POLICY TRANSMITTAL NO. 07-18  DATE: JUNE 22, 2007

DIVISION OF CHILD CARE  DEPARTMENT OF HUMAN SERVICES
OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO:  ALL OFFICES

SUBJECT:  MANUAL MATERIAL

OAC 340:110-1-3 through 110-1-4.1; 110-1-6; 110-1-8 through 110-1-8.1; 110-1-8.3; 110-1-9 through 110-1-9.5; 110-1-10; 110-1-11; 110-1-13 through 110-1-15; 110-1-17; 110-1-20 through 110-1-21; 110-1-43 through 110-1-43.1; 110-1-45 through 110-1-47.2; and 110-1-51 through 110-1-53.

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

340:110-1-3 is amended to update language to conform to current OKDHS usage.
340:110-1-4 is amended to clarify contact procedures involving media relations.
340:110-1-4.1 and 110-1-6 are amended to change form numbers to conform with the new tracking system.
340:110-1-8 is amended to: (1) clarify criminal history investigation requirements; and (2) change form numbers to conform with the new tracking system.
340:110-1-8.1 is amended to update language to conform to current OKDHS usage; and change form numbers to conform with the new tracking system.
340:110-1-8.3 is amended to: (1) clarify division practice and procedure to assist programs prepare to advance to a higher star program level; and (2) change form numbers to conform with the new tracking system.
340:110-1-9 is amended to: (1) clarify protocol for reporting child death and sudden infant death syndrome; (2) provide guidelines for tracking criminal history; and (3) change form numbers to conform with the new tracking system.
340:110-1-9.1 and 110-1-9.3 are amended to change form numbers to conform with the new tracking system.
340:110-1-9.2 is amended to: (1) clarify terminology for consistency; (2) reflect complaint tracking categories; and (3) change form numbers to conform with the new tracking system.
340:110-1-9.4 is amended to clarify terminology for consistency.
340:110-1-9.5 and 110-1-14 are amended to change form numbers to conform with the new tracking system.
340:110-1-10 is amended to clarify current division practice.
340:110-1-11 Instructions to Staff only is amended to reflect length of time records are archived.
340:110-1-13 is amended to: (1) clarify procedures when care of children is terminated; and (2) change form numbers to conform with the new tracking system.
340:110-1-15 is amended to: (1) clarify complaint procedures; and (2) update terminology for consistency.
340:110-1-17 is amended and supersedes the revisions approved as emergency to provide clear guidelines regarding Advisory Committee requirements and procedures concerning terms of office, participation in subcommittees, and frequency of meetings.
340:110-1-20 is amended to: (1) clarify procedures involving licensing staff professional development; and (2) change form numbers to conform with the new tracking system.
340:110-1-21 is amended to update terminology for consistency.
340:110-1-43 is amended to: (1) clarify the person who signs the license that is issued; and (2) update terminology for consistency.
340:110-1-43.1 and 110-1-45 are amended to change form numbers to conform with the new tracking system.
340:110-1-46 is amended to: (1) clarify that a complete monitoring visit is required to issue a six-month permit; and (2) change form numbers to conform with the current form tracking system.
340:110-1-47 is amended to: (1) clarify licensing procedure when a program has a change of address or reports a satellite office; (2) clarify the definition of serious incident; and (3) change form numbers to conform with the current form tracking system.
340:110-1-47.1 is amended to: (1) clarify the complaint finding options; and (2) change form numbers to conform with the current form tracking system.
340:110-1-47.2 and 110-1-51 are amended to (1) change form numbers to conform with the current form tracking system; and (2) update terminology for consistency.
340:110-1-52 is amended to: (1) clarify procedures for development of a consent agreement and appeals; and (2) update terminology for consistency.
340:110-1-53 is amended to clarify reasons and procedures for case closures.
INSTRUCTIONS FOR FILING MANUAL MATERIAL

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

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

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340:110-1-3. Legal base and authority

The Oklahoma Department of Human Services (OKDHS) is responsible for implementing the Oklahoma Child Care Facilities Licensing Act (Act). [10 O.S. § 401 et seq.] This Act mandates that a license be obtained from OKDHS to provide care for children away from their own homes. The child care facilities subject to licensing that are addressed in this Part are family child care homes, child care centers, part-day children's programs, and school-age programs. OKDHS responsibilities in relation to these facilities include:

(1) developing minimum requirements for the care and supervision of children cared for in child care facilities;

(2) assisting child care providers in achieving maximum standards;

(3) providing continuing technical assistance and consultation to the facility;

(4) developing sufficient and adequate facilities for child care in the community;

(5) issuing licenses based upon compliance with minimum requirements;

(6) investigating complaints received against child care facilities; and

(7) taking corrective action as authorized by the Oklahoma Child Care Facilities Licensing Act and stated OKDHS policy based upon non-compliance with minimum requirements.
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 is 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 the licensing staff's 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.

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

INSTRUCTIONS TO STAFF 340:110-1-4

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 Oklahoma Child Care Facilities Licensing Act, Oklahoma Department of Human Services policy, licensing requirements, and other child care services. The statewide licensing coordinator, assistant licensing coordinator, and licensing regional programs 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 per OAC 340:110-1-9(p)

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) **08AD006E, Certification for Special Needs Child Care Rate.** Form 08AD006E 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) **07LC002E, Child Care Center Staff Summary.** Form 07LC002E is used to document compliance with licensing requirements for all staff currently employed by the child care facility.

(3) **07LC003E, Child Care Center Monitoring Report.** Form 07LC003E is used by the licensing staff to document compliance with requirements during a monitoring visit at a child care center and record any other information obtained.

(4) **07LC004E, Application for License - Child Care Facility.** Form 07LC004E 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) **07LC005E, Transportation Information.** Form 07LC005E is used by a child care facility director to document compliance with licensing requirements on transportation.

(6) **07LC006E, Equipment Inventory - Child Care Center.** Form 07LC006E 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) **07LC007E, Documentation of Training - Family Child Care Home and Large Child Care Home.** Form 07LC007E 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) **07LC009E, Documentation of Required Training Topics – Family Child Care Home and Large Child Care Home.** Form 07LC009E 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) 07LC008E, Periodic Monitoring Report - Certification for Care of Children with Disabilities. Form 07LC008E is used by the licensing staff to document ongoing compliance with certification requirements during monitoring visits.

(10) 07LC010E, Part-Day Children's Program Monitoring Report. Form 07LC010E is used by the licensing staff to document compliance with licensing requirements during a monitoring visit at a part-day children's program and to record any other information obtained.

(11) 07LC012E, Licensing Complaint. Form 07LC012E is used to record a complaint against a child care facility.

(12) 07LC014E, Family Child Care Home Monitoring Report. Form 07LC014E is used to document compliance with requirements during a monitoring visit to a family child care home and record other information obtained.

(13) 07LC017E, Six Month Permit. Form 07LC017E 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) 07LC018E, Notice of Issuance of License for a Child Care Facility. Form 07LC018E is a notice to the child care facility that it has complied with licensing requirements and is being issued a license.

(15) 07LC020E, Equipment Inventory - Part-day Children's Program. Form 07LC020E is used to document the equipment available or needed to comply with Licensing Requirements for Part-day Children's Programs, OKDHS Publication no. 95-12.

(16) 07LC021E, Comments and Recommendations RE. Licensing Requirements and Policy. Form 07LC021E is used to make comments and recommendations pertaining to licensing requirements and policy.

(17) 07LC023E, School-Age Program Monitoring Report. Form 07LC023E is used to document compliance with licensing requirements for school-age programs during a monitoring visit and record any other information obtained.

(18) 07LC024E, Equipment Inventory - School-Age Program. Form 07LC024E is used to document the equipment available or needed to comply with Licensing Requirements for School-Age Programs, OKDHS Publication no. 97-10.
(19) **07LC025E, Request for Child Care Center Star Certification.** Form 07LC025E is used by a child care center owner or director to request star certification.

(20) **07LC026E, Periodic Certification Review - Center Star Certification.** Form 07LC026E is used to document compliance with criteria for star certification and to establish a plan to correct violations in a child care center.

(21) **07LC027E, Request for Family Child Care Home Star Certification.** Form 07LC027E is used by a family child care home provider to request star certification.

(22) **07LC028E, Periodic Certification Review - Home Star Certification.** Form 07LC028E is used to document ongoing compliance with criteria for star certification and to establish a plan to correct violations in a family child care home.

(23) **07LC037E, Notice to Comply.** Form 07LC037E is used by a child care facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.

(24) **07LC038E, Child Information.** Form 07LC038E is used by the child care facility to record enrollment information for a child.

(25) **07LC041E, Child Care Staff Information.** Form 07LC041E is used to record information regarding child care facility staff persons as required by licensing requirements.

(26) **07LC042E, Application for License – Family Child Care Home and Large Child Care Home.** Form 07LC042E is used to make application for license to operate a family child care home or large child care home.

(27) **07LC057E, Physical Plant.** Form 07LC057E is used by licensing staff to document the floor plan, including indoor and outdoor square footage and numbers of toilets and sinks.

(28) **07LC061E, Alternative Compliance Request.** Form 07LC061E is used by a child care facility to request an alternative method of complying with licensing requirements.

(29) **07LC075E, Notice of Alternative Compliance.** Form 07LC075E is used by Oklahoma Department of Human Services (OKDHS) to notify a facility of an approved request for alternative method of compliance.
(30) **07LC063E, One Star Plus Certification Expiration.** Form 07LC063E is used by licensing staff when a one star plus facility fails to reapply for certification at 12 or 24 months.

(31) **07LC069E, Compliance Review for Child Care Centers.** Form 07LC069E is used by child care center directors to verify their knowledge of the licensing requirements.

(32) **07LC071E, Child Care Waiver Request.** Form 07LC071E is used by licensing staff when submitting a waiver request to State Office.

(33) **07LC072E, Compliance Review for School-Age Programs and Summer Day Camps.** Form 07LC072E is used by school-age and summer day camp directors to verify their knowledge of the licensing requirements.

(34) **07LC073E, Compliance Review for Part-Day Children's Programs.** Form 07LC073E is used by part-day children's program directors to verify their knowledge of the licensing requirements.

(35) **07LC074E, Request for Extension of Time to Comply.** Form 07LC074E is used by child care providers to request an extension of time to comply with Stars criteria.

(36) **07LC080E, Licensing Services Supplemental Information.** Form 07LC080E is used to provide supplemental facility information.

(37) **07LC081E, Licensing Complaint Report Summary.** Form 07LC081E is placed in the case record and includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.
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

(1) If requested, a family child care home application is filed and a license issued to a caregiver and spouse. References are obtained for both persons, and both must demonstrate compliance with requirements. 2 through 4

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

(A) child care center; or

(B) family child care home operating as a business entity.

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

(1) OKDHS may contract with a child care facility in another state when a client residing near the Oklahoma border elects to use an out-of-state facility.

(2) The licensing staff responsible for the county in which the client resides verifies the facility is licensed or registered and in compliance with the Civil Rights Act by contacting the state agency responsible for licensing.

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

(d) 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

(1) Fire and health inspections completed within the last 12 months may be used, unless concerns exist.
(2) If the facility has been closed less than one year:

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

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

(e) **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

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. 8 Other cases are reviewed only if concerns exist.

2. When the provider's medical information is confidential or concerns exist, the licensing staff may request information from the provider by requiring the provider to sign OKDHS Form 08HI003E, Authorization to Disclose Medical Records. 9

(f) **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:

1. based upon the number, ages, and specific needs of children potentially eligible for child care and foster care;

2. documented in the case record; and

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

(g) **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) and (b) 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 imminent 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 is 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 07LC080E, Licensing Services Supplemental Information, when children have not been accepted into care;

(4) 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

(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.  

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

INSTRUCTIONS TO STAFF 340:110-1-6

1. (a) The appropriate applications are:

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

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

   (b) Upon receipt of a complete application, the licensing staff enters available information into the database and obtains a case number.

   (c) Licensing staff verifies identification for family child care applicants by observing a photo identification. A copy of the photo identification is requested and placed in the public licensing record with any confidential information purged.
(d) For a family child care home applicant operating as a sole proprietor, the license is issued in the caregiver's legal name as it appears on the caregiver's Social Security card as verified by Division of Child Care (DCC) licensing staff.

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

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

4. If a caregiver wishes to provide care in a location that is not a residential family home, an alternative method of compliance must be requested. If a caregiver wishes to provide care in a residential family home other than the caregiver's permanent residence, an alternative method of compliance is not required, and the procedures in (1) through (6) 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 Form 07LC080E, Licensing Services Supplemental Information.

(3) The caregiver signs an agreement that child care will not be provided at the caregiver's permanent address.
(4) Documentation of criminal background checks is obtained on all adults who reside in the home where child care is provided and on other adults who have access to children in care on a regular basis.

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

(6) This residence is not approved for child care if it is approved for foster care.

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.

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 08HI003E, Authorization to Disclose Medical Records, a letter may then be sent to the doctor asking if the provider is able to provide care for the number and ages of children in care.

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.

(1) The licensing staff may recommend a permit when the facility is in compliance with critical requirements regarding criminal history investigations, 1 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.

(2) The licensing staff observes and documents criminal history investigation reports, pet vaccinations, and other required items. Copies of these items are not included in the file, with the exception of a criminal history report reflecting a record.

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

(b) Documentation for six-month permit.

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

(A) copy of licensing staff recommendation, LisReq;

(B) Form 07LC004E, Application for License - Child Care Facility;

(C) Form 07LC002E, Child Care Center Staff Summary;

(D) Form 07LC041E, Child Care Staff Information for each staff person;

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

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

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

(I) Form 07LC041E, Child Care Center Monitoring Report, Form 07LC010E, Part-Day Children's Program Monitoring Report, or Form 07LC023E, School-Age Program Monitoring Report.

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

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

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

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

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

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

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

(4) 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.

(5) 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.

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

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

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

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

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

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

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

(e) **Documentation for license.**

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

(A) copy of licensing staff recommendation, LisReq;

(B) daily program schedule;

(C) updated Form 07LC002E, Child Care Center Staff Summary;

(D) outdoor play schedule, if applicable;
(E) Form 07LC006E, Equipment Inventory - Child Care Center;

(F) statement of completed compliance review, if applicable; ■ 7

(G) director's references;

(H) one-week sample menu;

(I) documentation of fire department approval within the previous 24 months; ■ 4

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

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

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

   (iii) If programs are licensed for 25 or more, approval from Department of Environmental Quality (DEQ) is required when not on a public water supply system; and ■ 5

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

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

   (A) copy of licensing staff recommendation, LisReq;

   (B) outdoor play schedule, if applicable;

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

   (D) updated Form 07LC002E, Child Care Center Staff Summary;

   (E) Form 07LC020E or 07LC024E, Equipment Inventory, as applicable;
(F) statement of completed compliance review, if applicable; ■ 7

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

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

(I) documentation of fire department approval within the previous 24 months; ■ 4

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

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

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

(iii) If programs are licensed for 25 or more, approval of DEQ is required when not on a public water supply system; and ■ 5

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

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

(A) copy of licensing staff recommendation, LisReq;

(B) one-week sample menu;

(C) references;

(D) Form 07LC014E, Family Child Care Home Monitoring Report; 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, cooking, and, if applicable, bathing of children.

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

(f) 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.

(g) 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 07LC017E, Six Month Permit, or Form 07LC018E, Notice of Issuance of License for a Child Care Facility.

INSTRUCTIONS TO STAFF 340:110-1-8

1. The center’s owner and director must have a completed criminal history investigation for issuance of a six-month permit. The center's owner or director must have arranged for criminal history investigation reports for other staff.

2. (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 State 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.

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

   (b) The director may request an increase in capacity during the permit period by documenting additional equipment. The licensing staff visits the facility to verify equipment only if concerns exist.
4. If the facility is located in a community without a local fire department, the licensing staff provides the statewide licensing coordinator or designee with the facility's name, address, finding directions, and telephone number. The statewide licensing coordinator or designee sends a request for an inspection to the State Fire Marshal. If an inspection has been made but a copy of the fire department report is not available, the licensing staff may contact the fire department by telephone to obtain verbal approval. The conversation is documented on Form 07LC080E, Licensing Services Supplemental Information.

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

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

6. 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.

7. 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.

8. 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.
9. 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 for, prior to employment, 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 persons who have documentation of a criminal history investigation within the last 12 months;
2. staff persons who move to a center or program operated by the same organization;
3. contracted staff persons who provide transportation, lessons, or other services, provided 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 older than 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 person 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 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 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 person 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 person was convicted of a crime pursuant to the Sex Offenders Registration Act, per (e) of this Section;

(C) provides the owner, director, or home provider with a copy of the items considered for a waiver, per (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, per (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 and signed 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 completes Form 07LC071E, Child Care Waiver Request, and submits 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 monitors any additional instructions made to the provider and verifies that the waiver notice is posted in the facility.  

5 Criteria considered include the:

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

(2) nature of the offense(s);

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

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

(5) number of offenses for which the person was convicted or findings made;
(6) length of time 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 person with the criminal history; and

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

INSTRUCTIONS TO STAFF 340:110-1-8.1

1. A report obtained from an Indian tribe, private agency, or Oklahoma Department of Human Services (OKDHS) program such as foster care, is acceptable only with verification that information was obtained from the Oklahoma State Bureau of Investigation (OSBI) within the last 12 months and includes a check of the Sex Offenders Registry. The report must contain information obtained from the previous state of residence if applicable.

2. Criminal history report.

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

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

3. 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.

   (1) As the facility adds persons described in OAC 340:110-1-8.1(a), the licensing staff documents review of the criminal history reports.

   (2) 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. To maintain
confidentiality, any reference to the contents of the report is removed from the open record.

(3) Criminal history investigation reports are maintained as confidential 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. Orders of expungement are staffed with the licensing supervisor.

5. A criminal history waiver request is maintained as confidential 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 minor.
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 automatically designated as a one star center.

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

(A) **Licensing status.** The program must have a license, provisional license, or permit. The monitoring visits and substantiated complaints for the last 12 months of operation are reviewed. If there are two or more incidents of numerous, repeated, or serious non-compliance with applicable licensing requirements or one serious incident resulting in injury or imminent risk of harm, the request may be denied. For the purposes of star certification, a 12-month period of time is reviewed, including the licensing record from the applicant's previous licenses, if any. The definitions of numerous, repeated, or serious non-compliance listed in (i) through (iii) of this paragraph apply for star certification.

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

   (ii) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement in a 12-month period of time. 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 that 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) Director.

(i) At initial star 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 prior to application. At least 20 of those hours must be in administration and management and be Tier II or Tier III training.

(ii) If a new director is hired, the director must have documentation of 40 hours of training within the last 12 months prior to employment. At least 20 of those hours must be in administration and management and be Tier II or Tier III training. If the new director does not have the 40 hours of training, the facility is required to submit a written plan to licensing staff for correcting the violation within 90 days of the new director’s hire date.

(iii) In subsequent years, directors must have documentation of 30 hours of Tier I, Tier II, or Tier III job-related training per employment year.

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

(v) A person is not counted as a center master teacher, director, or qualifying home provider at more than one facility certified for a higher star level unless the facilities are programs that do not operate concurrently at any given time. An exception to this rule requires a written request submitted by the provider and approved by the stars program manager or designee.

(vi) The director has a written professional development plan.

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

(C) **Learning environment.**

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

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

(D) **Staff.**
(i) At application, center staff employed at the facility for at least 12 months and counted toward meeting the staff-child ratio must have 20 hours of Tier I, II, or III training per employment year. At initial application, training may be counted if training was obtained within the last 12 months or within the staff's employment year. ■ 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 persons who perform only auxiliary duties, such as cooking, transportation, or maintenance, are exempt from this training requirement.

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

(v) All staff have access to licensing requirements.

(vi) All full-time staff have a written professional development plan.

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

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

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

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

(iv) There is a parent resource area with books, pamphlets, and articles on parenting that is accessible and available to parents.
(v) At least two parent meetings with guest speakers or special events are held each year, for example, open house, brown bag lunch, family pot-luck dinners, and children's programs.

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

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

(viii) The program provides OKDHS licensing contact information to all parents and makes a copy of applicable licensing requirements available to parents.

(F) Program evaluation.

(i) 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.

(ii) Health and safety checklists for both indoor and outdoor spaces are completed annually.

(3) Criteria for two star centers. To be approved as a two star center, the owner or designated agent of a center must complete Form 07LC025E, not have numerous, repeated, or serious non-compliance with licensing requirements, and meet either all one star plus criteria and the criteria described in (A) through (K) of this paragraph or provide documentation that the center is accredited by an approved national accrediting body. 6

(A) Administrative. The center maintains a policy and procedure manual on-site that includes job duties and responsibilities for all staff. A minimum of two staff meetings are conducted annually.

(B) Director. The director is a member of a professional or business organization.

(C) Learning environment.
(i) The center has and follows a schedule that provides time to allow children to complete tasks. The schedule reflects a balance of active and quiet play and includes indoor and outdoor physical activities.

(ii) Space for children two years of age and older is arranged in a minimum of seven well-defined and equipped interest areas in each classroom to facilitate a variety of activities, which must include block building, dramatic play, manipulative play, art, book reading, math, and science or nature. The program makes learning centers available outdoors. ■ 7

(D) Master teacher qualification. Master teachers must be at least 18 years of age, employed and on-site on a full-time basis, and meet and maintain one of the requirements in (i) through (vi). ■ 8

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

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

(iii) Two-year college Certificate of Mastery in early childhood education or child development from an accredited Oklahoma college.

(iv) 30 college credit hours from an accredited college or university, including 12 credit hours in early childhood education, child development, or an approved related subject. ■ 9

(v) 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.

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

(E) Master teachers required. There is a full-time master teacher for every 30 children of the licensed capacity. During the second and subsequent year as a two or three star center, there must be a master teacher for every 20 children. This number does not include school-age children if the majority of children in care are younger than five years of age. ■ 10
(i) Centers licensed as school-age programs or programs where the majority of children are school-age must have a master teacher for every 40 children of the licensed capacity.

(ii) A person is not counted as a master teacher 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.

(iii) A request for exception to this rule must be written and submitted by the provider and approved by the stars program manager or designee.

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

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

(H) **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 (3)(D); however, a degree or coursework in (3)(D)(iii) 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.

(I) **Staff compensation.** The program must have and follow a salary scale with increments based on level of education, credentials, and years of early childhood experience. Compensation is based upon consideration of education, experience, and performance.
(J) **Parent involvement.** In addition to parent involvement criteria listed for one star plus in (2)(E)(i) through (viii), a written report is provided to parents at the annual parent conference. The program maintains a current list of available community resources and assists parents in locating and connecting with these services as needed.

(K) **Program evaluation.** In addition to program evaluation criteria listed for one star plus in (2)(F)(i) through (ii), all methods of program evaluation as described in (i) through (iv) of this paragraph must be completed within one year of receiving two star status and repeated as noted.

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

(ii) The program is assessed every 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.

(iii) Program goals are established and updated every two years based on information gathered from the parent and staff survey, self-assessment tool, and approved OKDHS assessment tool.

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

(4) **Criteria for three star centers.** To be approved as a three star center, the owner or designated agent of a center must complete Form 07LC025E, not have numerous, repeated, or serious non-compliance with licensing requirements, meet all two star center criteria, except for the assessment in (b)(3)(K)(ii) of this Section, and be accredited through an approved national accrediting body.

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

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

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

(A) Licensing status. The home must have a license, provisional license, or permit. The monitoring visits and substantiated complaints for the last 12 months of operation are reviewed. If there are two or more incidents of numerous, repeated, or serious non-compliance with applicable licensing requirements or one serious incident resulting in injury or imminent risk of injury, the request may be denied. For the purposes of star certification, a 12-month period of time is reviewed, including the licensing record from the applicant’s previous licenses, if any. The definitions of numerous, repeated, or serious non-compliance listed in (i) through (iii) of this paragraph apply for star certification.

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

(ii) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement in a 12-month period of time. 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 that 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. At application, the family child care home provider must have documentation of 20 clock hours of Tier I, II, or III training. At initial application, the training may be counted if training was obtained within the last 12 months or within the provider's employment year. After approval for certification, the training criteria must be met within the provider's employment year.

(i) Any assistant caregiver employed for at least 12 months must have documentation of 20 clock hours of Tier I, II, or III training per employment year.

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

(iii) The family child care home provider has a written professional development plan.

(C) Learning environment. The family child care home provider has and follows a daily schedule and reads to children a minimum of 15 minutes each day.
(D) **Parent involvement.** The family child care home provider must provide the methods of parent communication contained in this subparagraph. The provider:

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

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

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

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

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

(vi) provides OKDHS licensing contact information to parents and makes available to parents a copy of applicable licensing requirements.

(E) **Program evaluation.** The family child care home provider annually completes health and safety checklists for indoor and outdoor space.

(3) **Criteria for two star homes.** To be approved as a two star home, the owner or designated agent must complete Form **07LC027E**, not have numerous, repeated, or serious non-compliance with requirements, and meet either all one star plus criteria and the criteria described in (A) through (E) of this paragraph or provide documentation the home is accredited by the National Association of Family Child Care.

(A) **Provider qualifications.** The licensed provider in a family child care home, or the licensed provider or assistant in a large family child care home, must be on-site on a full-time basis and meet one of the provider qualifications listed in (i) through (vii) of this subparagraph. A person is not counted as a center master teacher, director, or qualifying home provider at more than one facility certified for a higher star level unless the facilities are programs that do not operate
concurrently at any given time. A request for exception to this rule must be written and submitted by the provider and approved by the stars program manager or designee. The qualifying criteria are:

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

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

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

(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; 9

(v) 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;

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

(vii) if approved prior to June 1, 2004, the provider may continue to meet this criteria if the provider maintains 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. 12

(B) **Assistant caregiver.** The provider has a written job description for any assistant caregiver that defines the assistant's responsibilities and planned work schedule. Assistants are evaluated in writing annually by the licensed provider.

(C) **Learning environment.** The schedule reflects a balance of active and quiet play activities for both indoors and outdoors, and time to play alone and in a group. Children have opportunities during the day for dramatic and manipulative play, blocks, art, and books. The provider has a plan for transition times.

(D) **Parent involvement.** In addition to parent involvement criteria listed for one
star plus in (c)(2)(D)(i) through (vi), provider references, including contact information, are available to parents. The provider has and uses a system for sharing and communicating with parents the happenings, activities, and related issues about their child's physical and emotional state.

(E) Program evaluation. In addition to program evaluation criteria listed for one star plus in (c)(2)(E), all methods of program evaluation as described in (i) through (v) of this paragraph must be completed within one year of receiving two star status and repeated as noted.

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

(ii) 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.

(iii) 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 the National Association of Family Child Care.

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

(v) The home provider has a written development plan for meeting established goals.

(4) Criteria for three star homes. To be approved as a three star home, the owner or designated agent must complete Form 07LC027E, not have numerous, repeated, or serious non-compliance with requirements, meet all two star home criteria, except for the assessment in (c)(3)(E)(iii) of this Section, and be accredited through the National Association of Family Child Care.

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

(1) The facility submits Form 07LC025E or Form 07LC027E and required documentation to the stars outreach specialist.
(2) 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 monitoring visits and substantiated complaints includes the licensing record from the provider's previous licenses, if any.  15 If, within the 12-month period reviewed, there are two or more incidents of numerous, repeated, or serious non-compliance as defined in (b)(2)(A) and (c)(2)(A) of this Section or one serious incident resulting in injury or imminent risk of harm to a child, the request may be denied.  16

(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.  17 If numerous, repeated, or serious non-compliance was identified during review of the case for the star certification, the letter includes a statement that these non-compliances are considered and may result in reduction of the star certification if subsequent non-compliances occur.

(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. The stars outreach specialist updates the licensing database accordingly.

(i) If a one star plus facility fails to submit Form 07LC025E or 07LC027E with supporting documentation at least 30 days prior to the end of the certification period, the star status expires and the database is updated to show the facility has returned to a one star level. This does not constitute a reduction in certification level as set forth in (h) of this Section. The stars outreach specialist sends a letter documenting the return to one star level.

(ii) If a one star plus facility is denied at 24 months for failure to meet additional quality criteria, and has not requested and received an extension of time to comply from OKDHS, the star status expires and the database is updated to show the facility has returned to a one star level. This does not
constitute a reduction in certification level as set forth in (h) of this Section.

(D) The 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 (RPM) upon evaluation of the facility's licensing record, written documentation of corrective actions taken, and observation and documentation by licensing staff of substantial improvement in compliance. The RPM notifies the provider in writing of the decision.

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

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

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

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

(1) Written notice. The facility is required to notify the licensing staff in writing within five working days of any change in the information provided on Forms O7LC025E or O7LC027E. 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 licensing staff reviews the case with the supervisor and RPM. Referrals are made to the stars outreach specialist and the certification level may be reduced according to (h) of this Section.

(2) Periodic monitoring visits. The licensing staff completes Form 07LC026E, Periodic Certification Review - Center Star Certification, or 07LC028E Periodic Certification Review - Home Star Certification, a minimum of once per year, and verifies that certification documentation is still current and accurate.
licensing staff provides written notice to the owner or designated agent that certification criteria are not being met when:

(A) the licensing staff documents serious non-compliance with requirements, as outlined in (b)(2)(A)(iii) for centers and (c)(2)(A)(iii) for homes;

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

(C) the licensing staff has knowledge that the facility is not meeting certification criteria.

(3) Non-compliance. If a provider has serious non-compliance with licensing requirements, the star level of a facility may be reduced.

(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.

(B) Licensing staff provides written notification to the director and owner or designated agent of a facility documenting the violations and including a statement that a reduction in the star certification level may occur when:

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

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

(iii) a serious incident occurs resulting in injury or imminent risk of harm to a child; or

(iv) an Emergency Order or notice of proposed denial or revocation of license is issued.

(C) The statement advises the provider of the right to request an extension of time to comply, as outlined in (g) of this Section.

(g) Extension of time to comply.
(1) The provider has the right to request an extension of time to comply when:

(A) a center or home fails to maintain the criteria for the certification level; or

(B) two star criteria cannot be met after 24 months of one star plus status.

(2) The owner, designated agent, or director submits Form 07LC074E, Request for Extension, to the stars program manager or designee 30 days prior to the expiration of the one star plus certification or the agreed-upon time frame for the correction of the violations.

(3) One or more discretionary extensions of time to comply may be granted. The applicant must demonstrate and provide documentation where appropriate that the violation of the criteria was not foreseeable and was beyond the applicant's control.

(4) The provider is notified of the decision in writing.

(h) **Reduction in certification level.** The procedures in this subsection are followed when violations are not corrected within the agreed-upon time frame; the facility has serious non-compliance with licensing requirements; a serious incident occurs resulting in injury or imminent risk of harm to a child; OKDHS has issued an Emergency Order; a notice of proposed denial or revocation of license has been issued; or an injunction is obtained. Certification is reduced to the level at which the provider meets criteria.

(1) The licensing staff reviews the case with the supervisor and RPM. Referrals are made in writing to the stars program manager or designee. A determination on whether a reduction is warranted is made within 30 days of receipt. 23

(2) If a reduction is warranted, the stars program manager or designee sends a certified letter to the licensed home provider or director documenting the reduction in certification level.

(A) A copy of the letter notifying the provider of the right to request an administrative review of the decision is sent to the owner or designated agent of the facility.

(B) The certified mail delivery receipt card is addressed to return to the director of Child Care Services.

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

(3) The stars program manager or designee enters the recommended reduction on the database. 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. ■ 24

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

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

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

(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 RPM. If an alternative settlement is proposed, the provider is notified in writing of the regional programs manager's decision to accept or deny the proposed alternative settlement. If the regional programs manager accepts the provider's alternative settlement, a copy of the provider's proposal is sent to the stars outreach specialist and to the licensing staff and the star level is not reduced. If the regional programs manager denies the alternative settlement, the reduction in certification procedures as outlined in (h)(4)(B) are followed.
(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 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. When there is a change in ownership or change in form of business entity of a family child care home, child care center, part-day children's program, or school-age program, the case is closed and the star status is removed. To be approved for a higher star level, the new owner or designated agent must complete and submit Form 07LC025E or Form 07LC027E and meet all the requirements applicable to the star level for which application is made.

(j) Change in location. If the location of a facility changes, the licensing staff completes Form 07LC026E or Form 07LC028E to verify compliance with the criteria at the new location.

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

INSTRUCTIONS TO STAFF 340:110-1-8.3

1. The months that a one plus facility is inactive, according to OAC 340:110-1-9(n), 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 area marked non-compliant on the monitoring report is counted once even when there is more than one item of non-compliance included in that area.

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. The employment date for a home provider is based on the provider's date of application for a license.

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 AfterSchool Association (NAA) formerly National School-Age Care Alliance (NSACA);
   
   (5) Council on Accreditation (COA); and
   
   (6) National Accreditation Commission for Early Care and Education Programs (NAC).

7. The center provides interest centers outside for children's use. Interest centers do not have to be permanently set up outdoors.

8. (a) Employment on a full-time basis is generally 30 hours a week during the facility's operating hours. For employment at part-day programs, use 50% of the weekly operating hours.
(b) In collaborations between Head Start, public schools, or child care centers, staff is counted as a master teacher if the person:

1) 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)(D).

(c) If a school-age program uses the School-Age Care Environment Rating Scale (SACERS) score to qualify as a master teacher, the master teacher may continue to meet qualifications with these criteria by maintaining 120 hours of training every five years and a score of 5.0 or higher on SACERS every two years. If a teacher using this option to qualify for two star receives less than a 5.0 on the SACERS, and cannot provide documentation of meeting qualifications with another option, the teacher is given two additional SACERS.

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

10. A facility licensed for less than 30 children must also have a full-time master teacher. 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.

11. 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).
12. If a provider is approved for two or three star status prior to June 1, 2004 and qualifies by using option (vii) 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 a provider using this option to qualify for two star receives less than a 5.0 on FDCRS, the provider is given two additional FDCRS to achieve a score of 5.0. 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.

13. 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 07LC025E, Request for Child Care Center Star Certification, or 07LC027E, Request for Family Child Care Home Star Certification. Facilities are not required to have a current provider contract to request certification.

14. The stars outreach specialist notifies the licensing staff that an application has been received. Within 30 days of receipt of the application, the stars outreach specialist determines whether the certification criteria have been met by reviewing the case record and the documentation submitted by the facility.

15. A facility is not required to be in operation 12 months to apply, but the facility's licensing record of up to 12 months is considered when such a record exists.

16. (a) When making the determination to deny or reduce the certification, (1) through (5) are considered.

(1) Duration of the non-compliance.

(2) Degree of risk to children.

(3) Whether the provider could have prevented the non-compliance.

(4) Timeliness and effectiveness of the provider's response.

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

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

18. 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 licensing 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 notifies the director or licensed provider and documents the conversation on Form 07LC080E. The director, owner, or designated agent may also update the current application or complete a new application for the different certification level.

19. (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.

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

   (c) If the director is not present and the staff in charge is unwilling to complete Form 07LC026E, the licensing staff leaves a copy at the facility for the director to complete and mail to the licensing staff.

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

   (1) Form 07LC028E, Periodic Certification Review – Home Star Certification
or Form 07LC026E, Periodic Certification Review – Center Star Certification;

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

(3) inclusion of the statement regarding star reduction in a letter or in the documentation of an office conference:

"A reduction in star certification may occur when violations are not corrected in the agreed-upon time frame, the facility has serious non-compliance with licensing requirements, a serious incident occurs resulting in injury or imminent risk of harm to a child, or an emergency order or notice of proposed revocation or denial of license is issued."

21. 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 could be reduced as set forth in OAC 340:110-1-8.3(h). If the facility no longer meets certification requirements because a staff member with master teacher qualifications is no longer employed at the center, it would be reasonable to allow the facility up to 90 days to find a replacement.

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

22. If information is received that a facility does not meet certification criteria, it is documented on Form 07LC080E, Licensing Services Supplemental Information. The licensing staff contacts by telephone or visits the facility and completes Form 07LC026E or 07LC028E to document the violation and plan of correction.

23. The decision whether to make a referral to the stars program manager is made by the regional programs manager. The documentation attached to the referral includes:

(1) a copy of the application for license and supporting proof of ownership;
(2) copies of monitoring visits and complaints where serious non-compliance was documented; and

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

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

(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. 1 Licensing staff varies the time of monitoring visits to include lunch observation and an evening visit to child care centers with extended hours. 2 Weekend monitoring visits are required only when there has been a complaint specific to weekend care.

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

(1) compliance with licensing regulations;
(2) records for new staff; 4
(3) staff training records; 5
(4) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons; and 6
(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 08MP013E, 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 08MP013E, 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. 7

(f) Equipment inventory. Licensing staff completes the appropriate Equipment Inventory, Form 07LC006E, 07LC020E, or 07LC024E, prior to a license being issued. The licensing staff or the facility may complete the appropriate Equipment Inventory prior to a change in facility class and prior to an increase in licensed capacity in a child care center, part-day children’s program, and school-age program. The purpose of the inventory is to document the equipment available and items needed to comply with the equipment requirements. The licensing staff may conduct a complete inventory any time concern exists about the availability of required equipment. 8

(g) Change of address. When a facility moves to a new address, the licensing staff conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements, and obtains an updated application. For child care centers, part-day children’s programs, and school-age programs, new fire and health inspections, if applicable, are required. 9

(h) Change in name. When there is a change in name, licensing staff verifies there is no change in ownership, and documents the change in the case record and database. 10

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

(1) verifies the new director meets qualifications;

(2) obtains a completed and signed Form 07LC004E, Application for License – Child Care Facility, page 5;

(3) obtains references;

(4) obtains from the director a completed appropriate compliance review, Form 07LC069E, 07LC072E, or 07LC073E, if the director has no previous director experience;
(5) notifies the new director of current employees that have been granted a waiver; and

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

(j) **Change in household.** All changes in household members are documented on the monitoring report. When there is a new adult household member in a family child care home or large child care home, the required documentation is:

(1) page 5 of Form 07LC042E, Application for License - Family Child Care Home and Large Child Care Home;

(2) criminal background check; and

(3) OKDHS computer check. ■ 6

(k) **Change in ownership.** When there is a change in ownership or change in form of business organization of a family child care home, child care center, part-day program, or school-age program, the case is closed and a new application is obtained. ■ 11

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

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

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

   (A) a request in writing from the provider;

   (B) a new application with updated information;

   (C) documentation that the facility meets the requirements for the requested class type; ■ 12

   (D) an Equipment Inventory, if applicable;

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

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

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

(m) **Procedure for increasing or decreasing capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the licensing supervisor. If the request to increase capacity is due to additional physical space, the facility must not have a history of numerous, repeated, or serious non-compliance, and must provide: ■ 13

1. the reason for the increase;

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

3. fire department approval of any space not previously inspected;

4. health approval of any 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 child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement. ■ 14
(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. ■ 15

(q) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E is completed, a copy is sent to the provider, and the data system is updated. ■ 16

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

1. Monitoring visits.

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

   (A) one visit per year for inactive cases;

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

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

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

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

   (2) **Frequency of visits.**

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

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

   (C) If the licensing staff visits a facility between monitoring visits for purposes such as picking up paperwork, consultation on a specific issue, verifying a repair has been made or needed items have been purchased, a full monitoring visit is not required.
(i) The visit may be documented on Form 07LC080E, Licensing Services Supplemental Information.

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

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

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

2. Evening monitoring visits to:

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

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

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

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

3. The licensing staff:

   (1) documents observations and discussions on the appropriate monitoring report, enters the information from the monitoring report onto the licensing database, and files the original in the facility’s file in the county office; and

   (2) when visiting a family child care home:
(A) is cognizant that it is a private home and demonstrates respect for the family's privacy;

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

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

4. **Background check.** 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 07LC041E, Child Care Staff Information, and have a criminal background check arranged prior to being hired.

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

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

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

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

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

6. **Computer checks.**

   (1) Annual computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on all adults who sign Form 07LC042E, 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.

(2) Annual docket searches of the Oklahoma State Court Network are completed on all adults who sign Form 07LC042E, 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 by all known names.

(3) Documentation of the computer check and Oklahoma State Court Network search are filed in the confidential section of the facility's case.

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

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

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

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

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

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

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

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

9. Change of address.

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

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

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

   (4) A narrative report that reflects the new address is submitted to the licensing staff’s supervisor, the supervisor of the receiving licensing staff, and the 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.

   (5) The licensing staff notifies the statewide licensing coordinator of the name change. The statewide licensing coordinator or designee issues a new license to the facility. Form 07LC018E, Notice of Issuance of License for a Child Care Facility, is sent to the licensing staff.

10. The licensing staff notifies the statewide licensing coordinator of the name change. The statewide licensing coordinator or designee issues a new license to the facility. Form 07LC018E, Notice of Issuance of License for a Child Care Facility, is sent to the licensing staff.

11. (a) Types of ownership include:

   (1) sole proprietor;
(2) corporation;

(3) partnership;

(4) limited liability company; or

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

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

12. Change in class.

(1) Change in class includes 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.

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

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

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

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

(B) ensures that the director completes and submits Form 07LC006E, Equipment Inventory - Child Care Center; 07LC020E, Equipment Inventory - Part-day Children's Program; or 07LC024E, 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 07LC057E, indicating which rooms are available for use by children.

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

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

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

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

(A) number of children and staff present;

(B) what supervision was provided during this time;

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

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

(E) the names of staff involved; and

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

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

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

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

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

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

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

(D) 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.

15. Serious incident.

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

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

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

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

(D) where media involvement is anticipated.
(2) A serious incident report includes:

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

(B) the date and time of the incident;

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

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

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

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

(G) the names of staff involved.

16. The response from Licensing to self-reported non-compliance, per OAC 340:110-1-9.3, is based on the degree of risk to children, whether the provider could have prevented the non-compliance, and the timeliness and effectiveness of the provider’s response.
340:110-1-9.1. 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 sources in this subparagraph.

   (i) Supplemental Security Income (SSI) benefits.

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

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

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

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

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

(A) the facility director or family child care home provider has completed Section III of Form 08AD006E, agreeing to meet the individual needs of the child;
(B) the facility has a previous record of compliance with minimum licensing requirements. A facility on a six-month permit may be certified if currently in compliance with licensing requirements;

(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 persons who work with the child have received on-site consultation regarding the nature of the child's disability and the development of a child care plan, to include staffing, equipment, and specialized training needs.

2 The consultant provides resource materials to the facility for future reference. After initial certification, the facility staff persons who work with the child must conduct and document annual conferences with the child's parent or guardian to review the needs of the child. If the child's needs have changed, the procedures in (5) of this subsection are followed; and

(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 persons who work with the child are trained.

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

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

   (iv) Recommended training includes Special Care's Unique Environments, Child Care Careers' Helping Children with Special Needs, Tic-Toc training, SoonerStart training, or specialized workshops or conferences addressing the care of children with special needs.
(4) Upon completion of Section IV of Form 08AD006E, the licensing staff sends the original to the appropriate county staff responsible for child care assistance. Copies of Form 08AD006E and the monitoring report are sent to the licensing supervisor, and copies are maintained in the facility's file.

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

(A) the needs of the child change; or

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

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

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

(8) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from 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 07LC008E and verifies that certification requirements are met, including:

(A) the enrollment status of the child;

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

(C) annual conference with the child's parent or guardian;
(D) director and staff training relative to care of children with disabilities; and

(E) observations that indicate that the program is meeting the individual needs of the child as recorded on Form 08AD006E.  ■ 3

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

(d) Withdrawal of certification. Certification continues until a child leaves a facility or unless there is documentation of serious or ongoing violations of certification requirements or when OKDHS has issued an Emergency Order or a notice of proposed denial or revocation of license.  ■ 5 Violations of certification requirements are different from non-compliance with licensing requirements, although they may involve the same issue, for example, understaffing. If violations are not corrected and represent a potential risk to the child, such as serious understaffing in the child's room or staff without first aid training, the procedure in this subsection is followed.

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

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

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

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

(5) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from 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 340:110-1-9.1

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

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

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

3. If licensing staff receives information that the needs of the child as recorded on Form 08AD006E have changed, licensing staff documents the information on Form 07LC080E and notifies Family Support Services Division of the change. If the category of disability in Section V of Form 08AD006E 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 08AD006E is not completed, unless the care needs of the child have changed. A visit to the facility is made within ten days to verify that certification criteria continue to be met.
340:110-1-9.2. Complaint investigations

(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. □ 1

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

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

(1) non-compliance with licensing requirements;

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

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

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

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

(A) alleged physical or sexual abuse;

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

(C) distribution of drugs;

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

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

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

(H) severe understaffing or over-capacity.

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

(A) leaving children with an underage staff person;

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

(C) inappropriate discipline where no injury is reported;

(D) broken playground equipment;

(E) injury caused by lack of supervision; or

(F) minor understaffing.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent risk of harm and there are no injuries alleged. Investigations are initiated within 30 calendar days of the date of receipt of the complaint by the licensing staff or immediately if a telephone investigation is appropriate. Examples include:

(A) inadequate meal service;

(B) lack of play equipment;

(C) inappropriate use of television or videos; or

(D) inadequate cleanliness of the facility.

(f) **The investigation.** The licensing staff conducts a full investigation, obtaining sufficient information to make a finding.  ■ 4
(g) **Telephone investigation.** With supervisory approval, the licensing staff may investigate a complaint by telephone. The discussion and, if necessary, an agreed-upon plan of correction, is documented on Form 07LC080E, Licensing Services Supplemental Information. A copy is sent to the operator. A complaint may be investigated by telephone only when:

(1) the alleged non-compliance does not place children at risk of harm, for example, the facility did not serve milk one day or children have head lice;

(2) the facility has not had numerous, repeated, or serious non-compliance; and

(3) a monitoring visit has been made in the last three months during which substantial compliance was documented.

(h) **Procedure for investigating an allegation of operating an unlicensed facility.**
When a complaint alleging operation of an unlicensed facility is received, the procedure contained in OAC 340:110-1-13(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 child abuse or neglect or a report indicating that a child is in imminent risk of serious physical harm, the licensing regional programs manager is also notified.

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

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

(2) **Unsubstantiated.** A finding of unsubstantiated is made when the information does not lead to a definite conclusion, for example:

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

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

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

1. documents the findings;  
2. notifies the provider in writing of the findings;  
3. enters the complaint information on the licensing database using complaint key words; and  
4. updates and closes the complaint tracking screen.

(l) **Use of Notice to Comply.** When a serious complaint has been substantiated, the licensing staff advises the facility to correct the violations immediately and requests that the facility complete Form [07LC037E](#), Notice to Comply, following the procedure in OAC 340:110-1-9.3(d)(7).

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

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

(1) date and time the complaint was received;

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

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

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

(5) specific information regarding the allegations, including:

(A) a description of the circumstances;

(B) name or identity of staff involved;

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

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

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

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

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

3. The licensing staff makes one of the dispositions in this Instruction.
(1) Complaints or concerns that do not meet the criteria in OAC 340:110-1-9.2(d) are discussed with the complainant, and if appropriate, a referral is made to another entity, such as law enforcement, Family Support Services Division, or the Office for Civil Rights.

(2) A complaint alleging violation of licensing requirements or operation of an unlicensed facility is investigated by 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 07LC012E is forwarded to the licensing staff.

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

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

(B) If the licensing staff is unsure whether a complaint meets the criteria for investigation by CW, the complaint is referred to CW and the decision to accept the referral is made by CW staff.

(C) Sex play between children is referred to CW for investigation. 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 name of the complainant and any identifying information is confidential. The referral is followed up in writing, a copy is filed in the facility record, and the licensing supervisor is notified. It is the responsibility of the licensing staff to follow up with local law enforcement officials to determine and document the outcome of the investigation.
(B) If the complaint includes allegations of illegal drug activity, the complaint is referred to local law enforcement. If the facility has a provider contract, the complaint is also referred to the Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG). The referral to OIG is made on Form 19MP001E, Referral Form, and includes date and contact information regarding the referral to local law enforcement. Upon receipt of the referral, OIG contacts the local law enforcement agency to determine whether the agency or OIG will conduct the investigation or whether a joint investigation will be conducted. It is the responsibility of the licensing staff to follow up with OIG to determine and document the outcome of the investigation.

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

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

(A) completes Form 14CR001E and submits to OKDHS Office for Civil Rights; and

(B) obtains mailing information and sends a blank copy of Form 14CR001E to the complainant.

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

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

(A) in which the alleged non-compliance caused or could cause serious harm to a child in care;
(B) when the facility has numerous, repeated, or serious non-compliance with requirements;

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

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

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

4. The investigation generally includes:

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

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

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

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

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

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

(C) is usually conducted in private and with one person at a time. An exception may be made when:
(i) a witness accompanies the licensing staff;

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

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

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

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

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

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

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

(5) observations at the facility.

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

(B) When investigating a complaint at a facility, a complete monitoring visit is not required unless one is due. Staff-child ratios and
supervision are checked at each visit. Form 07LC003E, 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 risk of serious physical harm is initiated within 24 hours; or

(B) the CW investigation of a report that does not indicate imminent risk of harm to a child and no injuries are alleged is initiated no later than 15 calendar days after the report is accepted for investigation.

(3) The licensing staff interviews the alleged victim and his or her parents, usually in their home, following the guidelines outlined in Instruction 4(4)(E). The licensing staff advises the CW supervisor of the findings, and CW completes its investigation.

(4) If sufficient information is obtained through interviews, observations, or documentary evidence that supports the allegation, and with State Office approval, the licensing staff asks the operator to voluntarily cease care or prohibit the alleged perpetrator from any contact with children pending the outcome of the investigation. The operator is advised of the possibility of an injunction or emergency order if the operator refuses and children are considered at imminent risk of harm.
(5) If there is a finding of confirmed child abuse or neglect a copy of the report is sent to the licensing regional programs manager and statewide licensing coordinator or designee.

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

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

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

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

(3) Form 07LC081E, pages 1 through 3 of the monitoring report, and Form 07LC037E, Notice to Comply, if applicable, are made a part of the open record. Form 07LC012E, and Form 07LC080E, Licensing Services Supplemental Information, 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 07LC080E 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) five or more items documented as non-compliant on the monitoring report for a family child care home or large child care home;  

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

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

(3) Serious non-compliance is a non-compliance with licensing requirements that exposes children to conditions that present an imminent risk of harm. 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 Form 07LC080E, Licensing Services Supplemental Information. A copy of the documentation is mailed to the facility.

(3) **Non-compliance letters.** A non-compliance letter may be written to the operator. A copy of the non-compliance letter is sent to the owner or designated agent, if applicable, with a copy of the monitoring report. ■ 5

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

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

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

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

(A) If the plan submitted by the operator is unacceptable to the licensing staff, the licensing staff negotiates and documents a revised plan.
(B) If the Notice to Comply is not submitted within the specified time period, the licensing staff contacts the operator and documents the conversation.

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

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

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

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

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

(10) Revocation. The licensing staff 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. ■ 7

(11) Voluntary cease care. With State Office approval, the operator is asked to voluntarily cease caring for children. ■ 8

(12) Voluntary closure. With State Office approval, the operator is asked to voluntarily close the facility, per OAC 340:110-1-11. ■ 8

(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. 8

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

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

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

(4) The licensing staff requests an emergency order, per OAC 340:110-1-9.4, when immediate action is needed to protect children in a child care facility that is on permit, licensed, on notice of revocation or denial, or operating during an appeal following revocation or denial.

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

(6) The licensing staff 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.

(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.  ■ 9

(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 well-being to children, meets the basic intent of the requirements for which the alternative compliance was requested, and does not violate statutory requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. The timing of return visits is determined by the risk level to children, per OAC 340:110-1-9.2(e). A return visit does not routinely result in a change in the monitoring frequency plan. However, if subsequent visits require a follow-up, increased monitoring is discussed with the supervisor.

7. Procedure and documentation for denial or revocation of license. The licensing staff:
(1) ensures that the non-compliance and a plan of correction are clearly documented on monitoring reports, as well as the facility’s action to implement any previous plans of correction;

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

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

8. The local resource and referral agency is notified 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.
340:110-1-9.4. Emergency order

(a) Process to obtain emergency order. An emergency order may be issued by the Oklahoma Department of Human Services (OKDHS) when immediate action is needed to protect the health, safety, or well-being of children in a licensed child care facility.

1. If the operator is unwilling to voluntarily correct the hazardous situation, the licensing staff notifies the licensing supervisor and licensing regional programs manager. If the supervisor agrees that an emergency order is warranted, all supporting documentation is sent by the quickest means available to the statewide licensing coordinator or designee.

2. If in agreement, a written order is issued and signed by the statewide licensing coordinator or designee. The order:

   A. states the existence of an emergency;

   B. sets forth remedies, such as removal of children from the facility or closure of the facility; and

   C. includes the right to appeal the decision.

3. The order is effective immediately.

4. The order remains in effect until rescinded or the facility license is denied or revoked.

(b) Removal of children. If children are at imminent risk of serious harm and immediate removal from the child care facility is indicated, the statewide licensing coordinator or designee gives verbal approval for removal of children. Two options available are:

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

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

(c) Rescinding the order. The emergency order may be rescinded when the licensing staff verifies correction of the hazardous situation. Upon receipt of such
documentation, the statewide licensing coordinator or designee notifies the operator in writing that the order has been rescinded.

(d) **Hearing process.** The operator may request a hearing by filing a written request within ten days of receipt of the emergency order. The hearing is conducted within ten days from receipt of the operator's request. An OKDHS hearing officer conducts the hearing.

(e) **Appeal rights.** If the results of the OKDHS hearing are disputed, the operator may file an appeal in district court within 30 days of the decision.

(f) **Injunction.** If an operator violates the conditions set forth in the emergency order, an injunction from district court is requested by the licensing supervisor after consultation with the statewide licensing coordinator or designee.
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

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 07LC080E, Licensing Services Supplemental Information, 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 revocation, denial, 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 340:110-1-9.5**

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 Form 07LC080E, Licensing Services Supplemental Information. 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  ■ 3

(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 well-being of children cannot be ensured:

(A) an emergency order is requested; or

(B) following consultation with the statewide licensing coordinator or designee, the licensing supervisor contacts the 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 Oklahoma:

(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. This information is reviewed by the regional programs manager. The statewide licensing coordinator may proceed with the previous owner's denial or revocation.
INSTRUCTIONS TO STAFF 340:110-1-10

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.
340:110-1-11. Voluntary case closures

(a) Child care centers, part-day children's programs, and school-age programs. The case record for a child care center, part-day children's program, or school-age program is closed when a facility is sold to a new owner or discontinues providing child care. A license is not transferable.

(b) Family child care home. A family child care home case is closed when the caregiver discontinues care. 1

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

INSTRUCTIONS TO STAFF 340:110-1-11 ITS only revised 7-1-07

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

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

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

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

(a) Legal base and authority. Pursuant to Section 409 of Title 10 of the Oklahoma Statutes, any person or child care facility may be enjoined from maintaining and operating a child care facility for violations of any provisions of the Oklahoma Child Care Facilities Licensing Act by the district attorney or Attorney General. 1

(b) 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 no imminent risk of harm to children is indicated. When the report does not indicate that children are at imminent 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 07LC012E, Licensing Complaint.

(B) When advertisements indicate a person may be providing child care in violation of the Licensing Act, information is recorded with the advertisement attached.

(C) The licensing staff mails to the caregiver the licensing requirements and a letter that 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 if child care is being provided;

   (ii) explain the Licensing 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 Licensing Act. 2

(F) If the operator fails to apply for licensure as required by the Licensing Act, the licensing staff consults with the supervisor and the licensing regional programs...
manager and when appropriate, makes a recommendation to the district attorney following the procedure found in paragraph (3) of this Section.

(G) If care of children is substantiated, licensing staff proceeds with proper application procedures found in OAC 340:110-1-6.

(2) When risk to children is indicated. When children may be at risk of harm, the licensing staff obtains and records as much information as possible, notifies the supervisor, and verifies the validity of the complaint with a visit to the facility.

(A) If the complaint is substantiated and children are at risk of harm, the licensing staff requests the caregiver cease operation immediately.

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

(C) Prior to contacting the district attorney, the licensing supervisor reviews the case with the licensing staff and statewide licensing coordinator or designee to determine if legal action is indicated.

(3) Referral to the district attorney. 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 statewide licensing coordinator or designee informs the Oklahoma Department of Human Services (OKDHS) Legal Division of the request for legal action by the local district attorney.

(4) Referral to the Attorney General. If a local district attorney will not take action against a facility, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.

(5) Care of children is not substantiated. When care of children is not substantiated or care of children has terminated, licensing staff documents the investigation of unlicensed operation on Form 07LC080E, Licensing Services Supplemental Information. A letter is sent to the alleged caregiver stating the:

(A) outcome of the investigation of unlicensed operation with reference to the Licensing Act; and

(B) requirement that OKDHS must be notified when there is any change regarding the caregiver's care of children.
INSTRUCTIONS TO STAFF 340:110-1-13

1. Licensing staff contacts the local district attorney to explain the responsibility of licensing services in:

   (1) contacting unlicensed facilities;

   (2) making efforts to work with the facility toward licensure; and

   (3) the expected response from parents and the community, and to inform them that an injunction may be requested if efforts to license the facility fail.

2. The licensing staff offers technical assistance and consultation to assist the caregiver in meeting licensing requirements and to alleviate the provider’s concerns.

3. When children are at imminent risk of harm, the local district attorney is contacted as soon as possible, and legal action is requested.
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 et seq. 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 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, Form 07LC081E, Licensing Complaint Report Summary, is included in the file. Form 07LC012E, Licensing Complaint, is removed from the file that is open for public inspection. If information regarding a complaint is requested prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings is released after the investigation is complete.

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

(g) **Fees for photocopying.** Information regarding photocopying fees is at OAC 340:2-21-16.

(h) **Release of confidential information.**
(1) A complete case file that includes confidential information is never released to the public, and 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. 2 & 3

(2) The name or other identifying information of a complainant listed on Form 07LC012E is never released to the public.

(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 340:110-1-14**

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 the CW report, Form 07LC012E, Licensing Complaint, and Form 08AD006E, 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. Release of confidential files. If a licensing file is subpoenaed, licensing staff immediately contacts 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.

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

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

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

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

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

(4) The grievant or complainant is requested to file only one written complaint. Referrals for resolution are made by the OKDHS staff involved in the response.
340:110-1-17. Child Care Advisory Committee bylaws

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

(1) carry out the provisions of the Oklahoma Child Care Facilities Licensing Act, Section 404 of Title 10 of the Oklahoma Statutes to:

   (A) 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;

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

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

(2) prepare minimum requirements and recommend desirable standards for child care facilities for adoption by the Oklahoma Department of Human Services (OKDHS);

(3) serve in an advisory capacity to OKDHS for developing quality child care programs and services; and

(4) educate the public and consumers regarding quality child care.
(b) **Function.** The function of the Advisory Committee is to:

1. become informed on OKDHS programs and policies regarding children;

2. express the needs and concerns of the community and the State of Oklahoma as they relate to the care and treatment of children;

3. bring recommendations for change, including the adoption of minimum requirements and encouraging maximum standards for child care; and

4. interpret and support the recommended policies.

(c) **Membership.**

(1) **Representation.** The director of Child Care Services makes recommendations for membership to the OKDHS Director. Members are appointed to serve at the pleasure of the OKDHS Director, based on their expertise, experience, and leadership in the field of child care.

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

   (B) The majority are representatives of child care facilities.

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

      (i) Oklahoma State Department of Health;

      (ii) Oklahoma Department of Education;

      (iii) Office of the State Fire Marshal;

      (iv) Division of Child Care (DCC); and

      (v) other associations and agencies as recommended to the OKDHS Director, such as the Oklahoma Child Care Association, 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, Early Childhood Association of Oklahoma, 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 *Advisory Committee* members are for three years.

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

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

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

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

      (i) presiding over all meetings;

      (ii) in coordination with DCC, 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 DCC 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 OKDHS.

(4) **Election of officers and terms of office.**

   (A) Upon vacancy of office, the chairperson and vice-chairperson are elected by a majority vote of members present during the next quarterly meeting following the office vacancy. Officers assume duties during the meeting in which the election is held.

   (B) Terms of office are for two years. Officers may be elected to serve in one office for a maximum of four terms.
(5) **Subcommittees.**

(A) Subcommittees are appointed by the chairperson with consultation from DCC and are designated to:

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

   (ii) study Advisory Committee concerns; and

   (iii) address special issues of the Advisory Committee.

(B) The chairperson of the subcommittee is a member of the 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 Advisory Committee for approval prior to being approved by the Commission for Human Services and the Governor;

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

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

(E) Standing subcommittees expand the opportunity for child care program operators to identify quality improvement resources, express concerns facing the industry, and recommend issues for consideration by the Advisory Committee.

   (i) The chairpersons of four standing subcommittees, representing family child care, child care centers, residential child care, and child-placing agencies, are appointed by the Advisory Committee chairperson from the Advisory Committee membership.

   (ii) Subcommittee members are identified and recruited by the subcommittee chairpersons with consultation from DCC.
(iii) Subcommittees meet at the call of the chairperson.

(iv) The subcommittee chairperson provides a report to the Advisory Committee at least annually and more often as needed.

(d) **Meetings.**

(1) **Frequency.** The Advisory Committee meets quarterly. Additional meetings may be called or regular meetings cancelled at the discretion of the chairperson and DCC representative.

(2) **Quorum.** A minimum of one third plus one of the membership must be present for a quorum.

(3) **Voting.** Members or their designees vote only after completing orientation.

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

(5) **Active participation.** Advisory Committee members or their designees are required to serve on revision subcommittees representing their program knowledge and expertise.

(6) **Guidelines.** The Advisory Committee adheres to established Guidelines for Organization and Function. The practices of the Advisory Committee are compatible with the Child Care Facilities Licensing Act.

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

(e) **Change of bylaws.** Bylaws may be altered, amended, or repealed only by a majority vote of the Advisory Committee, provided that written notice of the proposed action is given in the call to the meeting and a quorum is present.
340:110-1-9. 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. At or subsequent to each visit, licensing staff checks:

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 08MP013E, 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 08MP013E, 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. ■ 7

(f) Equipment inventory. Licensing staff completes the appropriate Equipment Inventory, Form 07LC006E, 07LC020E, or 07LC024E, prior to a license being issued. The licensing staff or the facility may complete the appropriate Equipment Inventory prior to a change in facility class and prior to an increase in licensed capacity in a child care center, part-day children's program, and school-age program. The purpose of the inventory is to document the equipment available and items needed to comply with the equipment requirements. The licensing staff may conduct a complete inventory any time concern exists about the availability of required equipment. ■ 8

(g) Change of address. When a facility moves to a new address, the licensing staff conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements, and obtains an updated application. For child care centers, part-day children's programs, and school-age programs, new fire and health inspections, if applicable, are required. ■ 9

(h) Change in name. When there is a change in name, licensing staff verifies there is no change in ownership, and documents the change in the case record and database. ■ 10

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

(1) verifies the new director meets qualifications;

(2) obtains a completed and signed Form 07LC004E, Application for License – Child Care Facility, page 5;

(3) obtains references;

(4) obtains from the director a completed appropriate compliance review, Form 07LC069E, 07LC072E, or 07LC073E, if the director has no previous director experience;
(5) notifies the new director of current employees that have been granted a waiver; and

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

(j) **Change in household.** All changes in household members are documented on the monitoring report. When there is a new adult household member in a family child care home or large child care home, the required documentation is:

1. page 5 of Form 07LC042E, Application for License - Family Child Care Home and Large Child Care Home;
2. criminal background check; and
3. OKDHS computer check.

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

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

1. The case is closed and a new application is required when a family child care home converts to a child care center, part-day program, or school-age program, or when a child care center, part-day program, or school-age program converts to a family child care home.
2. Any other request for change in class does not require case closure and documentation includes:
   1. a request in writing from the provider;
   2. a new application with updated information;
   3. documentation that the facility meets the requirements for the requested class type;
   4. an Equipment Inventory, if applicable;
   5. a current approved fire inspection, if applicable;
(F) a current approved health inspection, if applicable; and

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

(m) **Procedure for increasing or decreasing capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the licensing supervisor. If the request to increase capacity is due to additional physical space, the facility must not have a history of numerous, repeated, or serious non-compliance, and must provide: □ 13

(1) the reason for the increase;

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

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

(4) health approval of any 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 child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement. □ 14
(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.  ■ 15

(q) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E is completed, a copy is sent to the provider, and the data system is updated.  ■ 16

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

1. Monitoring visits.

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

   (A) one visit per year for inactive cases;

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

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

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

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

   (2) **Frequency of visits.**

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

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

      (C) If the licensing staff visits a facility between monitoring visits for purposes such as picking up paperwork, consultation on a specific issue, verifying a repair has been made or needed items have been purchased, a full monitoring visit is not required.
(i) The visit may be documented on Form 07LC080E, Licensing Services Supplemental Information.

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

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

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

2. Evening monitoring visits to:

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

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

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

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

3. The licensing staff:

   (1) documents observations and discussions on the appropriate monitoring report, enters the information from the monitoring report onto the licensing database, and files the original in the facility's file in the county office; and

   (2) when visiting a family child care home:
(A) is cognizant that it is a private home and demonstrates respect for the family’s privacy;

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

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

4. **Background check.** 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 07LC041E, Child Care Staff Information, and have a criminal background check arranged prior to being hired.

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

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

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

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

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

6. **Computer checks.**

   (1) Annual computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on all adults who sign Form 07LC042E, 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.

(2) Annual docket searches of the Oklahoma State Court Network are completed on all adults who sign Form 07LC042E, 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 by all known names.

(3) Documentation of the computer check and Oklahoma State Court Network search are filed in the confidential section of the facility's case.

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

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

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

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

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

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

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

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

9. **Change of address.**

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

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

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

   (4) A narrative report that reflects the new address is submitted to the licensing staff’s supervisor, the supervisor of the receiving licensing staff, and the 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.

   (5) The licensing staff notifies the statewide licensing coordinator of the name change. The statewide licensing coordinator or designee issues a new license to the facility. Form 07LC018E, Notice of Issuance of License for a Child Care Facility, is sent to the licensing staff.

10. The licensing staff notifies the statewide licensing coordinator of the name change. The statewide licensing coordinator or designee issues a new license to the facility. Form 07LC018E, Notice of Issuance of License for a Child Care Facility, is sent to the licensing staff.

11. (a) Types of ownership include:

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

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

12. Change in class.

(1) Change in class includes 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.

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

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

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

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

(B) ensures that the director completes and submits Form 07LC006E, Equipment Inventory - Child Care Center; 07LC020E, Equipment Inventory - Part-day Children's Program; or 07LC024E, 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 07LC057E, indicating which rooms are available for use by children.

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

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

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

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

(A) number of children and staff present;

(B) what supervision was provided during this time;

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

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

(E) the names of staff involved; and

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

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

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

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

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

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

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

(D) 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.

15. Serious incident.

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

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

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

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

(D) where media involvement is anticipated.
(2) A serious incident report includes:

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

(B) the date and time of the incident;

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

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

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

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

(G) the names of staff involved.

16. The response from Licensing to self-reported non-compliance, per OAC 340:110-1-9.3, is based on the degree of risk to children, whether the provider could have prevented the non-compliance, and the timeliness and effectiveness of the provider's response.
340:110-1-21. Evaluation of the child care licensing services program

The Division of Child Care (DCC) is responsible for the evaluation of the child care licensing services program. 1

(1) The evaluation includes quality assurance audits and provider satisfaction surveys.

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

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

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

(C) is conducted by the DCC lead auditor, who is responsible for all activities associated with the evaluation of the program.

INSTRUCTIONS TO STAFF 340:110-1-21

1. (a) Audit schedule. 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 (DCC) lead auditor.

(1) 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.

(2) The audit is scheduled by the DCC lead auditor and approved by the director of Child Care Services. An annual schedule is published along with biannual updates.

(b) Audit scope. DCC 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:
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 persons associated with the licensing services program to determine whether 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.

(1) The audit plan is made available to the auditee at least 30 days prior to the scheduled audit, and includes:

(A) audit objective and scope;

(B) members of the audit team;

(C) date and location of the audit;

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

(E) schedule of audit activities; and

(F) audit report distribution list and expected date of issuance.

(2) 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, the lead auditor resolves the objections prior to the audit.

(A) Specific details of the audit plan are communicated to the auditee throughout the audit if disclosure will not compromise the collecting of objective evidence.
(B) 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.

(C) If the audit objectives appear to be unattainable, the lead auditor reports the reasons to the auditee.

(3) 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.

(d) Lead auditor responsibilities. The lead auditor receives annual audit-specific training and instruction, and 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) immediately reporting to the auditee critical non-conformities, defined in (g) of this Instruction;
(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 the results clearly, conclusively, and without undue delay;

(16) writing and submitting the final audit report; and

(17) conducting a mid-term review.

(e) Audit team. The audit team:

(1) consists of the lead auditor from DCC and at least two persons 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. All audit team members must have supervisory approval to participate in the audit and be independent of the activity being audited;

(2) is responsible for:

(A) arriving on time, and being prepared and unbiased;

(B) observing, evaluating, and reviewing activities to determine adequacy, effectiveness, and compliance of licensing requirements and policies within the assigned scope of the audit;

(C) collecting and analyzing evidence;

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

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

(F) 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 capturing and reporting results. They do 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 DCC. Working papers are retained in DCC files for four years, and 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) Non-conformities. The audit team reviews all documented observations to determine non-conformities.

(1) Non-conformities are actions that clearly indicate licensing policy or requirements were not followed. Non-conformities include but are not limited to:

(1) falsifying information;

(2) breach of confidentiality;

(3) blatant policy violation;

(4) one-time policy violation that could place children at risk; or

(5) unethical behavior.

(2) The audit team ensures non-conformities are identified, and supported by evidence, in terms of the specific requirements or policy against which the audit has been conducted.

(3) If the audit team cannot determine an action to be in non-conformance regarding existing policy but clearly identifies the action as a practice that does not complement the DCC Licensing mission, it is listed as a management finding.
(4) 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.

(h) Entrance conference. The lead auditor conducts an entrance conference with the licensing supervisor and staff for the purpose of:

(1) reviewing the scope and 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.

(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 programs manager. The lead auditor presents the preliminary written report that includes a summary of the audit, conclusions reached by the audit team, evaluation of the previous plan of correction, observed positive practices, and overall evaluation of the audited activities.

(j) Collecting and documenting 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, defined in (g) of this Instruction.

(j) Audit report. The lead auditor prepares the final report and is responsible for its accuracy and completeness. The audit report and working papers are retained in DCC files for four years. The audit report is dated and signed by the lead auditor and the director of Child Care Services, and contains:
(1) the dates, scope, and objectives of the audit;

(2) the names of all audit team members and the auditee;

(3) identification of all reference documents used during the audit, such as licensing requirements and policy;

(4) observations of non-conformities listed as findings, observations, concerns, or issues to be addressed by State Office;

(5) identification of the auditee's positive practices observed by the audit team members;

(6) plan of correction forms for the auditee and DCC to respond to audit non-conformities; and

(7) the audit report distribution list.

(k) Audit report distribution. The lead auditor distributes the final audit report within 30 days after the conclusion of the audit to the auditee, regional programs manager, statewide licensing coordinator, director of Child Care Services, policy specialist, and training coordinator.

(l) Plan of correction.

(1) The plan of correction includes a description of the corrective action that will be taken by the auditee to address the non-conformities, defined in (g) of this Instruction, found during the audit.

(2) The auditee and regional programs manager submit a plan of correction to the lead auditor within 30 days after receiving the final audit report. If an extension of time is needed to complete the plan of correction, a written request is made to the lead auditor explaining why an extension is needed.

(m) Audit closure. 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.
(1) Corrective action is implemented by the auditee and supervisory or management staff.

(2) Subsequent follow-up audits to the plan of correction are completed within a time period agreed to by the auditee and the lead auditor.
340:110-1-43. Roles and responsibilities of licensing staff

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

(b) Official licensing records for child care programs are maintained at State Office, Division of Child Care and are open to the public upon request.

(c) Other responsibilities of licensing staff include:

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

2. facilitating or sponsoring training for child care providers; and

3. coordinating with other regulatory and investigative state entities in promoting quality care in residential settings within the licensing staff's assigned area.

INSTRUCTIONS TO STAFF 340:110-1-43

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

(b) Licensing staff coordinates with other Oklahoma Department of Human Services (OKDHS) employees, Children and Family Services Division, Office of Client Advocacy, the Oklahoma Commission on Children and Youth, the Office of Juvenile Affairs, and other state and local officials.

(c) DCC provides consultation for licensing field staff on interpretation of the Oklahoma Child Care Facilities Licensing Act, OKDHS rules and policy, licensing requirements, and other services. The programs manager provides technical assistance for the licensing staff on case actions, legal actions, and complaint investigations.
340:110-1-43.1. Forms

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

(1) **07LC012E, Licensing Complaint.** Form 07LC012E is used by licensing staff to record a complaint against a child care facility.

(2) **07LC016E, Recommendation for Licensing or Certification of a Child Care Center.** Form 07LC016E is used by licensing staff and supervisors to make recommendations on the licensing or certification of child care facilities.

(3) **07LC017E, Six Month Permit.** Form 07LC017E 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.

(4) **07LC018E, Notice of Issuance of License for a Child Care Facility.** Form 07LC018E is a notice to the child care facility that it has complied with licensing requirements and is being issued a license.

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

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

(7) **07LC040E, Application for License.** Form 07LC040E is used by an agency or residential facility to make application for a child care facility license.

(8) **07LC041E, Child Care Staff Information.** Form 07LC041E is used to record required information regarding child care facility staff.

(9) **07LC043E, Child Placing Agency Compliance Review.** Form 07LC043E is used by licensing staff to assess compliance with child-placing agency requirements.

(10) **07LC044E, Adoption Services File Review.** Form 07LC044E is used by licensing staff to record the agency's compliance or non-compliance with licensing requirements for placement of children for adoption.
(11) **07LC047E, Agency Certification Report.** Form 07LC047E is completed by the child-placing agency staff to certify to the Oklahoma Department of Human Services that each foster home or Independent Living arrangement complies with the Licensing Requirements for Child-Placing Agencies.

(12) **07LC050E, Personnel File Review – Agency and Residential Programs.** Form 07LC050E is used by licensing staff to document compliance with personnel record requirements in residential and child-placing agency requirements.

(13) **07LC052E, Declaration of Intent to Operate a Child Care Facility.**

(14) **07LC053E, Notice of Issuance of License - Child Care Facility/Agency.** Form 07LC053E is used to notify operators of child-placing agencies and residential child care facilities of their licensing status. See also Form 07LC018E.

(15) **07LC054E, Release of Child.** Form 07LC054E is used by residential facilities to notify the Division of Child Care (DCC) when a child is no longer eligible for subsidy payment.

(16) **07LC055E, Child Admission Report.** Form 07LC055E is used by residential facilities to notify DCC when a child is admitted and is eligible for subsidy payment.

(17) **07LC056E, Residential Child Care Facility Compliance Review.** Form 07LC056E is used by licensing staff to assess compliance with residential requirements.

(18) **07LC058E, Residential Child Care Facility Visit Sheet.** Form 07LC058E is used by licensing staff to document compliance with requirements during a visit to a residential facility and record any other information obtained.

(19) **07LC059E, Residential Child Care Facility - Resident File Review.** Form 07LC059E is used by licensing staff as part of the licensing process to document compliance with residential facility requirements.

(20) **07LC060E, Residential Child Care Policy and Records Check.** Form 07LC060E is used by licensing staff to document compliance with residential policy and procedure requirements.

(21) **07LC065E, Independent Living Program – Resident Monitoring Report.** Form 07LC065E is used by licensing staff to record the agency’s compliance with licensing requirements for independent living programs.
(22) **07LC071E, Child Care Waiver Request.** Form 07LC071E is used by licensing staff when submitting a waiver request to State Office.

(23) **07LC078E, Child-Placing Agency - Record of Foster Home Closure.** Form 07LC078E is used by a child-placing agency to report closure of a foster home.

(24) **07LC079E, Child Death Report.** Form 07LC079E is completed by licensing staff to record the death of a child while in child care.

(25) **07LC080E, Licensing Services Supplemental Information.** Form 07LC080E is used when additional space for documentation is needed, when a complete monitoring report is not required, to document office and telephone contacts, and to record other information for the licensing record.

(26) **07LC081E, Licensing Complaint Report Summary.** Form 07LC081E is placed in the case record and includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.
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 – Child Care Facility, Form 07LC040E;
2. Child Care Staff Information, Form 07LC041E; and
3. Compliance Review, Form 07LC043E or 07LC056E, as applicable.

(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 08HI003E, 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 is 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 07LC080E, Licensing Services Supplemental Information, 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. 

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

**INSTRUCTIONS TO STAFF 340:110-1-45**

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

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

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 08HI003E, 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) A complete monitoring visit documenting compliance with critical licensing requirements must be made not longer than 60 days prior to issuance of the six-month permit. The recommendation to issue a permit is made after all forms and inspections have been completed and the facility is in compliance with all requirements, including:

(A) criminal history investigations;

(B) tuberculosis (TB) tests;

(C) required number of qualified staff;

(D) hazards indoors **and** 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) Form 07LC040E, Application for License;

(B) proof of ownership; ■ 1

(C) list of current staff;

(D) Form 07LC041E, Child Care Staff Information;

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

(F) State 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) Form 07LC060E, Residential Child Care Policy and Records Check; and

(L) Form 07LC016E, Recommendation for Licensing or Certification of a Child Care Center.

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

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

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

(3) If the additional six-month permit is due to repeated, numerous, or serious non-compliance with requirements, the licensing staff visits the facility at least monthly and is accompanied, when possible, by a witness. If at any point the non-compliance indicates the facility is unable or unwilling to meet licensing requirements, the programs manager is consulted to discuss negative 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 the facility's or agency's own policy and procedures and in compliance with the licensing requirements, a recommendation is made to issue a license. Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits. A monitoring visit must be made within 30 days of
the issuance date. A license is in effect unless it is revoked or the facility voluntarily closes. ■ 2

(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 (DCC).

(2) The licensing staff submits to DCC Form 07LC016E.

(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 340:110-1-46**

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 07LC016E, 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 07LC018E, Notice of Issuance of License.

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

(a) Periodic visits.

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

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

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

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

(3) During each monitoring visit, licensing staff:

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

(B) checks:

(i) resident files, if applicable;

(ii) records for new staff and copies of Form 07LC041E, Child Care Staff Information, obtained for the case record; and

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

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

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

(1) Child-placing agency. When a child-placing agency moves its office, licensing staff:
(A) obtains an updated application; and

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

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

(A) obtains an updated application;

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

(C) obtains new fire and health approvals;

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

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

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

(1) documents the location of each office; and

(2) requests files as needed from satellite locations.

(e) **Change in name.** If the licensing staff verifies there is a change in name but no change in ownership, the change is documented in the case record and the database is updated. ■ 3

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

(1) reason for the increase;

(2) fire department approval;

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

(5) additional staff, if applicable.  ■ 4

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

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

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

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

(h) Change in ownership. If a residential program or child-placing agency assumes new ownership, the case file is closed, and the program must apply for new license under the new owner.  ■ 5

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

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

(2) visits the facility as soon as possible, unless advised otherwise by law enforcement.  ■ 6

(j) Serious incident reports. The licensing staff submits to the programs manager a report of any serious incident. A serious incident includes, but is not limited to, an incident:  ■ 7

(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.

(j) 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).

INSTRUCTIONS TO STAFF 340:110-1-47

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

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

(1) checks employee training records;

(2) conducts OKDHS computer checks on applicable persons; and

(3) searches dockets on the Oklahoma State Court Network.
(c) The monitoring report is discussed with the facility's or agency's director or staff in charge. The director or staff in charge signs the report, and a copy is provided to the facility or agency.

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

3. The licensing staff notifies the programs manager of the change. The statewide licensing coordinator or designee issues a new license to the facility. A new Form 07LC018E, 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 07LC080E.

(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 07LC057E, 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 the death of a child in child care, licensing staff:

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

(A) number of children and staff present;

(B) what supervision was provided during this time;

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

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

(E) the names of staff involved;

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

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

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

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

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

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

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

(D) contacts the 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 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. Reports from OCA, OCCY, and OHCA.

(1) The programs manager reviews all reports received from Office of Client Advocacy (OCA), Oklahoma Commission on Children and Youth (OCCY), and Oklahoma Health Care Authority (OHCA). Reports are registered by appropriate division support staff.

(A) Documentation of reports received from OCA includes:

(i) date report was received;

(ii) facility name and case number;

(iii) date of investigation;

(iv) investigator assigned to the investigation;

(v) accused caregiver;

(vi) findings;

(vii) date corrective action plan is due;

(viii) date corrective action plan was submitted;

(ix) date licensing staff was notified; and

(x) date information was filed in the case.

(B) Documentation of reports received from OCCY includes:

(i) date report was received;

(ii) facility name and case number;

(iii) date of investigation;

(iv) oversight specialist involved in the investigation;
(v) recommendations;
(vi) date corrective action plan is due;
(vii) date corrective action plan was submitted;
(viii) date licensing staff was notified; and
(ix) date information was filed in the case.

(2) All reports received from OCA, OCCY, 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 investigates in accordance with policy regarding follow-up on non-compliances, OAC 340:110-1-47.2, or a complaint investigation, 340:110-1-47.1.

(3) All information in the licensing file, including confidential information, except Child Welfare 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 (DCC), Licensing Services, in writing, in person, or by telephone. 1

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

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

1. non-compliance with licensing requirements;
2. operation of an unlicensed facility in violation of the Act; or
3. abuse or neglect of a child in care.

(e) Disposition of complaints. Upon receipt of a complaint, the licensing staff determines a disposition, as described in this subsection.

1. A complaint that does not meet the criteria in (d) is discussed with the complainant, and, if appropriate, a referral is made to another entity, such as law enforcement, Office of Juvenile Affairs, Office of Client Advocacy (OCA), Children and Family Services Division, or Office for Civil Rights.

2. A complaint alleging violation of licensing requirements or operation of an unlicensed facility is investigated by DCC Licensing Services. 3

3. A complaint alleging child abuse or neglect is immediately referred to OCA with a copy of Form 07LC012E, Licensing Complaint. 4 If an immediate response to the referral is not received, the licensing staff follows up the next working day to obtain a response.

4. When a complaint alleges:

   A. commission of a crime, it is immediately referred to local law enforcement where the facility is located.
(i) The referral is followed up in writing; a copy is filed in the facility record; and the programs manager is notified.

(ii) It is the responsibility of the licensing staff to follow up with local law enforcement officials to determine and document the outcome of the investigation; or

(B) illegal drug activity, it is referred to local law enforcement. If the facility has a provider contract, the complaint is also referred to the Office of Inspector General (OIG).

(i) The referral to OIG is made on Form 19MP001E, Referral Form, and includes date and contract information regarding the referral to local law enforcement.

(ii) Upon receipt of the referral, OIG contacts the local law enforcement agency to determine whether the agency or OIG will conduct the investigation or whether a joint investigation will be conducted.

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

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

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

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

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

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

(E) that is receiving special attention, such as from the media or a legislator.
(f) **Complaint risk levels.** Risk levels are determined by the licensing staff based upon the degree of harm or danger to children in care. Risk levels are used to ensure that investigations occur in a timely manner and to track types of complaints.

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

- (A) alleged physical or sexual abuse;
- (B) 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) infant placed on the 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 there is imminent danger of injury, but without intervention a child may not be safe. Investigations are initiated within 15 calendar days of receipt of the complaint by the licensing staff, or sooner, depending on the degree of risk, unless advised by OCA or law enforcement to delay the investigation. Examples of risk level II complaints include:

- (A) leaving children with an underage staff person;
- (B) alleged physical abuse from a staff person no longer working in the facility;
- (C) inappropriate discipline where no injury is reported;
- (D) broken playground equipment;
- (E) injury caused by lack of supervision; or
(F) minor understaffing.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent danger and there are no injuries alleged. Investigations are initiated within 30 calendar days of the date of receipt of the complaint by the licensing staff or immediately if a telephone investigation is appropriate. Examples of risk level III complaints include:

(A) inadequate meal service;

(B) inappropriate use of television or videos; or

(C) inadequate cleanliness of the facility.

(g) **The investigation.** The licensing staff conducts a full investigation, obtaining sufficient information to make a finding. 6

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

(1) the alleged non-compliance does not place children at risk of harm, for example, the facility did not serve milk one day or children have head lice;

(2) the facility has not had numerous, repeated, or serious non-compliance; and

(3) a monitoring visit has been made in the last three months during which substantial compliance was documented.

(i) **Procedure for investigating allegations of operating an unlicensed facility.** When allegations of operating an unlicensed facility are investigated, the 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 07LC012E, Licensing Complaint.
(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 that 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 child care 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 of harm, 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.

(j) Child abuse and neglect complaints. Upon receipt of a complaint alleging abuse of a child in care, the licensing staff immediately notifies the programs manager and makes a referral to the Office of Client Advocacy.

(k) Findings. After the investigation is completed, the licensing staff, in consultation with the programs manager, as appropriate, makes a finding as to whether the complaint is substantiated or unsubstantiated.

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

(2) Unsubstantiated. A finding of unsubstantiated is made when the information does not lead to a definite conclusion, for example:

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

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

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

(l) Documentation of findings. Upon completion of the investigation, the licensing staff documents the findings and notifies the provider in writing.

(m) Notice to Comply. When a serious complaint is substantiated, the licensing staff advises the facility to correct the violations immediately, using Form 07LC037E, Notice to Comply. The facility must complete a plan of correction.

INSTRUCTIONS TO STAFF 340:110-1-47.1

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 Form 07LC012E, Licensing Complaint, and entered into the database system. The information requested includes:

   (1) date and time the complaint was received;

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

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

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

   (5) specific information regarding the allegations, including:

       (A) a description of the circumstances;

       (B) name or identity of staff involved;
(C) child(ren) involved or affected by the alleged non-compliance and the child(ren)'s age(s);

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

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

(F) whether the complaint has been discussed with the facility director.

3. This information is recorded as a complaint, regardless of the purpose of the caller. The licensing staff in whose area the facility is located is notified as soon as possible, and Form 07LC012E is forwarded to the licensing staff.

4. 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 that occurs through non-accidental physical or mental injury, sexual abuse, neglect, or failure or omission to provide protection from harm or threatened harm.

   (1) If the licensing staff is unsure whether a complaint meets the criteria for investigation by OCA, the complaint is referred to OCA and the decision whether to accept the referral is made by OCA staff.

   (2) Sex play between children is referred to OCA for investigation. If a complaint is screened out by OCA, Licensing investigates in regard to supervision of the children.

5. It is the responsibility of the licensing staff to follow up with OIG to determine and document the outcome of the investigation.

6. (a) The investigation includes:

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

   (2) an unannounced visit to the facility. The purpose of the visit and the nature of the complaint are discussed with the operator. The licensing staff does not identify the complainant;
(3) a review of available records, such as the licensing record, children's files, restraint and injury logs, medical and transportation records, food program records, and police reports;

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

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

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

   (C) is usually conducted in private and with one person at a time. An exception may be made when a witness accompanies the licensing staff, a parent wishes to be present when his or her child is interviewed, or a person elects to have his or her attorney present;

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

   (E) when with a child, takes into consideration the age and verbal ability of the child. It is preferable that the licensing staff is accompanied by a witness. Parental permission prior to interviewing a child in care is not required when investigating a complaint alleging non-compliance with licensing requirements;

(5) observations at the facility.

   (A) When an investigation is associated with a specific time of day, for example, early morning understaffing, the visit to the facility is made at the time the incident is alleged to have occurred. The licensing staff documents observations by citing the specific conditions observed; for example, the director refused to allow the licensing staff to view the
facility's records of staff criminal history investigations or there were 16 residents monitored by one staff.

(B) When investigating a complaint at a facility that is time-consuming, stressful, or involves OCA or other auditing entities, or if a full monitoring visit was made within the last month to a facility with a record of compliance, a complete monitoring visit is not required. The complaint visit is documented on Form 07LC080E. The licensing staff documents compliance with those areas relating to the allegation; and

(6) documentary evidence, which is entered in the facility record. Documentary evidence is information that has been recorded, such as an OCCY report, medical and police records, signed statements or photographs.

(b) If sufficient information is obtained through interviews, observations, or documentary evidence that supports an allegation that children are at risk of harm, the licensing staff requests that the operator voluntarily cease care or prohibit the alleged perpetrator from having any contact with children pending the outcome of the investigation. The operator is advised of the possibility of an injunction or emergency order if he or she refuses and children are considered at risk of harm.

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

7. The licensing staff enters the findings on the data base and completes Form 07LC081E, Licensing Complaint Report Summary, using specific language that will be informative to anyone who may review the file.

(1) Names or identifying information of the complainant, children, and their families are not included on Form 07LC081E. When OCA is not involved, names of staff may be used in complaint findings regarding non-compliance with licensing requirements. When a child care provider is identified 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, Form 07LC081E contains a summary of allegations and findings that does not
disclose the identity of the alleged perpetrator or victim, but does allow persons who are interested to evaluate the facility.

(3) Form 07LC081E, is made a part of the open record. Form 07LC012E 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 clearly and concisely on the monitoring report areas of non-compliance and the discussion with the operator.  ■ 1

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

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

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

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

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

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

(c) **Case management responses to non-compliant facilities.** The responses in this subsection may be used when there is repeated, numerous, or serious non-compliance.  ■ 3

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

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

   (3) **Non-compliance letter.** A non-compliance letter may be written to the operator. The licensing staff sends a copy of the monitoring report and non-compliance letter to the governing board or owner, if applicable.  ■ 4
(4) **Return monitoring visit.** A return monitoring visit may be made if there is repeated, numerous, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time. ■ 5

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

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

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

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

   (B) If the operator does not submit the response to Form 07LC037E within the specified time period, the licensing staff contacts the operator and documents the conversation. If concerns exist or the operator is uncooperative, the licensing staff sends a letter stating that failure to complete Form 07LC037E may result in revocation of license, denial of the application, 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 Form 07LC080E, which is signed by the licensing staff, the operator, and any witnesses present. Form 07LC037E is completed if one addressing these issues has not been completed recently.
(9) **Consent agreement.** OKDHS and the operator of the facility may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation.

(10) **Revocation.** The licensing staff recommends that the 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 children may be at imminent risk of harm, options to consider during consultation with the operator and the programs manager are outlined in this subsection.

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

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

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

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

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

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

   (A) unlicensed;

   (B) on application status;

   (C) licensed;

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

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

INSTRUCTIONS TO STAFF 340:110-1-47.2

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

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

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

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

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

2. Plan of correction.

   (1) If the time period suggested by the operator for correction of non-compliance is unacceptable to the licensing staff, the licensing staff states his or her expectation and negotiates an acceptable time period.

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

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

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

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

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

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

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

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

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

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

5. The timing of a return visit is determined by the risk level to children. A return visit does not routinely result in a change in the monitoring frequency plan. If subsequent visits require a follow-up, increased monitoring is discussed with the programs manager.

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

(1) The licensing staff ensures that the non-compliance and a plan of correction are clearly documented on the monitoring report, and the facility's action to implement any previous plans of correction. It is noted on the monitoring report that failure to correct the non-compliance may result in, denial of application, revocation of license, filing an injunction, or issuance of an emergency order, as applicable.
(2) The licensing staff conducts monitoring visits at least monthly to monitor compliance and the plan(s) of correction. The same witness accompanies the licensing staff on monitoring visits whenever possible.

7. Notification is documented by the licensing staff when the provider voluntarily ceases to operate until the investigation is completed or voluntarily closes the facility, or the district attorney issues an injunction.
340:110-1-51. 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 the provider’s spouse or adult children, who live in the child care facility.

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

(1) new staff persons who have documentation of a criminal history investigation within the last 12 months;

(2) staff persons who move to a program operated by the same organization;

(3) contracted staff persons who provide transportation, lessons, or other services if facility staff persons are present with children at all times; and

(4) the provider’s 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 and signed by the facility’s owner or director. A waiver is not granted to any person who is required to register pursuant to the Sex Offenders Registration Act.

(1) Licensing staff submits completed Form 07LC071E, 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 monitors any additional instructions made to the program and verifies the waiver notice is posted in the facility.
INSTRUCTIONS TO STAFF 340:110-1-51

1. (a) The licensing staff documents on 07LC080E, Licensing Services Supplemental Information, if a criminal history report cannot be obtained from the previous state of residence due to laws in that state that restrict the release of such reports.

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

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

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

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

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

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

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

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

   (C) Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the programs manager and the OKDHS Legal Division.

2. The operator is required to prominently post a copy of the consent agreement in the residential facility or child-placing agency. During the next monitoring visit, the
licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

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

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

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

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

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

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

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

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

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

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

   (A) a copy of the recommendation summary;

   (B) notice of the operator's right to appeal the decision; □ 2
(C) statement that the law requires notice in writing of the denial or revocation be
given to parents or custodians of children attending the facility. The operator is
instructed to submit to OKDHS the names and addresses of currently enrolled
children; and

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

(d) Appeal.

(1) An appeal of the decision to deny or revoke license must be submitted to the
Oklahoma Commission for Human Services by the operator within 30 days of
receipt of the notice. If the operator does not appeal the decision within the time
period, the programs manager sends to the operator by regular mail a notice of
denial or revocation that includes the effective date. ■ 3

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

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

(4) The facility may continue to operate during any appeal process unless an
emergency order is in effect.

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

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

   (i) an emergency order is requested; or

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

(e) Child care discontinued.
(1) If the decision of OKDHS to deny or revoke is upheld during all appeals, the programs manager informs the operator in a letter that child care must immediately cease.

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

(B) If the operator continues to maintain and operate the residential child care facility or child-placing agency after a final decision to deny or revoke license, the director of Child Care Services may request that the Attorney General or the appropriate district attorney secure a civil injunction or initiate criminal proceedings.

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

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

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

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

(A) The administrator or director and parents or custodians are told that the facility will not be open on the following day; or parents or custodians are contacted to pick up their children immediately.

(B) If every effort has been made to reach the parents or custodians, and children are at immediate risk of harm, the programs manager contacts law enforcement to remove the children.
(2) The emergency order states the existence of an emergency and sets forth remedies such as removal of children from the facility or closure of a facility. The order is effective immediately and includes the right to appeal the decision.

(3) The emergency order may be rescinded when the programs manager verifies correction of the hazardous situation. Upon receipt of such documentation, the director of Child Care Services notifies the operator in writing that the order has been rescinded.

(4) The operator may request a hearing by filing a written request within ten days of receipt of the emergency order. The hearing is conducted within ten days from receipt of the operator's request.

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

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

(h) Hearing process.

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

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

(i) Injunction. If an operator violates the conditions set forth in the emergency order, an injunction from district court is requested by the programs manager or designee.

INSTRUCTIONS TO STAFF 340:110-1-52

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

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

3. The closure date is entered into the computer by the programs manager or designee. A copy of the correspondence is sent to the licensing staff.
340:110-1-53. Case closures

(a) A case is closed when:

(1) the residential child care facility or child-placing agency is sold to a new owner;

(2) care of children is discontinued, or in a child-placing agency, operation is discontinued; or

(3) the license is revoked or the application for license is denied.

(b) When a licensed child care facility closes of its own accord, the licensing staff updates the database and submits to the Division of Child Care programs manager a narrative and a copy of the letter sent to the facility verifying closure.

(c) If the case is closed because of denial or revocation, the facility may not make application for a new child care facility license in Oklahoma for five years following closure of the facility.