TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:110-1-4 through 110-1-9.3; 110-1-9.5 through 110-1-10; 110-1-14; 110-1-17 through 110-1-21; 110-1-43.1; 110-1-45 through 110-1-51; 110-1-54; 110-3-7.1; 110-3-154; 110-3-154.3; 110-3-168; and 110-5-60.

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

The revisions to Subchapters 1, 3, and 5 of Chapter 110: (1) clarify current policy and procedure to provide direction to Oklahoma Department of Human Services (OKDHS) Division of Child Care (DCC) Licensing staff who regulate and consult with residential and child care facilities in meeting requirements for licensure; and (2) improve programs and services provided to children and their families at these facilities. The existing Licensing Requirements for Child Care Centers and Requirements for Residential Child Care Programs are updated.

340:110-1-4 is amended to provide clarification regarding open records.

340:110-1-4.1 is amended to delete a form listed twice and add two new forms.

340:110-1-5 is amended to move language from another section to more logically describe the inquiry process.

340:110-1-6 is amended to delete language that was moved to another section; clarify Licensing staff responsibility regarding an initial visit to a program when children are in care; and clarify identification and ownership documentation.

340:110-1-8 is amended to clarify the information required to issue a license, including background information.

340:110-1-8.1 is amended to list an additional form now used for waiver requests; and clarify the Licensing staff and State Office responsibility regarding notification of a waiver decision.

340:110-1-8.3 is amended to clarify the requirements for a child care center director, master teacher, and home provider to meet the criteria for the Reaching for the Stars program; change the program evaluation from two to four years; define which forms are used for application and the time frame for submitting the application; and clarify Licensing staff responsibility regarding Stars monitoring visits
to parallel the required licensing monitoring visits.

340:110-1-9 is amended to reorganize the placement of information; and clarify Licensing staff responsibility regarding a change in director and processing a self-reported incident.

340:110-1-9.1 is amended to change annual consultation to annual conferences with a parent for the increased reimbursement rate for the care of children with disabilities; and clarify Licensing staff responsibilities.

340:110-1-9.2 is amended to clarify references to the licensing database and Licensing staff responsibility.

340:110-1-9.3 is amended to define “numerous, repeated, and serious non-compliance.”

340:110-1-9.5 is amended to remove misleading language.

340:110-1-10 is amended to clarify the written notice sent to a licensee upon revocation of license.

340:110-1-14 is amended to clarify confidentiality of records.

340:110-1-17 is amended to remove obsolete language.

340:110-1-21 is amended to remove obsolete language.

340:110-1-43.1 is amended to delete obsolete forms and add new forms.

340:110-1-45 is amended to clarify the responsibilities of Licensing staff when a facility is placed on application status.

340:110-1-46 is amended to describe types of ownership.

340:110-1-47 is amended to clarify responsibilities of Licensing staff regarding a facility’s name change and change in ownership; and procedures when a child’s death is due to Sudden Infant Death Syndrome.

340:110-1-47.1 is amended to update policy references.

340:110-1-47.2 is amended to clarify notation of plans of correction for existing non-compliances.

340:110-1-51 is amended to clarify the responsibility of the programs manager regarding the waiver procedure.

340:110-1-54 is amended to clarify language.

340:110-3-7.1 is amended to update qualifications for a child care center director effective January 1, 2005.

340:110-3-154 is amended to add the resident’s mental health history to the list of information required during the admission assessment; add the resident’s medical care needs to the comprehensive service plan; and require the inclusion of the resident’s individual health needs in the facility’s medical plan.

340:110-3-154.3 supersedes the emergency adopted by the Commission July 27, 2004 and is amended to require that a facility have a medical plan to meet the individual medical needs of each resident based on the information obtained upon admission.

340:110-3-168 is amended to require that a health professional review and approve the admission assessment for a resident within
24 hours.

340:110-5-60 was amended as an emergency to include language to: (1) comply with 47 O.S. 11-1112 regarding transportation of children; and (2) restrict smoking and illegal drug use and paraphernalia. No substantive revisions were made during permanent rulemaking.
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 a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS 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, DHS 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, DHS: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) 521-3611.

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340:110-1-4. Roles and responsibilities

(a) The staff members responsible for licensing child care facilities are under the supervision of Licensing Services in the Division of Child Care. 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.  ▼ 1

(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 are responsible for:

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

(2) assisting parents in identifying child care options and providing information on choosing quality care;

(3) facilitating or sponsoring training for child care providers; and

(4) promoting the availability of quality, affordable child care within their assigned area. ▼ 2

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

INSTRUCTIONS TO STAFF

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) The Division of Child Care (DCC) State Office staff provides consultation for licensing field staff on interpretation of the Licensing Act, policy, licensing requirements, and other child care services. The statewide licensing coordinator, assistant licensing coordinator, and licensing regional program managers provide technical assistance for licensing field staff on case actions, legal actions, and complaint investigations. DCC 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.

(c) The reports submitted to the statewide licensing coordinator are:

(1) Child Welfare's Priority I child abuse investigation reports with a finding of confirmed or any other investigation report that may result in legal action; and

(2) serious incident reports. See OAC 340:110-1-9(k).

2. 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

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

(1) **ADM-123, Certification for Special Needs Child Care Rate.** Form ADM-123 is used to obtain information for determining eligibility for the special needs child care rate for children receiving Supplemental Security Income (SSI), SoonerStart, or special education services.

(2) **OCC-2, Child Care Center Staff Summary.** Form OCC-2 is used to document compliance with licensing requirements for all staff currently employed by the child care facility.

(3) **OCC-3, Child Care Center Monitoring Report.** Form OCC-3 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.

(4) **OCC-4, Application for License - Child Care Facility.** Form OCC-4 is used to make application for a license to operate a child care facility, including a child care center, school-age program, and part-day children’s program.

(5) **OCC-5, Transportation Information.** Form OCC-5 is used by a child care facility director to document compliance with licensing requirements on transportation.

(6) **OCC-6, Equipment Inventory - Child Care Center.** Form OCC-6 is used to document the equipment available and items needed to comply with Licensing Requirements for Child Care Centers, OKDHS Publication no. 84-08.

(7) **OCC-7, Documentation of Training - Family Child Care Home and Large Child Care Home.** Form OCC-7 is used by a family child care home provider to document annual training as required by Licensing Requirements for Family Child Care Homes and Large Child Care Homes, OKDHS Publication no. 86-104.

(8) **OCC-7-A, Documentation of Required Training Topics – Family Child Care Home and Large Child Care Home.** Form OCC-7-A is used by a family child care home provider to document required training topics as required by Licensing Requirements for Family Child Care Homes and Large Child Care Homes, OKDHS Publication no. 86-104.
(9) **OCC-8, Periodic Monitoring Report - Certification for Care of Children with Disabilities.** Form OCC-8 is used by the licensing staff to document ongoing compliance with certification requirements during monitoring visits.

(10) **OCC-10, Part-Day Children’s Program Monitoring Report.** Form OCC-10 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.

(11) **OCC-12, Complaint Report and Complaint Summary.** Form OCC-12 is used to record a complaint against a child care facility. Form OCC-12 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.

(12) **OCC-14, Family Child Care Home Monitoring Report.** Form OCC-14 is used to document compliance with requirements during a monitoring visit to a family child care home and record other information obtained.

(13) **OCC-17, Six-Month Permit.** Form OCC-17 is a six-month temporary authorization for an applicant to operate a child care facility until a license has been issued or a formal denial notice is given to the applicant.

(14) **OCC-18, Notice of Issuance of License for a Child Care Facility.** Form OCC-18 is a notice to the child care facility that it has complied with licensing requirements and is being issued a license.

(15) **OCC-20, Equipment Inventory - Part-day Children’s Program.** Form OCC-20 is used to document the equipment available or needed to comply with Licensing Requirements for Part-day Children’s Programs, OKDHS Publication no. 95-12.

(16) **OCC-21, Comments and Recommendations RE. Licensing Requirements and Policy.** Form OCC-21 is used to make comments and recommendations pertaining to licensing requirements and policy.

(17) **OCC-23, School-Age Program Monitoring Report.** Form OCC-23 is used to document compliance with licensing requirements for school-age programs during a monitoring visit and record any other information obtained.

(18) **OCC-24, School-Age Program – Equipment Inventory.** Form OCC-24 is used to document the equipment available or needed to comply with Licensing Requirements for School-Age Programs, OKDHS Publication no. 97-10.
(19) **OCC-25, Request for Child Care Center Star Certification.** Form OCC-25 is used by a child care center owner or director to request star certification.

(20) **OCC-26, Periodic Certification Review - Center Star Certification.** Form OCC-26 is used to document compliance with criteria for star certification and to establish a plan to correct violations in a child care center.

(21) **OCC-27, Request for Family Child Care Home Star Certification.** Form OCC-27 is used by a family child care home provider to request star certification.

(22) **OCC-28, Periodic Certification Review - Home Star Certification.** Form OCC-28 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.

(23) **OCC-37, Notice to Comply.** Form OCC-37 is used by a child care facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.

(24) **OCC-38, Child Information.** Form OCC-38 is used by the child care facility to record enrollment information for a child.

(25) **OCC-41, Child Care Staff Information.** Form OCC-41 is used to record information regarding child care facility staff persons as required by licensing requirements.

(26) **OCC-42, Application for License – Family Child Care Home and Large Child Care Home.** Form OCC-42 is used to make application for license to operate a family child care home or large child care home.

(27) **OCC-57, Physical Plant.** Form OCC-57 is used by licensing staff to document the floor plan, including indoor and outdoor square footage and numbers of toilets and sinks.

(28) **OCC-61, Alternative Compliance Request.** Form OCC-61 is used by a child care facility to request an alternative method of complying with licensing requirements.

(29) **OCC-61-A, Notice of Alternative Compliance.** Form OCC-61-A is used by Oklahoma Department of Human Services (OKDHS) to notify a facility of an approved request for alternative method of compliance.
(30) **OCC-63, One Star Plus Certification Expiration.** Form OCC-63 is used by licensing staff when a one star plus facility fails to reapply for certification at 12 or 24 months.

(31) **OCC-69, Child Care Center Compliance Review.** Form OCC-69 is used by child care center directors to verify their knowledge of the licensing requirements.

(32) **OCC-71, Child Care Waiver Request.** Form OCC-71 is used by licensing staff when submitting a waiver request to State Office.
340:110-1-5. Inquiries

(a) Inquiries regarding the licensing of child care facilities are referred to the Division of Child Care (DCC) licensing staff in whose geographical area the inquirer is located. The referral includes the name, address, telephone number, and type of care the facility is giving or planning to give. Upon receipt of an inquiry, the licensing staff provides the inquirer with a copy of the applicable requirements and, when appropriate, makes referrals to other agencies involved in regulating child care facilities, such as the fire department, health department, and local city regulatory offices.  

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

(c) Inquiry records are maintained in the licensing staff's office. Inquiry information is sent to the supervisor on request. 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;
2. reviews the requirements with the individual to help him or her decide if these 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 which can provide quality care.

INSTRUCTIONS TO STAFF

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

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

3. To determine exemptions from the Licensing Act, licensing staff refers to Section 403 of Title 10 of the Oklahoma Statutes (O.S.). Licensing staff must
determine if programs are "designed or intended for child care" in accordance with 10 O.S. § 403(A)(8). Programs that are not designed or intended for child care include:

1. programs that operate less than eight weeks in the summer;
2. summer programs that operate less than eight hours per day;
3. programs where children are limited from enrolling in multiple sessions because of the type of activity or ages accepted;
4. programs where children are not enrolled by the parents and are free to come and go;
5. family child care homes that operate 15 hours per week or less; and
6. sponsors that operate two or more programs in the same building if each operates 15 hours or less per week.
340:110-1-6. Application process

(a) Application. The Division of Child Care (DCC) licensing staff provides the appropriate application to persons interested in licensure. ■ 1 If requested, a family child care home application is filed and a license issued to a caregiver and spouse. References must be obtained for both persons, and both must demonstrate compliance with requirements. ■ 2 through 4

(1) Child care provider contract. The licensing staff advises the child care facility of the opportunity to contract with OKDHS for the care of children whose families receive child care assistance. 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. ■ 5 OKDHS may contract with a child care facility in another state when a client residing near the Oklahoma border elects to use an out-of-state facility. The licensing staff responsible for the county in which the client resides verifies the facility is licensed or registered and in compliance with the Civil Rights Act by contacting the state agency responsible for licensing.

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

(3) 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. ■ 6

(4) Computer checks on license applicants. Computer checks to identify prior involvement with OKDHS are completed on all adults who 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. ■ 7 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. ■ 8 Other cases are reviewed only if concerns exist. If the provider's medical information is confidential, the licensing staff may request the information from the provider. If concerns exist, the provider is asked to sign OKDHS Form HIPAA-3, Authorization to Disclose Medical Records. ■ 9

(5) Family child care homes certified to provide foster care. A caregiver certified to provide foster care may be licensed as a family child care home. The approval for dual service is made by the licensing supervisor, based upon the
recommendation of the licensing staff and foster care worker of the child-placing agency. The decision for approval is:

(A) based upon the number, ages, and specific needs of potential child care children and foster care children;

(B) documented in the case record; and

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

(6) **Status.** The facility may be granted temporary authorization to operate on application status or on a six-month permit. The licensing staff may recommend a six-month permit when the conditions required for issuance of a six-month permit described in OAC 340:110-1-8(a) are met. If the licensing staff determines that the conditions have not been met but the non-compliance does not place children at risk of immediate harm, the facility may be allowed to operate on application status. While a child care facility is on application status:

(A) if an application has been filed and licensing staff are aware that children are in care, an initial visit must be made within two weeks;

(B) the licensing staff conducts a monitoring visit at least every two months when children are in care;

(C) contact is made by phone every two months and documented on Form OCC-3, Child Care Center Monitoring Report, page 4, when children have not been accepted into care;

(D) the procedures found in OAC 340:110-1-9.3 are followed if non-compliance with licensing requirements is observed during the monitoring visit. A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented; and

(E) the licensing staff consults with the licensing supervisor if the facility is unable or unwilling to meet licensing requirements after operating on application status for six months. ■ 10

(b) **Withdrawal of application.** If a child care facility applicant wishes to withdraw the application prior to issuance of a license and the licensing staff confirms that no children are in care, the licensing staff closes the case.
INSTRUCTIONS TO STAFF

1. (a) The appropriate applications are:

   (1) Form OCC-42, Application for License - Family Child Care Home and Large Child Care Home; or

   (2) Form OCC-4, Application for License - Child Care Facility, which is used by centers, part-day children's programs, and school-age programs.

(b) Upon receipt of an application, the licensing staff enters available information into the database and obtains a case number. For family child care home applicants, the license is issued in the caregiver's legal name as it appears on the caregiver's Social Security card as verified by Division of Child Care (DCC) licensing staff.

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

(d) If a family child care home operates as a business entity, documentation of ownership according to Appendix L-7 must be provided.

(e) For child care center applicants, proof of ownership must be provided according to Appendix L-7.

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 necessary. 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 (5) 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. The caregiver's spouse who resides at the permanent address is not required to sign the application.

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

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

(2) Licensing staff documents an explanation of this arrangement on page 4 of Form OCC-3, Child Care Center Monitoring Report.

(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.

5. Refer to OAC 340:40-13-5. The Family Support Services (FSS) county child care liaison provides training to the provider on the claims process and offers a contract to the provider. If there is information regarding a criminal conviction or fiscal mismanagement such as inaccurate reporting to Oklahoma Department of Human Services (OKDHS) or other agencies, a copy of the report is sent to the county FSS child care liaison. Refer to OAC 340:110-1-8.1(g)(3).

6. 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. Fire and Health inspections completed within the last 12 months may be used
unless there are concerns. If the facility has been closed less than one year, previously obtained director references may be used. If the facility has been closed less than one year and had a record of compliance prior to closure, the licensing staff may recommend license issuance after one compliant monitoring visit.

7. The check is run by both name and Social Security number. Documentation of the findings is filed in the confidential section of the case record.

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

9. If the provider signs Form HIPAA-3, 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.

10. The licensing staff and licensing supervisor evaluate the seriousness of the non-compliance and the risk to children to determine if the facility should be allowed more time to meet licensing requirements or if a negative sanction should be considered.
340:110-1-8. Types of issuance

(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 as a temporary authorization to operate. The primary purpose of a permit is to provide an opportunity for the Oklahoma Department of Human Services (OKDHS) Division of Child Care (DCC) 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. The licensing staff may recommend a permit when the facility is in compliance with critical requirements regarding criminal history investigations, required number of qualified staff, hazards indoors or outdoors, adequate equipment, fencing, playground safety, fire safety, or other areas affecting children's safety. The owner's previous history of licensing compliance is considered. The licensing staff observes and documents criminal history investigation reports, pet vaccinations, and other required items. Copies of these items are not needed for the file, with the exception of a criminal history report reflecting a record. A complete monitoring visit documenting compliance with critical requirements must be made not longer than 60 days prior to issuance of the 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) copy of licensing staff recommendation, LisReq;

(B) Application for License - Child Care Facility, Form OCC-4; □ 1

(C) Child Care Center Staff Summary, Form OCC-2;

(D) Child Care Staff Information for each staff person, Form OCC-41;

(E) physical plant drawing and calculation, Form OCC-57;

(F) verification of adequate equipment for the recommended capacity; □ 2

(G) documentation of fire department approval within the previous 12 months; □ 3

(H) documentation of Oklahoma State Department of Health approval within the previous 12 months if meals are prepared and served; and □ 4
(I) Child Care Center Monitoring Report, Form OCC-3; Part-Day Children’s Program Monitoring Report, Form OCC-10; or School-Age Program Monitoring Report, Form OCC-23.

(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) copy of licensing staff recommendation, LisReq;

(B) Application for License – Family Child Care Home and Large Child Care Home, Form OCC-42; ■ 1

(C) Family Child Care Home Monitoring Report, Form OCC-14; and

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

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

(A) The licensing staff consults with the licensing supervisor prior to recommending a second permit.

(B) The licensing supervisor consults with the licensing regional programs manager before recommending the issuance of a third permit.

(C) The licensing regional programs manager consults with the statewide licensing coordinator or designee before recommending the issuance of a fourth or subsequent permit.

(D) 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.

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

(G) 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.

(b) Issuance of license. A license is issued after the Oklahoma Department of Human Services (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) of this Section and has demonstrated substantial compliance with all other requirements, including entry level training requirements for child care center employees. 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. Children in care must be observed during at least one visit. A monitoring visit must be made within 60 days of the issuance date. A license is in effect unless it is revoked or the facility voluntarily closes.

(1) Child care centers. In addition to the items listed in (a)(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) copy of licensing staff recommendation, LisReq;

   (B) daily program schedule;

   (C) updated Child Care Center Staff Summary, Form OCC-2;

   (D) outdoor play schedule, if applicable;

   (E) Equipment Inventory - Child Care Center, Form OCC-6;

   (F) statement of completed compliance review, if applicable; ■ 6

   (G) director's references;

   (H) one-week sample menu;

   (I) documentation of Fire Department approval within the previous 24 months;

   (J) documentation of Health Department approval within the previous 24 months if meals are prepared and served; and
(K) Child Care Center Monitoring Report, Form OCC-3.

(2) **Part-day children's programs and school-age programs.** In addition to the items listed in (a)(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) copy of licensing staff recommendation, LisReq;

(B) outdoor play schedule, if applicable;

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

(D) updated Child Care Center Staff Summary, Form OCC-2;

(E) Equipment Inventory, Form OCC-20 or OCC-24 as applicable;

(F) statement of completed compliance review, if applicable; 6

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

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

(I) Part-Day Children's Program Monitoring Report, Form OCC-10, or School-Age Program Monitoring Report, Form OCC-23.

(3) **Family child care homes.** In addition to the items listed in (a)(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) copy of licensing staff recommendation, LisReq;

(B) one-week sample menu;

(C) references;

(D) Family Child Care Home Monitoring Report, Form OCC-14; and

(E) 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 and cooking.

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

(iii) If bacteria and lead are at safe levels, but the level of nitrates is too high, the water may be safely used for hand washing and dish washing.

(c) One-year provisional license. A provisional license may be issued for a period of one year. A subsequent provisional license may be issued at the discretion of OKDHS if an emergency exists. If the facility complies with all requirements prior to expiration of the provisional license, the licensing staff documents compliance with all requirements and submits a recommendation for issuance of a full license. A provisional license is recommended when:

1. an applicant is temporarily unable to comply with all licensing requirements but the services are needed;
   
   (A) the facility operator submits a written request for a provisional license, which contains the reason for the request and a time frame for compliance;
   
   (B) the statewide licensing coordinator or designee sends a letter to the operator approving or denying the request; and
   
   (C) a minimum of three monitoring visits are made during the provisional license period; or

2. the level of non-compliance does not support license issuance or a denial of the license;
   
   (A) the licensing staff submits a recommendation for a provisional license, including the documentation to support the recommendation;
   
   (B) the statewide licensing coordinator or designee sends a letter to the operator stating the reason for the provisional license; and

   (C) monitoring visits are conducted at least monthly and, when possible, with a witness.

(d) Evaluation and disposition.
(1) The licensing supervisor reviews the licensing staff's recommendation for case action before forwarding 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 operator on Form OCC-17, Six-month Permit or Form OCC-18, Notice of Issuance of License for a Child Care Facility.

INSTRUCTIONS TO STAFF

1. (a) Adults who sign the application in a family child care home and adults who sign the center application as owner of a child care center, part-day children's program, or school-age program are checked by date of birth and Social Security number on the computer for any previous involvement with the Oklahoma Department of Human Services that could affect their ability to meet licensing requirements. Documentation of the computer check is filed in the confidential section of the facility's case. A computer check is not completed on the facility director if the facility director is not the owner of the facility.

   (b) A docket search of the Oklahoma Supreme Court Network that includes both Oklahoma Court Information System, OCIS, and non-OCIS counties is completed on adults who sign the application, adults residing in the family child care home, and the facility director.

2. (a) The licensing staff explains the Equipment Inventory to the applicant and provides Form OCC-6, OCC-20, or OCC-24. 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.

3. 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 page 4 of Form OCC-3, Child Care Center Monitoring Report.

4. (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 OCC-3, under Supplemental Information.

5. 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.

6. 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.

7. The licensing supervisor forwards the facility's request or the licensing staff's
recommendation for the provisional license to the statewide licensing
coordinator or designee. Licensing staff consults with the statewide licensing
coordinator or designee prior to recommending a subsequent provisional
license.

8. 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.

(a) Provider. Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility arrange, prior to employment, for a criminal history investigation for:

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

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

1. new staff who have documentation of a criminal history investigation within the last 12 months;
2. staff who move to a center or program operated by the same organization;
3. contracted staff who provide transportation, lessons, or other services if facility staff are present with children at all times;
4. parent volunteers who transport children on an irregular basis; and
5. providers' children who become adults (age 18) during continuous residence at the licensed facility.

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

(d) 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 state of residence if the individual has resided in Oklahoma for less than one year. □ 2

(e) Sex Offenders Registry. The OSBI report must include a search of the Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act. According to Section 404.1 of Title 10 of the Oklahoma Statutes, it is unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. If it is determined that a facility has violated this Statute, the Department 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 Ten Thousand Dollars ($10,000); or

(5) referral for criminal proceedings.

(f) Documentation and procedure. The licensing staff provides information and the criminal history investigation request forms to licensees and persons interested in becoming licensed. □ 3

(g) Convictions. The licensing staff reviews each criminal history report. □ 4

(1) If a report includes a charge without a disposition for an offense listed in licensing requirements or which could affect contract eligibility, a copy of the disposition is obtained.

(2) If a report includes a conviction for an offense listed in licensing requirements, the licensing staff:

(A) advises the owner, director, or family child care home provider that the individual does not meet licensing requirements;

(B) informs the owner, director, or family child care home provider that he or she may request a waiver from the statewide licensing coordinator or designee unless the individual was convicted of a crime pursuant to the Sex Offenders Registration Act. See (e) of this Section;
(C) provides the owner, director, or home provider with a copy of the items considered for a waiver as listed in (h) of this Section; and

(D) documents assurance from the owner, director, or home provider that the person in question will not be employed, work with children, or be present in the home when children are in care until a decision has been made regarding the request for a waiver. See (h) of this Section.

(3) If the owner, director, or family child care home provider's criminal history report includes a conviction of fiscal mismanagement, such as embezzlement or fraud, or if there are repeated convictions that indicate a pattern of criminal activity, a copy of the report is sent to the county day care liaison.

(4) If the report contains information regarding behavior that may endanger children, a copy of police reports may be requested whether or not a conviction resulted.

(h) Waiver. The prohibition to employ a person with criminal history may be waived if requested in writing by the facility’s owner, director, or home provider. However, a waiver is not granted to any person who is required to register pursuant to the Sex Offenders Registration Act. When submitting a waiver request, licensing staff complete Form OCC-71, Child Care Waiver Request, and submit it to Division of Child Care (DCC) State Office. The decision to grant a waiver is made by the statewide licensing coordinator or designee. The decision is based on documentation indicating that the health, safety, and well-being of children will not be endangered. DCC State Office notifies the provider of the decision in writing. Licensing staff monitor any additional instructions made to the provider and verify that the waiver notice is posted in the facility. 5 Criteria considered include the:

(1) type of crime or offense for which the individual was convicted or a finding made;

(2) nature of the offense(s);

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

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

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

(6) length of time that has elapsed since the last conviction or finding;

(7) relationship of the offense(s) to the ability to care for children;
(8) evidence of rehabilitation or education activities, such as counseling, since the offense was committed;

(9) statement from the individual with the criminal history; and

(10) opinions of reliable community members concerning the individual in question.

INSTRUCTIONS TO STAFF

1. A report obtained from an Indian tribe, private agency, or through a DHS 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 and includes a check of the Sex Offenders Registry. The report must contain information obtained from the previous state of residence if applicable.

2. The licensing staff documents on Form OCC-3, Child Care Center Monitoring Report, page 4, 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.

3. (a) Prior to recommending a six-month permit or issuance of a license, the licensing staff documents review of criminal history reports for all required persons.

(b) As the facility adds individuals described in (a) of this Section, the licensing staff documents review of the criminal history reports.

(c) A copy of a clear report is not required for the licensing record. Narrative entries documenting that criminal history reports have been observed may be left in the public licensing record, but to maintain confidentiality, any reference to the contents of the report is removed from the open record.

(d) Criminal history investigation reports are maintained in a confidential manner and removed from the open record.

4. If the criminal history report contains documentation of an arrest or conviction, the licensing staff obtains a copy of the criminal history report and immediately submits it to the licensing supervisor for review.
5. A criminal history waiver request is maintained in a confidential manner and removed from the open record. The letter granting or denying the waiver may remain in the public file unless it contains information regarding a juvenile.
340:110-1-8.3. Certification of facilities to receive a differential quality rate

(a) **Purpose.** Certification is required for a provider to receive a differential quality rate for children whose families are receiving child care assistance through the Oklahoma Department of Human Services (OKDHS).

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

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

   (2) **Criteria for one star plus centers.** A center can operate on one star plus status for a total of 24 months; these months are not required to run consecutively. To be approved as a one star plus center, a center must complete and submit Form OCC-25, Request for Child Care Center Star Certification, and meet all the requirements in (A) through (E) of this paragraph. At the end of two years, the center must be approved as a two star center or return to one star status. If the new criteria cannot be met at 24 months, a facility may request an extension of time to comply as set forth in (g) of this Section.

(A) **Licensing status.** The program must have a license, provisional license, or permit and must not have a history of numerous, repeated, or serious non-compliance with applicable licensing requirements. For the purposes of star certification the definitions of numerous, repeated, or serious non-compliance listed in (i) through (iii) of this paragraph apply.

   (i) Numerous non-compliance is any monitoring visit with six or more items documented as non-compliant on the monitoring report for a facility with a licensed capacity of less than 60 or seven or more items for a facility with a licensed capacity of 60 or more.

   (ii) 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.

   (iii) Serious non-compliance is a non-compliance with licensing requirements which exposes children to conditions which present an imminent risk of harm. Some examples of serious non-compliance are violations of requirements for:

      (I) staff-child ratio;
(II) supervision of children;

(III) sleep position;

(IV) prohibited disciplinary actions;

(V) licensed capacity;

(VI) use of passenger restraints;

(VII) water activities,

(VIII) pools and other water hazards;

(IX) multiple hazards;

(X) weapons;

(XI) reporting child abuse;

(XII) prohibiting access to children by a person with a criminal record or health or behavior risk;

(XIII) administering medication to children;

(XIV) room temperatures; and

(XV) heat sources.

(B) Director qualifications.

(i) At initial start approval the director meets director qualifications as set forth by the applicable licensing requirements and must have documentation of 40 hours of training, within the last 12 months. At least 20 of those hours must be Tier II or Tier III training in administration and management.

(ii) If a new director is hired, the director must have documentation of 40 hours of training, within the last 12 months. At least 20 of those hours must be Tier II or Tier III training in administration and management.

(iii) In subsequent years, directors must have documentation of 30 hours of Tier I, Tier II, or Tier III job-related training per employment year.
(iv) In-service training such as videos and on-site staff training is counted for a maximum of six hours per year. Reading does not count for stars training.

(v) An individual may not be considered as the director of more than one facility certified as one star plus, two star, or three star unless the facilities are programs that do not operate concurrently at any given time. For an exception to this rule to be considered, a written request must be submitted by the provider and approved by the stars program manager or designee.

(C) Learning environment. The center has current weekly lesson plans appropriate for the developmental needs of all groups of children. Space for children two years of age and older is arranged in a minimum of five well-defined and equipped interest areas in each classroom to facilitate a variety of activities, which must include block building, dramatic play, manipulative play, art, and book reading. Teachers read to children a minimum of 15 minutes each day.

(D) Staff training.

(i) At initial application, center staff employed at the facility for at least 12 months and counted toward meeting the staff-child ratio must have 20 hours of Tier I, II, or III training per employment year. At application, training may be counted if training was obtained within the last 12 months or within the staff’s employment year. ■ 5

(ii) After initial approval for certification, the training criteria must be met within the staff’s employment year.

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

(iv) In-service training such as videos and on-site staff training is counted for a maximum of six hours per year. Reading does not count for stars training.

(v) Training may be counted to meet minimum licensing requirements.

(vi) The director assists teachers in selecting training that enhances their overall professional growth based upon a review of the teacher’s training record.
(E) **Parent involvement.** The center involves parents in the activities described in (i) through (vii) of this subparagraph.

(i) A written system is established and maintained daily for sharing happenings and changes in a child's physical or emotional state. This is provided to parents at least once per week. When a child enters kindergarten, a verbal system may be used.

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

(iii) Individual parent conferences are arranged for and documented at least annually and at other times as needed to discuss children's progress, accomplishments, and challenges and set goals together.

(iv) There is a parent resource area with books, pamphlets, and articles on parenting.

(v) Parent meetings with guest speakers or special events are held at least twice per year, for example, open house, brown bag lunch, family pot-luck dinners, and children's programs.

(vi) Parents are informed of the center's program by two of three methods: parent's bulletin board, newsletter, or parent handbook.

(vii) Parents participate in program and policy development through board involvement, planning meetings, or questionnaires.

(3) **Criteria for two star centers.** To be approved as a two star center, a center must complete Form OCC-25, be accredited by an approved national accrediting body, and not have numerous, repeated, or serious non-compliance with licensing requirements, or meet all one star plus criteria, and the criteria described in (A) through (G) of this paragraph.

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

(B) **Master teachers required.** There is a master teacher for every 30 children of the licensed capacity. During the second and subsequent year as a two or three star center, there must be a master teacher for every 20 children. This number does not include school-age children if the majority of children in care
are younger than five years of age. Centers licensed as school-age programs or programs where the majority of children are school-age must have a master teacher for every 40 children of the licensed capacity.

(C) **Director as master teacher.** The director may only be counted as a master teacher if the licensed capacity minus school-age children is 30 or less. The director may be counted as a master teacher in centers licensed as school-age programs or programs where the majority of children are school-age.

(D) **Master teacher qualification.** Master teachers must be at least 18 years of age and employed and on-site on a full-time basis. A person is not counted as a master teacher in more than one facility or considered a master teacher in one facility and a director of another facility unless the facilities are programs that do not operate concurrently at any given time. For an exception to this rule to be considered, a written request must be submitted by the provider and approved by the stars program manager or designee. Master teachers meet Level III or higher on the Early Childhood Education Professional Development Ladder or meet one of the requirements in (i) through (vi) of this subparagraph. Master teachers must currently meet and maintain one of these qualifications:

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

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

(iii) a two year college Certificate of Mastery in early childhood education or child development from an accredited Oklahoma college;

(iv) 30 credit hours from an accredited college or university, including 12 credit hours in early childhood education, child development, or an approved related subject;

(v) a four year degree from an accredited college or university with six college credit hours in child development, early childhood education, or an approved related subject; or

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

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

(i) one of the qualifications in (D); however, a degree or coursework in (iv) through (vi) may also be in elementary education, recreation, or other coursework that supports working with the school-age child; or

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

(F) **Staff compensation.** The program must have a salary scale with increments based on level of education, credentials, and years of early childhood experience. The director evaluates staff, in writing, at least annually. Compensation is based upon consideration of education, experience, and performance.

(G) **Program evaluation.** All methods of program evaluation as described in (i) through (v) of this paragraph are scheduled or completed within the first six months of two star certification.

(i) The director or staff person from the facility attends approved training on program evaluation.

(ii) An approved self-assessment tool is completed every two years.

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

(iv) The program is assessed every four years using an assessment tool approved by OKDHS to determine the day-to-day quality of care provided to children. This assessment is not required for programs accredited through an approved national accrediting body.

(v) Program goals are established and updated every two years based on information gathered from (i) through (iv).

(4) **Criteria for three star centers.** To be approved as a three star center, a center
must meet all two star center criteria, except for the assessment in (b)(3)(G)(iv) of this Section, and be accredited through an approved national accrediting body.

When an existing two star facility becomes accredited, the provider completes Form OCC-25 with proof of accreditation and documentation reflecting any changes in the previous two star certification criteria.

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

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

(2) **Criteria for one star plus homes.** A home may operate on one star plus status for a total of 24 months; these months are not required to run consecutively. To be approved as a one star plus family child care home or large family child care home, a home must complete and submit Form OCC-27, Request for Family Child Care Home Star Certification, and meet the requirements in (A) through (D) of this paragraph. At the end of two years, the home must be approved as a two star home or return to one star status. If the new criteria cannot be met at 24 months, a facility may request an extension of time to comply as set forth in (g) of this Section.

(A) **Licensing status.** The home must have a license, provisional license, or permit and must not have a history of numerous, repeated, or serious non-compliance with applicable licensing requirements. For the purposes of star certification the definitions of numerous, repeated, or serious non-compliance listed in (i) through (iii) of this paragraph apply.

(i) Numerous non-compliance is any monitoring visit with five or more items documented as non-compliant on the monitoring report.

(ii) 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.

(iii) Serious non-compliance is non-compliance with licensing requirements which exposes children to conditions that present an imminent risk of harm. Some examples of serious non-compliance are violations of requirements for:

(I) staff-child ratio;

(II) supervision of children;
(III) sleep position;

(IV) prohibited disciplinary actions;

(V) licensed capacity;

(VI) use of passenger restraints;

(VII) water activities,

(VIII) pools and other water hazards;

(IX) multiple hazards;

(X) weapons;

(XI) reporting child abuse;

(XII) prohibiting access to children by a person with a criminal record or health or behavior risk;

(XIII) administering medication to children;

(XIV) room temperatures; and

(XV) heat sources.

(B) **Home provider training.** At initial application, the family child care home provider must have documentation of 20 clock hours of Tier I, II, or III training. At application, the training may be counted if training was obtained within the last 12 months or within the provider's employment year. After initial approval for certification, the training criteria must be met within the provider's employment year.

   (i) After being employed 12 months, any assistant caregiver required to meet the staff-child ratio must have documentation of 20 clock hours of Tier I, II, or III training per employment year.

   (ii) In-service training such as videos, on-site, and home association training is counted for a maximum of six hours per year. Reading does not count for stars training.
(iii) Training may also be counted to meet licensing training requirements.

(C) **Learning environment.** The family child care home provider follows a daily schedule and reads to children a minimum of 15 minutes each day.

(D) **Parent involvement.** The family child care home must provide the methods of parent communication contained in this subparagraph.

   (i) Written policies are given to parents upon enrollment, and the provider has signed contracts with each family.

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

   (iii) The provider arranges for and documents, at least once per year, a conference with each child's parents. They discuss the child's current progress, accomplishments, and challenges, and set goals together.

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

   (v) The provider has information available about resources that provide services to parents and children and makes referrals as needed.

(3) **Criteria for two star homes.** To be approved as a two star home the licensed provider must be accredited by the National Association of Family Child Care and not have numerous, repeated, or serious non-compliance with requirements or meet all one star plus criteria and the criteria described in (A) and (B) of this paragraph.

(A) **Provider qualifications.** The provider must meet Level III or higher on the Early Childhood Education Professional Development Ladder or one of the provider qualifications requirements listed in (i) through (vi) of this subparagraph. In a facility licensed as a large family child care home, the licensed provider or full-time assistant must meet the qualifications and be on-site for at least 30 hours per week. The qualifying person is not counted as a center master teacher, director, or qualifying star home provider at more than one facility unless the facilities are programs that do not operate concurrently at any given time. For an exception to this rule to be considered, a written request must be submitted by the provider and approved by the stars program manager or designee. When the license is issued to two people, one full-time caregiver must meet the qualifications. The provider or large family child care home assistant
must currently meet and maintain one of these qualifications:

(i) if approved prior to June 1, 2004, 120 hours of job-related Tier I, II, or III training within the last five years, five years of full-time experience in a licensed or legally exempt child care setting, and every two years a minimum score of 5.0 on the Family Day Care Rating Scale;

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

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

(iv) a two year college Certificate of Mastery in early childhood education or child development from an accredited Oklahoma college or university;

(v) 30 credit hours from an accredited college or university including 12 credit hours in early childhood education, child development, or an approved related subject;

(vi) a four year degree from an accredited college or university with six college credit hours in early childhood education, child development, or an approved related subject; or

(vii) a two or four year degree from an accredited college or university in early childhood education or child development.

(B) **Program evaluation.** All methods of program evaluation as described in (i) through (v) of this paragraph are scheduled or completed within the first six months of receiving the two star certification.

(i) The licensed provider or full-time assistant attends approved training on program evaluation.

(ii) An approved self-assessment tool is completed every two years.

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

(iv) The program is assessed every four years using an assessment tool.
approved by OKDHS to determine the day-to-day quality of care provided to children. ■ 9. This assessment is not required for programs accredited through the National Association of Family Child Care.

(v) Program goals are established and updated every two years based on information gathered from (i) through (iv).

(4) **Criteria for three star homes.** To be approved as a three star home, a home must meet all two star home criteria, except for the assessment in (c)(3)(B)(iv) of this Section, and be accredited through the National Association of Family Child Care. When an existing two star facility becomes accredited, the provider completes Form OCC-27 with proof of accreditation and documentation reflecting any changes in the previous two star certification criteria.

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

(1) The facility submits Form OCC-25 or Form OCC-27 and required documentation to the stars outreach specialist. ■ 11 & 12

(2) Within 30 days of receipt of the facility request, the stars outreach specialist determines whether the certification criteria have been met by reviewing the case record and the documentation submitted by the facility. If it has been four months since the last monitoring visit, the stars outreach specialist requests licensing staff to make a monitoring visit. The stars outreach specialist reviews all information and consults with the licensing staff and stars program manager as needed prior to approval.

(A) The monitoring visits and substantiated complaints for the last 12 months of operation are reviewed to determine whether the facility meets the compliance criteria. The 12-month history includes the licensing record from the provider's previous licenses, if any. ■ 13 If, within the last 12 months, there are two or more incidents of numerous, repeated, or serious non-compliance as defined in (b)(2)(A) and (c)(2)(A) of this Section or one serious incident resulting in injury or imminent risk to a child, the request may be denied. ■ 14

(B) If the facility meets the criteria, the stars outreach specialist updates the licensing database. The effective date is the first day of the next month, and the expiration date is two years later for one star plus facilities. The stars outreach specialist sends a letter to the provider confirming the approval and the effective date. ■ 15 If numerous, repeated, or serious non-compliance was identified
during review of the case for the star certification, the letter includes a statement
that these non-compliances will be considered if there are future non-compliances within a 12 month period and may result in reduction of the star certification.

(C) If the facility fails to meet the criteria, the stars outreach specialist sends a
letter to the provider identifying all the criteria that have not been met. The
application is also reviewed by the stars outreach specialist to determine if
another certification level can be met.

(i) If a one star plus facility fails to submit Form OCC-25 or OCC-27 with
supporting documentation at least 30 days prior to the end of the certification
period, the star status expires and is reduced. This does not constitute a
reduction in certification level as set forth in (h) of this Section. The stars
outreach specialist sends a letter documenting the reduction in certification
level to one star.

(ii) If a one star plus facility is denied at 24 months for failure to meet
additional quality criteria, the procedures in (h) of this Section are followed.

(D) The provider may reapply at any time the criteria are met. If the request for a
higher certification level is denied due to numerous, repeated, or serious
non-compliance with licensing requirements, the provider is not approved for a
higher certification level for six months after the date of the denial of the request.
The six-month waiting period may only be reduced by the regional programs
manager upon evaluation of the facility’s 12-month history, written
documentation of corrective actions taken, and observation and documentation
by licensing staff of substantial improvement in compliance. The regional
programs manager notifies the provider in writing of the decision.

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

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

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

(1) Written notice. The facility notifies the licensing staff in writing within five
working days of any change in the information provided on Forms OCC-25 or
OCC-27. Providers may use Forms OCC-26, Periodic Certification Review – Center
Star Certification, or OCC-28, Periodic Certification Review – Home Star Certification, to submit this information.

(2) **Periodic monitoring visits.** During a minimum of three periodic monitoring visits annually, the licensing staff completes Form OCC-26 or OCC-28 and verifies that certification documentation is still current and accurate and that the facility has not developed a history of numerous, repeated, or serious non-compliance with licensing requirements.

   (A) Only two periodic stars monitoring visits are required annually for licensing programs that

      (i) operate less than a full year;

      (ii) are approved for reduced visits according to OAC 340:110-1-9(a); or

      (iii) have a cooperative licensing agreement with a tribal program.

   (B) Licensing programs that are inactive according to OAC 340:110-1-9(n) have one periodic stars monitoring visit annually. ■ 17

(3) **Non-compliance history.** Once the provider has been notified in writing that numerous, repeated, or serious non-compliance exists, any subsequent numerous, repeated, or serious non-compliance within a 12-month period is considered a history. Once the provider has developed a history of numerous, repeated, or serious non-compliance, certification may be reduced in accordance with (h) of this Section. ■ 14

(4) **Violations.** If violations of certification criteria are documented, or if the facility notifies the Division of Child Care (DCC) in writing of any change, the procedures in (A) through (C) are followed.

   (A) The facility submits a written plan for correcting the violations within an agreed-upon time frame, not to exceed 90 days from the date the violation occurred or the date a facility is notified of a substantiated complaint. ■ 18 & 19

   (B) Licensing staff provides written notification to the operator documenting the violations and a statement that the certification level will be reduced if violations are not corrected within the agreed-upon time frame. The notification also states that future violations of this or other certification criteria may result in the reduction of certification level.

   (C) If the facility has not notified the licensing staff of changes in the information
provided on the certification request and certification requirements have not been met for over 90 days, the certification level is reduced according to (h) of this Section. If applicable, the provider is advised of the right to request an extension of time to comply.

(g) **Extension of time to comply.** When a center or home fails to maintain the criteria for the certification level, the provider has the right to request an extension of time to comply. The provider submits the request in writing to the Stars Programs Manager or designee 30 days prior to the expiration of the one star plus certification or the agreed-upon time frame for the correction of the violations. One or more discretionary extensions of time to comply of one to six months may be granted. The applicant must demonstrate that the violation of the criteria was not foreseeable and was beyond the applicant's control. The provider is notified of the decision in writing.

(h) **Reduction in certification level.** The procedures in this subsection are followed when: a one star plus facility fails to meet the additional criteria at 24 months; violations are not corrected within the agreed-upon time frame; the facility has developed a history of numerous, repeated, or serious non-compliance with licensing requirements; a serious incident occurs resulting in injury or imminent risk to a child; OKDHS has issued an Emergency Order; a notice of proposed denial or revocation of license has been issued; or an injunction is obtained.

1. The licensing staff reviews the case with the supervisor and regional programs manager. Referrals are made to the stars outreach specialist as needed. If the criteria not met includes numerous, repeated, or serious non-compliance, the stars outreach specialist obtains approval from the stars program manager before any action is taken.

2. If a reduction is warranted and approval has been obtained from the Stars Programs Manager or designee, the stars outreach specialist sends a certified letter to the provider documenting the reduction in certification level. Certification is reduced to the level at which the provider meets criteria. In the letter, the provider is informed of the right to request an administrative review of the decision. The certified mail delivery receipt card is addressed to return to the Director of Child Care Services. In order to receive an administrative review, the provider must submit a request in writing to the Director of Child Care Services within 15 calendar days of receipt of the OKDHS letter notifying the provider of the reduction. The request must include written documentation stating the provider's grounds for appeal.

3. The stars outreach specialist enters the recommended reduction on the database and the stars program manager approves the action. State Office
licensing staff update any changes in the star status level and star payment rate following verification of the provider's receipt of the certified letter and the administrative review, if requested. ■ 20

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

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

(B) The review is conducted by the stars review panel, which consists of three OKDHS staff who have not been involved in the decision to reduce the certification level. The provider may submit written documentation and is given an opportunity to appear at the administrative review. The standard of review applied by the panel is whether the decision of OKDHS to reduce the certification level is substantially supported by the evidence.

(C) When possible, the reviewing panel makes a determination to either affirm or reverse the OKDHS decision on the date of the administrative review and announces the decision at the conclusion of the review. Time constraints or the complexity of issues may require the panel to take a matter under advisement. Written findings are completed within ten calendar days from the date of the review.

(5) If there is evidence of extenuating or revised circumstances, the provider may propose alternative settlement options prior to the date of the review hearing by contacting the regional programs manager.

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

(i) **Change in ownership.** If the ownership of a star facility changes, the new owner may apply for star status by submitting a new Form OCC-25 or OCC-27 and the required documentation to verify that the certification criteria continues to be met.
(j) **Change in location.** If the location of a facility changes, the licensing staff verifies compliance with the criteria at the new location. □ 21

(k) **Record-keeping.** Periodic review forms, certification request forms, and supporting documentation are maintained in the official licensing file or in a separate file that is part of the open record, with the exception of page 5 of Form OCC-25, staff salary report, which is maintained in a confidential manner. If maintained, pay stubs and photos that include children are also kept confidential.

**INSTRUCTIONS TO STAFF**

1. The months that a one plus facility is inactive, according to OAC 340:110-1-9(n), will apply toward the 24-month total unless the facility requests a reduction to one star status during that time period.

2. A non-compliance may qualify in more than one category in determining numerous, repeated, or serious non-compliance with licensing requirements. Example: An understaffing is considered serious but may be part of repeated or numerous non-compliance. 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. Example: Licensing staff documents on the visit report that one of the toilets is not working and the provider agrees to have it repaired within two weeks. Due to other follow-up or a complaint, licensing staff returns in one week and the toilet is not yet repaired. The second observation of the non-compliance would not count toward determining numerous or repeated non-compliance for star certification.

3. **Military child care programs located in Oklahoma** with a provider contract may apply for star certification and submit copies of monitoring visits for the last year to demonstrate compliance with the applicable child care requirements. A visit is made prior to approval to verify compliance with certification criteria. An annual visit is made to the facility to determine continued compliance, including a review of the monitoring visits for the last 12 months. **Out-of-state child care programs** are not eligible for star certification.

4. Each numbered item marked non-compliant on the monitoring report is counted once even when there is more than one non-compliance included in that item.

5. When converting from certification year to employment year, there may be an
overlap in training hours. Training counted during the employee's last 12 months may be counted again when reviewing training for the employment year.

6. The approved national accrediting bodies are the:

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

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

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

   (4) National School-Age Care Alliance (NSACA);

   (5) Council on Accreditation (COA); and

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

7. To determine the number of children upon which to calculate the number of master teachers required, utilize the equipment inventory, floor plan, and prior monitoring reports to determine the number of school-age children expected to be in care before and after school. School-age children are at least five years of age and attending or completed kindergarten. This number is subtracted from the licensed capacity.

8. (a) Employment on a full-time basis is generally 30 hours a week. For employment at part-day or school-age programs, use 50% of the weekly operating hours.

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

       (1) works full-time and full-year at the center;

       (2) has staff records on file; and

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

9. Rating scales approved by the Oklahoma Department of Human Services
OKDHS) include the:

(1) Early Childhood Environment Rating Scale (ECERS);

(2) Infant/Toddler Environment Rating Scale (ITERS);

(3) Family Day Care Rating Scale (FDCRS); and

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

10. If a provider is approved for two or three star status prior to June 1, 2004 and qualifies by using option (i) of OAC 340:110-1-8.3(c)(3)(A), the provider may continue to meet the home provider qualifications with these criteria by maintaining 120 hours of training every five years and a score of 5.0 or higher on FDCRS every two years. If an existing two or three star provider closes or is reduced, the provider may not use this option to meet the home provider qualifications.

11. It is the facility's responsibility to initiate the process and provide required documentation. After 24 months of one star plus certification, the facility must complete Form OCC-25, Request for Child Care Center Star Certification, or OCC-27, Request for Family Child Care Home Star Certification. Facilities are not required to have a current provider contract to request certification.

12. The stars outreach specialist notifies the licensing staff that an application has been received.

13. A facility is not required to be in operation 12 months to apply, but the facility's prior history of up to 12 months is considered when such history exists.

14. When the stars outreach specialist makes a determination to deny or reduce the certification, the stars outreach specialist considers the duration of the non-compliance, 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. Numerous non-compliances during the initial licensing visit, prior to permit, may be disregarded when evaluating compliance history if all items were corrected in a timely manner.

15. The application and training summary must be maintained in the official licensing file, but other documentation may be returned to the facility.
16. A copy of the documentation upon which the decision for denial of the application was made is kept and the originals are returned to the facility.

(1) If the provider contacts the licensing supervisor to discuss concerns regarding the denial of the application, the licensing staff attempts to resolve the matter by making the appropriate referrals based on the reason for denial.

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

(3) If it is determined that the facility meets a different certification level than applied for, the stars outreach specialist contacts the facility to update the current application or to request completion of a new application.

17. (a) The licensing staff takes a copy of the facility request form to the facility to determine if there are any staff changes in the director and master teacher positions. Forms OCC-26, Periodic Certification Review - Center Star Certification and OCC-28, Periodic Certification Review - Home Star Certification are completed during a complaint investigation only when a violation of the criteria is noted, such as a change in director or a serious non-compliance.

(b) If the director is not present and the staff in charge is unwilling to complete Form OCC-26, licensing staff leaves a copy at the facility for the director to complete and mail to the licensing staff.

18. The time frame for correcting violations is negotiated between the director and the licensing staff and is based upon the time needed to correct the violation and the level of risk to children.

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

19. If information is received that a facility does not meet certification criteria, it is documented on Form OCC-3, Child Care Center Monitoring Report, page 4. The licensing staff contacts by telephone or visits the facility and completes Form OCC-26 or OCC-28 to document the violation and plan of correction.

20. In accordance with Form CCDF-1-E, Child Care Provider Contract, the rate of payment is reduced to the appropriate star level at the expiration of four months from the first day of the month immediately following receipt of the certified letter.

21. The licensing staff completes Form OCC-26 or OCC-28 to verify compliance at the new location and notifies the stars outreach specialist, who updates the database with the appropriate star level and new effective date. An expiration date for one star plus facilities must be entered.
340:110-1-9. Case management

(a) Periodic monitoring visits. The Division of Child Care (DCC) 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. Licensing staff varies the time of monitoring visits to include lunch observation and an evening visit to child care centers with extended hours. Weekend monitoring visits are required only when there has been a complaint specific to weekend care.

(b) Ongoing monitoring. During each monitoring visit, the licensing staff observes the entire facility, including outdoor play space and vehicles used for transportation, if available. The following are checked at or subsequent to each visit:

   (1) compliance with licensing regulations;

   (2) records for new staff;

   (3) staff training records;

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

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

(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) In-home caregivers. The Family Support Services Division (FSSD) day care assistance worker notifies the licensing staff on Form K-13, Information/Referral – Social Services, of the approval of a child care plan involving an in-home caregiver. In-home care is provided by a person in the child's own home.

   (1) Within 30 calendar days of receipt of Form K-13, the licensing staff mails a packet of information to the caregiver. The packet includes information on child growth and development, health and safety issues, training opportunities, and other resources.
(2) Upon request, licensing staff provides consultation to in-home caregivers.

(3) Completion of six clock hours of training by the caregiver within 90 days of his or her approval is verified by the FSSD day care assistance worker.

(e) **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

(f) **Equipment inventory.** Licensing staff completes the appropriate Equipment Inventory, Form OCC-6, OCC-20, or OCC-24, 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

(g) **Change of address.** When a facility moves to a new address, the procedures contained in this subsection are followed.

   (1) **Family child care home.** If a family child care home provider moves to another location within the licensing staff's area, the licensing staff conducts a monitoring visit and completes a monitoring report. If a family child care home provider moves outside of the licensing staff's area, the case is transferred to the appropriate licensing staff who conducts the monitoring visit. ■ 11 & 12

   (2) **Child care centers, part-day children's programs, and school-age programs.** If a child care center, part-day children's program, or school-age program moves, the case is closed and a new application is obtained. A license may be issued promptly if the facility meets licensing requirements and the only change to the facility is the location. ■ 13

(h) **Change in name.** If the licensing staff verifies there is a change in name but no change in ownership, the change is documented in the case record and the database is updated. ■ 11

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

   (1) verifies director qualifications are met;

   (2) completes Form OCC-69, Child Care Center Compliance Review, if the director
has no previous director experience;

(3) notifies the new director of current employees that have been granted a waiver; and

(4) documents the information on Form OCC-3, Child Care Center Monitoring Report, page 4.

(j) **Change in household.** If there is a new spouse or other head of household in a family child care home or large child care home, a new Form OCC-42, Application for License - Family Child Care Home and Large Child Care Home, and criminal background check are required and OKDHS computer checks are completed. 

Other changes in household members are documented on the monitoring report and criminal background checks are completed if necessary.

(k) **Change in ownership.** When there is a change in ownership or change in form of business organization of a child care center, part-day program, or school-age program, the case is closed and a new application is obtained.

(l) **Change in facility class.** 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. Any other request for change in class requires:

   (1) a request in writing from the provider;

   (2) documentation that the facility meets the requirements for the requested class type;

   (3) an Equipment Inventory, if applicable;

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

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

   (6) 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 OCC-3, Child Care Center Monitoring Report, page 4, 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 OCC-57, 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) Oklahoma State Department of Health approval of any space not previously inspected; and

(5) updated Equipment Inventory that reflects adequate equipment for the increase.

(n) **Inactive cases.** If children have not been in care on a regular basis during the previous year, the option of voluntary closure is discussed with the provider.

   (1) A provider who wants his or her case to remain open submits a request in writing including a statement that the provider will notify Division of Child Care, Licensing, when care is resumed.

   (2) The provider is contacted periodically by licensing staff by telephone or letter to update the provider's status, and visited at least once a year to verify and document compliance with licensing requirements.

(o) **Response to a sudden infant death syndrome (SIDS) death.** When notified of a death assumed to be SIDS, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement. ■ 18

(p) **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. ■ 19

(q) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form OCC-3, page 4 is completed, a copy is sent to the provider, and the data system is updated. ■ 20

**INSTRUCTIONS TO STAFF**

1. After each monitoring visit, the licensing staff enters the monitoring frequency plan which 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 numbers of visits include:

(1) one visit per year for inactive cases;

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

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

(4) 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

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

2. Frequency of visits.

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

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

(3) 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 necessary and the visit may be documented on Form OCC-3, Child Care Center Monitoring Report, page 4.

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

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

3. If caseloads prevent staff from fulfilling this task, supervisors consult with them on case management, and the number of required visits may be reduced. 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.

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

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

(2) it is determined that a witness is needed to verify his or her observations.

(b) Evening monitoring visits to family child care homes are made only when a complaint has been filed regarding evening care or if evening care only is provided.

5. The licensing staff documents his or her observations and discussions on the appropriate monitoring report, enters the information from the monitoring report onto the licensing database, and files the original in the facility's file in the county office.

(1) When the licensing staff visits a family child care home, he or she is cognizant that it is a private home and demonstrates respect for the family's privacy.

(2) It is important that licensing staff is thorough and asks to be shown throughout the entire house and outdoors. Licensing staff does not routinely look in drawers and closets, flush toilets, or check water temperature in the family child care home.

6. An assistant or substitute caregiver in a family child care home must have a criminal background check prior to working with children. Center staff must complete Form OCC-41, Child Care Staff Information, and have a criminal background check arranged prior to being hired.

7. Licensing staff check for one time and annual training requirements at the time of their 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.

8. Annual computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on all adults who sign Form OCC-42, Application 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. Documentation of the computer check is filed in the confidential section of the facility's case.

9. 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. While all tribal visits are considered case history, a minimum of two visits per year must be conducted by OKDHS licensing staff. 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 regional programs manager is responsible for evaluating the effectiveness of the agreement and ensuring collaboration.

10. 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. The licensing staff notifies the statewide licensing coordinator of the change. The statewide licensing coordinator or designee issues a new license to the facility. Form OCC-18, Notice of Issuance of License for a Child Care Facility, is sent to the licensing staff.

12. 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 Family Support Services Division, Child Care Unit. The address, licensing staff, and supervisor are changed on the licensing database by the receiving licensing staff. Critical information on problematic cases is shared with the receiving licensing staff and supervisor.

13. (a) When the licensing staff is notified of the move, he or she advises the operator that Form CCDF-1-E, Child Care Provider Contract, will be canceled when the facility's case is closed. The operator is referred to the FSSD county child care liaison to request a new contract so that care provided to children of families receiving child care assistance is not disrupted.

(b) Current employees are not required to provide a new OSBI criminal background check or meet the entry level training requirement. Because there is no change in ownership the same license number is used.

14. Types of ownership include:

   (1) sole proprietor;

   (2) corporation;

   (3) partnership;

   (4) limited liability company; or
(5) school, faith-based, or government entity.

15. Examples of changes in class include: a family child care home becomes a large child care home, a child care center becomes a school-age program, or a part-day program becomes a child care center.

16. 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.

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

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

(A) notifies the fire department to determine whether another inspection or further evaluation is required. The contact is documented on Form OCC-3, page 4;

(B) ensures that the director completes and submits Form OCC-6, Equipment Inventory - Child Care Center; OCC-20, Equipment Inventory - Part-day Children's Program; or OCC-24, School-Age Program - Equipment Inventory 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. A recommendation to increase capacity may be made when the only serious non-compliance was that the facility exceeded capacity.

(2) Decrease. When decreasing capacity, the licensing staff updates the floor plan on Form OCC-57, 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.

18. When notified of a death assumed to be related to sudden infant death syndrome (SIDS) the licensing staff:

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

   (A) number of children and staff present;

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

   (C) what supervision was provided during this time;

   (D) the condition of the crib or playpen;

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

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

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

   (H) the names of staff involved.

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

   (3) notifies the licensing supervisor, county director, licensing regional programs manager, statewide licensing coordinator, and Director of Child Care Services of the death;

   (4) contacts the DCC training coordinator to request that additional information be sent to the caregiver;

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

   (6) notifies the Oklahoma State Department of Health SIDS coordinator, who is available to offer support to the caregiver and family.
19. (a) Serious incidents include, but are not limited to incidents:

(1) 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;

(2) 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;

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

(4) where media involvement is anticipated.

(b) A serious incident report includes:

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

(2) the date and time of the incident;

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

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

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

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

(7) the names of staff involved.

20. The response from Licensing to this non-compliance 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. Refer to OAC 340:110-1-9.3.
340:110-1-9.1. Certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities

(a) Purpose. Certification is the process through which Division of Child Care (DCC) licensing staff documents that a child care facility meets certification requirements for a child with disabilities.

(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 following sources:

   (i) Supplemental Security Income (SSI) benefits;

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

   (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 ADM-123, Certification for Special Needs Child Care Rate, the licensing staff visits the child care facility within ten working days. If the facility is currently certified to care for at least three children with disabilities and has consistently met certification requirements or if a compliant monitoring visit has been made to the facility in the last 30 days, the licensing staff may approve certification for a new child without making a monitoring visit. A visit is made within three months. Although observation of the child in care is preferable, certification may be approved if the child has not yet enrolled or is absent during the visit.

(2) If a child who qualifies for the higher rate and is living in Oklahoma is approved for care in another state, the facility may be certified if:
(A) the facility provides documentation of monitoring visits for the last year to demonstrate compliance with the applicable child care requirements;

(B) upon receipt of Form ADM-123, an announced visit is made by Oklahoma licensing staff within 30 working days to verify compliance with certification criteria; and

(C) to verify that certification requirements are met, three times per year the Oklahoma licensing staff:

(i) completes by phone Form OCC-8, Periodic Monitoring Report; and

(ii) obtains a copy of the most recent monitoring report from the other state.

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

(A) the facility director or family child care home provider has completed Section III of Form ADM-123, agreeing to meet the individual needs of the child;

(B) the facility has a previous record of compliance with minimum licensing requirements. Although full compliance with licensing requirements is not required, if the facility has had numerous, repeated, or serious non-compliance with licensing requirements that adversely impact the care of a child with disabilities, such as staff-child ratios, health practices, or hazards, the facility is not certified. A facility on a six-month permit may be certified if currently in compliance with licensing requirements;

(C) facility staff currently trained in first aid and cardiopulmonary resuscitation (CPR), including infant and child, are present at all times when the child with disabilities is in care. The licensing staff checks training documentation to obtain the effective dates of training. Only training that is approved by the Oklahoma Department of Human Services (OKDHS), such as Red Cross, American Heart Association, or First Care, is accepted. The licensing staff recommends that more than one caregiver be trained to ensure that trained staff is always present when the child is in care;

(D) the facility staff 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. ■  2  The consultant provides resource materials to the facility for future reference. After initial certification, the facility staff 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

(E) 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 who work with the child are trained.

(ii) As staff changes occur, a new director or new staff 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, SoonerStart training, formal training from the OKDHS approved sponsor training list or specialized workshops or conferences addressing the care of children with special needs.

(4) Upon completion of Section IV of Form ADM-123, the licensing staff sends the original to the appropriate county staff responsible for child care assistance. Copies of Form ADM-123 and the monitoring report are sent to the licensing supervisor, and copies are maintained in the facility's file.

(5) When Form ADM-123 is completed and Family Support Services Division (FSSD) has determined the child is eligible for one of the special needs rates, a new Form ADM-123 is completed when:

(A) the needs of the child change; or  ■ 3

(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 ADM-123 of the requirements for certification 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 DCC.

(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 OCC-8 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 on-site consultation for a child designated severe;

(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 ADM-123.

(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 unless there is documentation of serious or ongoing violations of certification requirements. 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 he or she 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 DCC.

(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

1. Section IV of Form ADM-123, Certification for Special Needs Child Care Rate, is completed and signed with any discussion recorded on the monitoring report.

2. 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.

3. If licensing staff receives information that the needs of the child as recorded on Form ADM-123 have changed, licensing staff documents the information on page 4 of Form OCC-3, Child Care Center Monitoring Report, and notifies
Family Support Services Division of the change. *If the category of disability in Section V of the Adm-123 increases, a new on-site consultation must be completed.*

4. 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.

5. If a child leaves a facility and returns within six months, a new form ADM-123 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 are still being met.
340:110-1-9.2. Complaint investigations

(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 Division of Child Care, Licensing in writing, in person, or by telephone.

(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 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 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) 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 its stomach for sleeping;

(G) threatening or impaired behavior of a caregiver; or

(H) severe understaffing or over-capacity.

(2) **Risk level II complaints.** Risk level II complaints do not indicate that there is imminent danger of injury. However, without intervention, it is likely that 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 a 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 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.
(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 page 4 of Form OCC-3, Child Care Center Monitoring Report. 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, 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(b) is 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 a Priority I child abuse or neglect complaint, for example, a report indicating that a child is in imminent danger of serious physical injury, the licensing regional programs manager is also notified.

(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 or unsubstantiated.

1. **Substantiated.** A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates that the facility violated any licensing requirement or the Act.

2. **Unsubstantiated.** A finding of unsubstantiated is made when the allegation is found to be uncertain or ruled out.

   (A) It is found to be uncertain when the information does not lead to a definite conclusion, for example:

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

   (ii) Information needed to make a finding is unavailable.
(B) It is ruled out 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 in writing of the findings; ■ 7

(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, Form OCC-37. 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 OCC-37, Notice to Comply, following the procedure in OAC 340:110-1-9.3(c)(7).

INSTRUCTIONS TO STAFF

1. When the complaint is made in person or by telephone, the Division of Child Care (DCC) 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, notarized statement from the complainant when serious violations are involved or a negative sanction may result; and

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

2. The information requested is recorded on page 2 of Form OCC-12, Complaint Report and Complaint Summary, 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 contained in (1) through (6) of this Instruction.

   (1) Complaints or concerns that do not meet the criteria in Subsection (d)
of this Section 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 DCC 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 OCC-12 is forwarded to him or her.

(3) A complaint alleging child abuse or neglect is immediately referred to Children and Family Services Division (CFSD), CW with a copy of Form OCC-12. 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 their staff.

(C) Sex play between children is referred to CW for investigation. If screened out by CW, licensing investigates in regard to supervision of children.

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

(A) A complaint alleging commission of a crime is immediately referred to local law enforcement officials where the facility is located. The referral is followed up in writing, a copy is filed in the facility record, and the licensing supervisor is notified. It is the responsibility of the licensing staff to follow up with local law enforcement officials to determine and document the outcome of the investigation.

(B) If the complaint includes allegations of illegal drug activity, the complaint is referred to local law enforcement. If the facility has a
provider contract, the complaint is also referred to the Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG). The referral to OIG is made on Form OIG-1, Referral Form, and includes date and contact information regarding the referral to local law enforcement. Upon receipt of the referral, OIG contacts the local law enforcement agency to determine whether the agency or OIG will conduct the investigation or whether a joint investigation will be conducted. It is the responsibility of the licensing staff to follow up with OIG to determine and document the outcome of the investigation.

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

(5) 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, is deemed valid if documented in writing by the agency representative. It is the licensing staff's responsibility to determine whether the observation is a non-compliance. The facility is advised of the report and given an opportunity to respond.

(6) 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 OCC-37, Notice to Comply;

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

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

4. The investigation generally includes:
(1) a review of the allegations to ensure that investigating staff are 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 an individual who may have relevant information. If a person's comments and signature are recorded on page 4 of Form OCC-3, Child Care Center Monitoring Report, 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 individual at a time; however, 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 must be gathered prior to discussion with the operator. Interviews with persons outside the facility are documented on Form OCC-3, page 4, and the interviewed person is given a copy of the report;

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

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

(ii) When the licensing staff accompanies CW as part of a joint abuse and neglect investigation, interviews are conducted by the CW worker.

(iii) OKDHS rules require that interviews with child victims be conducted only after obtaining permission from the child's parents, per OAC 340:75-3-8.2. If inadvertent contact is made with a child victim or child witness without parental permission, the parents are contacted that day by the CW worker;

(5) observations at the facility.

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

(B) When investigating a complaint at a facility, a complete monitoring visit is not required unless one is due. Staff child ratios and supervision are checked at each visit. Form OCC-3, pages 1-4 is used to document any non-compliance observed; and

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

5. Licensing staff procedure.

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

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

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

(B) the CW investigation of a report that does not indicate imminent danger 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 4(4)(E) of this Instructions to Staff. 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, the licensing staff asks the operator to voluntarily cease care or prohibit the alleged perpetrator from any contact with children pending the outcome of the investigation. The operator is advised of the possibility of an injunction or emergency order if he or she refuses and children are considered at risk.

(5) If there is a finding of confirmed child abuse or neglect a copy of the report is sent to the licensing regional programs manager and, if the complaint level is Priority I, the statewide licensing coordinator.

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

6. The licensing staff enters the findings on the complaint tracking system and completes page 1 of Form OCC-12, Complaint Summary, using specific language that will be informative to parents.

(1) On Form OCC-12, page 1, names or identifying information of the complainant, facility staff, children, and their families are not included.

(2) When a child abuse investigation has been conducted by CW, Form OCC-12, page 1 contains a summary of allegations and findings that does not disclose the identity of the alleged perpetrator or victim, but does allow
parents to evaluate the facility. For example, descriptors such as male staff and two-year-old female are not used.

(3) Form OCC-12, page 1, pages 1 through 3 of the monitoring report, and Form OCC-37, Notice to Comply, if applicable, are made a part of the open record. Form OCC-12, page 2, and Form OCC-3, Child Care Center Monitoring Report, page 4, are placed in a confidential file. If the allegations and findings have not been given to the provider in writing, a letter is sent to the provider. Interviews with staff, children, collateral witnesses, and complainants are not made part of the public record.

(4) If information regarding a complaint is requested by the public prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings will be released after the investigation is complete and the provider has been notified in writing of the findings.

7. If the child care provider was not notified of the findings in writing on the monitoring report, Form OCC-3, page 4 or a letter is mailed to the provider.
340:110-1-9.3. Non-compliance with requirements

(a) **Documentation of non-compliance.** The Division of Child Care (DCC) 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.
2. Immediate correction is required when the non-compliance has a direct impact on the health, safety, or well-being of one or more children in care.
3. The licensing staff requests that the operator sign the monitoring report, and explains that the operator's signature indicates acknowledgment of information recorded.
4. If the person in charge refuses to sign, the refusal is documented on the report.
5. The operator is given a copy of the completed monitoring report.

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

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

1. Numerous non-compliance is any monitoring visit with:
   
   A) six or more items documented as non-compliant on the monitoring report for a facility with a licensed capacity of less than 60; or
   
   B) seven or more items for a facility with a licensed capacity of 60 or more.

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
(3) Serious non-compliance is a non-compliance with licensing requirements that exposes children to conditions that present an imminent risk of harm. Some examples of serious non-compliance are violations of requirements for:

(A) staff-child ratio;
(B) supervision of children;
(C) sleep position;
(D) prohibited disciplinary actions;
(E) licensed capacity;
(F) use of passenger restraints;
(G) water activities;
(H) pools and other water hazards;
(I) multiple hazards;
(J) weapons;
(K) reporting child abuse;
(L) prohibiting access to children by a person with a criminal record or health or behavior risk;
(M) administering medication to children;
(N) room temperatures; and
(O) heat sources.

(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 page 4 of Form OCC-3, Child Care Center Monitoring Report. A copy of the documentation is mailed to the facility.

(3) **Non-compliance letters.** 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. ■ 5

(4) **Return monitoring visit.** A return monitoring visit may be made if there is numerous, repeated, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. ■ 6 If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time.

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

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

(7) **Notice to comply.** The licensing staff provides the facility with Form OCC-37, 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. If the plan submitted by the operator is unacceptable to the licensing staff, the staff negotiates and documents a revised plan. If the Notice to Comply is not submitted within the specified time period, the licensing staff contacts the operator and documents the conversation. If concerns exist or the operator is uncooperative, the licensing staff sends a letter stating that failure to complete a Notice to Comply may result in revocation of license, denial of the application, or filing of an injunction or emergency order.

(8) **Office conference.** The licensing staff may schedule an office conference with the operator of the facility. The supervisor is present at the office conference. The
licensing regional programs manager is informed of the office conference and may be present, if necessary. 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 OCC-3, page 4 which is signed by the licensing staff, the operator, and any witnesses present. A Notice to Comply is completed if one addressing these issues has not been completed recently.

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

(10) **Revocation.** The licensing staff 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, per OAC 340:110-1-10.

(11) **Voluntary closure.** The operator is asked to voluntarily close the facility.

(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. If any of options (2) through (7) are utilized, the local resource and referral agency is notified.

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

(2) The operator is asked to discontinue child care until the non-compliance is corrected or the investigation is complete.

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

(4) The licensing staff requests an emergency order 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. Refer to OAC 340:110-1-9.4.

(5) The operator agrees to enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial, revocation, or refusal to renew. Refer to OAC 340:110-1-9.5.
(6) 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. Refer to 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 DCC staff is contacted immediately for an appropriate response.

(g) Alternative method of compliance. DCC may approve an alternative method of compliance to a minimum licensing requirement. An alternative method of compliance may be authorized if DCC determines that the alternative method of compliance offers equal protection of health, safety, and welfare to children, meets the basic intent of the requirements for which the alternative compliance was requested, and does not violate statutory requirements. An applicant or licensee may submit a written request on Form OCC-61, Alternative Compliance Request, for authorization to the statewide licensing coordinator or designee. A separate request is submitted for each requirement for which an alternative method of compliance is requested. Approval of an alternative method of compliance does not set a precedent, and is independently evaluated on the merits of each request. The facility's record of compliance is taken into consideration in determining whether to approve the request. 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. Written notice from OKDHS, Form OCC-61-A, Notice of Alternative Compliance, which states the nature of the exception, is posted with the license.
INSTRUCTIONS TO STAFF

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 staff states the expectation and negotiates an acceptable time period.

   (1) Each numbered item that has been marked as non-compliant on the monitoring report is counted once when there is more than one non-compliance included in that item.
   (2) A non-compliance may qualify in more than one category in determining numerous, repeated, or serious non-compliance.
   (3) If a non-compliance is documented a second time during an agreed-upon plan of correction for licensing, it is not considered again in determining numerous, repeated, or serious non-compliance.

4. Licensing staff must assess both the number and type of non-compliance observed during monitoring visits or substantiated as a result of a complaint investigation.
   (1) The licensing staff response goes beyond documentation of the non-compliance and plan of correction on the monitoring report for any visit that has numerous, repeated, or serious non-compliance.
   (2) The licensing staff advises the supervisor of the planned response and, if the supervisor disagrees, the case history is staffed and a different or additional response may be utilized.
   (3) The response is based on the seriousness of the non-compliance and the demonstrated ability and willingness of the provider to comply.

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

6. The timing of return visits is determined by the risk level to children, per OAC 340:110-1-9.2(f). 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.

7. Procedure and documentation for denial or revocation of license is outlined in (1) through (3) of this Instruction. 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 and notification is documented by the licensing staff if the provider voluntarily ceases child care until the investigation is completed or voluntarily closes the facility, or if the district attorney issues an injunction. If the license is denied or revoked, or if an emergency order is issued, the resource and referral agency is notified by the statewide licensing coordinator.

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

10. An alternative method of compliance does not replace plans of correction negotiated between licensing staff and providers. Providers are not encouraged to request alternative methods of compliance if the non-compliance can feasibly be corrected in a reasonable time frame.
340:110-1-9.5. Consent agreement

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

(b) **Process.** When the documented evidence reflects that the facility operator is unable or unwilling to comply with minimum requirements, the Division of Child Care (DCC) licensing staff discusses the use and terms of a consent agreement with the licensing supervisor. If the licensing regional programs manager and the statewide licensing coordinator or designee concur with this action, a meeting is scheduled with the operator.

1. The operator is asked to provide the names and addresses of all children currently enrolled at the facility.

2. During the meeting, areas of non-compliance and the terms of the agreement are discussed. The meeting is documented on Form OCC-3, Child Care Center Monitoring Report, page 4, and is signed by the operator, licensing staff, and any witness present. A copy is provided to the operator.

3. An agreement is written by the statewide licensing coordinator or designee. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance. The agreement may include voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility or the number of hours the facility may operate each day, specific staff training, drug testing, and medical or psychological evaluation. Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the statewide licensing coordinator or designee and the OKDHS Legal Division.

4. The operator is advised to prominently post a copy of the consent agreement in the child care facility. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

5. The licensing staff mails a copy of the consent agreement, with a cover letter, to parents of children currently enrolled at the facility. Upon enrollment of new children, the facility must provide those names and addresses to licensing staff.
Licensing staff mails a copy of the consent agreement and cover letter upon receipt of this information. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.  ■ 3

(c) **Violations of the terms of the consent agreement.** Any violation of the terms of the consent agreement is considered grounds for proceeding with license denial, revocation, or refusal to renew.  ■ 4

(d) **Appeals.** The child care facility is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

**INSTRUCTIONS TO STAFF**

1. The licensing supervisor is present at the meeting. The licensing regional programs manager is notified of the meeting and may be present. If notice of revocation or denial has been issued, the statewide licensing coordinator or designee is present.

2. Negotiations between the operator and licensing may occur prior to the office conference. The statewide licensing coordinator or designee determines the minimum terms that are acceptable to avoid negative sanctions, including the appropriate monitoring frequency plan.

3. (a) The licensing staff documents the consent agreement on the licensing database.

   (b) When conducting monitoring visits while the consent agreement is in effect, the same witness accompanies the licensing staff whenever possible.

4. Any violation of the terms of the consent agreement is documented on page 4 of Form OCC-3, Child Care Center Monitoring Report. A copy is sent to the statewide licensing coordinator.
340:110-1-10. Revocation or denial of license

(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.

   (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 Division of Child Care (DCC) licensing staff consults with the licensing supervisor regarding his or her recommendation for revocation or denial. If the licensing supervisor concurs with the recommendation, the decision is discussed with the licensing regional programs manager and the statewide licensing coordinator. If they concur with the decision, the licensing staff prepares a detailed summary of monitoring visits, complaints, correspondence, and any other relevant documents. ■ 1 The licensing staff submits the complete case record and the summary, including the recommendation, to the licensing supervisor and notifies the facility in writing that the case has been referred to the statewide licensing coordinator. ■ 2

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

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

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

      (A) a copy of the summary;

      (B) a statement regarding the operator's right to appeal the decision;
(C) a statement that the law requires written notification to parents of the action taken, and instruction to the operator to submit the names and addresses of currently enrolled children;

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

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

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

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

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

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

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

(8) If the operator continues to maintain and operate the facility for child care after a final decision revoking or denying licensure, the statewide licensing coordinator may request that the Attorney General or the appropriate district attorney secure a civil injunction or initiate criminal proceedings.

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

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

(2) If the operator appeals, a hearing is scheduled by the OKDHS Appeals Unit.
(3) The facility may continue to operate during any appeal process unless an emergency order is in effect. The licensing staff conducts monitoring visits at least once a month, unless advised otherwise by the statewide licensing coordinator or designee, and is accompanied by the same witness whenever possible. 4 If at any time during the appeal process OKDHS believes that the health, safety, or welfare of children cannot be assured:

(A) an emergency order is requested; or

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

(4) If the decision of OKDHS to revoke or deny a license is upheld during all appeals, the statewide licensing coordinator sends a letter to the operator that child care must immediately cease. The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. If the operator continues to operate the child care facility, the licensing field staff, in consultation with the statewide licensing coordinator or designee, may request that the local district attorney 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 agent may not make application for a new child care facility license within the state:

(A) following notification of the agent of the proposed denial or revocation;

(B) during an appeal process; and

(C) for five years following the effective date of closure.

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

INSTRUCTIONS TO STAFF

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

2. A complete copy of the case record is maintained in the county office.

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

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

   (2) the Oklahoma Department of Human Services Legal Division;

   (3) Family Support Services Division, Child Care Unit;

   (4) the county director; and

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

4. If, after the facility has requested an appeal, a non-compliance letter is deemed necessary due to the non-compliance observed during a monitoring visit, the letter includes the statement that the non-compliance observed during the visit shall 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.
340:110-1-14. Public inspection of licensing files

(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 through 410 are considered public records and are open and available for public inspection during reasonable hours. This includes records pertaining to an investigation of an unlicensed facility and audit findings from the OKDHS Office of the Inspector General. 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 parents to evaluate the facility. In addition, 10 O.S. § 7005-1.2 mandates confidentiality of child abuse records.

(c) **Location of case records.** Child care facility licensing records are located in the office of the licensing staff and are inspected in the county office. 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, page 1, the licensing complaint summary, of Form OCC-12, Complaint Report and Complaint Summary, is included in the file. Page 2 of Form OCC-12, the licensing complaint report, 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 who are available to provide clarification on licensing policy and requirements.

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

(h) **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, for example, Legal Division, Child Welfare, law enforcement officials, and upon order of a court of competent jurisdiction.
(i) **Computer licensing record.** A summary of the facility licensing record maintained on the LISVMENU computer database 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 county office.

**INSTRUCTIONS TO STAFF**

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

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

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

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

   (4) a criminal history investigation report;

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

   (6) information regarding a child with a disability;

   (7) name and identifying information of a complainant;

   (8) family child care home and director reference letters when confidentiality is requested by the person providing the reference;

   (9) documents containing staff salary information;

   (10) Social Security, federal identification, and employee identification numbers;
(11) copies of computer checks of Oklahoma Department of Human Services (OKDHS) records;

(12) 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;

(13) Information regarding a complaint prior to the completion of an investigation;

(14) a draft denial or revocation summary that has not been issued by DCC 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

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

(b) Confidential information is protected by:

(1) removing all protected information from the file, such as CW report; page 2, the licensing complaint report, of Form OCC-12, Complaint Report and Complaint Summary; Form ADM-123, Certification for Special Needs Child Care Rate; or

(2) marking through confidential information, 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 parents have access to as much information as permissible.

2. If a licensing file is subpoenaed, staff immediately contact the statewide licensing coordinator or designee who consults with legal counsel.

3. Confidential records that have been provided by other OKDHS divisions or other agencies, such as CW, Family Support Services, and law enforcement, are not released to the public. The name or other identifying information of a complainant listed on page 2 of Form OCC-12, is never released to the public.
340:110-1-17. Child Care Advisory Committee bylaws

(a) Purpose and function of the Child Care Advisory Committee. The purpose and function of the Child Care Advisory Committee is described in this subsection.

(1) Purpose. The purpose of the Child Care Advisory Committee is to:

(A) carry out the provisions of the Oklahoma Child Care Facilities Licensing Act, Section 401 et. seq. of Title 10 of the Oklahoma Statutes;

(i) to ensure maintenance of minimum standards for the care and protection of children away from their homes that include:

(I) constructive programs and services to meet the needs of each child and family;

(II) staff of good moral character and ability to care for children;

(III) adequate and safe housing, sanitation, and equipment;

(IV) good health care;

(V) full educational and religious opportunities;

(VI) good community relationships;

(VII) essential records and administrative methods; and

(VIII) sufficient funds for sound operation;

(ii) to encourage and assist child care facilities toward maximum standards; and

(iii) to work for the development of sufficient and adequate services for child care through joint work with public and private agencies;

(B) prepare minimum requirements and recommend desirable standards for child care facilities for adoption by the Department of Human Services, hereinafter referred to as the Department;

(C) serve in an advisory capacity to the Department for developing quality child care programs and services; and
(D) educate the public and consumers regarding quality child care.

(2) Function. The function of the Child Care Advisory Committee is to:

(A) become informed on DHS programs and policies regarding children;

(B) express the needs and concerns of the community and the State of Oklahoma as they relate to the care and treatment of children;

(C) bring recommendations for change, including the adoption of minimum requirements and encouraging maximum standards for child care; and

(D) interpret and support the recommended policies.

(b) Membership. The membership of the Child Care Advisory Committee is detailed in this subsection.

(1) Representation. The Director of Child Care Services makes recommendations for membership to the director of the Department who appoints members. Members are invited to serve on the Child Care Advisory Committee based on their expertise, experience, and leadership in the field of child care.

(A) The Child Care Advisory Committee at a minimum consists of 18 members.

(B) The majority are representatives of child care organizations, services, and programs.

(C) Other members include at least one representative from:

(i) Oklahoma Department of Health;

(ii) Oklahoma Department of Education;

(iii) Office of the State Fire Marshal;

(iv) Division of Child Care; and

(v) other associations and agencies as recommended to the Director of the Department, such as Oklahoma Children's Agencies and Residential Enterprises Incorporated (OK-CARE), Oklahoma Department of Mental Health and Substance Abuse Services, Oklahoma Association of Youth
Services, Office of Juvenile Affairs, Oklahoma Early Childhood Association, and Head Start.

(D) A representative from the Oklahoma Commission on Children and Youth serves as an ex-officio member.

(2) **Terms of office.**

(A) The terms of committee members are for three years.

(B) Members receive orientation to the goals and practices of the Committee.

(C) Members may be recommended for reappointment after completing their terms of office.

(3) **Officers.** The officers of the committee are chairperson, vice-chairperson, and secretary.

(A) **Chairperson.** The chairperson is responsible for:

(i) presiding over all meetings;

(ii) in coordination with the Division of Child Care, planning the meeting agenda at least two weeks in advance; and

(iii) with the director of Child Care Services or representative, appointing members of subcommittees.

(B) **Vice-Chairperson.** The vice-chairperson works closely with the chairperson and assumes the responsibilities of the chairperson in his or her absence.

(C) **Secretary.** The position of secretary is held by the Division of Child Care representative. The secretary is responsible for accurately recording the minutes of each meeting and making them available to the members prior to the next meeting. A permanent copy of the minutes is maintained by the Oklahoma Department of Human Services.

(D) The chairperson and vice-chairperson are elected by a majority vote of members present during the fourth quarterly meeting of even-numbered years. They take office on January 1.
(E) Terms of office are for two years. However, officers may be elected to serve in one office for a maximum of four terms.

(4) **Subcommittees.** The rules pertaining to subcommittees contained in this Paragraph are met.

(A) Subcommittees are appointed by the chairperson with consultation from the Division of Child Care and are designated to:

   (i) draft licensing requirements for child care programs and services;

   (ii) study committee concerns; and

   (iii) address special issues of the Committee.

(B) The chairperson of the subcommittee is a member of the Child Care Advisory Committee.

(C) Subcommittee members include representatives of child care programs and services with experience and expertise in the field of child care and children's services.

(D) Subcommittees appointed to draft licensing requirements for child care programs:

   (i) present their recommendations to the Child Care Advisory Committee for approval prior to being approved by the Commission for Human Services and the Governor;

   (ii) have a majority of members that represent private child care programs affected by the requirements; and

   (iii) include representatives from licensing, including supervisory and field staff.

(c) **Child Care Advisory Committee meetings.** The rules pertaining to the Child Care Advisory Committee meetings are contained in (1) through (6) of this Subsection.

   (1) **Frequency of meetings.** The Child Care Advisory Committee meets quarterly.

   (2) **Quorum.** A minimum of one third plus one of the membership must be present for a quorum.
(3) **Voting.** Members or their designees shall vote only after completing orientation.

(4) **Attendance.** Committee members or their designees must attend at least two Child Care Advisory Committee meetings a year or may be removed from the committee.

(5) **Guidelines.** The Committee will adhere to established Guidelines for Organization and Function. The practices of the Committee will be compatible with the Child Care Facilities Licensing Act.

(6) **Rules of order.** Roberts Rules of Order, as amended, are used to govern the meetings.

(d) **Change of bylaws.** Bylaws may be altered, amended, or repealed only by a majority vote of the Child Care Advisory Committee, provided that written notice of the proposed action is given in the call to the meeting and a quorum is present.
340:110-1-20. Professional development of DCC staff

(a) Licensing staff training. Division of Child Care (DCC) 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.

(b) Professional development of DCC staff. DCC awards scholarships for coursework leading to a master's degree in early childhood education at a university with which DCC has a cooperative agreement. The program may be discontinued at any time based on unavailability of funding through the Child Care Development Fund. Scholarships are awarded to employees based upon supervisory recommendation and selection by the DCC Education Assistance Committee. Preference is given to staff who have three years of Oklahoma Department of Human Services (OKDHS) employment. Participation is limited to two courses per semester per person.

(1) Mandatory service requirement. The mandatory service requirement is six months of service to DCC for each 0 - 12 credit hours of scholarship support. The obligation period begins after completion of the program or upon withdrawal from the program. Failure to complete the educational requirements or the obligated service period requires repayment of tuition, books, and fees.

(2) Reimbursement requirement. At the end of each semester, scholarship recipients submit a copy of their grades to their supervisor and to the DCC Education Assistance Committee. Exceptions to the reimbursement requirement may be granted for serious illness, injury, or a personal situation requiring the recipient to withdraw from school. 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.

(3) 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 DHS:2-1-42. Attendance at night or weekend classes does not qualify the recipient for compensatory time.

(4) **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**

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 Division of Child Care (DCC), 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 both classroom and on-the-job training provided by a licensing training specialist in DCC, statewide licensing coordinator, the licensing regional programs manager, and the licensing supervisors. It is completed within twelve months of employment and is documented on Form OCC-68, 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 (6) 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 DCC 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 attend 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 complete a minimum of 40 hours of job-related training annually. This
includes at least one specialized licensing workshop through DCC. DCC provides information to staff throughout the year on relevant conferences, workshops, and videotapes.

(2) Supervisory staff. Division staff with supervisory responsibility complete 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 DHS:2-17-2.

(3) DCC staff without supervisory responsibility. All State Office DCC 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 DCC complete 16 hours of job-related training per individual evaluation year.

(d) Qualified training courses. The training described in (1) through (4) 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 DCC 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; and

(E) job-related college or university courses.

(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 DCC 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 DCC. 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 in DCC, 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 OCC-37, 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 sanctions. This training provides the licensing staff with the skills required to evaluate the need for a negative sanction. The sections of rules and policy outlining the procedures required to properly prepare a case for a negative sanction are reviewed. Negative sanctions that are discussed include emergency orders, 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 licensor 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 NARA 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 DCC or other licensing staff, the trainer provides documentation of training or initials and dates the new worker training checklist. Licensing staff are 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. If a scholarship recipient withdraws from a course due to a serious illness, injury, or a personal situation, the recipient must first request a grade of incomplete from the instructor. If the grade of incomplete is granted, but the recipient elects to withdraw, the recipient is required to repay OKDHS for the associated costs.

3. If grade of incomplete is received, special permission is required from the DCC Education Assistance Committee for a recipient to enroll in a new course prior to the conversion of the incomplete to a grade.

4. The applicant submits, within the designated time frames, to DCC, 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 DCC, 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 Performance Management Process evaluations, Form OPM-111.
340:110-1-21. Evaluation of the child care licensing services program

The Division of Child Care is responsible for the evaluation of the child care licensing services program. The evaluation includes quality assurance audits and provider satisfaction surveys. The audits:

(1) are performed to determine if the licensing requirements, policies, and procedures are being fully implemented and to evaluate the effectiveness of the program;

(2) provide objective evidence to support the need for the reduction, elimination, and prevention of non-conformities; and

(3) are conducted by the Division of Child Care lead auditor who is responsible for all activities associated with the evaluation of the program. ■ 1

INSTRUCTIONS TO STAFF

1. (a) Scheduling of audits. An internal audit of each supervisory district, the statewide licensing coordinator and the residential licensing program is conducted every two years by the Division of Child Care lead auditor. An audit may be conducted at other times if there is a significant change in the program’s process and service, or if a follow-up on corrective action is necessary. Audits are scheduled by the Division of Child Care lead auditor and approved by the Director of Child Care Services. An annual schedule is published along with biannual updates.

(b) Scope of the audit. The Division of Child Care determines which system elements, physical locations and organizational activities are audited within a specified time frame. When applicable, an examination of the previous Plan of Correction is reviewed and evaluated according to current practice. The audit includes:

(1) a review of licensing records to analyze policy and requirements for performance consistency, compliance, relevance and clarity, and to identify positive practices;

(2) interviews with staff, providers, and other key individuals associated with the licensing services program to determine if requirements, policies and procedures are being fully implemented and to evaluate the effectiveness of the program;
(3) observations of child care programs; and

(4) use of the computer tracking system.

c) Audit plan. An audit plan is made available to the auditee at least 30 days prior to the scheduled audit. The audit plan is designed to be flexible in order to permit changes in emphasis based on information gathered during the audit. If the auditee objects to any provisions in the audit plan, such objections must be made known to the lead auditor and resolved prior to the audit. Specific details of the audit plan are communicated to the auditee throughout the audit if disclosure will not compromise the collecting of objective evidence. The lead auditor may make changes to the audit plan and the auditors’ work assignments, with the auditee’s agreement, if it is necessary to ensure the optimal achievement of the audit objectives. If the audit objectives appear to be unattainable, the lead auditor reports the reasons to the auditee. When applicable, a list of the case records to be audited is provided to the auditee at least five days prior to the audit so the records can be reviewed for completeness and chronological filing order. The audit plan includes:

(1) the audit objective and scope;

(2) the members of the audit team;

(3) the date and location of the audit;

(4) the identification of the organizational unit to be audited;

(5) the schedule of audit activities; and

(6) the audit report distribution and the expected date of issuance.

d) Lead auditor responsibilities. The lead auditor is responsible for:

(1) defining and complying with applicable auditing requirements and other appropriate directives of each audit assignment;

(2) selecting and contacting audit team members and their supervisors;
(3) conducting the pre-audit orientation for the team members to ensure that the members are familiar with their roles and duties and the expectations of the audit;

(4) preparing the audit plan and ensuring the plan is received by the auditee at least 30 days prior to the scheduled date of the audit;

(5) preparing the working papers;

(6) preparing the audit notification letter;

(7) representing the audit team with the auditee and management;

(8) establishing the pace of the audit, redirecting or encouraging team members;

(9) conducting daily debriefing meetings with the auditee;

(10) reporting any major obstacles encountered in performing the audit;

(11) reporting critical non-conformities to the auditee immediately;

(12) resolving problems;

(13) ensuring that the audit team is fully prepared for the exit conference;

(14) preparing the preliminary audit report and conducting the exit conference;

(15) reporting on the results clearly, conclusively and without undue delay; and

(16) writing and submitting the final audit report.

(e) Audit team. The audit team consists of the lead auditor from the Division of Child Care and a minimum of two individuals selected by the lead auditor and approved by the auditee. The majority of audit team members must have a minimum of three years technical experience within the scope of the audit, and all members must have supervisory approval to participate in the audit. Team members must be independent of the activity being audited. Team members are responsible for:
(1) helping to ease the stress of the audited organization by arriving on time, being mentally and physically prepared, enthusiastic and unbiased;

(2) observing activities, evaluating the implementation of licensing requirements and policies, and reviewing other objective evidence within the assigned scope of the audit;

(3) evaluating the adequacy, effectiveness and compliance of the activities assigned;

(4) collecting and analyzing evidence that is relevant and sufficient to permit the drawing of conclusions regarding the audited system;

(5) documenting the observations objectively and reporting the audit results;

(6) noting evidence that can influence the audit results and possibly require more extensive auditing;

(7) verifying the effectiveness of the corrective action taken as a result of a previous audit; and

(8) acting in an ethical manner and keeping confidential all information pertaining to the audit.

(f) Working papers. Working papers prepared by the lead auditor are used as a guide to facilitate the capturing and reporting of results. They should not rigidly dictate what is audited or restrict audit activities or investigations that may become necessary as a result of the information gathered during the audit. Working papers containing confidential information are safeguarded by the lead auditor and the Division of Child Care. Working papers may include:

(1) checklists used for evaluating system elements;

(2) forms for reporting objective evidence; and

(3) forms for reporting supporting evidence for conclusions reached by the auditors.

(g) Entrance conference. The lead auditor conducts an entrance conference with the licensing supervisor and staff for the purpose of:
(1) reviewing the scope and the objectives of the audit and clarifying any unclear details of the audit plan;

(2) describing the methods and procedures to be used to conduct the audit;

(3) establishing the official communication links between the audit team and the auditee;

(4) confirming that the resources and facilities needed by the audit team are available; and

(5) confirming the time and date for the exit conference and any interim meetings between the audit team and the auditee.

(h) Collection and documentation of information obtained during the audit. The information obtained by the auditors through interviews, examination of documents and observation of activities and conditions in the areas of concern is documented. The audit team reviews all documented observations to determine which are to be reported as non-conformities. Non-conformities are actions that clearly indicate licensing policy or requirements were not followed and they are identified in terms of the specific requirements or policy against which the audit has been conducted. The audit team ensures that the non-conformities are recorded in a clear, concise manner and are supported by evidence. If no such policy exists but is clearly identified by the audit team as a practice which does not compliment the mission of the Licensing function, this information is listed as a management finding. Non-conformities that are significant are noted and investigated, even if they are not covered by the working documents. Serious non-conformities or those forming a pattern are identified as audit findings.

(i) Exit conference. At the end of the audit, the lead auditor and team members conduct an exit conference with the auditee, staff, and regional program manager. The lead auditor presents the preliminary written report that includes a summary of the audit, conclusions reached by the audit team, an evaluation of the previous Plan of Correction, observed positive practices and an overall evaluation of the audited activities. It is the lead auditor's responsibility to ensure that the audited group fully understands each instance of a non-conformity. It is not required that the auditee agrees with each finding, only that he or she understands the basis of the finding.
(j) Written audit report. The lead auditor prepares the final report and is responsible for its accuracy and completeness. The audit report reflects both the tone and content of the audit. It does not contain specifics of a confidential matter. The report is dated and signed by the lead auditor and the Director of Child Care Services. It contains:

1. the dates, scope and objectives of the audit;
2. the names of all audit team members, the auditee, personnel present for the entrance and exit conferences and the names of persons interviewed;
3. identification of all reference documents used during the audit, for example, licensing requirements and policy;
4. observations of non-conformities listed as findings, observations or concerns;
5. identification of the positive practices observed by the audit team members;
6. Plan of Correction forms for the auditee and the Division of Child Care to respond to the audit non-conformities; and
7. the audit report distribution list.

(k) Report distribution. The audit report is distributed by the lead auditor to the auditee, regional programs manager, statewide licensing coordinator and the Director of Child Care Services, policy specialist and training coordinator. The final audit report is issued within one month of the audit.

(l) Responding to the audit. The auditee and regional programs manager submit a Plan of Correction to the lead auditor within one month after receiving the final report. If an extension of time is necessary to complete the Plan of Correction, a written request is made to the lead auditor explaining why an extension is needed. The Plan of Correction includes a description of the corrective action that will be taken to address the non-conformities found during the audit. Final audit closure is contingent upon evaluation and acceptance of any required corrective action by the Director of Child Care Services. If the proposed corrective action is not approved, the Plan of Correction is returned to the auditee for modification. Corrective action is implemented by the auditee and supervisory or management staff.
Subsequent follow-up audits to the Plan of Correction are completed within a time period agreed to by the auditee and the lead auditor.

(m) Record retention. Audit reports and working documents are retained in the Division of Child Care for a period of four years.

(n) Quality of audits. The Division of Child Care establishes a method of continuously improving the internal audit program through feedback and recommendations from all parties concerned. The lead auditor receives audit-specific training and instruction on an annual basis.

(o) Continuing Education units. Audit team members receive eighteen hours of training for participating on an audit team. The training is approved by the Center for Professional Development for required supervisory training. The training hours are approved for only one audit per year.
340:110-1-43.1. Forms

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

(1) **OCC-16, Recommendation for Licensing or Certification.** Form OCC-16 is used by licensing staff and supervisors to make recommendations on the licensing or certification of child care facilities.

(2) **OCC-17, Six-Month Permit.** Form OCC-17 is a six-month temporary authorization for an applicant for a license to operate a child care facility until a license has been issued or a formal denial notice is given to the applicant.

(3) **OCC-18, Notice of Issuance of License for a Child Care Facility.** Form OCC-18 is a notice to the child care facility that it has complied with licensing requirements and is being issued a license.

(4) **OCC-22, Foster Care File Review.** Form OCC-22 is used by licensing staff to record the agency's compliance or non-compliance with licensing requirements for foster home care.

(5) **OCC-37, Notice to Comply.** Form OCC-37 is used by a facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.

(6) **OCC-40, Application for License.** Form OCC-40 is used by an agency or residential facility to make application for a child care facility license.

(7) **OCC-41, Child Care Staff Information.** Form OCC-41 is used to record required information regarding child care facility staff.

(8) **OCC-43, Child Placing Agency Compliance Review.** Form OCC-43 is used by licensing staff to assess compliance with child-placing agency requirements.

(9) **OCC-44, Adoption Services File Review.** Form OCC-44 is used by licensing staff to record the agency's compliance or non-compliance with licensing requirements for placement of children for adoption.

(10) **OCC-47, Agency Certification Report.** Form OCC-47 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.
(11) **OCC-50, Personnel File Review.** Form OCC-50 is used by licensing staff to document compliance with personnel record requirements in residential, shelter, and child-placing agency requirements.

(12) **OCC-52, Declaration of Intent to Operate a Child Care facility.**

(13) **OCC-53, Notice of Issuance of License Child Care Facility/Agency.** Form OCC-53 is used to notify operators of child-placing agencies and residential child care facilities of their licensing status. See also Form OCC-18.

(14) **OCC-54, Release of Child.** Form OCC-54 is used by residential facilities to notify the Division of Child Care (DCC) when a child is no longer eligible for subsidy payment.

(15) **OCC-55, Child Admission Report.** Form OCC-55 is used by residential facilities to notify DCC when a child is admitted and is eligible for subsidy payment.

(16) **OCC-56, Residential Compliance Review.** Form OCC-56 is used by licensing staff to assess compliance with residential requirements.

(17) **OCC-58, Residential Visit Sheet.** Form OCC-58 is used by licensing staff to document compliance with requirements during a visit to a residential facility and record any other information obtained.

(18) **OCC-59, Resident's File Review.** Form OCC-59 is used by licensing staff as part of the licensing process to document compliance with residential facility requirements.

(19) **OCC-60, Residential Child Care Policy and Records Check.** Form OCC-60 is used by licensing staff to document compliance with residential policy and procedure requirements.

(20) **OCC-65, Independent Living File Review.** Form OCC-65 is used by licensing staff to record the agency’s compliance with licensing requirements for independent living programs.

(21) **OCC-71, Child Care Waiver Request.** Form OCC-71 is used by licensing staff when submitting a waiver request to State Office.
340:110-1-45. Application process

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

1. Application for License, Form OCC-40;
2. Child Care Staff Information, Form OCC-41; and
3. Compliance Review.

(b) Receipt of application. Upon receipt of the application packet in the Division of Child Care, the case is assigned a license number and a file is set up.

(c) 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.

(d) Computer checks. Computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on all adults who sign the application for a residential facility and child-placing agency license.

1. When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements.
2. Other OKDHS cases are reviewed only if concerns exist. If the provider's medical information is confidential, the licensing staff may request the information from the provider. If concerns exist, the provider is asked to sign OKDHS Form HIPAA-3, Authorization to Disclose Medical Records.

(e) Status. The facility may be granted temporary authorization to operate on application status or on a six-month permit. The licensing staff may recommend a six-month permit when the conditions required for issuance of a six-month permit described in OAC 340:110-1-46(a) are met. If the licensing staff determines that the conditions have not been met but the non-compliance does not place children at risk of immediate harm, the facility may be allowed to operate on application status. While a child care facility is on application status:

1. If an application has been filed and licensing staff are aware that children are in care, an initial visit must be made within two weeks:
(2) the licensing staff conducts a monitoring visit at least every two months when children are in care;

(3) contact is made by phone every two months and documented on Form OCC-3, Monitoring Report, page 4, when children have not been accepted into care;

(4) the procedures found in OAC 340:110-1-47.2 are followed if non-compliance with licensing requirements is observed during the monitoring visit. A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented; and

(5) the licensing staff consults with the licensing supervisor if the facility is unable or unwilling to meet licensing requirements after operating on application status for six months. ■ 7

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

INSTRUCTIONS TO STAFF

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.


3. 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.

4. The check to determine prior involvement with the Oklahoma Department of Human Services is run by name and Social Security number. Documentation of the findings is filed in the confidential section of the case record.

5. Information from the Child Welfare case is discussed with the programs manager.
6. If the provider signs Form HIPAA-3, Authorization to Disclose Medical Records, a letter may then be sent to the doctor describing the type of care offered at this facility and asking if the provider is able to provide care for the number and ages of children served.

7. The licensing staff and programs manager evaluate the seriousness of the non-compliance and the risk to children to determine whether:

   (1) the facility will be allowed more time to meet licensing requirements; or

   (2) a negative sanction will be considered.
340:110-1-46. Types of issuances

(a) **Six-month permit.** New residential child care facilities or child-placing agencies may be granted temporary authorization to operate on 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. 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) hazards indoors or outdoors;

   (E) fire safety; and

   (F) other areas affecting children's safety.

2. 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.

3. The items required to be on file for issuance of a six-month permit include:

   (A) Application for License, Form OCC-40;

   (B) Proof of ownership;  ▶ 1

   (C) list of current staff;

   (D) Child Care Staff Information, Form OCC-41;

   (E) TB test or chest x-ray results for direct care staff;

   (F) Fire Marshal's approval for residential facilities;

   (G) Health Department approval for residential facilities;
(H) physical plant drawing for residential facilities;

(I) compliance review questionnaire;

(J) monitoring reports;

(K) Residential Child Care Policy and Records Check, Form OCC-60; and

(L) Recommendation for Licensing or Certification, Form OCC-16.

(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 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.

(3) If the 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 sanctions.

(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 their 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.

(d) Provisional license. A provisional license may be issued for a period of one year to any facility or agency whose services are needed but who is temporarily unable to
meet all requirements. A subsequent provisional license may be issued at the
discretion of the Oklahoma Department of Human Services if an emergency exists.

(1) A written statement from the operator requesting a provisional license and
stating the reason for the request is submitted to the Division of Child Care.

(2) The licensing staff submits to the Division of Child Care Form OCC-16.

(3) If at any time during the year the operator complies with the requirements, the
licensing staff may recommend the issuance of a license.

INSTRUCTIONS TO STAFF

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. Issuing the license.

   (1) The licensing staff submits a narrative and Form OCC-16,
   Recommendation for Licensing or Certification, to the programs manager
   who reviews the recommendation and approves the final disposition.

   (2) The license is mailed to the operator along with notification on Form
   OCC-18, Notice of Issuance of License.

   (3) Residential programs operated by the Oklahoma Department of Human
   Services are issued a certificate.

   (4) The license or certificate is in force unless revoked or voluntarily
   closed.
340:110-1-47. Case management

(a) **Periodic visits.** Licensing staff conduct two unannounced visits and one announced visit to residential facilities annually to document compliance with the requirements. Licensing staff conduct two announced visits yearly to child-placing agencies.

1. If caseloads prevent staff from fulfilling this task, the programs manager consults with them 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.

2. During each monitoring visit, the licensing staff observes the entire facility, including outdoor play space and vehicles used for transportation, if available.

(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 follow specific procedures to document the move.

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

(e) **Increase or decrease in licensed capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form OCC-3, Monitoring Report, page 4, and must be approved by the programs manager. If the request to increase capacity is due to additional physical space, the required documentation includes:

1. reason for the increase;

2. fire department approval;

3. health department approval;

4. physical plant drawing indicating the measurements, total square footage, and number of additional children that can be accommodated; and
(5) additional staff, if applicable. ■ 4

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

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

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

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

(g) **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. ■ 5

(h) **Response to a sudden infant death syndrome (SIDS) death.** When notified of a death assumed to be SIDS, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement. ■ 6

(i) **Serious incident reports.** The licensing staff submits to the programs manager a report of any serious incident. ■ 7

(i) **Coordination with state agencies.** Division of Child Care residential licensing staff works cooperatively with the OKDHS Office of Client Advocacy (OCA), the Oklahoma Commission on Children and Youth (OCCY), and the Oklahoma Health Care Authority (OHCA). ■ 8 through 10

**INSTRUCTIONS TO STAFF**

1. (a) Monitoring visits to residential facilities are documented on Form OCC-58, Residential Visit Sheet.

   (b) At or subsequent to each visit licensing staff checks:

      (1) compliance with licensing regulations;

      (2) resident files;
(3) records for new staff and copies of Form OCC-41, Child Care Staff Information, obtained for case record; and

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

(c) During annual records check, licensing staff checks:

(1) employee training records; and

(2) OKDHS computer checks on applicable persons.

(d) The monitoring report is discussed with the facility's or agency's director. The director signs the report, and retains a copy.

(e) The monitoring report is submitted to the programs manager for review. The original is filed in the facility record, which is maintained in the Division of Child Care (DCC).

2. (a) Child-placing agency. If a child-placing agency moves its office, a narrative for the case file is written giving the new address and describing the location. The case file label is changed, and the file card and the computer information are updated with the new information.

(b) Residential facility. If a residential program changes the program's mailing address only, a narrative for the case file is written giving the new mailing address. The case label, file card and computer information are changed. If a residential program moves, the case file is closed, and the program must apply for a new license for the new location.

3. The licensing staff notifies the programs manager of the change. The programs manager or designee issues a new license to the facility. A new Form OCC-18, Notice of Issuance of License for a Child Care Facility, is sent to the licensing staff.

4. The programs manager reviews the recommendation and approves the increase. The licensee is notified in writing that the increase has been approved. If an increase in capacity is requested for other reasons than the increase in space, then the recommendation to the programs manager is made in narrative form giving the reason for the increase. The procedure for increasing or decreasing capacity of a facility is outlined in (1) through (4) of this Instruction.
(1) Increase. When a facility requests an increase in capacity, the licensing staff:

(A) notifies the Office of State Fire Marshal to determine whether another inspection or further evaluation is required. The contact is documented on Form OCC-3, page 4.

(B) does not recommend to increase capacity when the facility has numerous, repeated, or serious non-compliance with requirements. A recommendation to increase capacity may be made when the only serious non-compliance was that the facility exceeded capacity.

(2) Decrease. When decreasing capacity the licensing staff updates the floor plan on Form OCC-57, 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.

5. Types of ownership include:

(1) sole proprietor;

(2) corporation;

(3) partnership;

(4) limited liability company; or

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

(6) When notified of a death assumed to be related to sudden infant death syndrome (SIDS) the licensing staff:

(A) determines and documents whether the facility was in compliance at the time of death, documenting information including:
(i) number of children and staff present;

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

(iii) what supervision was provided during this time;

(iv) the condition of the crib or playpen;

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

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

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

(viii) the names of staff involved.

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

(C) notifies the licensing programs manager and Director of Child Care Services of the death;

(D) contacts the DCC 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.

7. (a) A serious incident includes, but is not limited to, an incident:

(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.

(b) A serious incident report includes:

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

(2) the date and time of the incident;

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

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

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

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

(7) the names of staff involved.
8. The programs manager reviews all reports received from OCA, OCCY and OHCA. Reports are registered by appropriate division support staff.

(1) Documentation of reports received from OCA includes:

(B) date report was received;

(C) facility name and case number;

(D) date of investigation;

(E) investigator assigned to the investigation;

(F) accused caretaker;

(G) findings;

(H) date corrective action plan is due;

(I) date corrective action plan was submitted;

(J) date licensing staff was notified; and

(K) date information was filed in the case.

(2) Documentation of reports received from OCCY includes:

(A) date report was received;

(B) facility name and case number;

(C) date of investigation;

(D) oversight specialist involved in the investigation;

(E) recommendations;

(F) date corrective action plan is due;

(G) date corrective action plan was submitted;
(H) date licensing staff was notified; and

(I) date information was filed in the case.

9. All reports received from OCA, OCCY, and OHCA 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 investigate in accordance with policy regarding follow-up on non-compliances, OAC 340:110-1-47.2, or a complaint investigation, 340:110-1-47.1.

10. All information in the licensing file, including confidential information, except Child Welfare (CW) reports, is made available to OCA, OCCY, and OHCA.
340:110-1-47.1. Complaint investigations

(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 Division of Child Care, Licensing Services, in writing, in person, or by telephone.  

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

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

   (1) non-compliance with licensing requirements;

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

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

(e) **Disposition of complaints.** Upon receipt of a complaint, the licensing staff determines a disposition.

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

(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 page 4 of Form OCC-3, Child Care Center Monitoring Report. 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; 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 allegations of operating an unlicensed facility.** When allegations of operating an unlicensed facility are investigated, the procedure contained in this subsection is followed.

(1) When the report does not indicate that children are at immediate risk of harm, the procedure in this paragraph is followed.

   (A) If a complaint is made in person or by telephone, the licensing staff obtains and records all relevant information on Form OCC-12, Complaint Report and Complaint Summary.

   (B) When advertisements indicate a residential facility or child-placing agency is operating in violation of the Act, information is recorded with the advertisement attached.

   (C) The licensing staff mails to the operator the licensing requirements and a letter which includes information about licensure and a request for a response within 14 days.

   (D) If a response is not received within 14 days, a visit is made to the facility to:

      (i) determine whether services are being provided;

      (ii) explain the Act;

      (iii) ask the operator to file an application for licensure or cease care; and

      (iv) request the operator to advise the licensing staff of the decision within ten days.

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

   (F) If the operator fails to apply for licensure as required by the Act, the licensing staff consults with the programs manager and, when appropriate, makes a recommendation to the district attorney.

(2) When children may be at risk, the licensing staff obtains and records as much information as possible, notifies the programs manager, and verifies the validity of the complaint with a visit to the facility.
(A) If the complaint is substantiated and children are at risk, the licensing staff requests the caregiver cease operation immediately.

(B) If the operator refuses, the licensing staff informs the caregiver that legal action may be initiated.

(C) Prior to contacting the district attorney, the programs manager reviews the case with the licensing staff to determine whether legal action is indicated.

(3) When legal action is warranted, a request for criminal proceedings or an injunction is made to the local district attorney. The recommendation is made in writing and includes documentation of the facts of the case. The programs manager informs the OKDHS Legal Division of the request to the local district attorney for legal action.

(4) If a local district attorney will not take action against a facility, the OKDHS Legal Division is notified. A referral may be made to the attorney general by the programs manager.

(i) 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.

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

(1) Substantiated. A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates that the facility violated a licensing requirement or the Act.

(2) Unsubstantiated. A finding of unsubstantiated is made when the allegation is found to be uncertain or ruled out. A finding is:

(A) uncertain when the information does not lead to a definite conclusion. An example is when:

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

(ii) information required to make a finding is unavailable; or
(B) ruled out when a weighing of the information clearly indicates there was not a violation of a licensing requirement or the Act.  

(k) Documentation of findings. Upon completion of the investigation, the licensing staff documents the findings and notifies the provider in writing.

(l) Notice to Comply. When a serious complaint is substantiated, the licensing staff advises the facility to correct the violations immediately, using Form OCC-37, Notice to Comply. The facility must complete a plan of correction.

INSTRUCTIONS TO STAFF

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;

   (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, notarized statement from the complainant when serious violations are involved or a negative sanction may result.

2. The information requested is recorded on page 2 of Form OCC-12, Complaint Report and Complaint Summary, 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. The licensing staff makes one of the dispositions contained in (1) through (6) of this Instruction.

(1) Complaints or concerns that do not meet the criteria in OAC 340:110-1-47.1(d) are discussed with the complainant, and if appropriate, a referral is made to another entity, such as law enforcement, OCA, Children and Family Services Division, Office of Juvenile Affairs, or the Office for Civil Rights.

(2) A complaint alleging violation of licensing requirements or operation of an unlicensed facility is investigated by Division of Child Care, Licensing Services (Licensing). 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 OCC-12 is forwarded to him or her.

(3) A complaint alleging child abuse or neglect is immediately referred to OCA with a copy of Form OCC-12. The referral is documented on the bottom of the form. Complaints referred to OCA include those that allege harm or threatened harm to a child's safety that can occur through
non-accidental physical or mental injury, sexual abuse, neglect, or failure or omission to provide protection from harm or threatened harm.

(A) 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 their staff.

(B) Sex play between children is referred to OCA for investigation. If a complaint is screened out by OCA, Licensing investigates in regard to supervision of the children.

(C) If an immediate response to the referral is not received, the licensing staff follows up the next working day to obtain a response.

(4) When a complaint alleges:

(A) commission of a crime, it is immediately referred to local law enforcement officials where the facility is located.

   (i) The referral is followed up in writing; a copy is filed in the facility record; and the programs manager is notified.

   (ii) It is the responsibility of the licensing staff to follow up with local law enforcement officials to determine and document the outcome of the investigation; or

(B) illegal drug activity, it is referred to local law enforcement. If the facility has a provider contract, the complaint is also referred to the Office of Inspector General (OIG).

   (i) The referral to OIG is made on Form OIG-1, Referral Form, and includes date and contract information regarding the referral to local law enforcement.

   (ii) Upon receipt of the referral, OIG contacts the local law enforcement agency to determine whether the agency or OIG will conduct the investigation or whether a joint investigation will be conducted.

   (iii) It is the responsibility of the licensing staff to follow up with OIG to determine and document the outcome of the investigation.
(5) Information in 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. It is the licensing staff's responsibility to determine whether the observation is a non-compliance. The facility is advised of the report and given an opportunity to respond.

(6) The programs manager 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 in a previous Form OCC-37, 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.

4. (a) The investigation includes:

(1) a review of the allegations to ensure that investigating staff are 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 page 4 of Form OCC-3, Child Care Center Monitoring Report, 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 OCC-3, page 4, and the person interviewed is given a copy of the report;

(E) when with a child, takes into consideration the age and verbal ability of the child. It is preferable that the licensing staff is accompanied by a witness. Parental permission prior to interviewing a child in care is not required when investigating a complaint alleging non-compliance with licensing requirements;

(5) observations at the facility.

(A) When an investigation is associated with a specific time of day, for example, early morning understaffing, the visit to the facility is made at the time the incident is alleged to have occurred. The licensing staff documents observations by citing the specific conditions observed; for example, the director refused to allow the licensing staff to view the facility's records of staff criminal history investigations or there were 16 residents monitored by one staff.
(B) When investigating a complaint at a facility that is time-consuming, stressful, or involves OCA or other auditing entities, or if a full monitoring visit was made within the last month to a facility with a record of compliance, a complete monitoring visit is not required. The complaint visit is documented on Form OCC-3, page 4. The licensing staff documents compliance with those areas relating to the allegation; and

(6) documentary evidence, which is entered in the facility record. Documentary evidence is information that has been recorded, such as an OCCY report, medical and police records, signed statements or photographs.

(b) If sufficient information is obtained through interviews, observations, or documentary evidence that supports an allegation that children are at risk, the licensing staff requests that the operator voluntarily cease care or prohibit the alleged perpetrator from having any contact with children pending the outcome of the investigation. The operator is advised of the possibility of an injunction or emergency order if he or she refuses and children are considered at-risk.

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

5. The licensing staff enters the findings on the data base and completes page 1 of Form OCC-12 using specific language that will be informative to anyone who may review the file.

(1) On the Complaint Summary, page 1 of Form OCC-12, names or identifying information of the complainant, children, and their families are not included. 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 in the Complaint Summary, it is even more critical to have strong evidence before substantiating the complaint.

(2) When a child abuse investigation has been conducted by OCA, the Complaint Summary contains a summary of allegations and findings that does not disclose the identity of the alleged perpetrator or victim, but does allow persons who are interested to evaluate the facility.
(3) The Complaint Summary, page 1 of Form OCC-12, is made a part of the open record. The Complaint Report, page 2 of Form OCC-12, is placed in a confidential file. If the allegations and findings have not been given to the provider in writing, a letter is sent to the provider. Interviews with staff, children, collateral witnesses, and complainants are not made part of the public record.

(4) If information regarding a complaint is requested by the public prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings will be released after the investigation is complete.
340:110-1-47.2. Non-compliance with requirements

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

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

(2) Immediate correction is required when the non-compliance has a direct impact on the health, safety, or well-being of 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 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 following additional responses may be used when there is repeated, numerous, or serious non-compliance.  ■ 3

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

(2) **Follow-up phone call.** Phone calls are documented on page 4 of Form OCC-3, Monitoring Report, and a copy is mailed to the facility.

(3) **Non-compliance letters.** A non-compliance letter may be written to the operator. The licensing staff sends a copy of the monitoring report and non-compliance letter to the governing board or owner, if applicable.  ■ 4
(4) **Return monitoring visit.** A return monitoring visit may be made if there is repeated, numerous, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time. ■ 5

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

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

(7) **Notice to comply.** The licensing staff provides the facility with Form OCC-37, 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 OCC-37 within the specified time period, the licensing staff contacts the operator and documents the conversation. If concerns exist or the operator is uncooperative, the licensing staff sends a letter stating that failure to complete Form OCC-37 may result in revocation of license, denial of the application, or the filing of an injunction or emergency order.

(8) **Office conference.** The licensing staff may schedule an office conference with the operator of the facility. The programs manager is present at the office conference. Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered. The conference is documented on page 4 of Form OCC-3, which is signed by the licensing staff, the operator, and any witnesses present. Form OCC-37 is completed if one addressing these issues has not been completed recently.
(9) **Consent agreement.** OKDHS and the operator of the facility may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation.

(10) **Revocation.** The licensing staff recommends that the 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

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

(d) **Case management responses when children are at risk.** If the licensing staff documents non-compliance with requirements or is investigating a complaint that 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 programs manager are outlined in this subsection.

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

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

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

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

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

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

- (A) unlicensed;
- (B) on application status;
- (C) licensed;
- (D) violating an emergency order;
(E) operating during an appeal following revocation or denial and children are at risk; or

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

**INSTRUCTIONS TO STAFF**

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 staff states his or her expectation and negotiates an acceptable time period.

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

6. Procedure and documentation for denial or revocation of license is outlined in (1) and (2) of this Instruction.

   (1) The licensing staff ensures that the non-compliance and a plan of correction are clearly documented on the monitoring report, as well as 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 revocation of the license, denial of application, filing of 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. Criminal background checks

(a) **Provider.** Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility arrange, prior to employment, for a criminal history investigation for:

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

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

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

   (4) adults, including providers' spouses or adult children, who live in the child care facility.

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

   (1) new staff who have documentation of a criminal history investigation within the last 12 months;

   (2) staff who move to a program operated by the same organization;

   (3) contracted staff who provide transportation, lessons, or other services if facility staff are present with children at all times; and

   (4) providers' children who become adults, age 18, during continuous residence at the licensed facility.

(c) **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 state of residence if the person has resided in Oklahoma for less than one year.

(d) **Sex Offenders Registry.** The OSBI report must include a search of the Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act. According to Section 404.1 of Title 10 of the Oklahoma Statutes, it is
unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. If it is determined that a facility has violated this Statute, the Oklahoma Department of Human Services (OKDHS) may pursue:

(1) an emergency order;

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

(3) an injunction; or

(4) referral for criminal proceedings.

(e) Convictions. The licensing staff reviews each criminal history report.  ■ 1

(1) If a report includes a charge without a disposition for an offense listed in licensing requirements or which could affect contract eligibility, a copy of the disposition is obtained.

(2) If a report includes a plea of guilty or nolo contendere, no contest, or conviction for an offense listed in licensing requirements, the licensing staff: ■ 2

(A) advises the administrator or director of the facility that the person does not meet licensing requirements;

(B) informs the administrator or director of the facility that he or she may request a waiver from the Division of Child Care (DCC) programs manager unless the person was convicted of a crime pursuant to the Sex Offenders Registration Act, pursuant to OAC 340:110-1-51(d);

(C) provides the administrator or director of the facility with a copy of the items considered for a waiver as listed in OAC 340:110-1-51(h); and

(D) documents assurance from the administrator or director of the facility that the person in question will not be employed, work with children, or be present at the facility until a decision has been made regarding the request for a waiver, pursuant to OAC 340:110-1-51(h).

(3) If the facility administrator's or director's criminal history report includes a conviction of fiscal mismanagement, such as embezzlement or fraud, or if there are
repeated convictions that indicate a pattern of criminal activity, a copy of the report is sent to the DCC programs manager.

(f) **Waiver.** The prohibition to employ a person with criminal history may be waived if requested in writing by the facility's owner or director. ■ 3. A waiver is not granted to any person who is required to register pursuant to the Sex Offenders Registration Act.

1. Licensing staff submit completed Form OCC-71, Child Care Waiver Request, to the programs manager.

2. The decision to grant a waiver is made by the programs manager, based on documentation indicating the health, safety, and well-being of children is not endangered. Criteria considered by the programs manager include the:

   (A) type of crime or offense for which the person was convicted 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 made;

   (F) length of time that has elapsed since the last conviction or finding;

   (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 reliable community members concerning the person in question.

3. The programs manager notifies the facility of the decision in writing.

4. Licensing staff monitor any additional instructions made to the program and verify the waiver notice is posted in the facility.
INSTRUCTIONS TO STAFF

1. (a) The licensing staff documents on page 4 of Form OCC-3, Monitoring Report, 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.

(b) Prior to recommending a six-month permit or issuance of a license, the licensing staff documents review of a criminal history report for each person who is required to have one.

(c) When the facility adds persons described in OAC 340:110-1-51(a), the licensing staff documents review of each person's criminal history report.

(d) A copy of a clear report is not required for the licensing record. Narrative entries documenting that criminal history reports have been observed may be retained in the public licensing record. To maintain confidentiality, any reference to the contents of the criminal report is removed from the open record.

(e) Criminal history investigation reports are maintained in a confidential manner and removed from the open record.

2. If the criminal history report contains documentation of an arrest or conviction, the licensing staff obtains a copy of the criminal history report and immediately submits it to the programs manager for review.

3. A criminal history waiver request is maintained in a confidential manner and removed from the open record. The letter granting or denying the waiver may remain in the public file unless it contains information regarding a juvenile.
340:110-1-54. Grievance and complaint policy and procedure

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

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

(1) the associate director for programs; and

(2) the Director of OKDHS.
340:110-3-7.1. Requirements for child care center employees

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

1. provides annual documentation that he or she meets the health and training requirements contained in Licensing Requirements for Child Care Centers, OKDHS Publication no. 84-108;

2. demonstrates the ability to perform essential job functions;

3. recognizes and acts to correct hazards to physical safety, both indoors and outdoors;

4. works with children without recourse to physical punishment, mistreatment, or child abuse; and

5. demonstrates good judgment as evidenced by prudent and responsible behavior that reasonably ensures the health and safety of children in care.

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

1. Owner or director responsibility. The center’s owner or director arranges for a criminal history investigation for:

   A. any person making application to establish or operate a child care center;

   B. each applicant for employment prior to hiring, including all caregivers, substitutes, auxiliary staff, and any other person employed by the child care facility or program;

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

   D. adults, including providers’ spouses or adult children, who live in the child care facility.

2. Exceptions. Criminal history investigations are not required for:
(A) new staff who have documentation of criminal history investigations within the last 12 months;

(B) staff who move to a new center operated by the same organization;

(C) contracted staff who provide transportation, lessons, or other services if facility staff are present with children at all times;

(D) parent volunteers who transport children on an irregular basis; and

(E) providers’ children who become adults, age 18, during continuous residence at the licensed facility.

(3) **Authorized agencies.** Criminal history investigations are acceptable only when:

(A) conducted by the Oklahoma State Bureau of Investigation (OSBI); and

(B) conducted by the authorized agency in the previous state of residence if the individual has resided in Oklahoma less than one year.

(4) **Sex Offenders Registry.** The OSBI report must include a search of Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act.

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

(1) The child care center is restricted from knowingly employing a person who:

(A) has pending charges, has entered a plea of guilty or nolo contendere (no contest), or been convicted of:

(i) any criminal activity involving violence against a person;

(ii) child abuse or neglect;

(iii) possession, sale, or distribution of illegal drugs;

(iv) sexual misconduct; or

(v) an act of gross irresponsibility or disregard for the safety of others or a pattern of criminal activity; or
(B) is required to register pursuant to the Sex Offenders Registration Act. [50 O.S. § 581 et seq.]

(2) The center director may request a waiver from the requirements in OAC 340:110-3-7.1(c)(1). A waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the Sex Offenders Registration Act.

   (A) The waiver request is made in writing to OKDHS and considered by the statewide licensing coordinator.

   (B) The person for whom the waiver is requested cannot be employed until a decision has been made.

(3) Any person whose health or behavior could endanger the health, safety, or well-being of children is prohibited from the child care center premises and contact with children in care.

(4) An employee under the effects of alcohol, illegal drugs, or medication that impairs functioning is prohibited from providing child care services.

(d) Child abuse. The requirements pertaining to child abuse are contained in this subsection.

   (1) Any caregiver who has reason to believe that a child has been abused is required to promptly contact the county office of OKDHS or the statewide toll-free Child Abuse Hot Line, 1-800-522-3511.

   (2) Staff are required to cooperate fully in the investigation of any allegation.

(e) Health. Requirements pertaining to employees' health are contained in this subsection.

   (1) Tuberculosis testing. The need for tuberculin skin testing of employees is based upon a local identified tuberculosis exposure, the degree of risk of transmission of latent tuberculosis infection, the impact to public health and safety, and the specific recommendations of the Oklahoma State Department of Health.

   (2) Impairment of job performance. OKDHS Division of Child Care, Licensing Services (Licensing) may require a report of a physical or psychological examination by a licensed physician or mental health professional if it is reported or observed that an employee has a physical, mental, or emotional condition that impairs the employee's ability to perform assigned job responsibilities.
(f) **Employee qualifications.** Requirements applicable to employee positions are contained in this subsection.

(1) **Director qualifications.** Effective January 1, 2005, all directors of child care centers are required to be at least 21 years of age and have obtained and maintain the Bronze level, in accordance with OKDHS Appendix L-2, Oklahoma Director's Credential.

(2) **Master teacher qualifications.** Effective January 1, 2005, all master teachers are required to:

   (A) be at least 18 years of age and have obtained the qualifications at Level III or higher of OKDHS Appendix L-3, Professional Development Ladder; or

   (B) in a program where the majority of children are school-age, the master teacher may have 120 clock hours of Tier II or higher school-age training within the last five years, in accordance with OKDHS Appendix L-1, 480 hours of experience in a program where the majority of children are school-age, and every two years a minimum score of 5.0 on the School-Age Environment Rating Scale in a classroom where the master teacher is the lead teacher.

(3) **Teachers.** Teachers hired after July 1, 1995 are required to:

   (A) be at least 18 years of age; and

   (B) have a high school diploma or GED; or

   (C) have completed the tenth grade and be in the process of obtaining a GED for a period not to exceed 12 months.

(4) **Assistant teachers.** Assistant teachers are at least 16 years of age and required to:

   (A) have a high school diploma or GED;

   (B) have completed the tenth grade and be in the process of obtaining a GED; or

   (C) be currently enrolled in secondary education or the equivalent.

(5) **Permanent substitutes.** Permanent substitutes are required to meet minimum requirements for the position they are filling.
(6) **Temporary substitutes.** Temporary substitutes must be at least 18 years of age.

(7) **Teen aides.** Teen aides must be 13 through 15 years of age.

(g) **Responsibilities.** Responsibilities of employees and volunteers are described in this subsection.

(1) **Director.** The director, or teacher who meets director's qualifications, is present in the center at least 50 percent of operating hours or a minimum of 30 hours a week and is responsible for the day-to-day operation of the center.

(A) When four or more teachers are needed to meet minimum staff-child ratios, the director is free from direct care responsibilities at least three hours per day during operating hours to provide program oversight and staff supervision.

(B) The director, or teacher who meets director's qualifications, is responsible for:

(i) upon employment, providing three references to Licensing, including at least two from the director's most recent employers when applicable. The other reference(s) may be personal, excluding relatives;

(ii) appointing a staff member to take responsibility for the operation of the child care center in his or her absence and posting that person's name in a conspicuous place;

(iii) maintaining a child care center that meets the minimum requirements;

(iv) ensuring that a staff member trained to administer first aid including rescue-breathing and choke-saving measures is present at all times;

(v) arranging for criminal history investigations and obtaining dispositions on any charges shown on the report that lack dispositions;

(vi) prior to employing staff, obtaining and documenting three references including at least two from the applicant's most recent employers, when applicable. The other reference(s) may be personal, excluding relatives;

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

(viii) cooperating with licensing staff and other appropriate agencies in
maintaining compliance with requirements and in improving the quality of care.

(2) Master teachers. At least one full-time master teacher is required for every 60 children for which the center is licensed. The director may be counted as a master teacher if the licensed capacity is 30 or less.

(3) Teachers. Teachers have primary responsibility for the direct care of children.

(4) Assistant teachers. Assistant teachers work under the on-site supervision of a qualified director or teacher who is readily available at all times.

   (A) A director, master teacher, or teacher does not directly supervise more than two assistant teachers.

   (B) Assistant teachers are not permitted to have sole responsibility for a group of children for more than three hours per day.

(5) Auxiliary personnel. Auxiliary personnel, for example, cooks, building custodians, or other personnel who provide indirect services to children:

   (A) demonstrate knowledge and skills necessary to perform their job responsibilities;

   (B) meet applicable requirements for staff caring for children as set forth in this Section if they are responsible for children for any part of the day;

   (C) are not included in the staff-child ratio while performing auxiliary functions. Minimal cleaning and food service, for example, light cleaning, picking up toys, sweeping the classroom, and reheating and serving food, are not considered auxiliary functions as long as supervision and program are not adversely affected.

(6) Volunteers. Volunteers are required to meet all requirements in this paragraph.

   (A) Volunteers and student interns are not included in the staff-child ratio unless they are assigned to the center for at least three consecutive months. Volunteers are permitted to serve as temporary or permanent substitutes.

   (B) Volunteers counted in the staff-child ratio shall meet all requirements in this Part.
(C) Volunteers are under the direct supervision of the director or a designated staff member.

(D) Volunteers who have not met all requirements for teachers are not left in charge of children.

(7) **Substitutes.** Substitutes carry out the assigned responsibilities of the position they are filling.

(8) **Teen aides.** Teen aides:

(A) are not counted toward meeting the staff-child ratio and are not included in the licensed capacity;

(B) must be under the on-site supervision of a master teacher who is at least 18 years of age. One master teacher may supervise no more than two teen aides;

(C) are placed only in groups where at least one staff member is 18 years of age. No more than two teen aides may be assigned to a group of children;

(D) must be at least two years older than the children in the group to which they are assigned;

(E) must be visibly identifiable through means such as name tags or T-shirts; and

(F) are never left alone with children.

(h) **Professional development.** Requirements pertaining to professional development are contained in this subsection.

(1) **Orientation.** Within one week of employment and prior to having sole responsibility for a group of children, each staff member, including auxiliary staff and permanent substitutes who have been employed 40 hours, receives orientation.

(A) Orientation includes a review of:

(i) infection control;

(ii) injury prevention;

(iii) handling common childhood emergencies, including choking;
(iv) sudden infant death syndrome (SIDS);

(v) shaken baby syndrome;

(vi) the center’s policy and procedure and staff responsibility for implementation;

(vii) licensing requirements;

(viii) employees’ assigned duties and responsibilities;

(ix) emergency procedures in the event of injury, severe weather, or fire, including evacuation procedures and routes and location and use of fire extinguishers;

(x) the definition, identification, and mandatory reporting of child abuse and neglect;

(xi) the daily schedule;

(xii) the methods used to inform staff of any special health, nutritional, or developmental needs of children assigned to the caregiver;

(xiii) confidentiality of information regarding children and their families;

(xiv) appropriate use of discipline; and

(xv) transportation and car seat safety.

(B) Documentation includes a statement, signed by the employee and director, in each employee’s personnel file attesting to the orientation and review.

(C) New staff have a probationary period of at least 30 days during which they are closely supervised.

(2) **Entry-level training.** Prior to or within three months of employment, staff counted to meet staff-child ratios participate in a Tier II entry–level training course that provides at least 20 hours of training, in accordance with OKDHS Appendix L-1. Directors are not required to have this training. Staff who have previously received this training are not required to repeat it unless there is a two year break in service.

(3) **Health and safety training.** Staff are required to comply with the health and
safety training requirements contained in this paragraph.

(A) When children are in care on the center premises or on any center-sponsored field trip, staff are present who have current documentation of certification in age-appropriate first aid and cardiopulmonary resuscitation (CPR) that meets the criteria in (i) through (iii) of this subparagraph.

(i) CPR training must be conducted by an individual certified as an instructor through the American Red Cross or the American Heart Association.

(ii) First aid courses must be conducted by Emergency Medical Services for Children (EMSC) First Care, the American Red Cross, the National Safety Council, or approved as Tier II training, in accordance with OKDHS Appendix L-1.

(iii) Documentation of current completed training in CPR and first aid is maintained by the staff.

(B) The first aid training includes the emergency management of:

(i) bleeding;
(ii) burns;
(iii) poisoning;
(iv) choking;
(v) injuries, including insect, animal, and human bites;
(vi) shock;
(vii) convulsions or nonconvulsive seizures;
(viii) musculoskeletal injury, such as sprains and fractures;
(ix) dental emergencies;
(x) head injuries;
(xi) allergic reactions;
(xii) eye injuries;

(xiii) loss of consciousness;

(xiv) electric shock; and

(xv) drowning.

(4) **Ongoing training.** Requirements of staff for ongoing training are contained in this paragraph.

(A) **Director.** The director is required to obtain 20 clock hours per employment year of Tier I or higher training, such as professional conferences or from an accredited college, university, or vocational program, in accordance with OKDHS Appendix L-1.

(i) OKDHS approves training upon request.

(ii) Training is relevant to job responsibilities and includes center administration or management, age-appropriate childhood education, and infection control.

(B) **Staff with children.** Each person who is counted toward meeting the staff-child ratio is required to obtain 12 clock hours per employment year of Tier I training, in accordance with OKDHS Appendix L-1, that is relevant to job responsibilities and includes infection control. Formal training is from a source such as professional conferences or from an accredited college, university, or technical school.

(i) The director assists staff in identifying and selecting training that is varied, appropriate, and builds upon previous training.

(ii) No more than six hours of self-directed readings, use of videos, or informal on-site training is counted toward the required annual training hours.

(iii) Reports of self-directed reading are documented and submitted to the director.

(iv) Training repeated during the employment year is only counted once to meet the training requirement.

(5) **Food service training.** Prior to or within three months of employment, the
person primarily responsible for food preparation is required to receive training in:

(A) nutrition planning;

(B) age-appropriate food selection;

(C) food preparation, service, and storage; and

(D) cleaning and sanitizing equipment and utensils.

(6) **Substitute and volunteer staff training.** Requirements for substitute and volunteer staff are listed in (A) through (C) of this paragraph.

(A) Temporary substitutes are required to be familiar with center policy and procedure before they are left in charge of a group of children.

(B) Permanent substitutes are required to meet the requirements for orientation and ongoing training in OAC 340:110-3-7.1(h)(1) and (4).

(C) Volunteers counted toward meeting the staff-child ratio are required to meet the requirements for orientation and ongoing training in OAC 340:110-3-7.1(h)(1) and (4).

(7) **Documentation of training.** Documentation of training for each staff member is required and includes the topic, source of training, date, and hours.
340:110-3-154. Social services

(a) Admission. The facility involves the resident and parents or custodian in the admission process.

(1) Upon admission, an admission assessment is completed for each resident indicating that the placement is appropriate for each resident's needs. The admission assessment is documented and available for licensing staff to review. An admission assessment includes:

(A) a description of the circumstances that led to the resident's referral;

(B) a description of the resident's family, relationship with family members, and relationships with other significant adults and children;

(C) a description of the resident's current and past behavior, including both appropriate and maladaptive behavior;

(D) the resident's medical and dental history, including any current medical problems;

(E) the resident's school history, including current educational level, special achievements, and any school problems;

(F) the resident's history of any other placements outside the home, including the reasons for placement;

(G) the resident's mental health history; and

(H) documentation indicating efforts to obtain any of the identifying information in (A) through (G) of this paragraph, if any information is not obtainable.

(2) A facility does not accept children under age five except when maintaining a sibling group, maintaining a child with a parent, or when there is a need for special services, such as medical care or monitoring, awake supervision, or crisis intervention, assessment, or treatment. If a resident under five years of age is in care at the facility, the admission assessment and the service plan documents why this placement is in the resident's best interest.

(3) Persons 19 years of age and older are not admitted to the facility. A facility may continue to serve a person who entered the program prior to his or her 19th birthday through the completion of his or her service plan.
(4) Upon admission, the facility obtains authorization, by the parents’ or custodian's signature, of:

(A) authority to provide care;

(B) authority to provide medical care;

(C) financial agreement, if a charge is made for the resident’s care; and

(D) authority to use the resident or the resident’s picture in publicity, if applicable.

(5) Residents receive a medical examination by a health professional within 60 days prior to admission or within 30 days following admission. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a resident is transferred from another licensed facility.

(6) Upon admission, the facility advises the resident of all rules and regulations of the facility.

(7) The facility documents, by the resident’s and parents' or custodian's signatures, that the resident and parents or custodian have been provided written copies of the facility’s policies, which includes, but is not limited to, resident’s rights, grievance procedures, behavior management policies, trips away from the facility, use of volunteers, and frequency of reports to the parents or custodian.

(8) Acceptance of out-of-state residents is made according to the Interstate Compact on the Placement of Children.

(b) **Service planning.** The service plan is available for licensing staff to review.

(1) **Comprehensive service plan.** A written service plan is developed and documented for each resident within 30 days of admission.

   (A) The facility involves the resident and parents or custodian in the development of the service plan. If the parents or custodian do not participate in the development of the service plan, the reason for non-participation is documented in the service plan.

   (B) The service plan identifies and includes:

   (i) the resident’s needs, such as counseling, education, physical health, medical care, or recreation, in addition to basic needs for food, shelter,
clothing, routine care and supervision;

(ii) strategies for meeting the resident’s needs, including instructions to staff. Individual health needs must be addressed in the facility’s medical plan. Refer to OAC 340:110-3-154.3:

(iii) the estimated length of stay;

(iv) goals and anticipated plans for discharge;

(v) the facility’s plan to involve the residents parents or custodian, including visitation guidelines; and

(vi) the names and signatures, with the date, of those participating in developing the service plan.

(2) Service plan review. Service plan reviews are available for licensing staff to review.

(A) The service plan is reviewed within 90 days after it has been developed and at least every six months thereafter.

(B) The facility involves the resident and parents or custodian in the service plan review. If the parents or custodian do not participate in the service plan review, the reason for non-participation is documented in the service plan.

(C) The service plan review includes:

(i) an evaluation of progress toward meeting identified needs;

(ii) any new needs identified since the plan was developed or last reviewed and strategies to meet those needs, including instructions to staff;

(iii) an update of the estimated length of stay and discharge plans, if changed;

(iv) an assessment of the continued appropriateness of placement with the goal of determining whether the resident should be returned home, placed in a foster home, transferred to some other care better suited for the resident’s development, or maintained for a longer period in the child care facility; and

(v) the names, and signatures, with the date, of those participating in the
review.

(c) Services. The facility provides or facilitates the provision of services to meet the stated goals of the service plan.

(d) Discharge procedures. The facility involves the resident, parents or custodian, and staff in discharge planning.

(1) Except in an emergency, a resident is not discharged to anyone other than the resident’s parents or custodian without written authorization.

(2) An emergency discharge occurs when a resident presents a danger to self or others. Upon emergency discharge of a resident, the facility informs the parents or custodian immediately.

(3) The person to whom the resident is discharged produces photographic identification and signs the discharge form before leaving with the resident.

(4) The date, time, destination, and circumstances of the resident’s discharge are documented in the resident’s record. The name, address, and relationship of the person to whom the resident is discharged are included in the documentation.

(e) Resident’s records. The facility maintains a written record for each resident, which is retained for three years following the resident’s discharge.

(1) The record includes:

(A) the resident’s name, address, telephone number, Social Security number, sex, race, religion, birth date, and birth place;

(B) the admission assessment;

(C) required authorizations, as specified in OAC 340:110-3-154(a)(3);

(D) medical records;

(E) the comprehensive service plan and reviews;

(F) educational information;

(G) reports of serious incidents, which include, but are not limited to, suicide attempts, injuries requiring medical treatment, runaway attempts, commission of
a crime and allegations of abuse, neglect, or abusive treatment. The report includes the date and time of the incidents, the names of all persons involved, the nature of the incidents, and the circumstances surrounding them;

(H) reports of separation, use of physical restraint, and other restrictions;

(I) discharge summary;

(J) signed documentation that the resident and parents or custodian have been provided written copies of the facility's policies on resident’s rights, grievance procedures, behavior management policies, trips away from the facility, use of volunteers and frequency of reports to the parent or custodian; and

(K) grievance forms signed by the person filing the grievance, if grievances were filed.

(2) Resident's records are confidential as defined by federal and state laws.
340:110-3-154.3. Health and medical services

(a) **Medical plan.** The facility has an operational plan to meet the individual medical needs of each resident based on information obtained from the admission assessment, physical examination by a health care professional, and observation during placement.

(b) **Physical examination.** Each resident receives a physical examination annually, or at more frequent intervals as recommended by a health care professional.

(c) **Medical care.** Each resident receives proper medical and dental care. When a serious accident or illness occurs to a resident, the facility takes the necessary emergency action and notifies the parents or custodian immediately.

(d) **Immunizations.** Each resident is immunized against communicable diseases in accordance with the rules and regulations of the Oklahoma State Department of Health.

(e) **Medication.** The facility has current, written medication policy.

   (1) On each shift, a staff member is designated to ensure compliance with the facility’s medication policy.

   (2) When any medication is administered to a resident, a precise record is kept that includes:

      (A) the resident’s name;

      (B) the name of the medication;

      (C) the dosage, date and time given, and signature of the person who administered it;

      (D) reason the medication is given; and

      (E) any unusual reaction. The resident, the parents or custodian, and all staff members responsible for the resident are informed of the side effects of the medication prescribed for the resident.

   (3) Prescription medications are administered by the designated staff member only as part of a prescribed therapeutic treatment.

   (4) All medications are kept in a locked container and under the supervision of the designated staff member.
(f) **First aid supplies.** The facility maintains first aid supplies.
340:110-3-168. Requirements for residential treatment facilities

(a) **Residential treatment facilities.** A residential treatment facility (facility) cares for children under 24-hour medical care who have emotional, psychological, or mental disorders.

(b) **Requirements.** The facility complies with the rules contained in OAC 340:110-3-145 through 340:110-3-165, except as otherwise provided in this Section.

(c) **Personnel.** The facility:

(1) complies with the rules regarding personnel contained in OAC 340:110-3-153.1; and

(2) employs a psychiatrist and adequate medical staff to meet the medical needs of the residents.

(d) **Supervision of residents.** The facility is exempt from the rules contained in OAC 340:110-3-153.2 regarding supervision of residents.

(1) The facility employs a sufficient number of staff as child care workers to adequately supervise and meet the needs of residents. Staff members are awake and accessible at all times.

(2) The facility maintains a ratio of one staff person for:

(A) six residents (1:6) during awake hours; and

(B) eight residents (1:8) during sleeping hours.

(e) **Admission.** A health professional reviews and approves the admission assessment within 24 hours.

(f) **Service planning.** The facility is exempt from the rules contained in OAC 340:110-3-154(b)(1) and (2) regarding service plans.

(1) The facility meets the requirements contained in:

(A) (1) and (2) of this subsection; and

(B) OAC 340:110-3-154(b)(1)(A) and (B) and (b)(2)(B) and (C).
(2) A written service plan for each resident is:

(A) developed and documented within four working days after admission; and

(B) reviewed within seven days after it has been developed and at least every seven days thereafter.

(g) Discharge procedures. The facility meets the rules contained in OAC 340:110-3-154(d) regarding discharge procedures. The facility:

(1) supplies residents with a prescription for two weeks’ worth of medication, if appropriate, upon discharge; and

(2) documents in the resident’s record at least one scheduled outpatient follow-up contact within two weeks of discharge.

(h) Visitation. The facility is exempt from the rules contained in OAC 340:110-3-154.1(b)(2) regarding visitation restriction reviews. Reasons for visitation restrictions are:

(1) explained to the resident and parents or custodian;

(2) documented in the resident’s records; and

(3) reviewed every seven days.

(i) Behavior management. The facility is exempt from the rules contained in OAC 340:110-3-154.2(b)(7) and (11) regarding seclusion and mechanical restraint. If the facility uses mechanical restraint and seclusion, it must meet the requirements contained in (1) through (4) of this subsection.

(1) Seclusion. Seclusion is used only to prevent self-injury, injury to others, destruction of property, or inciteful behavior that jeopardizes the security of the facility, and only after less restrictive methods of behavior management have failed.

(A) Seclusion is used only with specific verbal authorization of the attending psychiatrist. The authorization must be written and signed by the psychiatrist within 24 hours.

(B) While in seclusion, a staff member continuously monitors the resident, either in person or with audiovisual equipment, and personally checks the resident's well-being every 15 minutes. The resident receives appropriate medical and
psychological services.

(C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.

(D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion.

   (i) Residents age ten years and older do not remain in seclusion longer than two hours or a total of six non-consecutive hours within any 24-hour period.

   (ii) Residents age nine years and younger do not remain in seclusion longer than one hour within any 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

   (A) at least 60 square feet and a ceiling height of seven feet, six inches;

   (B) a safety glass window, mirror, or camera that allows for full observation of the seclusion room;

   (C) no hardware or furnishings that obstruct observing the child at all times;

   (D) no hardware, equipment, or furnishings that present a physical hazard or suicide risk;

   (E) means for natural or mechanical ventilation;

   (F) means for maintaining a temperature between 65 and 85 degrees Fahrenheit;

   (G) lighting for all areas of the room; and

   (H) an automatic fire suppression system.

(3) **Mechanical restraint.** Mechanical restraint is used only to prevent self-injury, injury to others, destruction of property, inciteful behavior that jeopardizes the security of the facility, and only after less restrictive methods of behavior management have failed.

   (A) Mechanical restraint is used only with specific verbal authorization of the attending psychiatrist. The authorization must be written and signed by the
psychiatrist within 24 hours.

(B) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from mechanical restraint.

(i) Residents age ten years and older do not remain in mechanical restraint longer than two hours.

(ii) Residents age nine years and younger do not remain in mechanical restraint longer than one hour.

(C) Mechanical restraint is used on the resident in a comfortable and humane manner.

(ii) Resident's hands are not restrained to his or her feet.

(ii) Mechanical restraints are padded or cushioned.

(D) A staff member continuously monitors, either in person or with audiovisual equipment, the resident and personally checks the resident's well-being every 15 minutes.

(E) The resident receives appropriate medical and psychological services.

(4) **Seclusion and mechanical restraint log.** A seclusion and mechanical restraint log is kept, and a report containing all information in the log is part of the resident's record. The log includes:

(A) date and time of placement in seclusion or in mechanical restraint;

(B) name of the psychiatrist authorizing the use of mechanical restraint or seclusion;

(C) reason for the use of mechanical restraint or seclusion and other behavior management techniques attempted;

(D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and

(E) time the resident is released from seclusion or mechanical restraint.
340:110-5-60. Foster home requirements

(a) General requirements. A foster home shall be clean, safe, and in good repair.

(1) The home and the exterior around the home shall be free from objects, materials, and conditions that constitute a danger to the children served.

(2) The foster home shall be accessible to or able to arrange transportation to school, church, recreational and health facilities, and other community resources, as needed.

(3) The home shall comply with all applicable fire, health, and safety laws, ordinances, and regulations.

(b) Safety requirements.

(1) Clear glass doors shall be plainly marked to avoid accidental impact. Foster homes providing infant care only are exempt from this requirement.

(2) Children shall be protected from hazardous materials, such as flammable liquids and poisonous materials.

(3) All weapons and firearms shall be kept locked.

(4) The premises are free of illegal drugs and paraphernalia.

(5) When children are in care, smoking is prohibited inside the home and when transporting children.

(6) Stairways over four steps, inside and outside, shall have railings. Safety gates at stairways shall be provided if infants and toddlers are in care. Foster homes providing infant care only are exempt from this requirement.

(7) Any play activity that involves water shall be supervised constantly. Ponds or pools shall not be left accessible to children. Wading pools shall be emptied after each use.

(c) Fire safety requirements.

(1) A fire extinguisher rated for Class ABC fires shall be installed in the kitchen area.

(2) A foster home shall be equipped with at least one operable smoke detector in
the vicinity of the sleeping areas or more as required by the child-placing agency.

(3) Each floor used as living space shall have at least two means of escape, at least one of which shall be a door leading to an unobstructed path to the outside. The second means of escape may be an unobstructed, operable window 20" X 24" minimum dimensions.

(4) All heating and air conditioning equipment shall be installed in accordance with state and local mechanical codes and manufacturer's instructions.

(d) Health requirements. Foster homes shall meet the health requirements contained in this subsection.

(1) Water supply, sewage disposal, and solid waste disposal shall meet local city ordinances and Oklahoma Department of Environmental Quality regulations.

(2) Rooms used by children shall be well lighted and ventilated.

(3) Windows and doors used for ventilation shall be screened.

(4) The foster parents shall take measures to keep the house and grounds free of rodents, insects, and stray animals.

(5) One sink, one toilet, and one tub or shower to every six occupants living in the home shall be available.

(6) Each child shall be provided with individual combs, toothbrushes, wash cloths, and towels. There shall be individual eating and drinking utensils for each child.

(7) Linens shall be changed when needed.

(8) Animals or household pets are permitted provided that there is proof of annual rabies vaccinations for each animal. Pets or animals in the foster home, indoors or outdoors, shall be in good health, show no evidence of carrying disease, be friendly toward children, and present no threat to the health, safety, and well-being of children.

(e) Sleeping arrangements. A separate bed shall be provided for each child. Siblings younger than six years old may share a bed if their history indicates that this is appropriate and the decision is made in consultation with the child-placing agency.

(1) It is preferable that no more than two children share a sleeping room.
Consideration is given to related children according to age and emotional needs.

(2) Separate sleeping rooms shall be provided for children older than four years who are of different sex.

(3) Foster children over the age of one year shall not share sleeping quarters with adults in the household unless an emergency exists and the child-placing agency is informed.

(f) Emergency plans. Each foster home shall comply with the requirements pertaining to emergency plans contained in this subsection.

(1) There shall be a planned source of medical care available, such as a hospital emergency room, clinic, or physician known to the foster family.

(2) The home shall have a telephone with emergency numbers posted nearby for the physician or clinic, fire department, police department, ambulance service, and substitute caregiver.

(3) The foster parent shall have an emergency evacuation plan in the event of fires, tornadoes, floods, and other emergencies.

(4) First aid procedures and supplies shall be readily available.

(5) The foster parent shall ensure that each child, as appropriate to age and developmental level, knows how to evacuate from the home in the event of a fire. The foster parent conducts periodic evacuation drills.

(g) Equipment. Equipment and furniture shall be safe for children. The foster home shall have child care equipment, such as bedding, high chairs, proper auto restraints, and toys appropriate for children placed in the home.

(h) Transportation. The foster family shall have emergency transportation available. Foster children are transported in compliance with applicable state law. [47 O.S. § 11-1112]

(i) Nutrition. Each child is provided a balanced, nutritious, and developmentally appropriate diet.

(1) The food shall be wholesome in quality, ample in quantity, and of sufficient variety.
(2) Instructions for feeding infants, including the use of formula, recommended by the physician shall be followed.