitted within the designated time frames. Upon scholarship award, a contract is signed by the recipient to indicate an understanding of and commitment to the scholarship requirements.

INSTRUCTIONS TO STAFF 340:110-1-20

Revised 7-1-11

1. (a) New worker training for new licensing staff. All new licensing staff are enrolled in the next available new worker training following their assignment to Oklahoma Child Care Services (OCCS), Licensing Services (Licensing). Knowledge and skill competencies presented in the new worker training are foundation level skills that are needed by all licensing staff regardless of prior education or experience. New worker training includes classroom, field placement practicum, and on-the-job training as determined by a licensing training specialist, statewide licensing coordinator, the licensing regional programs manager, and the licensing supervisors. It is completed within 12 months of employment and is documented on Form 07LC068E, Licensing Specialist Training Checklist. The training checklist is completed by the licensing staff and licensing supervisor. Supervisors evaluate the new worker's ability to assume responsibility for cases during new worker training, assigning first family child care homes, then child care centers, school-age
programs, and part-day programs. New worker training consists of the major categories of training listed in (1) through (7) of this Instruction.

(1) New worker overview. New worker overview is designed to familiarize new licensing staff with a history, philosophy, and review of the licensing law. Participants are introduced to administrative staff from OCCS who explain their roles and responsibilities.

(2) Family child care home review. This training includes observation of family child care home monitoring visits with a fully trained licensing staff, a review of Licensing Requirements for Family Child Care Homes and Large Child Care Homes, Oklahoma Department of Human Services (OKDHS) publication no. 86-104, and a review of related rules, policy, and forms. Initial visits conducted by new staff are observed by experienced licensing staff and supervisors. The licensing supervisor reviews and discusses the completed monitoring reports with the worker.

(3) Child care center review. This training includes observation of child care center monitoring visits with a fully trained licensing staff, a review of licensing requirements for child care centers, school-age programs, and part-day children's programs, and a review of related rules, policy, and forms. Initial visits conducted by new staff are observed by experienced licensing staff and supervisors. The licensing supervisor reviews and discusses the completed monitoring reports with the worker.

(4) Complaint investigations. This training reviews the process of receiving, prioritizing, and investigating complaints of licensing violations. It includes information on responding to allegations of child abuse and neglect, criminal activity, and the investigation of unlicensed facilities.

(5) Review of work tasks. This review provides staff with general information regarding:

(A) receiving and responding to inquiries;

(B) office procedures;

(C) letters to facilities;

(D) case management;
(E) assisting the public with child care referrals, including the preparation of cases for public viewing;

(F) technical assistance and consultation;

(G) community involvement and public awareness activities;

(H) contacts with related agencies such as fire and health departments, Child Care Food Program, resource and referral agencies, and training sponsors; and

(I) certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities.

(6) Computer training. Office automation training includes the basic skills necessary to use the word processing program and specific computer training on licensing input documents and reports.

(7) Stars training. This training reviews OAC 340:110-1-8.3 on the certification of facilities to receive a differential quality rate.

(b) Training for new licensing supervisors. The training requirements for new supervisors are listed in (1) and (2) of this subsection.

(1) Within the first year of employment in a supervisory position, new supervisory staff attends the Supervisor Academy offered through OKDHS to obtain training in leadership and management skills.

(2) Regional programs managers ensure that supervisors receive training in specific knowledge and skills required of a licensing supervisor, including:

(A) roles and responsibilities;

(B) case review process;

(C) consultation with licensing regional programs managers;

(D) staff field observation;

(E) conducting staff meetings and office conferences;
(F) utilizing computer reports to track caseloads;

(G) training new staff;

(H) use of a licensing specialist III; and

(I) community relations.

(3) Within the first two years of employment in a supervisory position, licensing supervisors serve as members of a quality assurance audit team.

(c) Licensing staff annual training requirements. The annual training requirements for licensing staff are described in (1) through (4) of this subsection.

(1) Licensing staff. In addition to new worker training, licensing staff completes a minimum of 40 hours of job-related training annually. This includes at least one specialized licensing workshop through OCCS. OCCS provides information to staff throughout the year on relevant conferences, workshops, and videotapes.

(2) Supervisory staff. Division staff with supervisory responsibility completes a minimum of 40 hours of job-related training annually. Of this 40 hours, 20 hours is approved supervisory and management training hours as required for all OKDHS supervisors per OKDHS:2-17-2.

(3) OCCS staff without supervisory responsibility. All State Office OCCS staff without supervisory responsibility complete a minimum of 40 hours of job-related training per individual evaluation year.

(4) Clerical staff. Clerical staff assigned to and supervised by licensing staff and OCCS completes 16 hours of job-related training per individual evaluation year.

(5) All OCCS staff are required to attend mandated training as determined by OCCS State Office.

(d) Qualified training courses. The training described in (1) - (5) of this subsection counts toward the annual training hour requirements.
(1) Licensing training. All licensing new worker training, specialized ongoing training, rules and policy training, and the annual statewide licensing conference offered through the licensing training program as well as any training determined mandatory for licensing staff are considered job-related and count toward training hour requirements.

(2) Staff meetings. Portions of staff meetings devoted specifically to formalized training qualify as job-related training if they exceed one hour in length. Review of various documents such as memorandums, statistical reports, case reviews, and project updates are considered program maintenance and do not count as training.

(3) Quality assurance audit participation. Hours spent participating on a quality assurance audit team provide a review of rules, policy, procedures, and requirements, and are approved as supervisory and licensing training.

(4) Other training courses and workshops. Training courses and workshops approved by the licensing supervisor as job-related count toward meeting the training hour requirement. Other approved sources for training include, but are not limited to:

(A) SATTRN broadcasts for staff or child care providers;

(B) the OKDHS Center for Professional Development;

(C) the Office of Personnel Management;

(D) early childhood conferences or seminars;

(E) the Center for Early Childhood Professional Development (CECPD); and

(F) job-related college or university courses.

(5) External training approval procedures. Staff are encouraged to attend trainings for facilities when offered in their areas. External training requests require supervisor approval based upon workload, amount of training already received, and relevance of the training to the staff’s professional development. If training is approved, staff are eligible for mileage and work week adjustment, if applicable. OKDHS training codes
are not available for trainings not offered through OKDHS. Staff register for trainings with:

(A) CECPD by indicating on the training registration, "fee waived per CECPD"; and

(B) other OCCS approved voucher conferences by using the license number K8999999 on the registration. Staff are responsible for paying and filing reimbursement for additional conference registration over the value of the voucher.

(6) Request for any other external training is submitted to state office along with training information, including cost, date, and topic information. Request is reviewed by statewide licensing coordinator for approval.

(e) Staff meetings. Staff meetings are designed to share information, keep lines of communication open, and maintain a support system for staff. The licensing training and policy specialist staff from OCCS are available to attend staff meetings to provide specialized training or updates on policy, licensing requirements, and federal funding initiatives.

(1) Supervisory staff meetings. All supervisors and licensing regional programs managers meet on at least a quarterly basis with the statewide licensing coordinator and OCCS. Supervisors may meet in smaller groups by area to discuss specific cases and areas of concern.

(2) Local staff meetings. Individual supervisors meet with their staff or join with another supervisory group on at least a quarterly basis.

(f) Specialized ongoing training. Specialized training that addresses licensing issues is offered throughout the year and is appropriate for experienced workers and new workers who have completed new worker training. Participation in specialized workshops is determined through needs identified in discussion between the licensing staff and the immediate supervisor. Workshops may be adapted to address the specific needs of a supervisor and his or her staff. Primary responsibility for scheduling and facilitating the workshops is with the licensing training specialist who utilizes other staff and professionals with proven experience and expertise in each area of knowledge. Topics include:
(1) complaint investigations. This training reviews in depth the process of receiving, prioritizing, and investigating complaints of licensing violations. It includes information on responding to allegations of child abuse and neglect, criminal activity, and the investigation of unlicensed facilities;

(2) interviewing. This training emphasizes basic interviewing skills, with special consideration given to interviewing children;

(3) enforcement strategies. This course reviews the skills, methods, and strategies needed to effectively enforce licensing requirements, including:

   (A) how to write clear and detailed documentation for the case record;

   (B) the process of evaluating situations and determining a course of action;

   (C) the use of a plan of correction, non-compliance letter, and Form 07LC037E, Notice to Comply; and

   (D) how to conduct an effective office conference;

(4) influencing quality of care. This training reviews opportunities to influence the quality of care including:

   (A) consultation with providers;

   (B) consultation with parents seeking child care or filing a complaint;

   (C) community presentations and displays;

   (D) media contacts;

   (E) facilitating or offering training; and

   (F) involvement in professional organizations;

(5) child development overview. This training includes an overview of normal child development, birth through school-age, which will assist staff in consulting with child care providers regarding age-appropriate behavior, guidance techniques and when to seek other resources;
(6) trends and issues in early childhood education. This training includes updates on emerging issues, such as brain development, credentialing of directors and teachers, accreditation systems, diversity issues, multi-age grouping, and kith and kin care;

(7) negative actions. This training provides the licensing staff with the skills required to evaluate the need for a negative action. The sections of rules and policy outlining the procedures required to properly prepare a case for a negative action are reviewed. Negative actions that are discussed include Emergency Order, denial of application, revocation of license, and injunctions;

(8) rules and policies review. This training provides an overview of licensing rules and policies that have been recently revised or that are more complex or problematic for staff. Participants may request inclusion of specific rules and policy sections in the training;

(9) human relations and communication skills. Understanding the relationship between licensee and licenser and strategies to better communicate and work together for a common goal is discussed;

(10) ethics. Ethical questions and dilemmas, standards of behavior for state employees, and the National Association for Regulatory Administration Code of Ethics for Regulators are reviewed; and

(11) personal safety. Methods to identify, avoid, and diffuse dangerous situations and improve the physical safety of licensing staff are addressed.

(g) Documentation of training. When training is provided by OCCS or other licensing staff, the trainer provides documentation of training or initials and dates the new worker training checklist. Licensing staff is responsible for maintaining documentation of all training received, including the date, hours of training, and content.

(h) Annual training plan. An annual training plan is completed for each staff person by the immediate supervisor and is documented on Form OPM-111, Performance Management Process. The annual training plan includes those job-related training needs identified through discussion between the staff member and his or her supervisor.
(i) Support services for licensing staff. These services are available for licensing staff upon the death or serious injury of a child in a child care facility with whom licensing has been involved or any other type of critical incident, including violence in the workplace. Debriefing services are provided promptly wherever needed across the state. The licensing supervisor or licensing regional programs manager contacts the licensing training specialist to arrange for these services.

2. OCCS Education Committee members consist of the OCCS director, statewide licensing coordinator, and three OCCS designees determined by the OCCS director and licensing coordinator.

3. The applicant submits, within the designated time frames, to OCCS, Education Assistance Committee:

   (1) a completed application;

   (2) a letter of recommendation from the applicant's immediate supervisor;

   (3) a letter from the applicant addressed to OCCS, Education Assistance Committee explaining why the applicant requests to be considered for a scholarship; and

   (4) a copy of the applicant's three most recently completed Form OPM-111.
340:110-1-43. Roles and responsibilities of licensing staff

Revised 7-1-11

(a) Licensing staff for residential child care and child-placing agencies conducts onsite visits, documents findings, provides technical assistance and consultation in the licensing staff's assigned areas, and makes recommendations on all case actions to the programs manager. The programs manager or designee is responsible for final approval of all licensing recommendations. ■ 1

(b) Official licensing records for child care programs are maintained in the licensing staff's office and are open to the public upon request.

(c) In addition to licensing facilities and agencies, licensing staff:

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

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

(3) facilitate or sponsor training for child care providers; and ■ 2

(4) coordinate with other regulatory and investigative state entities in promoting quality care in residential settings within the licensing staff's assigned area.

INSTRUCTIONS TO STAFF 340:110-1-43

Revised 7-1-11

1. (a) Based upon documented findings, the licensing staff makes recommendations on issuance and other case actions to the programs manager of Residential Licensing Services, Oklahoma Child Care Services, (OCCS). After review of the recommended case action, the programs manager is responsible for final approval of all licensing recommendations. The license is signed by the statewide licensing coordinator.

(b) Licensing staff coordinates with other Oklahoma Department of Human Services (OKDHS) employees, Children and Family Services Division, Office of Client Advocacy, the Oklahoma Commission on Children and Youth, the Office of Juvenile Affairs, and other state and local officials.
(c) OCCS provides consultation for licensing field staff on interpretation of the Oklahoma Child Care Facilities Licensing Act, OKDHS rules and policy, licensing requirements, and other services. The programs manager provides technical assistance for the licensing staff on case actions, legal actions, and complaint investigations.

2. Staff teaching at a college or a technology center must complete Form 11AD042E, Request for Approval of Other Employment, and OAC 340:2-1-8 is followed. Restrictions for providing training, formal teaching, and Child Development Associate (CDA) involvement are listed in paragraphs (1) – (3) of this instruction:

(1) Staff are restricted from accepting payment from child care providers.

(2) While teaching at a college or technology center staff need to explain they are not acting in the role of a licensing specialist or representing OCCS. Questions regarding licensing or enforcement are addressed by the student's licensing specialist. Staff are restricted from teaching:

(A) anyone from a facility that they monitor;

(B) classes on a facility premises; and

(C) during work hours without taking approved leave.

(3) Staff providing CDA services are restricted from:

(A) observing or providing consultation on-site to a facility if they are teaching a CDA or Child Development block course; and

(B) being a CDA advisor for someone on their caseload.
340:110-1-43.1. Forms

Revised 7-1-11

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 07LC089E 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.

(37) **Form 07LC107E, Child Care Restricted Registry Notice.** Form 07LC107E is used as additional notification to facility employees of the Child Care Restricted Registry registration process.
340:110-1-44. Inquiries

Revised 7-1-11

Inquiries regarding the licensing of residential child care facilities or child-placing agencies are referred to the licensing staff in whose geographical area the inquirer is located. Upon receipt of an inquiry, the licensing staff provides the inquirer with a copy of the applicable requirements and, when appropriate, refers facilities to other agencies involved in licensing residential child care facilities or child-placing agencies, such as the fire department, health department, and local city regulatory offices. When the inquirer has informed licensing they are currently providing care for children procedures in OAC 340:110-1-54.1 are followed. Licensing informs the inquirer they are not to provide care of children without permission to operate by Oklahoma Child Care Services (OCCS). When the inquirer indicates an interest in becoming licensed, the licensing staff:

1. reviews the requirements with the inquirer to help him or her determine whether the requirements can be met;
2. determines the qualifications of the inquirer to operate a facility; and
3. provides consultation to assist in the development of a residential child care facility or child-placing agency that can provide quality care.

INSTRUCTIONS TO STAFF 340:110-1-44

Revised 7-1-11

1. It is not licensing staff's responsibility to have knowledge of or enforce the local ordinances, but to refer facilities to their local officials for specific ordinance information. Referrals from within the Oklahoma Department of Human Services (OKDHS) include the name, address, telephone number, and type of care or service that will be provided. All inquiries are responded to with either written or verbal information.

2. Upon receipt of an inquiry, the licensing staff enters available information into the database.
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. 2

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

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

(d) Reopening a residential child care facility or child-placing agency. A new application must be completed when a residential facility or child-placing agency that has been closed is reopened. 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. 6

(f) Withdrawal of application. If a residential child care facility or child-placing agency applicant wishes to withdraw the application prior to issuance of 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 & 8

INSTRUCTIONS TO STAFF 340:110-1-45

Revised 7-1-11

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.
8. When an application can not be approved due to a facility not meeting minimum licensing requirements, licensing staff discuss with the facility the withdrawal of their application. If a facility declines to withdraw, refer to programs manager for appropriate action. Written request from the facility for withdrawal is not required; however, licensing staff document in a letter or on Form 07LC080E, Licensing Services Supplemental Information:

(A) specific requirements that are not met;

(B) licensing's request for the withdrawal of their application; and

(C) facility's response to request for withdrawal.
340:110-1-46. Types of issuances

Revised 7-1-11

(a) **Six-month permit.** New residential child care facilities or child-placing agencies may be granted a six-month permit. If the facility was previously licensed at another location and had a pattern of compliance, the six-month permit may be waived.

(1) A complete monitoring visit documenting compliance with critical licensing requirements must be made not longer than 60 days prior to issuance of the six-month permit. The recommendation to issue a permit is made after all forms and inspections have been completed and the facility is in compliance with all requirements, including:

   (A) criminal history investigations;
   (B) tuberculosis (TB) tests;
   (C) required number of qualified staff;
   (D) required training;
   (E) hazards indoors and outdoors;
   (F) liability insurance coverage;
   (G) fire safety; and
   (H) other areas affecting children's safety.

(2) The items required to be on file for issuance of a six-month permit include:

   (A) Form 07LC040E, Request for License – Child Placing Agency, Residential Child Care, and Children's Shelter;
   (B) proof of ownership; 1
   (C) list of current staff;
   (D) Form 07LC041E, Staff Information – Child Care Facility;
   (E) documentation of all required background investigations per OAC
(F) TB test or chest x-ray results for direct care staff;

(G) State Fire Marshal's approval for residential facilities;

(H) health department approval for residential facilities;

(I) physical plant drawing for residential facilities;

(J) compliance review questionnaire with supporting documentation;

(K) monitoring reports; and

(L) Form 07LC060E, Residential Child Care Policy and Records Check

(3) During the six-month permit period, a minimum of three monitoring visits are completed to document that all requirements are met and to observe child care, where applicable.

(b) Second and subsequent six-month permits. If additional six-month permits are recommended, the procedures in (1) through (5) of this paragraph are followed.

(1) The licensing staff consults with the programs manager prior to recommending a second or subsequent permit.

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

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

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

(5) If children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw the application for license.
(c) **License issuance.** When the licensing staff determines that the facility or agency is operating in compliance with the facility's or agency's own policy and procedures and in compliance with the licensing requirements, a recommendation is made to issue a license. Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits. A monitoring visit must be made within 30 days of the issuance date. A license is in effect unless it is revoked or the facility voluntarily closes.

**INSTRUCTIONS TO STAFF 340:110-1-46**

Revised 7-1-11

1. **Types of ownership include:**
   
   (1) sole proprietor;
   
   (2) corporation;
   
   (3) partnership;
   
   (4) limited liability company; or
   
   (5) school, faith-based, or government entity.

2. **Date subsequent permits the last day of the month of the expiring permit.**

3. **Issuing the license.**

   (1) The licensing staff submits a narrative and Form 07LC016E, Recommendation for Licensing or Certification of a Child Care Center, to the programs manager, who reviews the recommendation and approves the final disposition.

   (2) The license is mailed to the operator.

   (3) Residential programs operated by the Oklahoma Department of Human Services are issued a certificate of compliance.
340:110-1-47. Case management

Revised 7-1-11

(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;  ■ 4

   (iii) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons per OAC 340:110-1-51;  ■ 5

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

   (v) fire and health inspections within the last 12 months, if applicable; and  ■ 6

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

(c) **Change of address.** When a facility moves to a new location, licensing staff follows specific procedures to document the move. ▿ 7

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 facility or agency name.** If the licensing staff verifies there is a change in name but no change in ownership, the name change is documented in the case record and the database is updated. A new application reflecting the name change is completed. ▿ 8
(f) **Change in executive or program director.** When there is a change in director, licensing staff:

1. verifies the new director meets qualifications;
2. obtains the applicable page of Form 07LC040E, Request for License – Child Placing Agency or Residential Child Care Facility, completed by the new director;
3. notifies the new director of current employees that have been granted a waiver; and
4. documents the information on Form 07LC080E, Licensing Services Supplemental Information.

(g) **Increase or decrease in licensed capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the programs manager. When the increase involves new construction, architectural plans approved by the State Fire Marshal are submitted to licensing for approval prior to construction. If the request to increase capacity is due to additional physical space, the required documentation includes:

1. reason for the increase;
2. fire department approval;
3. health department approval of any additional food preparation space not previously inspected;
4. physical plant drawing indicating the measurements, total square footage, and number of additional children that can be accommodated; and
5. additional staff, if applicable.

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

1. A facility wanting to remain open after 90 days submits a request in writing including a statement that the owner will notify licensing when care is resumed. Licensing staff verify compliance with requirements prior to resuming care.
2. The facility is contacted by licensing staff every four months by telephone or
letter to update the facility status including changes in personnel, household members, or other facility changes.

(3) The closure is discussed with the owner and an agreement to close is reached if possible.

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

(5) Licensing staff visits the inactive facility at least once a year to verify compliance with licensing requirements until closure is final. ■ 11

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

(i) Change in ownership. If a residential program or child-placing agency assumes new ownership, the case file is closed, and the program must apply for new license under the new owner. Prior to the issuance of a permit or license, the facility must be in compliance with background investigations per OAC 340:110-1-51. A permit may be issued if a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements. ■ 12

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

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

(2) visits the facility as soon as possible, unless advised otherwise by law enforcement. ■ 13

(k) Serious incident reports. The licensing staff submits to the programs manager a report of any serious incident. A serious incident includes, but is not limited to, an incident: ■ 14

(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.

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

INSTRUCTIONS TO STAFF 340:110-1-47

Revised 7-1-11

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

(b) Staff safety concerns regarding facility monitoring are staffed with a supervisor for appropriate action. Appropriate action may include the utilization of a witness and/or coordination with law enforcement officials.

(c) 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).

(d) 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.

(e) 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.

4. Licensing maintains facility staff sheets in the case file for one year after their employment has ended. Staff sheets must be purged for public viewing.

5. Computer checks.

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. Review of annual OKDHS computer and OSCN searches are required only from the last date of annual review.

4. While documentation of the OKDHS computer check and OSCN is filed in the confidential section of the facility’s case, copies of the searches are not required unless new information is found. All other searches are filed in public viewing and meet public inspection requirements in accordance with OAC 340:110-1-55.

6. Licensing views on-going fire and health inspections and copies are not required for the case file. If the inspection has licensing violations, document
this as a non-compliance. A copy is only needed if problematic.

7. The database is updated with the new address. The statewide licensing coordinator or designee issues a new license to the facility. Current employees do not acquire a new employment date or a new background check.

8. 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.

9. When requested, directors are provided a copy of the waiver letter.

10. 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.

11. A full visit is conducted 12 months from the last full visit not from the time the facility was considered inactive.

12. Types of ownership include:

   (1) sole proprietor;
   (2) corporation;
   (3) partnership;
   (4) limited liability company; or
   (5) school, faith-based, or government entity.

13. 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.

14. 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
15. 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 7-1-11

(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. ■ 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.

(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

   (3) A complaint alleging child abuse or neglect is immediately referred to OCA with a copy of Form 07LC012E, Licensing Complaint. ■ 4 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. □ 5

(5) A complaint received from another division within OKDHS or an agency
responsible for monitoring residential child care facilities or child-placing agencies,
such as the Oklahoma Commission on Children and Youth (OCCY), OCA, or the
local health or fire department, is deemed valid if documented in writing by the
agency representative. Licensing staff determines whether the observation is a
non-compliance. The facility is advised of the report and given an opportunity to
respond.

(6) The programs manager is notified of any complaint:

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

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

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

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

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

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

(1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent
danger of serious physical injury. The level of risk is not influenced by the removal
of a child from the facility if other children remain in care. Investigations are initiated
immediately or no later than 24 hours after receipt of the complaint by the licensing
staff unless awaiting investigation by OCA or law enforcement. Examples of risk
level I complaints include:
(A) alleged physical or sexual abuse;

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

(C) distribution of drugs;

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

(E) extreme facility temperatures;

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

(G) threatening or impaired behavior of a caregiver;

(H) severe understaffing or over licensed capacity;

(I) unlicensed facility;

(J) violating an Emergency Order;

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

(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.

(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, unsubstantiated, or ruled out.

(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 complaint allegations, findings, notifies the provider in writing, and enters the complaint information on the licensing database using complaint key words.

(m) **Notice to Comply.** When a 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.** Facility or agency owners or program directors may submit a written request for a summary of the facts used to evaluate and determine the licensing complaint findings.

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

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

Revised 7-1-11

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 action 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. Staff-child ratios and supervision are documented on each visit on the monitoring report. Should numerous, repeated, and/or serious non-compliance be observed a full monitoring visit is conducted. 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 owner voluntarily cease care or prohibit the alleged perpetrator from having any contact with children pending the outcome of the investigation. The owner 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. After initiating the complaint, licensing staff must continue to make progress with the investigation in efforts to complete it as soon as possible. The licensing staff enters the findings on the data base and completes Form 07LC081E, Licensing Complaint Report Summary, using specific language that will be informative to anyone who may review the file.
(1) When a non-compliance other than the original complaint allegation(s) is identified, staff document non-compliances:

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

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

(C) in the plan of correction.

(2) When a specific allegation within a key word is unsubstantiated, but a different non-compliance(s) within a key word category is identified, staff unsubstantiate the specific allegation and document the new non-compliance. Confirm understaffing even if understaffing is in an age group different than the allegation. Document this circumstance as in paragraph (1) of this Instruction.

(3) 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.

(4) 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.

(5) 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.

(6) 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. When requested in writing, a 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 written summary to the facility.

9. The overview is used for review by supervisors and state office personnel and includes:

   (1) number of persons interviewed and their relationship to the facility;

   (2) observations regarding the allegations;

   (3) documents and records reviewed; and

   (4) information used to determine the findings.
340:110-1-47.2. Non-compliance with requirements

Revised 7-1-11

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

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

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

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

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

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

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

(c) Case management responses to non-compliant facilities. The responses in this subsection may be used when there is repeated, numerous, or serious non-compliance.

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

2. Follow-up phone call. Phone calls are documented on Form 07LC080E, Licensing Services Supplemental Information, and a copy is mailed to the facility.

3. Non-compliance letter. A non-compliance letter may be written to the operator. The licensing staff sends a copy of the monitoring report and non-compliance letter to the governing board or owner, if applicable.
(4) **Return monitoring visit.** A return monitoring visit may be made if there is repeated, numerous, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time.

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

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

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

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

   (B) If the operator does not submit the response to Form 07LC037E within the specified time period, the licensing staff contacts the operator and documents the conversation. If concerns exist or the owner is uncooperative, the licensing staff sends a letter stating that failure to complete Form 07LC037E may result in revocation of license, denial of the application, the filing of an injunction, or Emergency Order.

(8) **Office conference.** The licensing staff may schedule an office conference with the owner of the facility. The programs manager is present at the office conference. Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered. The conference is documented on Form 07LC080E, which is signed by the licensing staff, the operator, and any witnesses present. This documentation includes a list of persons present, the purpose of the conference, and verification of correct documentation regarding ownership. Form 07LC037E is completed if one addressing these issues has not been completed recently.
(9) **Consent agreement.** OKDHS and the *owner* of the facility may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation.

(10) **Revocation.** The licensing staff recommends that the application for licensure be denied or license revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children. ■ 6

(11) **Voluntary cease care.** With State Office approval, the *owner* is asked to voluntarily cease caring for children.

(12) **Voluntary closure.** The *owner* is asked to voluntarily close the facility. ■ 7

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

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

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

(3) The licensing staff requests an Emergency Order when immediate action is needed to protect children in a child care facility that is on permit, licensed, on notice of revocation or denial, or operating during an appeal following revocation or denial.

(4) The *owner* agrees to enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation.

(5) The licensing staff recommends that the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children.

(6) An injunction may be requested when the residential facility or child-placing agency is:

   (A) unlicensed;

   (B) on application status;

   (C) licensed;
(D) violating an Emergency Order;

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

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

INSTRUCTIONS TO STAFF 340:110-1-47.2

Revised 7-1-11

1. When documenting non-compliance on the monitoring report, the licensing staff:

   (1) documents what is observed rather than what is needed. For example, the licensing staff writes "milk was not served with lunch" instead of "milk must be served at lunch";

   (2) discusses areas of non-compliance with the operator and documents the discussion in writing on the monitoring report;

   (3) provides a copy of the monitoring report to the operator and governing board or owner, as applicable; and

   (4) if the person in charge refuses to sign the monitoring report, documents the refusal on the report.

2. Plan of correction.

   (1) If the time period suggested by the operator for correction of non-compliance is unacceptable to the licensing staff, the licensing staff states his or her expectation and negotiates an acceptable time period. Due dates of corrections should be realistic. The following statement may be utilized when facilities are not meeting their plan of correction timeframes: "The facility continues to be in non-compliance without an acceptable plan of correction." Discuss any concerns with the program manager.

   (2) The plan of correction may include an agreement by the administrator or director to specific conditions, such as agreeing to restrict a person convicted of child abuse from the premises or agreeing not to allow certain
staff to transport children because of a prior conviction for driving under the influence (DUI). The agreement:

(A) is placed in a prominent location in the facility’s file, such as stapled inside the front cover, so it is readily seen by anyone reviewing the case record; and

(B) includes the conditions that must be complied with, but does not include confidential information; for example, the caregiver has three DUI convictions or the person restricted from the premises has a child abuse conviction.

3. Licensing staff assesses both the number and type of non-compliance observed during monitoring visits or substantiated as a result of a complaint investigation. Response is based on the seriousness of the non-compliance and the demonstrated ability and willingness of the provider to comply.

(1) The licensing staff response goes beyond documentation of the non-compliance and a plan of correction on the monitoring report when a monitoring visit involves:

(A) five or more areas of non-compliance;

(B) areas of non-compliance that have been repeated three or more times during a 12-month period; or

(C) non-compliance that is serious or places children in danger.

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

4. A non-compliance letter is sent by licensing staff within ten working days, and includes the date of the monitoring visit and the area(s) of non-compliance. If a critical non-compliance remains uncorrected at the next monitoring visit, a letter documenting both visits and a follow-up visit are required.

5. The timing of a return visit is determined by the risk level to children. A return visit does not routinely result in a change in the monitoring frequency plan. If subsequent visits require a follow-up, increased monitoring is discussed with the programs manager. When a return visit is conducted, licensing documents staff child ratios and correction of previous non-compliance on the
monitoring report. A full visit is completed if numerous, repeated, and/or serious non-compliances are observed.

6. Procedure and documentation for denial or revocation of license.

   (1) The licensing staff ensures that the non-compliance and a plan of correction are clearly documented on the monitoring report, and the facility's action to implement any previous plans of correction. It is noted on the monitoring report that failure to correct the non-compliance may result in, denial of application, revocation of license, filing an injunction, or issuance of an Emergency Order, as applicable.

   (2) The licensing staff conducts monitoring visits at least monthly to monitor compliance and the plan(s) of correction. The same witness accompanies the licensing staff on monitoring visits whenever possible.

7. Notification is documented by the licensing staff when the provider voluntarily ceases to operate until the investigation is completed or voluntarily closes the facility, or the district attorney issues an injunction.
340:110-1-51. Background investigations

Revised 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. ■ 13

(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 7-1-11

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

(5) if the therapists or other service providers provide services on the premise, it is the facility's responsibility to verify these individuals have criminal background checks.

3. (1) 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.

(2) If a Sex Offender Registry check is not available from the previous state of residence, this is documented on Form 07LC080E.

(3) A facility may request an alternative method of compliance for out of state or out of country background checks for purposes of employment. Licensing staff or the licensing records office provides the appropriate Form 07LC061E, Alternative Compliance Request, per OAC 340:110-1-9.3(g). Facilities have 30 days to obtain the background information. Requests of extensions are submitted to and approved by the licensing records office. While background information is pending, the individual is restricted from being left alone with children. Facilities must submit to the licensing records office:

   (A) a completed Form 07LC096E, Criminal History Review Request, and other necessary OSBI background information;

   (B) a completed Form 07LC061E; and

   (C) verification of other state(s) and/or countries background request.

4. The term new facility applies to a:

   (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. OKDHS system is checked for previous involvement with child welfare and adult protective services. Compare the dates of involvement with the dates of birth to verify involvement as either an adult or child. 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. **When an employee with a waiver moves to a new facility having the same owner, a new request from the new facility is required using the original waiver information.**

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.
340:110-1-54.1. Unlicensed facilities

Revised 7-1-11

(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 or child placing agency, staff conducts a full monitoring visit no later than three facility business days to assess the necessity of license.  ■ 1 through 7

(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  ■ 8

       (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, when applicable;

           (III) required health and safety training is completed, when applicable; 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. ■ 10

(c) Documentation of Findings. Following the unlicensed complaint investigation, licensing staff proceed with procedures in OAC 340:110-1-47.1(l). All case staffings and discussions of case action are documented on Form 07LC080E, Licensing Services Supplemental Information, and maintained in the case file.

(d) Procedures for investigating unlicensed out of state child-placing agencies.

(1) The licensing staff mails to the owner the licensing requirements and a letter that includes information about licensure and a request for a response within 14 days.

(2) If a response is not received within 14 days, several contacts are made or attempted to encourage the owner of an unlicensed facility to comply with the Act.

(3) If the owner fails to apply for licensure as required by the Act, the licensing staff consults with the programs manager and statewide licensing coordinator for appropriate action which could include the issuance of an Emergency Order.

INSTRUCTIONS TO STAFF 340:110-1-54.1

Revised 7-1-11

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. Concerns regarding staff safety are discussed with the programs manager to determine if utilization of a witness and/or law enforcement is appropriate.

2. Other complaint allegations are not addressed if the facility is not providing care or is exempt from licensing. If exempt care is provided, request a written statement verifying their operating hours. If the facility will be pursuing a license then all allegations are investigated.

3. If applicable, documentation of non-compliances include "the facility does not have a license as required by law." This is documented in the area of
"additional non-compliances" section with the added written notation of "necessity and issuance of a license."

4. If the unlicensed residential facility is only advertising and has no children in care application procedures per OAC 340:110-1-45 are followed.

5. When information is received from the person providing unlicensed care it is 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 must cease care. A visit is made to the facility within three facility business days.

6. 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.

7. 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.

8. An application is considered complete when:

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

   (2) supporting documentation has been provided.

9. 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.

10. 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. 1

(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. 2

(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 7-1-11
1. Oklahoma Child Care Services (OCCS) licensing staff prepares a case to be available for inspection within 24 hours of the request. Information maintained in a confidential manner and 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, Internal Revenue Service information, 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.
340:110-3-37. Necessity and issuance of license

Revised 7-1-11

(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 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 or deny an application if a licensee violates any provisions of this Act. No license is revoked or denied unless the holder of such license is given 30 days notice in writing of the grounds of 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.

(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.
340:110-3-222. Necessity and issuance of license

Revised 7-1-11

(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 deny an application or revoke a license if a licensee violates any provisions of the Oklahoma Child Care Facilities Licensing Act. No application is denied or license revoked 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.
(i) 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.

Revised 7-1-11

(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:

(1) staff who move to a new agency operated by the same organization; and
(2) parent volunteers who transport children on an irregular basis.

(g) Authorized agencies. A criminal history records search is obtained from:

(1) the Oklahoma State Bureau of Investigation (OSBI); and
(2) 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.

(1) 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.

(2) 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:
   - any criminal activity involving violence against a person;
   - child abuse or neglect;
   - possession, sale, or distribution of illegal drugs;
   - sexual misconduct; or
   - 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:
   - the type of crime or offense for which the person was convicted or a finding was made;
   - the nature of the offense(s);
   - the age of the person at the time of the offense(s);
   - 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.

(I) 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.