

Volume 25
Number 1
September 17, 2007
Pages 1 - 52

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



Brad Henry, Governor
M. Susan Savage,
Secretary of State
Peggy Coe, Managing Editor

THE OKLAHOMA REGISTER is an official publication of the State of Oklahoma. It is published semi-monthly on the first working day of the month and on the first working day following the 14th day of the month under the authority of 75 O.S., Sections 250 et seq. and OAC 655:10-15-1. The rules of the State of Oklahoma are codified and published in the *Oklahoma Administrative Code*.

The Oklahoma Register and the documents accepted for publication are **AVAILABLE FOR PUBLIC INSPECTION** at the Office of Administrative Rules pursuant to the Oklahoma Open Records Act. Copies of the *Register* are also available for public inspection at many County Clerks' offices in Oklahoma, the Jan Eric Cartwright Memorial Law Library in the State Capitol, and the following depository libraries:

Ada - East Central University, Linscheid Library

Alva - Northwestern Oklahoma State University,
J.W. Martin Library

Bartlesville - Bartlesville Public Library

Clinton - Clinton Public Library

Durant - Southeastern Oklahoma State University, H.G.
Bennett Memorial Library

Edmond - University of Central Oklahoma, Chambers Library

Enid - Public Library of Enid and Garfield County

Goodwell - Oklahoma Panhandle State University

Lawton - Lawton Public Library

McAlester - McAlester Public Library

Norman - University of Oklahoma, Bizzell Memorial
Library

Oklahoma City - Metropolitan Library System

Oklahoma City - Oklahoma Department of Libraries

Stillwater - Oklahoma State University, Edmon Low
Library

Tahlequah - Northeastern State University, John
Vaughan Library

Tulsa - Tulsa City-County Library System

Tulsa - University of Tulsa, McFarlin Library

Weatherford - Southwestern Oklahoma State
University, Al Harris Library

CITE MATERIAL PUBLISHED IN THE OKLAHOMA REGISTER by the volume and the beginning page number of the document in the *Register*. For example: 25 Ok Reg 256.

SUBSCRIPTION RATES for the *Register* are \$500.00 per year for the printed issues and \$300.00 per year for the CD-ROM issues, payable in advance. When available, individual printed issues may be purchased for \$20.00 plus the cost of postage, payable in advance. Make checks payable to "Secretary of State." Send subscription requests, change of address notices, and undelivered copies to: Secretary of State, Office of Administrative Rules, P.O. Box 53390, Oklahoma City, OK 73152-3390.

INFORMATION ABOUT THIS PUBLICATION may be obtained by contacting the Oklahoma Secretary of State, Office of Administrative Rules, 2401 North Lincoln Boulevard, Will Rogers Building, Room 220, P.O. Box 53390, Oklahoma City, OK 73152-3390, or by calling (405) 521-4911 or faxing (405) 522-3555. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

This publication is issued and printed by the Secretary of State as authorized by 75 O.S., Section 255. 70 copies have been prepared and distributed at a cost of \$430.15. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.

ISSN 0030-1728

Table of Contents

Agency/Action/Subject Index	iii
Rules Affected Index	iv
Agency Index (Title numbers assigned)	v
Notices of Rulemaking Intent	
Environmental Quality, Department of (Title 252)	1, 2
Submissions for Review	
Alcohol and Drug Influence, Board of Tests for (Title 40)	5
Emergency Adoptions	
Conservation Commission, Oklahoma (Title 155)	7
Education, State Department of (Title 210)	8, 10, 11
Human Services, Department of (Title 340)	12, 14, 20, 22
Public Employees Retirement System, Oklahoma (Title 590)	46
Executive Orders (Title 1)	49

Agency/Action/Subject Index

**ALCOHOL and Drug Influence, Board of Tests for
(Title 40)**

Submissions for Review

- Apparatus, Devices, Equipment, and Materials
(Chapter 25) 5
- Analysis of Alcohol in Breath (Chapter 30) 5
- Ignition Interlock Devices (Chapter 50) 5

CONSERVATION Commission, Oklahoma (Title 155)

Emergency Adoptions

- Clean Water State Revolving Fund Program (Chapter 25) ... 7

EDUCATION, State Department of (Title 210)

Emergency Adoptions

- School Administration and Instructional Services
(Chapter 10) 8
- Curriculum and Instruction (Chapter 15) 10
- Standards for Accreditation of Elementary, Middle Level,
Secondary, and Career and Technology Schools
(Chapter 35) 11
- Grants and Programs-In-Aid (Chapter 40) 11

ENVIRONMENTAL Quality, Department of (Title 252)

Notices of Rulemaking Intent

- Air Pollution Control (Chapter 100) 1, 2

GOVERNOR

Executive Orders

- Establishing Governor's Task Force on Children and Oral
Health (07-30) 49
- Ordering flags at half-staff to honor Oklahomans killed while
serving in Armed Forces (07-33) 50
- Ordering flags at half-staff to honor Sergeant First Class
Jeffrey D. Kettle (07-34) 50
- Ordering flags at half-staff to honor Staff Sergeant William
Scates (07-35) 50
- Declaring disaster emergency caused by tornadoes, severe
storms, and flooding in 24 counties (07-36) 51

HUMAN Services, Department of (Title 340)

Emergency Adoptions

- Administrative Components (Chapter 2) 12
- Temporary Assistance for Needy Families (TANF)
(Chapter 10) 14
- Child Welfare (Chapter 75) 20
- Licensing Services (Chapter 110) 22

**PUBLIC Employees Retirement System, Oklahoma
(Title 590)**

Emergency Adoptions

- Public Employees Retirement System (Chapter 10) 46

Rules Affected Index

[(E) = *Emergency action*]

Rule	Register Page	Rule	Register Page
155:25-1-1. [NEW] (E)	7	340:110-3-49.3. [AMENDED] (E)	29
155:25-1-2. [NEW] (E)	8	340:110-3-81. [AMENDED] (E)	31
210:10-17-1. [AMENDED] (E)	8	340:110-3-82. [AMENDED] (E)	31
210:15-13-5. [NEW] (E)	10	340:110-3-84. [AMENDED] (E)	32
210:15-13-6. [NEW] (E)	10	340:110-3-85. [AMENDED] (E)	32
210:35-5-31. [NEW] (E)	11	340:110-3-86. [AMENDED] (E)	35
210:40-9-1. [NEW] (E)	12	340:110-3-87. [AMENDED] (E)	37
210:40-9-2. [NEW] (E)	12	340:110-3-88. [AMENDED] (E)	37
210:40-9-3. [NEW] (E)	12	340:110-3-89.1. [AMENDED] (E)	38
340:2-5-112. [AMENDED] (E)	13	340:110-3-90. [AMENDED] (E)	38
340:2-5-119. [AMENDED] (E)	14	340:110-3-91. [AMENDED] (E)	39
340:10-2-1. [AMENDED] (E)	14	340:110-3-91.1. [NEW] (E)	39
340:10-2-5. [AMENDED] (E)	16	340:110-3-92. [AMENDED] (E)	40
340:10-2-6. [AMENDED] (E)	16	340:110-3-93. [AMENDED] (E)	40
340:10-2-7. [AMENDED] (E)	17	340:110-3-94. [AMENDED] (E)	41
340:10-2-8. [AMENDED] (E)	19	340:110-3-97. [AMENDED] (E)	41
340:75-7-15. [AMENDED] (E)	21	340:110-3-97.1. [AMENDED] (E)	42
340:110-1-9.4. [AMENDED] (E)	23	340:110-3-223. [AMENDED] (E)	43
340:110-3-5. [AMENDED] (E)	25	340:110-3-224. [AMENDED] (E)	44
340:110-3-5.1. [AMENDED] (E)	26	340:110-3-237. [AMENDED] (E)	45
340:110-3-27. [AMENDED] (E)	26	590:10-7-13. [AMENDED] (E)	46
340:110-3-39. [AMENDED] (E)	28	590:10-19-2. [AMENDED] (E)	47
340:110-3-40. [AMENDED] (E)	29	590:10-19-3. [AMENDED] (E)	47

Agency/Title Index

[Assigned as of 9-17-07]

Agency	Title	Agency	Title
Oklahoma ACCOUNTANCY Board	10	State ELECTION Board	230
State ACCREDITING Agency	15	Oklahoma FUNERAL Board (Formerly: Oklahoma State Board of EMBALMERS and Funeral Directors)	235
AD Valorem Task Force (abolished 7-1-93)	20	Oklahoma Department of EMERGENCY Management (Formerly: Department of CIVIL Emergency Management) - See Title 145	
Oklahoma AERONAUTICS Commission	25	Oklahoma EMPLOYMENT Security Commission	240
Board of Regents for the Oklahoma AGRICULTURAL and Mechanical Colleges	30	Oklahoma ENERGY Resources Board	243
Oklahoma Department of AGRICULTURE, Food, and Forestry	35	State Board of Licensure for Professional ENGINEERS and Land Surveyors (Formerly: State Board of Registration for Professional ENGINEERS and Land Surveyors)	245
Oklahoma Board of Licensed ALCOHOL and Drug Counselors	38	Board of Trustees for the ENID Higher Education Program	250
Board of Tests for ALCOHOL and Drug Influence	40	Department of ENVIRONMENTAL Quality	252
ALCOHOLIC Beverage Laws Enforcement Commission	45	State Board of EQUALIZATION	255
ANATOMICAL Board of the State of Oklahoma	50	ETHICS Commission (Title revoked)	257
Board of Governors of the Licensed ARCHITECTS, Landscape Architects and Interior Designers of Oklahoma	55	ETHICS Commission	258
ARCHIVES and Records Commission	60	Office of State FINANCE	260
Board of Trustees for the ARDMORE Higher Education Program	65	State FIRE Marshal Commission	265
Oklahoma ARTS Council	70	Oklahoma Council on FIREFIGHTER Training	268
ATTORNEY General	75	Oklahoma FIREFIGHTERS Pension and Retirement System	270
State AUDITOR and Inspector	80	[RESERVED]	275
State BANKING Department	85	State Board of Registration for FORESTERS	280
Oklahoma State Employees BENEFITS Council	87	FOSTER Care Review Advisory Board	285
Council of BOND Oversight	90	Oklahoma FUNERAL Board (Formerly: Oklahoma State Board of Embalmers and Funeral Directors) - See Title 235	
Oklahoma Professional BOXING Commission	92	Oklahoma FUTURES	290
State BURIAL Board (abolished 7-1-92)	95	GOVERNOR	295
[RESERVED]	100	GRAND River Dam Authority	300
Oklahoma CAPITAL Investment Board	105	Group Self-Insurance Association GUARANTY Fund Board	302
Oklahoma CAPITOL Improvement Authority	110	Individual Self-Insured GUARANTY Fund Board	303
State CAPITOL Preservation Commission	115	STATE Use Committee (Formerly: Committee on Purchases of Products and Services of the Severely HANDICAPPED)	304
CAPITOL-MEDICAL Center Improvement and Zoning Commission	120	Office of HANDICAPPED Concerns	305
Oklahoma Department of CAREER and Technology Education (Formerly: Oklahoma Department of VOCATIONAL and Technical Education) - See Title 780		Oklahoma State Department of HEALTH	310
Board of Regents of CARL Albert State College	125	Oklahoma Basic HEALTH Benefits Board (abolished 11-1-97)	315
Department of CENTRAL Services (Formerly: Office of PUBLIC Affairs) - See Title 580		Oklahoma HEALTH Care Authority	317
CEREBRAL Palsy Commission	130	HIGHWAY Construction Materials Technician Certification Board	318
Commission on CHILDREN and Youth	135	Oklahoma HISTORICAL Society	320
Board of CHIROPRACTIC Examiners	140	Oklahoma HORSE Racing Commission	325
Oklahoma Department of EMERGENCY Management (Formerly: Department of CIVIL Emergency Management)	145	Oklahoma HOUSING Finance Agency	330
		Oklahoma HUMAN Rights Commission	335
Oklahoma Department of COMMERCE	150	Department of HUMAN Services	340
COMMUNITY Hospitals Authority	152	Committee for INCENTIVE Awards for State Employees	345
COMPSOURCE Oklahoma (Formerly: State INSURANCE Fund) - See Title 370		Oklahoma INDIAN Affairs Commission	350
Oklahoma CONSERVATION Commission	155	Oklahoma INDIGENT Defense System	352
CONSTRUCTION Industries Board	158	Oklahoma INDUSTRIAL Finance Authority	355
Department of CONSUMER Credit	160	INJURY Review Board	357
CORPORATION Commission	165	Oklahoma State and Education Employees Group INSURANCE Board	360
Department of CORRECTIONS	170	INSURANCE Department	365
State Board of COSMETOLOGY	175	COMPSOURCE Oklahoma (Formerly: State INSURANCE Fund)	370
Oklahoma State CREDIT Union Board	180	Oklahoma State Bureau of INVESTIGATION	375
CRIME Victims Compensation Board	185	Council on JUDICIAL Complaints	376
Joint CRIMINAL Justice System Task Force Committee	190	Office of JUVENILE Affairs	377
Board of DENTISTRY	195	Department of LABOR	380
Oklahoma DEVELOPMENT Finance Authority	200	Department of the Commissioners of the LAND Office	385
Board of Regents of EASTERN Oklahoma State College	205		
State Department of EDUCATION	210		
EDUCATION Oversight Board	215		
Oklahoma EDUCATIONAL Television Authority	220		
[RESERVED]	225		

Agency/Title Index – continued

Agency	Title	Agency	Title
Council on LAW Enforcement Education and Training	390	Board of Regents of REDLANDS Community College	607
Oklahoma LAW Enforcement Retirement System	395	State REGENTS for Higher Education	610
Board on LEGISLATIVE Compensation	400	State Department of REHABILITATION Services	612
Oklahoma Department of LIBRARIES	405	Board of Regents of ROGERS State College	615
LIEUTENANT Governor	410	Board of Regents of ROSE State College	620
Oklahoma LINKED Deposit Review Board	415	Oklahoma SAVINGS and Loan Board (<i>abolished 7-1-93</i>)	625
Oklahoma LIQUEFIED Petroleum Gas Board	420	SCENIC Rivers Commission	630
Oklahoma LIQUEFIED Petroleum Gas Research, Marketing and Safety Commission	422	Oklahoma Commission on SCHOOL and County Funds Management	635
LITERACY Initiatives Commission	425	Advisory Task Force on the Sale of SCHOOL Lands (<i>functions concluded 2-92</i>)	640
LONG-RANGE Capital Planning Commission	428	The Oklahoma School of SCIENCE and Mathematics	645
Oklahoma State Board of Examiners for LONG-TERM Care Administrators (<i>Formerly: Oklahoma State Board of Examiners for NURSING Home Administrators</i>) - See Title 490		Oklahoma Center for the Advancement of SCIENCE and Technology	650
LOTTERY Commission, Oklahoma	429	SECRETARY of State	655
Board of Trustees for the MCCURTAIN County Higher Education Program	430	Department of SECURITIES	660
Commission on MARGINALLY Producing Oil and Gas Wells	432	Board of Regents of SEMINOLE State College	665
State Board of MEDICAL Licensure and Supervision	435	SHEEP and Wool Commission	670
MEDICAL Technology and Research Authority of Oklahoma	440	State Board of Licensed SOCIAL Workers	675
Board of MEDICOLEGAL Investigations	445	SOUTHERN Growth Policies Board	680
Department of MENTAL Health and Substance Abuse Services	450	Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
MERIT Protection Commission	455	Board of Examiners for SPEECH-LANGUAGE Pathology and Audiology	690
MILITARY Planning Commission, Oklahoma Strategic	457	STATE Employee Charitable Contributions, Oversight Committee for (<i>Formerly: STATE Agency Review Committee</i>)	695
Department of MINES	460	STATE Use Committee (<i>Formerly: Committee on Purchases of Products and Services of the Severely HANDICAPPED</i>) – See Title 304	
Oklahoma MOTOR Vehicle Commission	465	Oklahoma STUDENT Loan Authority	700
Board of Regents of MURRAY State College	470	TASK Force 2000	705
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs Control	475	Oklahoma TAX Commission	710
Board of Regents of NORTHERN Oklahoma College	480	Oklahoma Commission for TEACHER Preparation	712
Oklahoma Board of NURSING	485	TEACHERS' Retirement System	715
Oklahoma State Board of Examiners for LONG-TERM Care Administrators (<i>Formerly: Oklahoma State Board of Examiners for NURSING Home Administrators</i>)	490	State TEXTBOOK Committee	720
Board of Regents of OKLAHOMA City Community College	495	Oklahoma TOURISM and Recreation Department	725
Board of Regents of OKLAHOMA Colleges	500	Department of TRANSPORTATION	730
Board of Examiners in OPTOMETRY	505	Oklahoma TRANSPORTATION Authority (<i>Name changed to Oklahoma TURNPIKE Authority 11-1-05 - See Title 731</i>)	
State Board of OSTEOPATHIC Examiners	510	Oklahoma TURNPIKE Authority (<i>Formerly: Oklahoma TRANSPORTATION Authority AND Oklahoma TURNPIKE Authority - See also Title 745</i>)	731
PARDON and Parole Board	515	State TREASURER	735
Oklahoma PEANUT Commission	520	Board of Regents of TULSA Community College	740
Oklahoma State PENSION Commission	525	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma TRANSPORTATION Authority 11-1-99 - no rules enacted in this Title - See Title 731</i>)	745
State Board of Examiners of PERFUSIONISTS	527	Board of Trustees for the UNIVERSITY Center at Tulsa	750
Office of PERSONNEL Management	530	UNIVERSITY Hospitals Authority	752
Oklahoma State Board of PHARMACY	535	UNIVERSITY Hospitals Trust	753
PHYSICIAN Manpower Training Commission	540	Board of Regents of the UNIVERSITY of Oklahoma	755
Board of PODIATRIC Medical Examiners	545	Board of Regents of the UNIVERSITY of Science and Arts of Oklahoma	760
Oklahoma POLICE Pension and Retirement System	550	Oklahoma USED Motor Vehicle and Parts Commission	765
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	Oklahoma Department of VETERANS Affairs	770
POLYGRAPH Examiners Board	560	Board of VETERINARY Medical Examiners	775
Oklahoma Board of PRIVATE Vocational Schools	565	Oklahoma Department of CAREER and Technology Education (<i>Formerly: Oklahoma Department of VOCATIONAL and Technical Education</i>)	780
State Board for PROPERTY and Casualty Rates (<i>abolished 7-1-06; see also Title 365</i>)	570	Oklahoma WATER Resources Board	785
State Board of Examiners of PSYCHOLOGISTS	575	Board of Regents of WESTERN Oklahoma State College	790
Department of CENTRAL Services (<i>Formerly: Office of PUBLIC Affairs</i>)	580	Oklahoma WHEAT Commission	795
PUBLIC Employees Relations Board	585	Department of WILDLIFE Conservation	800
Oklahoma PUBLIC Employees Retirement System	590	WILL Rogers and J.M. Davis Memorials Commission	805
Department of PUBLIC Safety	595		
REAL Estate Appraiser Board	600		
Oklahoma REAL Estate Commission	605		

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #07-1371]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2. Annual operating fees [AMENDED]

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-1. Purpose [AMENDED]

252:100-9-2.. Definitions [AMENDED]

252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-9]

252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-11]

252:100-9-9. Excess emission reporting requirements [NEW]

252:100-9-11. Affirmative Defenses [NEW]

Subchapter 17. Incinerators

Part 5. Municipal Waste Combustors

252:100-17-14.1. Definitions [AMENDED]

252:100-17-16. Standards for particulate matter and opacity [AMENDED]

252:100-17-17. Standards for municipal waste combustor metals [AMENDED]

252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans [AMENDED]

252:100-17-20. Standards for nitrogen oxides [AMENDED]

252:100-17-21. Standards for municipal waste combustor operating practices [AMENDED]

252:100-17-22. Standards for municipal waste combustor fugitive ash emissions [AMENDED]

252:100-17-24. Standards for municipal waste combustor operator training and certification [AMENDED]

252:100-17-25. Compliance and performance testing [AMENDED]

252:100-17-26. Reporting and recordkeeping requirements [AMENDED]

Appendix Q. Incorporation by Reference [REVOKED]

Appendix Q. Incorporation by Reference [NEW]

SUMMARY:

The Department is considering increases in fees found in OAC 252:100-5-2.2 (b) for both minor facilities and Part 70 sources. Additional income resulting from a fee increase is needed to cover current and anticipated staffing requirements in administering the Department's programs.

The Department is proposing to amend OAC 252:100-9 to modify excess emission reporting requirements.

The Department proposes to amend OAC 252:100-17, Part 5 to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources. The proposed changes would incorporate standards (40 CFR 60, Subpart Cb) published on May 5, 2006, in the Federal Register that apply to Municipal Waste Combustor (MWC) units with the capacity to combust more than 250 tons per day of municipal solid waste. The proposed changes to Subchapter 17 are accompanied by a 111(d) plan. Staff intends that the council meeting serve as a public hearing for both the rule and the plan.

The Department is proposing to update Appendix Q to incorporate the latest changes to federal regulations by reference.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted between September 17, 2007, and October 17, 2007. For comments received at least 5 business days prior to the October 17, 2007, Air Quality Advisory Council meeting, staff will post written responses on the Department's web page at least 1 day prior to the Council meeting and provide hard copy written responses to these comments to the Council and the public at that Council meeting. Oral comments may be made at the October 17, 2007, hearing and at the November 15, 2007, Environmental Quality Board meeting.

PUBLIC HEARING:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 17, 2007, at the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board on November 15, 2007, at 9:30 a.m. at Southwestern Oklahoma State University, 800 N. Custer, Student Union Bldg., Weatherford, Oklahoma 73096.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the SIP under the

Notices of Rulemaking Intent

requirements of 40 CFR § 51.102 of the EPA regulations and 27A O.S. § 2-5-107(6)(c).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person or reviewed online at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

CONTACT PERSON:

The contact person is Cheryl Bradley. She may be reached via email at cheryl.bradley@deq.state.ok.us, telephone at (405) 702-4100, or by fax at (405) 702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the contact person three (3) days in advance. For the hearing impaired, the TDD Relay number is 1-800-522-8506 or 1-800-722-0353 for TDD machine use only.

[OAR Docket #07-1371; filed 8-24-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #07-1372]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 252:100-1-3. Definitions [AMENDED]
- Subchapter 7. Permits for Minor Facilities
- Part 1. General Provisions
- 252:100-7-2. Requirement for permits for minor facilities [AMENDED]
- Part 3. Construction Permits
- 252:100-7-15. Construction permit [AMENDED]
- Part 4. Operating Permits
- 252:100-7-18. Operating permit [AMENDED]
- Subchapter 8. Permits for Part 70 Sources
- Part 1. General Provisions
- 252:100-8-1.1. Definitions [AMENDED]

Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)

Part 1. General Provisions

252:100-37-2. Definitions [AMENDED]

Part 7. Control of Specific Processes

252:100-37-38. Pumps and compressors [REVOKED]

Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas

Part 1. General Provisions

252:100-39-2. Definitions [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

SUMMARY:

The Department is proposing to amend OAC 252:100-1-3, 252:100-8-1.1, 252:100-37-2 and 252:100-39-2 to clarify definitions.

The Department is proposing to amend OAC 252:100-7-2, 252:100-7-15 and 252:100-7-18. The proposed revisions will provide consistency with state statutes and other Air Pollution Control rules, remove reference to Subchapter 41 which has been revoked, delete the emissions calculation methods for determining if a permit is required, clarify when construction permits are required and provide for administrative amendments to operating permits for minor facilities.

The Department proposes to revoke OAC 252:100-37-38, Pumps and compressors.

The Department is proposing to update Appendices E and F to be consistent with federal standards.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act §§ 2-5-101 *et seq.*

REGISTER PUBLICATION OF NOTICE:

Previous Notices of Rulemaking Intent for this action were published at 24 Ok Reg 643 on 3/15/07 and at 24 Ok Reg 1703 on 6/15/07.

COMMENT PERIOD:

Oral comments may be made at the Environmental Quality Board meeting on November 15, 2007.

PUBLIC HEARING:

Before the Environmental Quality Board on November 15, 2007, at 9:30 a.m. at Southwestern Oklahoma State University, 800 N. Custer, Student Union Bldg., Weatherford, Oklahoma 73096.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person or reviewed online at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

CONTACT PERSON:

The contact person is Cheryl Bradley. She may be reached via email at cheryl.bradley@deq.state.ok.us, telephone at (405) 702-4100, or by fax at (405) 702-4101.

ADDITIONAL INFORMATION:

This Notice reflects a date and location change for the hearing of these rules by the Environmental Quality Board.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the contact person three (3) days in advance. For the hearing impaired, the TDD Relay number is 1-800-522-8506 or 1-800-722-0353 for TDD machine use only.

[OAR Docket #07-1372; filed 8-24-07]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 25. APPARATUS, DEVICES, EQUIPMENT, AND MATERIALS

[OAR Docket #07-1364]

RULEMAKING ACTION:

Submission for legislative and gubernatorial review

RULES:

40:25-1-1 [AMENDED]

40:25-1-2 [AMENDED]

SUBMITTED TO GOVERNOR:

August 23, 2007

SUBMITTED TO HOUSE:

August 23, 2007

SUBMITTED TO SENATE:

August 23, 2007

[OAR Docket #07-1364; filed 8-23-07]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 30. ANALYSIS OF ALCOHOL IN BREATH

[OAR Docket #07-1365]

RULEMAKING ACTION:

Submission for legislative and gubernatorial review

RULES:

40:30-1-3 [AMENDED]

SUBMITTED TO GOVERNOR

August 23, 2007

SUBMITTED TO HOUSE

August 23, 2007

SUBMITTED TO SENATE

August 23, 2007

[OAR Docket #07-1365; filed 8-23-07]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 50. IGNITION INTERLOCK DEVICES

[OAR Docket #07-1366]

RULEMAKING ACTION:

Submission for legislative and gubernatorial review

RULES:

40:50-1-1. Explanation of terms and actions [AMENDED]

40:50-1-2. Procedure for device approval [AMENDED]

40:50-1-3. Technical requirements [AMENDED]

40:50-1-4. Miscellaneous requirements [AMENDED]

40:50-1-5. Maintenance and calibration requirements
[AMENDED]

40:50-1-7. Certification and inspection of service centers
[AMENDED]

40:50-1-8. Service representative [AMENDED]

40:50-1-9. Ignition interlock inspector [AMENDED]

40:50-1-11. Approved ignition interlock devices
[AMENDED]

SUBMITTED TO GOVERNOR:

August 23, 2007

SUBMITTED TO HOUSE:

August 23, 2007

SUBMITTED TO SENATE:

August 23, 2007

[OAR Docket #07-1366; filed 8-23-07]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 155. OKLAHOMA CONSERVATION COMMISSION CHAPTER 25. CLEAN WATER STATE REVOLVING FUND PROGRAM

[OAR Docket #07-1353]

RULEMAKING ACTION:

EMERGENCY adoption.

RULES:

155:25-1-1. Purpose [NEW]

155:25-1-2. Receiving and Reviewing Applications [NEW]

AUTHORITY:

Oklahoma Conservation Commission, 27A O.S. § 3-2-106.24, and 82 O.S. 2001, § 1085.65

DATES:

Adoption:

July 2, 2007

Approved by Governor:

August 8, 2007

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Oklahoma Conservation Commission finds there is a compelling public interest that requires promulgation of a rule on an emergency basis to prescribe how the nonpoint source management program shall be reviewed and administered because (a) other state environmental agencies require promulgation of rules to review nonpoint source management programs in order to release funds for the program (b) various interested parties have applied for funding for nonpoint source management programs and (c) Federal funding for nonpoint source management programs requires a State Match.

Various interested persons and state agencies have expressed interest in the nonpoint source management program. Eligible entities such as public water authorities and Oklahoma communities are now considering new ways to protect and restore water supplies. Representatives of the eligible entities who pursue financial assistance from the Oklahoma Water Resources Board will benefit by the proposed amendments because OCC will be implementing a program to provide another funding source for nonpoint source management programs which may also be used as leverage, such as constituting matching funds, to obtain additional funding from other sources.

Without the promulgation of rules by the OCC, other state agencies will not be able to distribute funds to eligible entities. Eligible entities, and state agencies would also not be able to apply for Federal funding because there is no equivalent State Match. In order to continue with the nonpoint source management program in Oklahoma, it is essential that the OCC who is the program authority for nonpoint source management promulgate rules to receive and review the applications for water quality projects.

ANALYSIS:

Title 27A O.S. §3-2-106.24 provides the Oklahoma Conservation Commission (OCC) with the authority to "prepare, revise and review Oklahoma's nonpoint source management program and nonpoint source assessment report in coordination with other state environmental agencies and compile a comprehensive assessment for the state every five (5) years". Title 82 O.S. 2001, § 1085.65 provides in part that the Oklahoma Conservation Commission has the authority to promulgate rules to administer the nonpoint source management program. Pursuant to the authority granted by these statutes, the OCC has promulgated a series of rules referred to as "Clean Water State Revolving Fund Program" codified in Chapter 25 of Title 155 of the OAC.

The Clean Water Act of 1987 provides to the effect that certain nonpoint source management programs can be implemented and administered. Title 82 O.S. §1085.65 requires the OCC to promulgate rules to receive, and review applications for water quality projects submitted to the Clean Water State Revolving Fund Program for implementation of nonpoint source management programs as allowed by the federal Water Quality Act of 1987 for those activities subject to its jurisdiction as specified in the Oklahoma Environmental Quality Act. This rule specifies the process for such receipt and review.

The probable economic impact upon affected classes of persons or political subdivisions will not be significant except to the extent that by providing another funding mechanism for nonpoint source management programs other persons or political subdivisions that provide grants, loans, or funding for nonpoint source management programs can use their some of these funds for other and/or additional programs and/or priorities. Eligible public entities that qualify for financial assistance from the Oklahoma Water Resource Board are most likely affected by the proposed rules. The same classes affected will bear the costs of the rules. There has been no information about the cost impacts received from any private or public entities. Representatives of the eligible entities who pursue financial assistance from the OWRB will benefit by the proposed amendments by because OCC will be implementing a program to provide another funding source for nonpoint source management programs which may also be used as leverage, such as constituting matching funds, to obtain additional funding from other sources.

There will be no adverse impact on other state agencies, eligible entities or the OCC. There is also no anticipated extra costs associated with this rule.

These new rules will simply allow the OCC and other state agencies to provide more funding opportunities for nonpoint source programs to eligible entities.

CONTACT PERSON:

Joann Stevenson, (405) 521-3921

**PURSUANT TO THE ACTIONS DESCRIBED
HEREIN, THE FOLLOWING EMERGENCY RULE IS
CONSIDERED PROMULGATED AND EFFECTIVE
UPON APPROVAL BY THE GOVERNOR AS SET
FORTH IN 75 O.S., SECTION 253(D):**

155:25-1-1. Purpose

Title 82 O.S. § 1085.65 requires the Oklahoma Conservation Commission (OCC or Commission) to promulgate rules to

Emergency Adoptions

receive, and review applications for water quality projects submitted to the Clean Water State Revolving Fund Program for implementation of nonpoint source management programs as allowed by the federal Water Quality Act of 1987 for those activities subject to its jurisdiction as specified in the Oklahoma Environmental Quality Act. This rule specifies the process for such receipt and review.

155:25-1-2. Receiving and Reviewing Applications

(a) Applications and requests for funding for projects for nonpoint source management programs shall be filed with the Oklahoma Water Resources Board (OWRB). If the application meets the preliminary determination of eligibility the OWRB will forward the application to the OCC.

(b) The OCC'S Water Quality Division (OCCWQ) will review the application or request and determine whether the project meets or will meet a critical local or state need, as defined in the State Nonpoint Source Assessment and Management Report, is needed or will be needed to comply with the State Nonpoint Source Assessment and Management Report, is designed to prevent, reduce or halt the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards, is cost-effective, and is designed to be awarded upon a cost-share basis.

(c) The Commission shall consult with and obtain comments of the Executive Director of the Department of Environmental Quality prior to making a recommendation on all applications and programs that may involve nonpoint sources subject to the jurisdiction of the Department of Environmental Quality. The Department of Environmental Quality's comments shall be addressed in the recommendation or attached thereto.

(d) Upon a determination that the proposed project meets the minimum criteria set forth in (b) above, the proposed project shall be placed on the Commission's list of approved projects. Said list, and the application or request will be submitted to the OWRB with a recommendation that a loan(s) be made for the project(s).

(e) OCC will make its determination with respect to whether a proposed project meets the minimum criteria set forth in (b) above and, if deciding to place the proposed project on the Commission's list of approved projects, will submit the list, the application or request and recommendation to the OWRB within thirty (30) days of receipt of the application or request from OWRB as set forth in (a) above. If recommending that a loan be denied for the proposed project, OCC will submit the application or request and recommendation to the OWRB within thirty (30) days of receipt of the application or request from OWRB as set forth in (a) above.

[OAR Docket #07-1353; filed 8-13-07]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #07-1367]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 17. Federal Programs Complaint Procedures
210:10-17-1. Complaint procedures [AMENDED]

AUTHORITY:

70 O. S. § 3-104, State Board of Education

DATES:

Adoption:

June 21, 2007

Approved by Governor:

August 3, 2007

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The federal programs complaint process is of compelling public interest in order for the Oklahoma State Department of Education to be in compliance with federal regulations.

ANALYSIS:

Proposed rule amendments will update all current federal programs related to the reauthorization of the Elementary and Secondary Education Act (ESEA), which is Public Law 107-110, the *No Child Left Behind Act of 2001*.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O. S., SECTION 253 (D):

SUBCHAPTER 17. FEDERAL PROGRAMS COMPLAINT PROCEDURES

210:10-17-1. Complaint procedures

(a) **Purpose.** Federal programs regulations (34CFR Part 299, Subpart F S299.10-12) pertaining to programs under the reauthorized Elementary-Secondary Education Act require the State Education Agency (SEA) to adopt written procedures, consistent with state law, for:

(1) Receiving and resolving any complaint from an organization or individual that the SEA or an agency or consortium of agencies is violating a Federal statute or regulations that apply to a covered program listed in subsection (b) of this section.

(2) Reviewing an appeal from a decision of an agency or consortium of agencies with respect to a complaint; and

- (3) Conducting an independent on-site investigation of a complaint if the SEA determines that an on-site investigation is necessary.
- (b) **Covered programs.** Programs covered by this section are the following:
- (1) Part A of Title I (Improving Basic Programs Operated by Local Education Agencies).
 - (2) Subpart I of Part B of Title I (Reading First)
 - (23) Subpart 3 of Part B of Title I (Even Start Family Literacy Programs).
 - (34) Part C of Title I (Migrant Education).
 - (45) Part D of Title I (~~Children and Youth Who Are Neglected, Delinquent, or At Risk of Dropping Out~~).(Neglected and Delinquent).
 - (6) Part F of Title I (Comprehensive School Reform)
 - (57) Part A of Title II (~~Eisenhower Professional Development Program; other than section 2103 and part C of this title~~).(Teacher and Principal Training and Recruiting fund).
 - (8) Part B of Title II (Math and Science Partnerships).
 - (9) Part D of Title II (Enhancing Education Through Technology).
 - (610) Subpart 2 of Part A of Title III (~~State and Local Programs for School Technology Resources~~).(English Language Acquisition, Language Enhancement and Academic Achievement).
 - (711) Part A of Title IV (Safe and Drug-Free Schools and Communities; other than section 4114).
 - (12) Part B of Title IV (21st Century Community Learning Centers).
 - (813) Title VI ~~Part A of Title V (Innovative Education Program Strategies Programs).~~
 - (14) Subpart I of Part B of Title VI (Small, Rural School Achievement Program).
 - (15) Subpart 2 of Part B of title VI (Rural and Low-Income School Program).
- (c) **Complaint procedures at the local education agency (LEA) level.**
- (1) All complaints concerning an LEA should be filed with the appropriate LEA or with the ~~Assistant State Superintendent of the School Improvement Division of the SEA~~General Counsel of the State Department of Education. Within thirty (30) days of receipt of a complaint, the applicant agency shall conduct an investigation of the allegation and resolve the complaint. Subsequent to the investigation and resolution, a written decision shall be filed with the ~~Assistant State Superintendent of the School Improvement Division of the SEA~~General Counsel of the State Department of Education and the complainant.
 - (2) A complaint may be filed by parents, teachers, or other concerned individuals or by an organization in relationship to the program. An LEA is required to review all complaints made concerning a covered program if:
 - (A) the complaint is in written form and alleges that federal program requirements have been violated;
 - (B) the complaint is signed;
 - (C) the complaint includes the facts on which the statement is based and the specific program requirement alleged to have been violated; and
 - (D) the complaint includes information supporting the allegation along with the allegation.
- (d) **Complaint procedures at the SEA level.**
- (1) Within thirty (30) days of receipt of a decision, the SEA shall review the investigation and decision and make the LEA aware if further steps are to be taken by the LEA or the SEA. A complainant who is dissatisfied with the decision of the LEA may file an appeal with the SEA. A request for an appeal must be submitted in writing to the ~~Assistant State Superintendent of the School Improvement Division of the SEA~~General Counsel of the State Department of Education within thirty (30) days of resolution of the complaint by the LEA.
 - (2) Upon receipt of an appeal, the SEA will request from the LEA a copy of the original complaint and evidence found during the investigation by the LEA. Upon receipt of evidence supplied by the complainant and the LEA, the SEA will either make a disposition from submitted documentation or conduct an independent, on-site investigation of the complaint if deemed warranted.
 - (3) Resolution of the complaint shall be made by the SEA within forty-five (45) days of receipt of an appeal. A request for an extension of this time limit may be submitted by either the LEA or complainant. An extension of this time limit will be made only if exceptional circumstances exist with respect to a particular complaint.
 - (4) Within ten (10) days of completion of the appeal review process by the SEA, a written decision will be provided to the person, persons, or organization making the complaint and to the LEA to which the complaint was filed.
 - (5) A complaint against an LEA made directly to the SEA without previously being filed with the appropriate LEA will be reviewed by the SEA to determine if an investigation is warranted by the SEA because of the seriousness of the complaint or if the complaint shall be returned to the complainant to be filed with the appropriate LEA. The forwarding of a complaint filed with the SEA requires the LEA to conduct an investigation and produce a decision within thirty (30) days of receipt of the complaint by the LEA.
 - (6) A direct complaint which the SEA determines must be investigated by the SEA will be resolved within forty-five (45) days of the receipt of the complaint by the SEA. A written decision will be provided to the person, persons, or organization making the complaint and to the LEA upon which the complaint was filed.
 - (7) The complainant has the right to request the Secretary of the United States Department of Education to review, at the Secretary's discretion, the final decision made by the SEA.
 - (8) Complaints against the SEA must be filed with the ~~Assistant State Superintendent of the School Improvement Division of the SEA~~General Counsel of the State Department of Education. Complaints must:

Emergency Adoptions

- (A) be submitted in written form and specify the federal program requirements alleged to have been violated;
 - (B) be signed;
 - (C) include the facts on which the statement is based and the specific program requirement alleged to have been violated; and
 - (D) include information supporting the allegation along with the allegation.
- (9) The SEA will investigate and resolve the complaint and issue a written decision to the LEA and to the complainant within forty-five (45) days of receipt of the complaint.
- (10) The complainant has the right to request the Secretary of the United States Department of Education to review, at the Secretary's discretion, the final decision made by the SEA.

[OAR Docket #07-1367; filed 8-24-07]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #07-1368]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 13. Special Education
210:15-13-5. Due Process Hearing Officer [NEW]
210-15-13-6. Subpoenas [NEW]

AUTHORITY:

70 O. S. § 3-104, State Board of Education

DATES:

Adoption:

June 21, 2007

Approved by Governor:

August 3, 2007

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The proposed rule change is in conformity with the requirements of the Individuals with Disabilities Education Act, 2004 (P.L. 108-446), 34 CFR § 300.511(c) Impartial hearing officer, and 34 CFR § 300.512 Hearing Rights. It is in the best interest of LEAs and parents if the rules are adopted as soon as possible.

ANALYSIS:

The proposed rule change would ensure a due process complaint would be handled by a highly qualified Hearing and Appeal Officer. Hearing and Appeal Officers may issue subpoenas for the attendance of witnesses.

CONTACT PERSON:

Connie Holland, 405-521-3308

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE
CONSIDERED PROMULGATED AND EFFECTIVE**

**UPON APPROVAL BY THE GOVERNOR AS SET
FORTH IN 75 O. S., SECTION 253 (D):**

SUBCHAPTER 13. SPECIAL EDUCATION

210:15-13-5. Due Process Hearing Officer

(a) All Hearing and Appeal Officers assigned by the Oklahoma State Department of Education (OSDE) are expected to have the ability and experience necessary to weigh evidence and testimony presented and to make decisions in keeping with the evidence and testimony.

(b) All Hearing and Appeal Officers are expected to remain impartial in discharging their responsibilities at all times. If this is not possible, all Hearing and Appeal Officers have the responsibility to inform the OSDE immediately.

(c) All Hearing and Appeal Officers are expected to conduct hearings in a professional manner in accordance with established procedure, write decisions in a clear and concise manner based on law, and possess sufficient time to devote to these activities.

(d) No individual who is an official or employee of an LEA will be assigned as a Hearing or Appeal Officer. No attorney who currently represents parents or school districts, will be assigned as a Hearing Officer.

(e) All Hearing and Appeal Officers will possess at least a law degree or a minimum of a Master's degree in education, special education, psychology, or any related field. All Appeal Officers will have met the minimum training standards required of Hearing Officers and will have served in the capacity for at least two years in Oklahoma.

(f) OSDE will maintain an approved list of individuals who may serve as Hearing and Appeal Officers. The list will include a statement of the qualifications of each of those persons. All qualified and impartial Hearing and Appeal Officers will be assigned to a specific case on a rotational basis.

(g) The OSDE will pay for the cost of training for Hearing/Appeal Officers.

(h) The OSDE will pay for the cost of appointing the impartial Hearing/Appeal Officer with no cost to the LEA or parent.

(i) Compensation for Hearing and Appeal Officers will be set by the OSDE.

210:15-13-6. Subpoenas

(a) All Hearing and Appeal Officers assigned by the Oklahoma State Board of Education (OSBE) may, upon a party's request, issue subpoenas for the attendance of witnesses, the furnishing of information and the production of evidence in a due process hearing.

(b) All parties seeking a subpoena (e.g., parent, representative of a school district) may request an appropriate judicial proceeding to compel compliance by person who fails to obey a subpoena.

[OAR Docket #07-1368; filed 8-24-07]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

[OAR Docket #07-1369]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Additional Standards for Elementary Schools
Part 7. Standard IV: Curriculum, Instruction, Assessment and Climate
210:35-5-31. Program of Studies [NEW]

AUTHORITY:
70 O. S. § 3-104, State Board of Education

DATES:

Adoption:
June 21, 2007

Approved by Governor:
August 3, 2007

Effective:
Immediately upon Governor's approval

Expiration:
Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

FINDING OF EMERGENCY:
The proposed rule amendments are mandated by House Bill 1601 pertaining to accreditation standards for elementary schools.

ANALYSIS:
The proposed rule amendments will require that school districts provide to all students physical education programs, which may include athletics, as a condition of accreditation. Proposed rule amendments will require that public elementary schools provide instruction in physical education for full-day kindergarten through Grade 5 students for an average of sixty (60) minutes each week. Time spent in recess cannot be counted toward the total required for physical education.

CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O. S., SECTION 253 (D):

SUBCHAPTER 5. ADDITIONAL STANDARDS FOR ELEMENTARY SCHOOLS

PART 7. STANDARD IV: CURRICULUM, INSTRUCTION, ASSESSMENT AND CLIMATE

210:35-5-31. Program of Studies

(a) School districts are required to provide physical education programs to all students. These programs may include athletics.

(b) Public elementary schools must provide instruction in physical education for all students in full-day kindergarten through Grade 5 for an average of 60 minutes per week.

(c) Physical education instruction must be aligned with the Priority Academic Student Skills (PASS).

(d) Time spent in recess cannot count toward the average of sixty minutes per week required for physical education.

[OAR Docket #07-1369; filed 8-24-07]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 40. GRANTS AND PROGRAMS-IN-AID**

[OAR Docket #07-1370]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 9. McKinney-Vento Homeless Education Complaint Guidelines [NEW]
210:40-9-1. Purpose [NEW]
210:40-9-2. School District Level [NEW]
210:40-9-3. State level [NEW]

AUTHORITY:
70 O. S. § 3-104, State Board of Education

DATES:

Adoption:
June 21, 2007

Approved by Governor:
August 3, 2007

Effective:
Immediately upon Governor's approval

Expiration:
Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

FINDING OF EMERGENCY:
The complaint resolution process is of compelling public interest in order for the Oklahoma State Department of Education to be in compliance with federal regulations.

ANALYSIS:
The proposed rules will establish a complaint resolution process to utilize when a dispute arises regarding the education of a homeless child or youth.

CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O. S., SECTION 253 (D):

SUBCHAPTER 9. MCKINNEY-VENTO HOMELESS EDUCATION COMPLAINT GUIDELINES

Emergency Adoptions

210:40-9-1. Purpose

The following rule is a complaint resolution process recommended by the Oklahoma Department of Education (OSDE) when a dispute arises regarding the education of a homeless child or youth.

210:40-9-2. School District Level

Every effort must be made to resolve the complaint or dispute at the school district level before it is brought to the OSDE. It is the responsibility of the school district (the district) to inform the complainant of the district's Complaint Resolution Procedure when a question concerning the education of a homeless child or youth arises.

(1) Notify the district's homeless coordinator. The homeless coordinator serves as a liaison between the homeless child and the school the child attends. Someone in the school or in the superintendent's office will be able to identify the homeless coordinator.

(A) Request a copy of or access to the district board of education policies addressing the education of homeless children and youths and review them. Make an appointment with the homeless coordinator to discuss the complaint.

(B) If the dispute is not resolved after the initial discussion with the district's homeless coordinator, the complainant may file a complaint in writing to the district's homeless coordinator for further review.

(C) In the complaint include a request that a written proposed resolution of the dispute or a plan of action be provided within five (5) days of the date the complaint was received by the district's homeless coordinator. A review of the proposal or plan of action with the homeless coordinator should follow. The parties may mutually agree on an extension; however every effort should be made to resolve the complaint in the shortest possible time.

(2) If the dispute is not resolved at the district homeless coordinator level, the complaint may be forwarded to the superintendent of the district for review followed by a meeting with the superintendent to discuss the dispute. The complainant should request from the superintendent a written resolution within five (5) days of the date of the discussion. The parties may mutually agree on an extension; however every effort should be made to resolve the complaint in the shortest possible time.

(3) If the dispute is not resolved at the district superintendent level, the complainant may take the matter before the school district board of education for resolution.

210:40-9-3. State level

If the dispute is not resolved in a satisfactory manner at the school district level, the complaint may be brought to the OSDE. Complaints made under this process must be made in writing and signed by the complainant. The following steps are to be taken:

(1) Address the complaint to the State Homeless Coordinator, Oklahoma State Department of Education, 2500

North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. Include in the complaint:

(A) A detailed description of the dispute

(B) The name(s) and age(s) of the children involved

(C) The name(s) of involved school district personnel and the district(s) they represent

(D) A description of attempts that were made to resolve the issue at the school district level

(2) The Team Leader of the Office of Grants Planning will inform the involved school district(s) of the complaint. The team leader or team leader's designee will gather needed information including documentation and statements of the parties and may conduct an independent investigation through an on-site visit if necessary.

(3) Within thirty (30) days after receiving a complaint and investigating the complaint, the team leader will make a determination regarding the allegations on the complaint and will inform the parties, in writing, of the decision. The parties may mutually agree on an extension; however every effort should be made to resolve the complaint in the shortest possible time.

(4) If a complainant disagrees with the decision, the complainant may, within ten (10) working days, appeal the decision to the Deputy State Superintendent of Public Instruction. This appeal must be in writing and state the reasons why the complainant disagrees with the decision.

(5) Within thirty (30) days after receiving the appeal, the Deputy State Superintendent of Public Instruction will render a final decision and notify the complainant and all other interested parties in writing. Although the standard procedure allows thirty (30) days for a response, every effort will be made to resolve the complaint in the shortest possible time.

(6) While the dispute is ongoing, the child(ren) in question must be enrolled in and attending school. If the dispute revolves around which school is the school of best interest for the child, the child shall remain in the school they currently attend until the dispute is resolved, unless arrangements already implemented allow the child to attend the school of origin.

[OAR Docket #07-1370; filed 8-24-07]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #07-1355]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Fair Hearings
Part 11. Child Care Facility Licensing
340:2-5-112 [AMENDED]
340:2-5-119 [AMENDED]
(Reference APA WF 07-14)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Due Process of Law, Article II, Section 7 of the Oklahoma Constitution.

DATES:

Adoption:

July 24, 2007

Approved by Governor:

August 3, 2007

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as the Oklahoma Department of Human Services (OKDHS) finds compelling public interest to prevent adverse child care licensing decisions from being reversed on due process grounds. Public health and safety is served by OKDHS being able to prevent operation of substandard child care homes and facilities.

ANALYSIS:

The proposed revisions to Subchapter 5 of Chapter 2 amend the rules to bring policy into line with legal requirements.

340:2-5-112 is amended to expand the definition of "official record" to include a transcript of the hearing and to provide a definition of "clear and convincing evidence."

340:2-5-119 is amended to conform the standard of proof in child care licensing proceedings to due process requirements.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 5. FAIR HEARINGS

PART 11. CHILD CARE FACILITY LICENSING

340:2-5-112. Definitions

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

"**Access to the case file**" means that the applicant, licensee, and authorized representative have the right to review any information to be used by the Oklahoma Department of Human Services (OKDHS) in the hearing.

(A) The review may be made at a reasonable time before the date of the hearing.

(B) Access to the case file means access to the applicant or licensee file but does not include the Children and Family Services Division (CFSD) records and any report to the district attorney unless ordered released by the administrative hearing officer (AHO). The order is based upon a request by the applicant or licensee and, after an in camera review by the AHO, a determination that a compelling reason exists and that

disclosure is necessary for the protection of a public or private interest. Any child's name and the reporter's name is removed prior to submitting the information to the AHO.

(C) When a request for file access is made, the local office must make arrangements for the applicant or licensee and authorized representative to review the case file with as much privacy as possible. A supervisory staff member observes the review of the case file to ensure that contents of the case file are not removed from the record.

(D) The applicant, licensee, and authorized representative are free to make written notes from the record or obtain copies of available documents. An applicant, licensee, or representative is not charged for copies of documents made for the purpose of hearing preparation or presentation.

"**Administrative hearing officer (AHO)**" means:

(A) the professional staff member of the Appeals Unit who has been designated by the Appeals Unit supervisor to conduct an administrative hearing and issue a decision; or

(B) a lawyer who has a contract with OKDHS to preside over administrative hearings and issue a decision.

"**Appeals Unit**" means the unit established within the Legal Division which is responsible for conducting administrative hearings.

"**Appeals Unit supervisor**" means the person designated by the OKDHS general counsel to supervise the Appeals Unit.

"**Applicant or licensee**" means:

(A) an applicant for a license to operate a child care facility; or

(B) the holder of a license to operate a child care facility which has been revoked.

"**Authorized representative**" means a person authorized by the applicant or licensee to represent them in the hearing process.

(A) Any party may be represented by a lawyer or legal intern licensed to practice by the Supreme Court of Oklahoma.

(B) A party may be represented by a non-lawyer.

(C) If the representative is not a lawyer, OKDHS verifies the authority of the person to represent the applicant or licensee through verbal or written authorization of the applicant or licensee.

"**Clear and convincing evidence**" means the degree of proof which has produced in the AHO a firm belief as to the truth of the allegation sought to be established.

"**DHS**" means the Oklahoma Department of Human Services.

"**Division of Child Care (DCC)**" means any office in any division or unit within DCC which is responsible for the act, or failure to act, which is the subject of the hearing request.

"**Hearing**" means the process by which evidence is obtained and a decision made regarding the OKDHS action being protested.

Emergency Adoptions

"Hearings on licensing actions related to child care facilities and child placing agencies" means:

- (A) the process to review a an OKDHS decision on denial or revocation of a license for a child care facility or child placing agency; or
- (B) hearings on emergency orders to cease operation of a child care facility.

"Hearing request" means a written expression by an applicant, licensee, or authorized representative of the applicant's or licensee's desire to contest an action by OKDHS through the hearing process.

"OAC" means the Oklahoma Administrative Code, which contains the regulations promulgated by each state agency.

"Official record" means:

- (A) all evidence offered for introduction at the hearing;
- (B) an electronic recording of the hearing, or a transcription of the hearing; and
- (C) the hearing decision.

"OKDHS" means the Oklahoma Department of Human Services.

~~**"Substantial evidence"** is evidence which shows that there is a substantial basis of facts to support the decision being appealed. Substantial evidence need not rise to the level of a preponderance of the evidence, but must be more than a scintilla of evidence.~~

340:2-5-119. Standard of review and burden of proof

(a) **Standard of review.** The administrative hearing officer (AHO) determines whether the Oklahoma Department of Human Services (OKDHS) action is supported by substantial clear and convincing evidence and not contrary to the applicable law.

(b) **Burden of proof.** The party who seeks to alter the status quo has the burden of proof. The burden of proof is on:

- (1) an applicant to show that the applicant is eligible to receive a child care facility license;
- (2) OKDHS to show that a child care facility license should be revoked; and
- (3) OKDHS to show that the issuance of an emergency order was necessary to protect the health, safety, or welfare of a child receiving child care.

[OAR Docket #07-1355; filed 8-14-07]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #07-1356]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program

340:10-2-1 [AMENDED]

340:10-2-5 through 340:10-2-8 [AMENDED]

(Reference APA WF 07-13)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.62, 230.64, and 230.65 of Title 56 of the Oklahoma Statutes; the Deficit Reduction Act of 2005; and Parts 261.2, 261.60, 261.61 and 262.2 of Title 45 of the CFR.

DATES:

Adoption:

July 24, 2007

Approved by Governor:

August 3, 2007

Effective:

October 1, 2007

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency approval is requested due to compelling public interest so that the Oklahoma Department of Human Services (OKDHS) remains in compliance with federal guidelines as specified in the Deficit Reduction Act of 2005, specifically Section 262.2 of Title 45 of the Code of Federal Regulations (CFR) which will make OKDHS subject to penalty if these changes are not made by October 1, 2007.

ANALYSIS:

The purpose of the proposed rules is to revise Temporary Assistance for Needy Families (TANF) rules regarding TANF Work activities and reporting responsibilities in accordance with the Deficit Reduction Act of 2005.

340:10-2-1 proposed revisions: (1) add a formula for determining the average weekly countable work hours for a work-eligible individual who is self-employed; (2) remove language that allows short term closures by a facility to count as a holiday in calculating client TANF Work participation; (3) remove the ability to count excused absences from participation in hour increments; and (4) remove community services as a TANF Work activity.

340:10-2-5 proposed revisions update client TANF Work participation reporting responsibilities.

340:10-2-6 proposed revisions limit job readiness activities.

340:10-2-7 proposed revisions: (1) remove community service as a TANF Work activity; (2) add job skills training as a TANF Work activity; and (3) update client TANF Work participation reporting responsibilities.

340:10-2-8 proposed revisions: (1) update client TANF Work participation reporting responsibilities; and (2) reflect the current form numbers.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF OCTOBER 1, 2007:

SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

340:10-2-1. Work requirements

All parents or needy caretakers who apply for or receive cash assistance from the State of Oklahoma are required to be engaged in a work activity. The parent(s) or needy caretaker must participate in work activities for the number of hours weekly that are necessary to move that individual into employment and self-sufficiency.

(1) **Work-eligible individual.** A work-eligible individual is defined as an adult or minor head-of-household included in the Temporary Assistance for Needy Families (TANF) assistance unit. Excluded from this definition is a parent providing care for a disabled family member living in the home who does not attend school on a full-time basis, provided the need for such care is supported by medical documentation.

(2) **Minimum hours of work activities.**

(A) All TANF applicants and recipients who meet the definition of a work-eligible individual are required to participate the minimum hours of work activities.

(i) A work-eligible individual ~~is required to~~ must participate an average of 30 hours per week, with the exception of a single custodial parent with a child under age six who must participate an average of 20 hours per week.

(ii) In a two-parent family when deprivation is based on incapacity, the non-incapacitated adult must average 30 hours per week, unless required in the home to provide care for the incapacitated work-eligible parent.

(iii) In a two-parent family when deprivation is based on unemployment, one adult must participate in work activities an average of 35 hours per week and the other adult must participate an average of 30 hours per week. If one parent is an ineligible alien, the other parent must participate an average of 35 hours per week.

(iv) To determine the average weekly countable work hours for a work-eligible individual who is self-employed, the worker:

(I) determines the individual's monthly countable earned self-employment income per OAC 340:10-3-32;

(II) divides that figure by the federal minimum wage; and

(III) divides that figure by 4.3 which equals weekly countable work hours.

(B) Hours missed due to holidays and a maximum of an additional ~~80 hours ten days~~ of excused absences count as hours of participation for any unpaid scheduled work activity.

(i) Federal law establishes public holidays. State holidays are ordered observed by the Governor. ~~Scheduled short term closures by the facility the participant attends can be included as holidays.~~ If the facility where the participant is scheduled to attend is open on a designated holiday, this day is not considered a holiday for participation purposes.

(ii) Excused absences are reasonable, short-term hours missed from a scheduled work activity. There are a maximum of ~~10 ten days or 80 hours~~ of excused absences in any 12-month period. No more than two days ~~or 16 hours~~ of excused absences in a month are counted as hours of TANF

Work participation. All excused absences must be approved by the worker. An excused absence is defined as:

(I) unavailability of appropriate child care;

(II) illness or injury of the participant or a family member who lives in the household. The family member must meet the definition of a relative per OAC 340:10-9-1;

(III) scheduled doctor appointments for the participant or a family member who lives in the household;

(IV) court-required appearance by the participant;

(V) required attendance at parent and teacher conferences by the participant;

(VI) temporary unavailability of planned transportation when needed or inability to arrange for transportation;

(VII) occurrence of inclement weather that prevented the participant, and other persons similarly situated, from traveling to, or participating in, the prescribed activity;

(VIII) crisis intervention needed due to domestic violence issues;

(IX) family crisis; or

(X) required attendance of the participant for a specific appointment by another governmental entity.

(iii) To count an excused absence or holiday as hours of participation, the individual must have been scheduled to participate in an allowable work activity for the period of the absence. Participation allowances are paid for approved holidays and approved excused absences.

(3) **Work activities.** Work activities are defined as core and non-core and must be scheduled, structured, and supervised. TANF Work participants are placed in core work activities when appropriate.

(A) Core work activities are:

(i) unsubsidized employment that is full-time or part-time employment in the public or private sector that is not subsidized by TANF or any other public program;

(ii) subsidized private sector employment that is employment in the private sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iii) subsidized public sector employment that is employment in the public sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iv) Work Experience Program (WEP) that is a work activity that provides an individual with an opportunity to acquire general skills, training,

Emergency Adoptions

knowledge, and work habits necessary to obtain employment;

(v) on-the-job training that is training in the public or private sector that a paid employee receives while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job;

(vi) job search that is the act of seeking or obtaining employment and job readiness that prepares the person to seek or obtain employment, and includes life skills training, substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable; and

~~(vii) community services that are structured programs in which TANF recipients perform work for the direct benefit of the community under the auspices of public or non-profit organizations; and~~

~~(viii)~~ (vii) vocational training, not to exceed 12 months, that are organized educational programs directly related to the preparation of individuals for employment in current or emerging occupations requiring training other than a baccalaureate or advanced degree.

(B) Non-core work activities are:

(i) job skills training directly related to employment that is training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace;

(ii) education directly related to employment, in the case of a recipient who has not received a high school equivalency, that is education related to a specific occupation, job, or job offer; and

(iii) satisfactory school attendance at a secondary school or in a course of study leading to a General Educational Development (GED) certificate, in the case of a recipient who has not completed secondary school or received such a certificate, that is regular attendance with the requirements of the secondary school, or in a course of study leading to a GED certificate.

(4) **Limitations and special rules.** A single custodial parent who has:

(A) not attained 20 years of age and has not completed high school is determined to be in a work activity for the month if the recipient maintains satisfactory attendance at a secondary school or equivalent during the month; or

(B) a child under the age of four months is not required to participate in a work activity. The recipient can use this special rule for a lifetime limit not to exceed 12 months.

340:10-2-5. Job search activities

The primary objective of all job search activities is for applicants and recipients of Temporary Assistance for Needy Families (TANF) to obtain employment through personal contacts with employers. The worker and the individual jointly determine the number of employer contacts based on availability of child care, financial resources, jobs in the community, skills and abilities, and any other factors which affect or influence the individual's ability to obtain employment.

(1) An employer contact is defined as a face-to-face interview with an employer, the completion and return of any application to an employer, or the completion of tests required for employment with the state, local, or federal government. Referrals to employers are made on Form 08TW011E, ~~Referral to Employment~~ Referral. The individual records employer contacts on Form 08TW010E, Employer Contact List.

(2) Job search is defined as the individual's job seeking efforts. Individuals in job search activities are eligible for participant allowances and day care for the time they are actively looking for a job or in a group activity.

(A) The individual is given Form 08TW013E, TANF Time and Progress Report, to complete and return to the worker by the time frame shown on the form.

(i) Additional job search may be required as a part of another work activity if it would improve the individual's employment prospects.

(ii) The number of employer contacts to be made each week is included in the employability plan.

(B) If the individual has been unsuccessful in obtaining a job after a reasonable amount of time, the worker and individual review the employability plan to determine if another activity is more appropriate.

(C) The maximum amount of time spent in job search and job readiness activities cannot exceed 12 weeks within a federal fiscal year for any individual.

340:10-2-6. Job readiness

Job readiness activities help prepare participants for work by ensuring that participants are familiar with general workplace expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market.

(1) **Orientation.** Participants are referred to orientation as the need is identified on Form 08TW002E, TANF Work/Personal Responsibility Agreement. Orientation consists of individual or group meetings designed to present information about:

(A) self-esteem building;

(B) activities and services available through the Temporary Assistance for Needy Families (TANF) Program;

(C) the Oklahoma Department of Human Service (OKDHS) policies; and

(D) the employment process, including job applications, interviewing, goal-setting, and managing home and work.

(2) **Counseling, or treatment, or crisis intervention.**

The worker assists participants who have barriers that prevent them from obtaining or retaining a job by meeting with the participant and appropriate local partners to determine available resources to overcome barriers. Referrals may include counseling or treatment for:

- (A) substance abuse, ~~medical needs~~, or mental health problems;
- (B) ~~domestic violence~~; and
- (C) ~~other crisis intervention.~~

(3) ~~**Other activities.** TANF participants may be referred to other agencies and organizations for group activities. The worker, with input from the service provider, decides the appropriate number of hours the participant is capable of participating in other activities. Individual or group meetings may be held as necessary to address any other needs of the participants. Topics which can be successfully addressed include:~~

- (A) ~~training available from other agencies;~~
- (B) ~~financial aid for education or training;~~
- (C) ~~career planning for youth;~~
- (D) ~~Work Experience Program participation requirements and benefits; and~~
- (E) ~~local labor market information.~~

(4) **Educational services.** Educational services to enhance the participant's potential for employment must be made available. Assignment is based on the criteria listed in (A) through (F) of this paragraph.

(A) Custodial parent participants under 20 years of age without a high school diploma are required to participate in educational activities directed toward the attainment of a high school diploma or its equivalent. These individuals may be excused from high school attendance or courses designed to lead to a General Educational Development (GED) certificate if the employability plan includes an alternative, such as basic education or English as a second language (ESL).

(B) Participants age 20 or older that have not completed high school can participate in a basic or remedial education program.

(C) Assignment to remedial education services is appropriate for participants who read and write below high school level, even if they have a high school diploma or GED certificate. Basic and remedial education includes Adult Basic Education (ABE) classes, GED classes, Certificate of High School Equivalency literacy classes, tutoring, or remedial reading classes.

(D) Participants lacking proficiency in understanding, speaking, reading, or writing the English language are assigned to ESL classes.

(E) Participants already in attendance at an institution of higher education are considered appropriately assigned if the participant cooperates in the assessment process and development of an appropriate employability plan. However, the participant is required to participate the minimum number of hours in an activity listed in OAC 340:10-2-1.

(F) The maximum amount of time spent in job search and job readiness activities cannot exceed 12 weeks within a federal fiscal year for any individual.

340:10-2-7. Training

(a) **Scope.** Job skills training includes vocational training and hands-on work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures, such as competency gains or proficiency levels, to evaluate a participant's progress and reasonable time limits for completion. Referrals are made to appropriate training facilities on Form 08TW003E, Interagency Referral and Information.

(b) **Assignments.** Any training to which the participant is assigned must meet the criteria in (1) through (4) of this subsection.

- (1) The hours of any training activity are governed by the training facility but must not exceed 40 hours per week.
- (2) The training is preparation for a job which meets the criteria for appropriate employment.
- (3) The quality and type of training must meet local employers' requirements so participants are in a competitive position with the local labor market.
- (4) Training is related to in-demand occupations which are likely to become available in Oklahoma.

(c) **Work Experience Program (WEP).** The purpose of WEP is to provide skill training and work enhancement to Temporary Assistance for Needy Families (TANF) participants while providing a useful public service that will enable them to move toward self-sufficiency and obtain unsubsidized employment following completion of the placement.

(1) **Benefits.** Benefits of the program to participants include an opportunity to establish a work history and earn a recommendation from an employer. Participants also learn to balance the demands of home and work, gain confidence by performing in a job setting, brush-up skills already acquired, learn marketable skills on-the-job, and determine interest and aptitude for a particular type of work by doing the job.

(2) **WEP assignments.** WEP assignments are approved for an initial period of three months.

- (A) No salary is paid.
- (B) With respect to injuries incurred during working hours in WEP, federal law requires medical coverage be offered under either state workers' compensation law or by the Oklahoma Department of Human Services (OKDHS). Oklahoma workers' compensation law does not cover WEP participants. Medical coverage is provided by the Medicaid Program.

(3) **WEP referrals.** Participants are referred to WEP slots based on their employability plan. Assignment to a WEP position is coordinated between the participant and worker. Based on the employability plan, the worker:

- (A) determines which facility best meets the participant's needs; and
- (B) arranges for an interview between the facility and the participant; and

Emergency Adoptions

(C) notifies the participant of the place, time, and interviewer's name.

(4) **WEP facilities.** Facilities selected for WEP training must be capable of providing employment and have an apparent intent to hire, or be able to provide quality training. Training facilities are solicited by OKDHS staff or a contracted entity who has agreed to assist with job development and placement including WEP. Local job market conditions, opportunities for employment following completion of WEP participation as well as the ability of the facility to provide the necessary supervision and training are criteria used when soliciting a facility.

(A) Training slots are developed which meet the employment needs of the participant as determined by the employability plan. When a facility agrees to participate in WEP, the representative of the facility is requested to provide:

- (i) a written description of the type of activities the participant will be involved in;
- (ii) the number of participants the facility can accept;
- (iii) the hours of participation; and
- (iv) any special requirements.

(B) There are two types of WEP training facilities, WEP-Nonprofit (WEP-NP) and WEP-For-Profit (WEP-FP).

(i) WEP-NP placement is approved for public and private nonprofit and not-for-profit agencies, organizations, or businesses. When a participant requires additional training, the worker may approve a 60-day extension. Extensions are not granted when the primary purpose is to provide additional help to the facility. The criteria listed in subunit (I) through (VII) of this subsection are used as a guide in determining the appropriateness of requesting an extension beyond the initial three-month period.

(I) The participant needs the additional time for skills to be acquired to meet minimum hiring requirements.

(II) The participant demonstrates a willingness to learn, but needs additional training, including the development of new skills, to be competitive in the labor market.

(III) The facility has agreed to hire the participant, but will not have funds available or a job opening until a specific date.

(IV) The facility has an opening in an area different from the one the participant was trained in and has agreed to hire the participant if additional time is granted for the additional training.

(V) The participant has shown improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting.

(VI) The participant has missed more than two weeks of training due to illness or the illness of a household member.

(VII) There are extenuating circumstances which prevented the participant from receiving full benefit of the training.

(ii) WEP-FP is approved for businesses or entities that operate for profit. Only one WEP-FP placement is allowed per 25 full-time employees in a for-profit business or entity. The criteria in subunit (I) through (II) of this subsection must be in effect prior to a WEP-FP placement.

(I) The placement matches the participant's employability plan and the career path chosen by the participant.

(II) The employer has committed to hire the participant on or before the completion of the three month placement.

(5) **WEP procedures.** Upon approval by the county director, the worker contacts the WEP facility to complete Form 08TW015E, Work Experience Program - Nonprofit Training Agreement, or Form 08TW115E, Work Experience Program - For-Profit Training Agreement.

(A) The worker instructs the facility representative or the training supervisor regarding the purpose and use of Form 08TW013E, Time and Progress Report.

(B) It is the participant's responsibility to complete Form 08TW013E, ~~secure the signature of the facility director or supervisor on Part III of Form 08TW013E, and return the form to the local human services center (HSC) by the fifth day of each month and submit it to the worker by the time frame shown on the form.~~

(C) Approved training slots that have not been utilized within a six-month period are reviewed for appropriateness. If the position is no longer feasible, ~~the county human services center (HSC) staff~~ sends a letter to the facility stating the WEP slot is no longer active and may be re-evaluated at the facility's request.

(6) **Non-cooperation by WEP facility.** When the worker obtains information ~~is obtained~~ that the facility is violating the terms and conditions of Form 08TW015E, Form 08TW115E, or that participants are being treated unfairly, the county director is informed immediately. The nature of the allegations guides the necessary action which may include:

- (A) suspension of subsequent assignments at the facility;
- (B) immediate removal of current participants; or
- (C) termination of the agreement.

(7) **Notification to participant and facility.** Ten calendar days prior to the anticipated WEP completion date, or at any time the participant becomes ineligible for WEP, the worker notifies the participant by letter or telephone. The worker notifies the facility by letter or by telephone five calendar days prior to the termination. When a participant has been referred to WEP and an appropriate training

slot cannot be provided, the worker notifies the participant of this decision.

(8) **Changes in placements and subsequent placements.** When the facility, worker, and participant determine that placement in a different facility is more beneficial, the worker locates a new facility and arranges an interview for the participant. When the participant fails to secure employment following successful completion of WEP training, a conference is held with the participant, worker, and supervisor to determine whether a second training placement might be beneficial. The worker reviews the employability plan ~~is reviewed~~ prior to allowing a participant to re-enter WEP training. Consideration is given to reassignment to job search or another appropriate work activity. In making this decision, consideration must be given to the:

- (A) participant's ability to secure and maintain full-time employment;
- (B) opportunities for employment in the new field and in the area in which the participant received training;
- (C) participant's efforts to secure employment; and
- (D) length of time between training assignments.

(d) **Job Corps nonresident training program (Job Corps II).** Oklahoma's four Job Corps centers provide a nonresident Job Corps program to TANF participants who can commute to their sites. Participants referred must be ages 16 through 24. Referrals are made by the worker completing Form ~~08MP007E~~08MP013E, Information/Referral - Social Services. It is the responsibility of the worker to coordinate with the Job Corps center and arrange for child care.

(1) By special agreement with the Job Corps centers, Job Corps II students are provided Job Corps participant training allowances designed to meet training costs not covered by the TANF cash assistance. These allowances are not considered as income.

(2) The worker coordinates with the centers and other designated agencies, such as Oklahoma Employment Security Commission (OESC) and Workforce Investment Act (WIA), to ensure Job Corps II students leaving the center are placed in an appropriate work activity. When a Job Corps II student leaves the center, the worker meets with the Job Corps II student to make immediate plans for further implementation of the employability plan.

(e) **Vocational training.** Vocational training other than that described in subsection (f) of this Section include, but are not limited to, practicum placements, internships, or proprietary schools and are considered as work activities.

(f) **Special programs and demonstration efforts with other agencies.** OKDHS may enter into special education, training, or employment efforts with federal, state, and local governments, and private for-profit, private not-for-profit organizations, and agencies. When this occurs, the ~~counties~~ HSCs involved are expected to comply with the terms of those agreements.

(g) **Community service Job skills training.** ~~Community service programs are structured programs in which the TANF~~

~~participants perform work for the direct benefit of the community under the guidance of a public or non-profit organization. Training that is directly related to employment for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.~~

340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services

(a) **Scope.** The worker provides or arranges payments and services for the participant to ensure successful completion of his or her employability plan to become self-supporting.

(1) Payments are authorized for items or services directly related to employment as an outcome.

(2) When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program.

(3) Items and services covered by the participant's medical card are not paid for by the support service fund.

(4) The only support services available to an applicant are the participant allowance and work activity payment.

(b) **Flexible funds.** The intent of flexible funds is to provide a participant with the necessary support services needed to accomplish his or her employment goals.

(1) Flexible funds are not available to the applicant.

(2) To be eligible for flexible funds, the participant must:

(A) otherwise be ready to participate in a required work activity for the minimum number of hours;

(B) have a guaranteed offer of employment; or

(C) be employed.

(3) Payments for the services through flexible funds are not an automatic entitlement to the participant.

(4) Flexible funds are not used for fines including traffic fines or any cost related to a criminal offense such as legal fees or court costs.

(5) ~~The county~~ Human services center (HSC) staff has final authority to determine authorizations.

(6) One-time payments of specific services are allowed after the service is rendered.

(7) Ongoing maintenance payments are not allowed.

(c) **Other support services.**

(1) **Work activity payments.** To be eligible for the work activity payment, the individual must be ready to participate in or be in a required work activity and in need of a small amount of cash to purchase items such as a tank of gas, or health, beauty, or personal items. The maximum amount approved cannot exceed \$40 per month.

(2) **Participant allowances.** Allowances, up to a maximum of \$10 for each day, are made to participants in assigned work activities which are scheduled, structured, and supervised.

(A) Lunch hours and travel time are not included as actual hours of attendance.

(B) For persons in Job Search, travel time between job interviews and job applications is included as actual hours of attendance.

Emergency Adoptions

(C) The participant makes appropriate daily entries on Form ~~FW-13~~ 08TW013E, Time and Progress Report, to document actual hours in attendance and submits it to the worker by the time frame shown on the form.

(D) The daily allowance paid is:

(A~~i~~) \$7 each day when the work activity equals four hours or less; or

(B~~ii~~) \$10 each day when the work activity equals more than four hours.

(3) **Oklahoma State Bureau of Investigations (OSBI) background checks.** OSBI background checks may be requested for a participant who is placed in job skills training that requires an OSBI background check as a prerequisite for employment. The job skills training can include vocational training, hands-on work experience, or public or private sector work experience. The participant is advised of the requirement and Form ~~ADM-60~~ 08AD060E, Request for Release of Information, is completed.

(4) **Child care.** Child care arrangements are made for each child(ren) in the home who is under age 13, mentally or physically incapable of self care, or under court supervision. The plans for child care are included on Form ~~FW-2~~ 08TW002E, TANF Work/Personal Responsibility Agreement. When the individual begins active participation in TANF Work activities, child care services are documented.

(5) **Transportation contracts.** Transportation contracts are initiated to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, HSC staff contact the Family Support Services Division TANF Section.

(6) **Disability Advocacy Program (DAP).** DAP is available to assist a TANF Work participant or a child(ren) receiving a TANF benefit, who has an application for disability pending with the Social Security Administration (SSA) or who the Oklahoma Department of Human Services (OKDHS) determines has a potentially meritorious claim for such benefits.

(A) ~~A The worker makes a referral is made~~ to the OKDHS contracted law firm to assist the recipient(s) with the:

- (i) application;
- (ii) reconsideration;
- (iii) Administrative Law Judge hearing; and
- (iv) review by the SSA Appeals Council.

(B) The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence was available to prove all conditions claimed by the TANF recipient. If the evaluation of merit determines there is:

(i) sufficient evidence, the law firm represents the TANF recipient.

(1) Statewide this representation consists of assisting the recipient with the application

through an unfavorable decision by the SSA Appeals Council.

(II) In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advance payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council; or

(ii) insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

[OAR Docket #07-1356; filed 8-14-07]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE

[OAR Docket #07-1358]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 7. Foster Home Care
Part 2. Development of Resources
340:75-7-15 [AMENDED]
(Reference APA WF 07-12)

AUTHORITY:

Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Senate Bill 553; and Title 10 of the Oklahoma Statutes.

DATES:

Adoption:

July 24, 2007

Approved by Governor:

August 3, 2007

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as OKDHS finds a compelling public interest to preserve the health, safety, and welfare of families with children who are in need of foster or adoptive homes. Emergency rulemaking is necessary to bring the rules into compliance with Senate Bill 553.

ANALYSIS:

The proposed revisions to Subchapter 7 of Chapter 75 amend the rules to bring the Oklahoma Department of Human Services (OKDHS) foster and adoptive homes approval process into compliance with Senate Bill 553.

340:75-7-15 is amended to: (1) clarify the exception to fingerprinting process; (2) clarify that when an equivalent records check from another state is required, it must be received prior to placement; (3) correct Department of Public Services to Department of Public Safety (DPS); (4) repeal time frame for kinship applicant's equivalent record check; (5) require that OKDHS obtain the out-of-state child abuse and neglect registry check; and (6) repeal court's authority to approve a prospective adoptive parent or long-term placement provider due to specified felonies.

CONTACT PERSON:

Dena Thayer, OKDHS Office of Legislative Relations and Policy, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR:

SUBCHAPTER 7. FOSTER HOME CARE

PART 2. DEVELOPMENT OF RESOURCES

340:75-7-15. Background investigation and assessment of results

(a) Requirements. A background investigation is conducted on all adults in the foster applicant's home as a safeguard for children placed in Oklahoma Department of Human Services (OKDHS) custody. Background investigations are conducted at the time of application and include, but are not limited to:

- (1) an Oklahoma State Bureau of Investigation (OSBI) name and records criminal history search, including the Department of Public Safety (DPS) and Sex Offenders Registry, of the applicant and any adult living in the applicant's household;
(2) a Federal Bureau of Investigation (FBI) national criminal history search, based on the fingerprints of the applicant and any adult members of the household;
(3) a search of any court involvement;
(4) a search of all OKDHS records, including Child Welfare (CW) records, for past confirmation of child maltreatment involving the applicant and any adult living in the household; and
(5) a search of all applicable out-of-state child abuse and neglect registries; and
(5) a search of Juvenile Justice Information System (JOLTS) records for any child older than 13 years of age in the applicant's household.

(b) Criminal history search. The applicant and adult household members provide consent for an OSBI and FBI criminal history search by signing Form 04AD003E, Request for Background Check.

(c) Exception to fingerprinting. The Director of OKDHS or designee may authorize an exception to the fingerprinting requirement, and authorize use of an alternative procedure for obtaining a national criminal records check for any person residing in the home who has a severe condition that precludes such person being fingerprinted. In limited, case specific circumstances, OKDHS may not be able to obtain:

- (1) an individual's fingerprints as a result of the individual's disability; or
(2) legible fingerprints due to low quality fingerprints, as a result of age, occupation or otherwise, thereby making

it impossible for the national crime information databases (NCID) to provide results.

(d) Residence time frame.

(1) If every person age 18 or older residing in the applicant's home has resided in Oklahoma for at least five consecutive years immediately preceding approval, the initial approval may occur upon completion of the entire home assessment process using results per OAC 340:75-7-15(a).

(2) Fingerprints are submitted to the FBI for a national criminal history records search before initial approval. Final approval, per OAC 340:75-7-18(b)(3), is contingent upon receipt of the results of the national criminal history records search.

(3) Applicants or adult household members who have lived in Oklahoma for less than five years must also provide the equivalent background records check from previous state(s) of residence prior to placement.

(A) Equivalent records check includes, but is not limited to, a state's criminal history search, including Department of Public Services DPS and Sex Offenders Registry.

(B) Kinship applicants must provide the records check within 30 days of placement. OKDHS obtains the child abuse and neglect registry check from the previous state(s) of residence.

(e) Occupancy of the household. A criminal history search is completed for every adult who sleeps in the household more than 30 days per calendar year or engages in a pattern of overnight visitation that meets this test. Such persons are considered household members.

(f) New occupants in the foster home. The foster parent notifies OKDHS within 24 hours of any person taking up residence in the foster home. OKDHS completes a background investigation, per OAC 340:75-7-15, for persons age 18 years or older. The foster parent's child who reaches age 18 is considered in this category. Adults in this category have no provider responsibility until the background investigation is complete. A foster family's failure to notify OKDHS of a new household member or refusal of a household member to consent to a background check is grounds for cancellation of the foster care contract.

(g) Kinship applicant criminal background records search after normal business hours or on a holiday. When OKDHS considers placement of a child with a prospective kinship foster family in an emergency situation, after normal business hours or on a holiday, OKDHS requests that local law enforcement conduct a name based National Crime Information Center (NCIC) criminal history search. This is based upon submission of the name, race, gender, date of birth, and Social Security number of each person age 18 years or older living in the household. Each person completes and signs Form 04AD003E to initiate the search.

(h) Assessment of background investigation results.

(1) History of felony convictions. OKDHS denies a resource home application if the applicant, or any person residing in the home of the applicant, has a criminal conviction record for any of the felony offenses listed in (A)

Emergency Adoptions

through (E). The criminal conviction of an approved foster parent or any person residing in the foster home of any of the felony offenses listed in (A) through (E) requires the closure of the foster home, cancellation of the foster care contract, and removal of each child in OKDHS custody. The felony offenses are:

- (A) physical assault, battery, or a drug-related offense within the five year period preceding the application date;
- (B) child abuse or neglect;
- (C) domestic abuse;
- (D) a crime against a child, including, but not limited to, child pornography; or
- (E) a crime involving violence, including, but not limited to, rape, sexual assault, or homicide, but excluding physical assault or battery. Homicide includes manslaughter.

(2) **Exceptions to history of felony convictions.**

~~(A)~~ OKDHS does not grant exceptions regarding felony convictions, per OAC 340:75-7-15(h)(1), of a prospective or approved foster parent or of anyone residing in the foster home. Approval may be granted by the county director on a case-by-case basis, per OAC 340:75-7-15(h)(4), for any applicant who has, or is living with a person who has, a prior conviction or charges pending for any other felony or a relevant misdemeanor.

~~(B)~~ A prospective adoptive parent or long term placement provider for a specific child in OKDHS custody, who has not been approved as a placement provider due to a conviction of a felony offense specified in OAC 340:75-7-15(h)(1)(A) within five years preceding the application date, may be approved only by the court after:

- (i) an evaluation is made and accepted by the court that considers the:
 - (I) nature and seriousness of the crime in relation to the long term placement;
 - (II) time elapsed since the commission of the crime;
 - (III) circumstances under which the crime was committed;
 - (IV) degree of rehabilitation; and
 - (V) number of crimes committed by the person involved; and
- (ii) a showing by clear and convincing evidence that the child will not be at risk by such placement.

(3) **Sex related crimes.** OKDHS denies the application of an applicant if the applicant, or any person residing in the applicant's home, has been convicted, whether upon a verdict or a plea of guilty or upon a plea of nolo contendere, for any crime specified per Section 582 of Title 57 of the Oklahoma Statutes. OKDHS denies the application of an applicant if the applicant is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offenders Registration Act.

(4) **History of crimes, charges, or other convictions.** Approval of any applicant who has, or is living with a person who has, a history of arrests, charges, or convictions for any felony other than those listed in OAC 340:75-7-15(h)(1) or a relevant misdemeanor may be approved on a case-by-case basis. A relevant misdemeanor includes, but is not limited to, assault and battery, alcohol or drug related offenses, crimes involving domestic abuse, and other such offenses.

(5) **History of child abuse and neglect investigations.** OKDHS determines the approval of any applicant with a history of child abuse and neglect investigations on a case-by-case basis. The county director considers the:

- (A) nature and seriousness of the CW history;
- (B) time elapsed since the CW history;
- (C) circumstances of the CW history;
- (D) degree of rehabilitation;
- (E) risk, if any, to the child by such placement; and
- (F) results of appeals, if applicable.

(6) **History of child abuse and neglect investigations on closed foster homes.** OKDHS determines whether to pursue the approval of any applicant that was previously a foster home with a history of child abuse and neglect investigations as a foster parent. The Children and Family Services Division Foster Care Section reviews investigations where there have been abuse or neglect allegations and confirmed findings.

(7) **JOLTS information.** The information obtained from a JOLTS search on the child older than 13 years of age living in the applicant's home is used to determine whether that child poses a risk to a child in OKDHS custody.

[OAR Docket #07-1358; filed 8-21-07]

TITLE 340. DEPARTMENT OF HUMAN SERVICES

CHAPTER 110. LICENSING SERVICES

[OAR Docket #07-1359]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions
 - Part 1. Licensing Services - Child Care
 - 340:110-1-9.4 [AMENDED]
- Subchapter 3. Licensing Standards for Child Care Facilities
 - Part 1. Requirements for Child Care Centers
 - 340:110-3-5 thru 340:100-3-5.1 [AMENDED]
 - 340:110-3-27 [AMENDED]
 - Part 2. Requirements for Part-Day Children's Programs
 - 340:110-3-39 thru 340:110-3-40 [AMENDED]
 - 340:110-3-49.3 [AMENDED]
 - Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
 - 340:110-3-81 through 110-3-82 [AMENDED]
 - 340:110-3-84 through 110-3-88 [AMENDED]
 - 340:110-3-89.1 through 110-3-91 [AMENDED]
 - 340:110-3-91.1 [NEW]
 - 340:110-3-92 through 110-3-94 [AMENDED]
 - 340:110-3-97 through 110-3-97.1 [AMENDED]

Part 14. Requirements for School-Age Programs
340:110-3-223 thru 340:110-3-224 [AMENDED]
340:110-3-237 [AMENDED]
(Reference APA WF 07-16)

AUTHORITY:

Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and the Oklahoma Child Care Facilities Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes.

DATES:

Adoption:

July 24, 2007

Approved by Governor:

August 3, 2007

Effective:

October 1, 2007

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as OKDHS finds an imminent peril to the preservation of the public health, safety, or welfare as it relates to the safety of children in child care facilities. Revisions will provide: (1) additional safety precautions to better protect children; (2) allow for increased accessibility of licensing information for parents and the public; (3) additional fire safety requirements regarding operable carbon monoxide detectors, monthly testing of smoke and carbon monoxide alarms, limitations on window security bars, and limitations on the use of any floor above ground level for young children; (4) additional caregiver requirements regarding cardiopulmonary resuscitation (CPR) and first aid certification being required before being left alone with children; (5) the development of emergency procedures in the event of natural or man-made disasters will better prepare caregivers for dealing with emergencies; and (6) clarification for the issuance of emergency orders. All the revisions will increase the safety of children in child care facilities. The proposed effective date is October 1, 2007. This will allow for the revision, reprinting, and mailing of 5600 requirement books, to include family child care homes and large family child care homes, child care centers, school-age and part-day programs, revision of the monitoring report and the training of division licensing staff.

ANALYSIS:

The proposed revisions allow for increased health and safety requirements for children in licensed family child care homes and large family child care homes. Most critical revisions occur in the area of fire safety and qualifications of the primary caregiver. These revisions impact the daily environment where children are in care therefore improving the quality of care received and further insuring children's safety. Revisions also clarify and improve division policy and practice when issuing an emergency order and allow for increased accessibility of licensing information for parents and the public.

340:110-1-9.4 is amended to clarify situations for issuance of an emergency order including procedures with regard to timeframes, review of issuance, delivery of emergency order, and rescinding an emergency order.

340:110-3-5 and 340:100-3-5.1 is amended to increase accessibility of licensing information for parents and public.

340:110-3-27 is amended as poison control center is no longer recommending first aid kits contain syrup of ipecac or activated charcoal.

340:110-3-39 and 340:110-3-40 is amended to increase accessibility of licensing information for parents and public.

340:110-3-49.3 is amended as poison control center is no longer recommending first aid kits contain syrup of ipecac.

340:110-3-81 is amended to include revisions to definitions of an infant, primary caregiver, and toddler.

340:110-3-82 is amended to clarify division practice as it relates to application, denial or revocation of a license.

340:110-3-84 is amended to clarify capacity of family child care homes, obtaining of references on caregivers and the conditions of notifying licensing when specific events occur.

340:110-3-85 is amended to include increased qualifications, training and responsibilities of primary, assistant and substitute caregivers. Revisions also include limitations of inactive status of the primary caregiver and clarification of approval of dual foster care certifications.

340:110-3-86 is amended to increase space used routinely by children, staff-child ratio as it relates to swimming, supervision of animals, and development of emergency procedures in the event of a natural or man-made disaster. Revisions also clarify sanitation, lighting, and fencing requirements.

340:110-3-87 is amended to clarify transportation requirements.

340:110-3-88 is amended to increase accessibility of licensing information, and to increase record information regarding caregivers and attendance of children in care.

340:110-3-89.1 is amended to increase information regarding the caregiver's policy for parents.

340:110-3-90 is amended to increase practices of hand washing, disease control, and safety of medication when administered by injections.

340:110-3-91 is amended to clarify appropriate media use for children. Revisions also include the movement of requirements relating to places to rest and sleeping environments to a separate requirement section.

340:110-3-91.1 is amended to clarify requirements relating to places to rest and sleeping environments.

340:110-3-92 is amended to increase positive guidance practices and to clarify prohibitive behavior and guidance practices.

340:110-3-93 is amended to clarify appropriate daily routines and bottle-feeding practices for infants, toddlers, and two year olds.

340:110-3-94 is amended to include required second servings of food and to clarify food and nutrition practices.

340:110-3-97 is amended to prohibit security bars on homes unless equipped with proper release mechanisms, and use of second story for naptime of children. Revisions also include increase of the number of fire and tornado drills, smoke detector testing and requirement of an operable carbon monoxide detector. Clarification of exits and railings for steps was also provided.

340:110-3-97.1 is amended to require inspections by state or local fire official for large family child care homes licensed in mobile homes. Revisions also include increased qualifications of primary caregiver and substitute caregiver.

340:110-3-223 and 340:110-3-224 is amended to increase accessibility of licensing information for parents and public.

340:110-3-237 is amended to include contact of poison control when suspicion of child poisonings occur.

CONTACT PERSON:

Dena Thayer, OKDHS Office of Legislative Relations and Policy, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE OCTOBER 1, 2007:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. LICENSING SERVICES - CHILD CARE

340:110-1-9.4. Emergency Order

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

- (1) that result in the serious injury or death of a child;
- (2) that place a child at a high risk for death or injury;
- (3) when compelling evidence of child abuse or neglect exists;
- (4) when a child leaves a facility without the staff's knowledge;

Emergency Adoptions

- (5) when a child is left at a location away from the facility;
 - (6) when a child is left unattended in a vehicle;
 - (7) when a child is left alone in a facility;
 - (8) when there are serious non-compliance issues;
 - (9) when a person is on the premises whose health or behavior would endanger the health, safety or well-being of children; or
 - (10) when there is compelling evidence of the presence of illegal drugs and/or drug paraphernalia.
- (ab) **Process to obtain emergency order Issuance of 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 unable or unwilling to voluntarily correct the hazardous situation, and/or refuses to voluntarily cease care of children:
 - (1) the licensing staff notifies the licensing supervisor and specialist or the licensing supervisor submits a request for an Emergency Order to the licensing regional programs manager or assistant licensing coordinator or statewide licensing coordinator; 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) the licensing regional programs manager may contact the operator by phone to determine if the operator will voluntarily cease care of children. A voluntary cease care agreement by the operator does not prohibit the issuance of an Emergency Order; and
 - (3) a request for an Emergency Order is considered by the licensing regional programs manager, assistant licensing coordinator or licensing coordinator within one facility business day. The decision to issue an Emergency Order may be made by the licensing regional programs manager, after consultation with assistant licensing coordinator or statewide licensing coordinator. Upon making a decision, the official will:
 - (A) issue a written Emergency Order, signed by the approving official and notify the licensing specialist, the licensing supervisor, the assistant licensing coordinator and statewide licensing coordinator; or
 - (B) submit a written denial notice to the licensing specialist, the licensing supervisor, the assistant licensing coordinator and the statewide licensing coordinator.
 - (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.
- (c) **Provisions of the Emergency Order.** The Emergency Order shall provide for:
- (1) basis for the Emergency Order;
 - (2) if the facility is to close;
 - (3) if children are to be removed from the facility;
 - (4) the Emergency Order is effective immediately;
 - (5) the Emergency Order remains in effect until modified or rescinded; and
 - (6) the right to have a hearing on the Emergency Order.
- (d) **Serving of the Emergency Order.** The procedures for serving an Emergency Order are:
- (1) prior to delivery, the licensing specialist contacts law enforcement and requests assistance in serving the Emergency Order on the operator; and
 - (2) an Emergency Order is served on the operator within one business day of issuance, or an alternate date, if approved by an assistant licensing coordinator or statewide licensing coordinator.
- (be) **Removal of children.** If children are at imminent risk of serious harm there is a threat of a direct and serious hazard to the health, safety and welfare of children and the operator is unable or unwilling to correct the situation and immediate removal from the child care facility is indicated, a licensing regional programs manager, assistant licensing coordinator or the statewide licensing coordinator or designee gives may give verbal approval for removal of children. Parents are provided a letter explaining the emergency order and how to locate other child care programs. 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 contact the parents, and children are at imminent risk of harm, the licensing staff contacts the police and requests that the law enforcement to request children be taken into protective custody.
- (e) **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) **Duration of Emergency Order.**
- (1) The facility remains closed and care of children by the operator is prohibited pending a hearing on the Emergency Order.
 - (2) A review of the Emergency Order is conducted. If the decision to deny or to issue an Emergency Order is made by a licensing regional programs manager, an assistant licensing coordinator reviews all requests for an Emergency Order within three business days from the date

of the decision by the licensing regional program manager. The assistant licensing coordinator provides written notification to the licensing specialist, licensing supervisor, regional program manager, and statewide licensing coordinator that they:

- (A) concur with the issuance of the Emergency Order;
- (B) issue a modified Emergency Order; or
- (C) rescind the Emergency Order.

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

(fg) ~~Injunction Violation of the Emergency Order.~~ 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~~ the licensing specialist, after consultation with the approving official, requests assistance from the District Attorney, Attorney General or the OKDHS Legal Division for further action.

SUBCHAPTER 3. LICENSING STANDARDS FOR CHILD CARE FACILITIES

PART 1. REQUIREMENTS FOR CHILD CARE CENTERS

340:110-3-5. Organization

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

- (1) A public child care center is created and exists by an act of the ~~State state~~, county, city, or other political subdivision and operated under the control of a governmental agency.
- (2) A not-for-profit center operates under a governing board responsible for developing policies and establishing and maintaining a sound financial structure.
- (3) A proprietary child care center's owner is responsible for the policy and financial structure of the child care center.

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

- (1) ages of children accepted;
- (2) hours of operation; and
- (3) type of care and services offered.

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

- (1) The items posted in a prominent place where staff, parents, and others may view them are the:
 - (A) ~~the~~ center's license, permit, or notice of denial or revocation of license;
 - (B) name of the person responsible for the center during the director's absence;

- (C) notice of the requirement to report suspected child abuse and neglect;
- (D) notice prohibiting smoking anywhere in the facility while children are in care;
- (E) emergency procedure;
- (F) weekly menu of all food provided by the center; and
- (G) evacuation plan~~s~~.

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

- (A) the daily program schedule;
- (B) record of dates when fire and tornado drills were conducted, in accordance with OAC 340:110-3-11(c)(2);
- (C) a time schedule for use of outdoor play space if the center is licensed for 24 or more children and has outdoor play space of less than 75 square feet per child, in accordance with OAC 340:110-3-11(d)(2); and
- ~~(D) a copy of the most recent licensing monitoring report indicating whether the child care center is in compliance with requirements; and~~
- ~~(E)~~ a certificate of One Star Plus, Two Star, or Three Star status, if applicable.

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

(4) In accordance with Section 7103 of Title 10 of the Oklahoma Statutes, any person who has reason to believe ~~that~~ a child has been abused or neglected is required to report the matter promptly to OKDHS. It is a misdemeanor for any person to fail to report.

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

- (A) a temporary, unscheduled, or permanent closing of the center;
- (B) a change in the director;
- (C) any damage to the facility that affects the amount of usable square footage or compliance with any requirement;
- (D) legal action against a center or staff person which involves or affects a child in care or the operation of the center;
- (E) any known criminal charges or child abuse investigations involving staff which are pending or have had a disposition;
- (F) an accident involving transportation unless there were no injuries and only minor damage to the vehicles;
- (G) any injury to a child requiring emergency medical attention; and
- (H) the death of a child that occurred while the child was in care.

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

- (A) a change in ownership or sponsorship;
- (B) a change in name of the center;

Emergency Adoptions

- (C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;
- (D) the anticipated closing or relocation of the child care center; and
- (E) a proposed change in the licensed capacity.

(d) Public access to records-Compliance Posting.

(1) The items (A) - (B) are posted within clear view of the main entrance:

- (A) OKDHS provided "Notice to Parents"; and
- (B) Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary, with findings of "Confirmed," for 120 days from the completion of the investigation.

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

(e) Compliance file. A compliance file that is accessible to staff, parents, and others shall contain:

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

(2) the following documents issued by Child Care Licensing within the last 120 days:

- (A) child care licensing monitoring reports and licensing correspondence;
- (B) Form 07LC037E, Notice to Comply;
- (C) licensing complaints; and
- (D) unconfirmed Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary; and

(3) confirmed Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary, for one year from the completion of the investigation.

(df) Effect of change in ownership or location on license.

When a center changes ownership or location:

- (1) the license is not transferable and is returned to OKDHS; and
- (2) the center is required to meet current licensing requirements.

340:110-3-5.1. Policy and procedure

(a) **Content.** A written statement of the child care center's policy and procedure is available to staff and parents and includes, but is not limited to:

- (1) ages of children accepted;
- (2) days and hours of operation including the holidays the program is closed;
- (3) the location and accessibility of the licensing compliance file;

(34) procedure for:

- (A) receiving and releasing a child from the center, including a method of verifying the identity of a caller or person who picks up a child; and prompt notification of parents when a child does not arrive as scheduled;

- (B) handling illnesses and injuries, including procedures when away from the child care center;
- (C) storing and administering children's medicines;
- (D) notifying parents of field trips; and
- (E) transportation of children;

(45) mandatory reporting of child abuse; and

(56) discipline policy.

(b) **Personnel policy.** When there are more than four staff persons, the child care center is required to provide written personnel policy to staff that includes:

- (1) essential job functions, qualifications, and lines of authority; and
- (2) staff performance evaluation and termination procedure.

340:110-3-27. Health

(a) **Cleanliness.** Requirements pertaining to cleanliness are listed in this subsection.

(1) Caregivers attend promptly to children's personal hygiene needs.

(2) Caregivers thoroughly wash their hands with soap and warm, running water:

- (A) before handling food;
- (B) before feeding children or eating;
- (C) after diapering or toileting;
- (D) after touching or cleaning up body fluids, including wiping noses;
- (E) after handling or feeding pets;
- (F) after playing outdoors or in sand or water; and
- (G) before medication is dispensed.

(3) Staff ensure that children wash their hands with soap and warm, running water:

- (A) before eating;
- (B) after toileting;
- (C) after handling pets;
- (D) after playing outdoors or in sand or water; and
- (E) after wiping their noses.

(4) When a child older than three years of age in diapers is cared for in a room without a diaper-changing area, arrangements are made for sanitary diaper changing, hand-washing, and privacy.

(5) A child's wet or soiled clothing is changed immediately, and placed in a labeled, sealed, moisture-proof bag to be sent home. A supply of clean clothing is available.

(6) Toys and items that are in contact with children's mouths are washed and sanitized after each child's use or as needed; and if contaminated by other body fluids, toys, and equipment are set aside to be washed and sanitized.

(7) Each toilet article, for example, wash cloth, towel, comb, or toothbrush, is individually assigned and stored and is not used jointly by or on children.

(b) **Health records.** Upon admission of a child, parents are required to submit the child's immunization record, a listing of special health needs, and the name of the child's physician.

(c) **Immunizations.** Children have or are in the process of obtaining all required immunizations at the medically appropriate time. If a child is accepted for whom an exemption is

claimed, documentation of the exemption is kept on file at the center.

(d) **Disease control.** At the time of enrollment, parents are informed of the center's policy regarding ill children.

(1) Each child is carefully observed by staff members for symptoms of illness or infestation.

(2) Any child showing symptoms of illness or infestation is separated from the group and parents are notified as needed.

(3) The local or state health department is notified upon discovery of any case of hepatitis, meningitis, Shigellosis, Giardiasis, measles, rubella, whooping cough, tuberculosis, E coli 0157:H7, Salmonellosis, or any Haemophilus influenzae invasive disease in any person associated with the center. If a center has concerns about the health of a child, the local or state health department may be contacted.

(4) Cots, cribs, bedding, and play equipment are cleaned and sanitized after use by an ill child.

(5) Disposable, nonporous gloves are used to clean up blood, vomit, or body fluids that may contain blood. Disposable gloves are discarded in a closed container immediately after use, and staff wash their hands.

(6) A commercial sanitizer or a bleach solution of one tablespoon of bleach to one gallon of warm water, made fresh daily, is used to sanitize surfaces whenever needed.

(7) For diaper-changing surfaces, the solution used is:

(A) one-fourth cup of bleach to one gallon of water;

(B) two tablespoons of bleach to one-half gallon of water;

(C) one tablespoon bleach to one quart of water; or

(D) two teaspoons of bleach to one pint of water.

(8) Parents are notified as soon as possible of children's exposure to a contagious illness or infestation.

(9) Staff with symptoms of a communicable disease or illness are not permitted in the center.

(10) A child's temperature is not taken orally or rectally.

(e) **Medication.** The requirements pertaining to administering medication are contained in this subsection.

(1) The parent signs an authorization for center staff to administer each medication. Directions are recorded for the proper amount (dosage), including time and days medication is to be administered.

(2) If a child has a chronic medical problem, the parent may sign a medication authorization for up to a nine-month period for prescribed medication to be administered by staff as needed. The child's parents are notified whenever medication is administered.

(3) Prescription medication is not administered unless the medication is a part of a prescribed therapeutic treatment.

(4) Medication is provided by the parent in the original container and labeled with the child's full name.

(5) Staff administers medication according to the label or written doctor's directions and only to the child for whom it is intended.

(6) To avoid duplication, each dosage administered is recorded on individual medication logs by designated staff. Medication logs are readily available to parents.

(7) All medications are inaccessible to children and stored in a manner which prevents contamination of food.

(8) Medication is either returned to the parent or disposed of properly when it is out-of-date or the child has withdrawn from the center.

(f) **Injuries.** The center:

(1) contacts poison control with any suspected child poisonings;

(2) notifies parents as soon as possible of any known cuts, burns, animal bites, or injuries that may need evaluation by a physician; and

(3) maintains a log or report of all injuries that occur at the program.

(g) **Emergency procedures.** A written emergency procedure for severe injury or acute illness is prominently displayed at the child care center. The emergency procedure includes:

(1) administration of first aid and location of the first aid kit;

(2) name and telephone number of the emergency service, physician and/or clinic;

(3) notification of parent; and

(4) notification of Division of Child Care Licensing Services regarding the death of a child while in care or any injury to a child that requires emergency medical attention, in accordance with OAC 340:110-3-5(c)(5)(G) and (H).

(h) **First aid kits.** Readily available first aid kits are maintained in the center and are taken on each field trip.

(1) Each kit is a closed container for storing first aid supplies which is accessible to staff at all times but inaccessible to children.

(2) First aid kits are restocked as needed.

(3) At a minimum, the first aid kit contains:

(A) disposable nonporous gloves;

(B) blunt-tipped scissors;

(C) tweezers;

(D) a thermometer;

(E) bandage tape;

(F) sterile gauze pads;

(G) rolled flexible or stretch gauze;

(H) non-medicated adhesive strips; and

(I) current standard first aid text or equivalent first aid guide;

~~(J) two one-ounce bottles of syrup of ipecac.~~

~~(i) Syrup of ipecac is used as a vomiting agent only under direction of the poison control center or a physician.~~

~~(ii) The expiration date is checked before use.~~

~~(iii) The bottle is labeled with the telephone number for the poison control center, 1-800-222-1222; and~~

~~(K) two 25-gram bottles of activated charcoal in a suspension or powder form. Capsules are not permitted.~~

Emergency Adoptions

- (i) ~~Activated charcoal is used only under the direction of the poison control center or a physician.~~
 - (ii) ~~The expiration date is checked before use.~~
 - (iii) ~~The bottle is labeled with the telephone number for the poison control center, 1-800-222-1222.~~
- (4) First aid kits taken on field trips also include:
- (A) liquid soap and water or individually packaged towelettes;
 - (B) pen or pencil and note pad;
 - (C) cold pack;
 - (D) coins for use in a pay phone;
 - (E) the poison control center telephone number, 1-800-222-1222; and
 - (F) plastic bags for disposal of items contaminated with blood and/or body fluids.

PART 2. REQUIREMENTS FOR PART-DAY CHILDREN'S PROGRAMS

340:110-3-39. Organization

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

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

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

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

(1) A not-for-profit children's program ~~shall operate~~ operates under a governing board responsible for ~~the development of developing policies and the establishment establishing and maintenance of maintaining~~ a sound financial structure.

(2) A proprietary program's owner is responsible for the policy and financial structure of the program.

(3) A public program is created and exists by act of the state, county, city or other political subdivision. The operation shall remain under the control of a governmental agency.

(d) **Notifications.** ~~The program shall comply with the requirements~~ Requirements pertaining to notifications are contained in this subsection.

(1) The items ~~that shall be displayed~~ posted in a prominent place where staff, parents, and others may view them are:

- (A) the program's license, permit or notice of denial or revocation of license;

- (B) name of the person responsible for the program during the director's absence;
- (C) notice of the requirement to report suspected child abuse and neglect;
- (D) notice prohibiting smoking anywhere in the facility while children are in care;
- (E) the daily program schedule;
- (F) emergency procedure;
- (G) weekly menu of all food provided by the program;
- (H) evacuation plan; and
- (I) a record of monthly fire drills.

(2) In accordance with ~~21 O.S. Sec. 846~~ Section 7103 of Title 10 of the Oklahoma Statutes, ~~anyone having any person who has~~ reason to believe that a child has been abused or neglected ~~shall is~~ is required to report the matter promptly to ~~the Department~~ OKDHS. It is a misdemeanor for any person to fail to report.

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

- (A) unscheduled or permanent closing of the program;
- (B) a change in the director;
- (C) any damage to the facility that affects the amount of useable square footage or compliance with any requirements;
- (D) legal action against a program or staff person which pertains to licensing requirements;
- (E) any known criminal charges or child abuse investigations involving staff which are pending or have had a disposition;
- (F) an accident involving transportation unless there were no injuries and only minor damage to the vehicles;
- (G) any injury to a child requiring emergency medical attention; and
- (H) the death of a child which occurred while the child was in the program.

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

- (A) a change in owner(s) or sponsorship;
- (B) change in name of the program;
- (C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;
- (D) anticipated closing or relocation of the program; and ~~and~~
- (E) proposed change in the licensed capacity of the program.

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

(1) The items (A) - (B) are posted within clear view of the main entrance:

- (A) OKDHS provided "Notice to Parents";
- (B) Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary, with findings of "Confirmed," for 120 days from the completion of the investigation.

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

(f) **Compliance file.** A compliance file that is accessible to staff, parents, and others shall contain:

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

(2) the following documents issued by Child Care Licensing within the last 120 days:

(A) child care licensing monitoring reports and licensing correspondence;

(B) Form 07LC037E, Notice to Comply;

(C) licensing complaints; and

(D) unconfirmed Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary; and

(3) confirmed Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary, for one year from the completion of the investigation.

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

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

(2) the program shall be required to meet current licensing requirements.

340:110-3-40. Policy and procedure

(a) **Content.** A written statement of the program's policy and procedure ~~shall be~~ is available to staff and parents and ~~shall include~~ includes, but ~~is not~~ is limited to:

(1) a brief program description;

(2) ages of children accepted;

(3) days and hours of operation, including the holidays the program is closed;

(4) fees;

(5) the location and accessibility of the licensing compliance file;

~~(6)~~ procedure for receiving and releasing children from the program, including a method of verifying the identity of a caller or person picking up a child;

~~(7)~~ procedure concerning children's personal belongings and money;

~~(8)~~ procedure for the handling of illnesses and injuries, including procedures when away from the program;

~~(9)~~ procedure for storing and administering children's medicines;

~~(10)~~ mandatory reporting of child abuse;

~~(11)~~ procedure for notifying parents of field trips;

~~(12)~~ procedure for transportation of children;

~~(13)~~ procedure for caring for children who arrive late for field trips when that child's group has already left the programs;

~~(14)~~ meals and snacks, including days when children are on field trips; and

~~(15)~~ discipline policy.

(b) **Personnel policy.** ~~When the program has there are~~ When there are more than 10 staff persons, the program is required to provide written personnel policy shall be provided to staff and which that includes:

(1) job responsibilities, qualifications and lines of authority; and

(2) staff performance evaluation and termination procedure.

(c) **Access to the program.** ~~Parents of enrolled children shall be~~ are permitted reasonable access to all parts of the program's physical facility during hours of operation.

340:110-3-49.3. Health

(a) **Cleanliness.** Staff shall attend promptly to children's personal hygiene needs.

(1) Caregivers shall thoroughly wash their hands with soap and warm, running water:

(A) before handling food;

(B) before feeding children or eating;

(C) after diapering or toileting;

(D) after touching or cleaning up body fluids including wiping noses; and

(E) after handling or feeding pets.

(2) Children shall be encouraged to wash their hands with soap and water before eating, after toileting, after handling pets and after playing outdoors or in sand or water.

(3) When a child over three years of age in diapers is cared for in a room without a diaper-changing area, arrangements shall be made for sanitary diaper-changing, hand-washing and privacy.

(4) A child's wet or soiled clothing shall be changed immediately, and a supply of clean clothing shall be available.

(5) Toys and items that are in contact with children's mouths shall be washed and sanitized after each child's use or as needed. If contaminated by other body fluids, toys and equipment shall be set aside to be washed and sanitized.

(6) Any toilet article, e.g., wash cloths, towels, combs, toothbrushes, shall be individually assigned and stored. Such articles shall not be used jointly by or on children.

(b) **Health records.** Upon admission of their child to a part-day program, parents shall be required to submit the child's immunization record, a listing of special health needs and the name of the child's physician.

(c) **Immunizations.** The program shall comply with the requirements pertaining to immunizations contained in this subsection.

(1) Children shall have or be in the process of obtaining all required immunizations at the medically appropriate time. However, if a program chooses to accept a child for whom an exemption is claimed, documentation of the exemption shall be kept on file at the facility.

(2) As a general rule, healthy children between the ages of fifteen months and five years of age require at least:

(A) three doses of polio vaccine;

(B) four doses of DTP vaccine;

Emergency Adoptions

- (C) one to four doses of HbCV (HIB) (depending on the child's first dose of HbCV); and
- (D) one dose each of measles, mumps and rubella vaccines administered on or after the first birthdate.
- (d) **Disease control.** At the time of enrollment, each program shall inform parents of the policy regarding ill children.
- (1) Each child shall be carefully observed by staff members for symptoms of illness or infestation.
- (2) Any child showing symptoms of illness or infestation shall be separated from the group. Parents or the child's physician shall be notified as needed.
- (3) The local or state health department shall be notified upon discovery of any case of hepatitis, meningitis, Shigellosis, Giardiasis, measles, rubella, whooping cough, tuberculosis or any Hemophilus influenza invasive disease in any person associated with the program. If a program has concerns about the health of a child, the local or state health department may be contacted.
- (4) Any cot or crib, bedding and play equipment shall be cleaned and sanitized following use by an ill child.
- (5) Staff shall use disposable, nonporous gloves when cleaning up blood, vomit or body fluids that may contain blood. Disposable gloves shall be discarded immediately after use, and hands shall be washed.
- (6) A commercial disinfectant or a bleach solution of two teaspoons of bleach to one gallon of water, made fresh daily, shall be used to disinfect surfaces whenever needed. For diaper changing the solution shall be two teaspoons of bleach to one-half gallon of water or one teaspoon bleach to one quart of water or one-half teaspoon of bleach to one pint of water.
- (7) Parents shall be notified as soon as possible if their children have been exposed to a contagious illness.
- (8) Staff persons with symptoms of a communicable disease or illness shall not be present in the program.
- (e) **Medication.** The program shall comply with the requirements pertaining to medication contained in (1)-(8) of this subsection.
- (1) When a child needs medication, the parent shall sign an authorization for the program to administer each medication. Directions for the proper amount (dosage), and time and days medication is to be administered shall be recorded.
- (2) If a child has a chronic medical problem, the parent may sign a medication authorization for up to a six-month period for prescribed medication to be given when symptoms occur. However, parents shall be notified whenever medication is administered.
- (3) No prescription medication shall be given unless the medication being administered is a part of a prescribed therapeutic treatment.
- (4) Medication shall be provided by the parent in the original container and labeled with the child's full name.
- (5) Staff shall administer medication according to the label directions and only to the child for whom it is intended.
- (6) To avoid duplication, each dosage administered shall be recorded by designated staff and the records readily available to parents.
- (7) All medications shall be inaccessible to children and stored in a manner which prevents contamination of food.
- (8) When medication is out-of-date or the child has withdrawn from the program, the medication shall be returned to the parent or disposed of properly.
- (f) **Injuries.** The program shall:
- (1) contact poison control with any suspected child poisonings;
- (4~~2~~) Notify parents as soon as possible of any known cuts, burns, animal bites or injuries that may need evaluation by a physician; and
- (2~~3~~) maintain a log or report of all injuries that occur at the program.
- (g) **Emergency procedure.** Emergency procedure for severe injury or acute illness shall be written and prominently displayed in the facility. The emergency procedure shall contain the steps to be taken in case of emergency, including:
- (1) administration of first aid and location of the first aid kit;
- (2) name and telephone number of the emergency service, physician and/or clinic;
- (3) notification of parent; and
- (4) notification of Licensing Services regarding any incident addressed in the requirement contained in 340:110-3-39 (d)(3)(F)-(H).
- (h) **First aid kits.** Readily available first aid kits shall be maintained in the program as well as on each field trip away from the facility.
- (1) Each kit shall be a closed container for storing first aid supplies, accessible to staff at all times but inaccessible to children.
- (2) First aid kits shall be restocked as needed.
- (3) The first aid kit shall contain at least:
- (A) disposable nonporous gloves;
- (B) scissors, blunt-tipped;
- (C) tweezers;
- (D) thermometer;
- (E) bandage tape;
- (F) sterile gauze pads;
- (G) rolled flexible or stretch gauze;
- (H) non-medicated adhesive strips;
- (I) current standard first aid text or equivalent first aid guide; and
- (J) ~~syrup of ipecac which:~~
- (i) ~~shall be used as a vomiting agent only under direction of the poison control center or a physician;~~
- (ii) ~~the expiration date checked before use; and~~
- (iii) ~~the bottle labeled with the telephone number for poison control.~~
- (4) First aid kits taken on field trips shall also include:
- (A) liquid soap and water or individually packaged towelettes;
- (B) pen/pencil and note pad;

- (C) cold pack;
- (D) coins for use in pay phone; and
- (E) poison control center telephone number.

PART 5. REQUIREMENTS FOR FAMILY CHILD CARE HOMES AND LARGE FAMILY CHILD CARE HOMES

340:110-3-81. Definitions

The following words and terms, when used in this Subchapter, have the following meaning, unless the context clearly indicates otherwise:

"**Assistant caregiver**" means a person at least 16 years of age who assists the caregiver in caring for children.

"**Caregiver**" means an individual who is licensed as a family child care home provider.

"**Child**" means an individual under the age of a person younger than 18 years of age.

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

"**Family child care home**" means a family home which that provides care and protection for seven or fewer children for part of the 24-hour day.

"**Infant**" means a child younger than 12 months of age.

"**Large family child care home**" means a residential family home that provides care and supervision for eight to twelve children for part of the ~~twenty-four~~ 24-hour day.

"**Parent**" means any adult who is legally responsible for the child, such as a mother, father, grandmother, grandfather, aunt, uncle, or legal guardian.

"**Primary caregiver**" means the caregiver who is present in the child care home and is responsible for the day-to-day operation of the program.

"**Substitute caregiver**" means a person who is designated by the licensed primary caregiver to provide substitute child care for short periods of time.

"**Toddler**" means a child 12 months up to 24 months of age.

"**Relatives Relative**" means persons in relationships a person with the relationship, whether by marriage, blood, or adoption, of:

- (A) parent;
- (B) grandparent;
- (C) brother;
- (D) sister;
- (E) step-parent;
- (F) step-sister;
- (G) step-brother;
- (H) uncle;
- (I) aunt; and or
- (J) cousin.

340:110-3-82. Necessity and issuance of license

(a) **License required.** No child care facility may be legally operated or maintained in the State of Oklahoma after June 20, 1964, unless licensed by the Oklahoma Department of Human Services (OKDHS).

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

(c) **License issued.** In order to provide care for children in a child care facility, a license is obtained from OKDHS that is issued on the basis of meeting minimum requirements essential for the health, safety, and well-being of the children in care.

(1) The license granted applies to the ownership and location specified at the time of licensing. If ownership or location changes, OKDHS is notified.

(2) The license is not transferable.

(3) A provisional license may be issued to any applicant whose services are needed but who is temporarily unable to conform to all the rules and regulations.

(4) ~~All licenses are~~ The license is in force for two years from date of issuance and are reissued biennially upon application until the facility closes or the license is revoked. The Department

(d) **Application denied or license revoked.** OKDHS may deny an application or revoke a license if the applicant or licensee has ~~violated~~ violates any provision of this the Oklahoma Child Care Facilities Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes, or rules of the Commission for Human Services. A license is not

(1) No application is denied or license revoked or renewal refused unless the licensee has been is given 30 days notice in writing of the grounds of such for the proposed denial or revocation or refusal.

(2) If the denial or revocation or refusal is protested in writing within 30 days of receipt of the written notice, a hearing is conducted at which time the licensee is given an the opportunity is given the licensee to present testimony. A provisional license may be issued to any applicant whose services are needed but who is temporarily unable to conform to all the rules and regulations.

(e) In order to provide care for children in a child care facility, a license is obtained from the Department of Human Services which is issued on the basis of meeting minimum standards essential for the health and welfare of the children in care. The license granted applies to the ownership and location specified at the time of licensing. If either changes, the Department is notified.

(d) The number of children specified on the license is the maximum number of children cared for in the facility at any one time.

(e3) When the Department OKDHS denies an application or revokes a license, the caregiver is prohibited from operating a child care facility for a period of five years. sole proprietor, corporation, limited liability company, partnership, or responsible entity cannot make application for a new child care facility license within Oklahoma per OKDHS Appendix L-7, Ownership Proof Chart:

(A) following notification to the agent of the application denial or license revocation;

(B) during the appeal process; and

(C) for five years following closure of the family child care home.

Emergency Adoptions

340:110-3-84. Ages and number of children

(a) **Total number of children.** The maximum number of children in care at one time, whether on or off the premises, does not exceed the number of children specified on the license. The total number of children in a family child care home is limited to seven. ~~The number that~~ includes:

- (1) children ~~under~~ younger than five years of age who live in the home and are present in the home while children are in care;
- (2) foster children ~~twelve~~ 12 years of age and younger who live in the home and are present in the home while children are in care; and
- (3) the children of any substitute or assistant caregiver.

(b) **One caregiver.**

(1) When only one caregiver is present, the total number and ages of children that may be in care at any one time are:

- ~~(1A)~~ seven children, with no more than two children ~~under~~ younger than two years of age;
- ~~(2B)~~ six children, with no more than three children ~~under~~ younger than two years of age; or
- ~~(3C)~~ five children of any age.

(2) ~~For example:~~ Examples of number and ages of children are presented in this paragraph.

Total Number of Children in Care	Under 2 Years	2 Years and Older
7	0	7
7	1	6
7	2	5
6	3	3
5	4	1
5	5	0

(c) **Two caregivers.** Two caregivers must be present and providing care when:

- (1) seven children are in care and more than two children are ~~under~~ younger than two years of age; or
- (2) six children are in care and more than three children are ~~under~~ younger than two years of age.

(d) Additional staff provisions are made for enrollment of children with disabilities who require individual attention.

340:110-3-85. Requirements for caregivers

(a) **Responsibilities of caregivers.** Responsibilities of caregivers are outlined in ~~(1)–(12)~~ of this subsection.

(1) **Primary caregiver.** The primary caregiver is present in the home at least 80 percent of weekly operating hours and is responsible for the day-to-day operation of the program. The sole proprietor must be the primary caregiver.

(2) **Care and supervision.** The ~~licensed~~ caregiver provides care and supervision of children at all times, both indoors and outdoors. Supervision of children means ~~the function~~ of observing, overseeing, and guiding a child or group of children. ~~This includes~~ including:

(A) awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed; and

(B) frequent observation of children in cribs and playpens.

~~(23)~~ **Supervision of outdoor play.** In addition to the requirements in ~~(42)~~ of this subsection, the caregiver remains outdoors with children at all times to ensure their safety when:

(A) there is a potentially hazardous situation, such as a pool on the premises or a trampoline in the outdoor play area;

(B) there is access to a dog(s) outdoors;

(C) there are children three years of age or younger present; or

(D) the outdoor area is not completely fenced.

~~(34)~~ **Supervision of overnight care.** If children are in care overnight and more than one caregiver is required due to the ages and number of children present, at least one caregiver must be awake at all times.

~~(45)~~ **Assistant and substitute caregivers.** If the primary caregiver employs ~~an individual—a person~~ to assist with the care of children or to provide care and supervision in ~~his or her~~ the primary caregiver's absence, the primary caregiver ensures that the assistant or substitute caregiver is qualified and understands and complies with requirements.

~~(A)~~ **Required records.** Prior to employment, a staff information form provided by Oklahoma Department of Human Services (OKDHS) is completed and three references are verified. References from relatives are not accepted. Personnel records on all assistant and substitute caregivers are maintained at the home and made available to licensing staff upon request.

~~(AB)~~ **Assistant caregiver.** If an assistant caregiver is employed to meet the required staff to child ratio, ~~he or she~~ the assistant caregiver must be a responsible, mature, healthy ~~individual person~~ at least 16 years of age. The caregiver is prohibited from leaving children alone in the care of ~~anyone under any person~~ younger than 18 years of age.

~~(BC)~~ **Substitute caregiver.** A substitute caregiver, at least 18 years of age, is available to provide care for short periods of time in the absence of the caregiver.

(i) The substitute caregiver may be used in emergency situations and occasionally in non-emergency situations. In non-emergency situations, the caregiver must notify parents in advance that the substitute will be caring for their child at these times.

(ii) The name, address, and telephone number of the substitute is provided to ~~the Department~~ OKDHS and is posted with the other required emergency numbers in the family child care home.

~~(56)~~ **Realistic expectations.** The caregiver demonstrates a capacity for setting realistic expectations for

behavior and performance based on the age, abilities, and special needs of the children.

~~(67)~~ **Constructive influence.** The caregiver's family members and others living in the home accept the ~~child care~~ children in care and provide constructive influence. There must be indication of a stable and harmonious home life.

~~(78)~~ **Hazards.** The caregiver recognizes and acts to correct hazards to children's safety, both indoors and outdoors.

~~(89)~~ **Child abuse reporting.** The primary caregiver, assistant caregiver, and substitute caregiver immediately report any suspicion of child abuse or neglect to the local ~~OKDHS office of the Department of Human Services~~ or the Statewide Child Abuse Hotline, (1-800-522-3511). Failure to report is a misdemeanor offense and upon conviction is punishable by law.

~~(910)~~ **Notification of Licensing Services.** The primary caregiver notifies Licensing Services:

- (A) within 24 hours of the death of a child in care;
- (B) within 24 hours of any accident involving transportation ~~or unless there were no injuries and only minor damage to the vehicles;~~
- (C) within 24 hours of any injury to a child requiring emergency medical attention;
- ~~(C)~~ (D) within 24 hours of any remodeling, changes, or damage to the physical facility that affect compliance with any requirement;
- ~~(D)~~ (E) within 24 hours of any known arrest, criminal investigation, criminal charges, or child abuse investigations involving individuals persons who live in the home, provide care, or assist with the care of children;
- (F) within 24 hours of any legal action against a caregiver that involves or affects a child in care or the operation of the family child care home;
- ~~(E)~~ (G) within 24 hours if when an animal bites a child and the skin is broken;
- ~~(F)~~ (H) within five days of any individual who when a person moves into the home; and
- (G) at least 30 days in advance of a move from one residence to another unless an emergency exists. The new home must comply with minimum licensing requirements.

~~(1011)~~ **Posting of license.** The permit or license is displayed in the home.

~~(112)~~ **Other employment.** The caregiver is prohibited from conducting business in the home during the hours children are in care. The primary caregiver is not employed outside the home during the hours of child care.

~~(1213)~~ **Foster care.** The caregiver may not provide therapeutic foster care. The caregiver may not provide foster care without the only with prior written approval of the Department from OKDHS Licensing Services for each child placement.

- (A) The written approval includes the number and ages of foster children. ~~The licensing representative is notified within 24 hours of the placement of any new foster child in the home.~~

(B) Foster children 12 years of age and younger are counted in the capacity of the family child care home.

~~(14)~~ **Inactive care.** A primary caregiver is determined to be in inactive status when care has not been provided for more than 90 consecutive days.

(A) Prior to resuming care, the caregiver must notify OKDHS Licensing Services to verify compliance with family child care home requirements.

(B) If care has not been provided for more than 12 consecutive months, the family child care home is closed and must reapply and be approved for a license prior to resuming care.

(b) **Qualifications of caregivers.** Qualifications of caregivers are described in ~~(1)–(3)~~ of this subsection.

(1) **General.** The caregiver is a responsible, mature, healthy adult, ~~at least 18 years of age,~~ who is capable of understanding and complying with minimum licensing requirements and meeting the needs of the children in care. The caregiver demonstrates good judgment, as evidenced by prudent and responsible behavior that reasonably ensures the health, safety, and well-being of children in care.

(A) Primary caregivers applying for a license after October 1, 2007 are at least 21 years of age.

(B) Primary caregivers applying for a license after October 1, 2007 have obtained a high school diploma or General Educational Development (GED).

(C) All caregivers left alone with children have the ability to read and write for keeping required records, reading the licensing requirements, and administering medication.

(D) All caregivers cooperate with licensing staff during monitoring visits and OKDHS investigations.

(2) **Health.** The requirements relating to the health of the caregiver, assistant caregiver and members of the household are contained in (A) - ~~(D)~~ of this paragraph.

(A) **General health.** ~~The caregiver~~ All caregivers and all members of the household where licensed care is provided must be in good physical, mental, and emotional health. If it is reported or observed that ~~the a caregiver or a family household member~~ has a physical, mental, or emotional condition that could negatively impact the care of children, a physician's statement is requested.

(B) **Tuberculosis testing.** The need for tuberculin skin testing of employees is based upon a local identified tuberculosis exposure, the degree of risk of transmission of latent tuberculosis infection, the impact to public health and safety, and the specific recommendations of the Oklahoma State Department of Health.

(C) **Immunizations.** There is documentation verifying that all children living in the home have or are in the process of obtaining the required immunizations at the medically appropriate time. The schedule for required immunizations is found in Supplement IX of ~~DHS publication~~ OKDHS Publication No.

Emergency Adoptions

86-104, Licensing Requirements for Family Child Care Homes and Large Family Child Care Homes.

- (3) **References.** The primary caregiver submits to child care licensing the names of three references other than relatives, which may include a personal or family physician.
- (c) **Background investigations and restrictions for caregivers.** The requirements for background investigations and restrictions for caregivers are contained in paragraphs (1) - (6).
- (1) **Criminal history investigations.**
- (A) Criminal history investigations are required for:
- (i) all adults living in the home; and
 - (ii) each substitute and assistant caregiver, prior to caring for children.
- (B) Criminal history investigations are not required for:
- (i) persons who have documentation of a criminal history investigation within the last 12 months;
 - (ii) provider's children who become 18 years of age during continuous residence in the home; and
 - (iii) a parent volunteer who transports children on an irregular basis.
- (C) Criminal history investigations must be obtained from:
- (i) the Oklahoma State Bureau of Investigation (OSBI); and
 - (ii) the appropriate agency in the previous state of residence if the individual person has resided in Oklahoma less than one year.
- (D) The OSBI report must include a search of the Department of Corrections'—files maintained by the OSBI pursuant to the Sex Offenders Registration Act.
- (2) **Child abuse registry check.** A child abuse registry check is conducted on all individuals persons who sign the license application. A confirmed allegation of child abuse or neglect is considered when evaluating the qualifications of the applicant and the safety and well-being of the children in care.
- (3) **Restrictions.** Individuals Persons who have pending charges or are convicted of or enter a plea of guilty or nolo contendere, no contest, to certain crimes cannot be licensed to care for children, live in a family child care home, provide care for children, or be a substitute or assistant caregiver, or be on the premises when children are in care. Those crimes include:
- (A) violence against a person;
 - (B) child abuse or neglect;
 - (C) possession, sale, or distribution of illegal drugs;
 - (D) sexual misconduct; ~~and~~
 - (E) gross irresponsibility or disregard for the safety of others;
 - (F) animal cruelty; or
 - (G) a pattern of criminal activity.
- (4) **Request for waiver.** A primary caregiver may request a waiver from the requirement described in paragraph (3). A waiver may not be requested or granted to any

person who has been convicted of a sex offense pursuant to the Sex Offenders Registration Act. [50 O.S. § 581]

- (A) The waiver request is made in writing to ~~the Department~~ OKDHS and considered by the statewide licensing coordinator in ~~the Division of Child Care Licensing Services.~~
- (B) The person for whom the waiver is requested cannot be on the premises when children are in care while a decision is pending.
- (C) The person for whom the waiver has been denied cannot be on the premises when children are in care.
- (5) **Endangerment of children.** A person whose health or behavior would endanger the health, safety or well-being of children is not permitted to live in the home or be on the premises when children are in care.
- (6) **Alcohol, drugs, medication.** ~~No~~ When children are in care, no caregiver is under the effects influence of:
- (A) alcohol or illegal drugs; or
 - (B) medication ~~which that~~ impairs functioning when children are in care.
- (d) **Training requirements.** Training requirements for caregivers are contained in (1) - (23) of this subsection. The training listed in paragraphs (2) through (3) is required prior to issuance of the initial permit.
- (1) **General.** The primary caregiver is required to complete ~~24 clock hours of training every two years by obtaining~~ 12 clock hours of training annually through workshops, formal training, videos, or individual job-related readings. Annually, no more than six hours of videos or individual job-related readings is counted toward the required 12 hours.
- (2) **CPR and first aid training.** Prior to issuance of the initial permit, the primary caregiver and any person who cares for children alone must have documentation, which is maintained by the caregiver at the facility, of current completed training in cardiopulmonary resuscitation (CPR), including infant and child, and first aid.
- (A) CPR training must be conducted by a person certified as an instructor through the:
- (i) American Red Cross;
 - (ii) Emergency Medical Services (EMS) Safety Services;
 - (iii) Emergency Care and Safety Institute;
 - (iv) American Heart Association or American Heart sponsored CPR for Family and Friends; or
 - (v) American Safety and Health Institute.
- (B) First aid training must be conducted by a person certified as a first aid instructor, or a health professional using a curriculum from an OKDHS approved source, through:
- (i) Emergency Medical Services for Children (EMSC) First Care;
 - (ii) American Red Cross;
 - (iii) EMS Safety Services;
 - (iv) Emergency Care and Safety Institute;
 - (v) American Heart Association;
 - (vi) American Safety and Health Institute;

- (vii) American Academy of Pediatrics First Aid for Caregivers and Teachers (PedFACTs); or
- (viii) other OKDHS approved source.
- (23) **Health and safety training.** ~~Within six months of application, Prior to issuance of the initial permit the primary caregiver obtains training in:~~
 - (A) disease and injury prevention measures;
 - (B) use of a fire extinguisher; and
 - (C) health and safety issues, including:
 - (i) shaken baby syndrome;
 - (ii) sudden infant death syndrome Sudden Infant Death Syndrome (SIDS);
 - (iii) car seat safety;
 - (iv) safeguarding the home;
 - (v) immunizations;
 - (vi) the definition, identification, and mandatory reporting of child abuse and neglect; and
 - (vii) behavior and guidance methods.
- (D) ~~Cardiopulmonary resuscitation (CPR), including infant and child, and first aid.~~
 - (i) ~~CPR training must be conducted by an individual certified as an instructor through the American Red Cross or the American Heart Association.~~
 - (ii) ~~First aid courses must be conducted by EMSC First Care, the American Red Cross, the National Safety Council or other DHS approved source.~~
 - (iii) ~~The individual conducting the first aid course must be certified as a first aid instructor or be a health professional using a curriculum from a DHS approved source.~~
 - (iv) ~~Documentation of current completed training in CPR and first aid is maintained by the caregiver.~~

340:110-3-86. Home environment

- (a) **Physical conditions.**
 - (1) **Accessibility to licensing staff.** All areas of the home are accessible to licensing staff.
 - (2) **Indoor space.** There is minimum indoor space available for routine use by children in child care of not less than 35 square feet per child exclusive of hallways, bathrooms, kitchen, and space not intended for children's use. Rooms used exclusively for napping are not counted toward the capacity.
 - (3) **Maintenance.** The home is in a good state of repair and maintained in a clean and sanitary condition, with operable utilities.
 - (4) **Toilet facilities.** The home has:
 - (A) a sink with hot and cold comfortably warm or tempered running water and with the temperature not to exceed 120 degrees Fahrenheit;
 - (B) an operable toilet available for children's use;
 - (C) soap for hand-washing and individual use towels; and
 - (D) toilet paper within easy reach of children.

- (5) **Hazards.** The premises are free of hazards, indoor and out.
 - (A) All medicines, cleaning products, hazardous items, and smoking materials are inaccessible to children.
 - (B) The premises are free of illegal drugs and paraphernalia.
 - (C) Clear glass doors are plainly marked at the child's eye level to avoid accidental impact.
 - (D) All stairways with four or more steps have railings a railing. Indoor stairways are made inaccessible when infants and toddlers are in care.
 - (6) **Weapons.** All weapons are stored unloaded in a locked container, cabinet, or closet. Ammunition is stored in a locked area separate from weapons.
 - (7) **Trampolines.** The use of trampolines by children in care is prohibited.
 - (8) **Lighting and ventilation.** Rooms used by children are ~~well lighted and~~ lighted enough to accommodate activities with comfort and allow the caregiver to see children's facial features at all times. Rooms used by children are ventilated.
 - (9) **Tobacco products.** When children are in care, smoking is prohibited inside the home and in the presence of children. Other tobacco products are not used in the presence of children or in areas designated for children's use. Parents are informed upon enrollment of the presence of smokers in the home.
 - (10) **Indoor temperature.** The indoor temperature is maintained between 65 and ~~85~~ 80 degrees Fahrenheit.
 - (11) **Screens.** When windows or doors are kept open, screens are maintained to minimize the entry of insects.
 - (12) **Outdoor play area safety.** There is an outdoor play area on the premises of not less than 75 square feet per child.
 - (A) This area must be hazard free, away from traffic, water, and other dangers.
 - (B) A fence beginning at ground level that is in good repair is required ~~in most instances.~~ The Oklahoma Department of Human Services (OKDHS) may grant an exception when the safety of children can be assured ensured.
 - (13) **Outdoor play.** Children play outdoors daily when weather conditions do not pose a significant health risk.
 - (14) **Fire safety.** The home complies with all fire safety requirements, ~~per~~ per ~~40AC 340:110-3-97.~~
 - (15) **Water supply and waste disposal.** Water supply, sewage disposal, and solid waste disposal meet local city ordinances and Oklahoma Department of Environmental Quality regulations.
 - (16) **Water testing.** When not on a public water supply, water is tested initially and annually for lead, ~~and annually for~~ bacteria, and nitrates.
 - (17) **Questionable conditions.** If the fire, safety, or health conditions are questionable, the appropriate state or local agency is requested to inspect the home.
- (b) **Water safety.**

Emergency Adoptions

- (1) **Supervision.** Any play activity that involves water is supervised constantly.
 - (2) **Accessibility of ponds, pools, and hot tubs.** No ponds, pools, or hot tubs are left accessible to children.
 - (3) **Fencing.** Pools are fenced to prevent unsupervised access. All doors and gates leading to the pool are locked. There is:
 - (A) a sturdy fence at least four feet high that cannot be easily climbed; or
 - (B) a fence ~~which~~ that connects to the top of an above-ground pool and extends two feet above the pool.
 - (4) **Wading pools.** The use of portable wading pools is prohibited.
 - (5) **Swimming.** In accordance with state Oklahoma law, swimming pools used by the child care home are considered public bathing places and must be in compliance with the water quality, occupancy, and fencing standards in Design Standards and Operational Criteria for Public Bathing Places, Oklahoma State Department of Health Engineering Bulletin. This includes wading pools, water parks, in-ground pools, and above-ground pools. When children swim in a pool:
 - (A) the caregiver is at or in the water and is appropriately dressed to enter the water at any time; ~~and~~
 - (B) a person with a Community Water Safety Certificate or a comparable certificate as approved by OKDHS is in attendance at all times; ~~and~~
 - (C) the adult to child ratio for:
 - (i) infants and toddlers is one adult to one child. This adult is not counted in any other adult-child ratios. The adults remain in direct physical contact with infants at all times during swimming or wading; and
 - (ii) children two years and older is in accordance with OAC 340:110-3-84(a) through (d) for family child care homes and 340:110-3-97.1(e) for large family child care homes. When four or more children are two years of age through three years of age, one additional adult is required.
 - (6) **Restrictions.**
 - (A) The use of hot tubs by children in care is prohibited. The hot tub must be equipped with a hard cover.
 - (B) Swimming and wading is not permitted at a lake, pond, or other body of water.
- (c) **Animals and household pets.**
- (1) ~~Potential patrons~~ Patrons are advised of the presence of animals.
 - (2) Animals are in good health, do not show evidence of carrying disease, are friendly ~~toward children~~, and do not present a threat to the health, safety, and well-being of children.
 - (3) All contact between animals and children is supervised by a caregiver who is close enough to remove the child immediately if the animal shows signs of distress or the child shows signs of treating the animal inappropriately.
 - (4) ~~There is documentation~~ Documentation of current rabies vaccinations administered by a licensed veterinarian for dogs and cats kept is filed on the premises.
 - (4~~5~~) Ferrets, turtles, and any wild or dangerous animals are kept in an area that is inaccessible to children.
 - (5~~6~~) Reptiles, such as crocodiles, alligators, poisonous snakes and lizards, pythons, and boa constrictors, are not kept on the premises.
 - (6~~7~~) Animals are restricted from areas where food is prepared or served and from children's sleeping surfaces.
 - (7~~8~~) Animal litter boxes are not located in food preparation areas and are not easily accessible to children in other areas of the home.
 - (8~~9~~) Outdoor play areas are cleaned of animal waste before children play outside.
 - (9~~10~~) If an animal bites a child and the skin is broken, the child's parent is contacted immediately. The licensing ~~representative staff~~ and the county or state department of health are notified within 24 hours.
- (d) **Emergency procedures.** The caregiver is familiar with emergency procedures.
- (1) There is a planned source of medical care, such as a hospital emergency room, clinic, or other medical facility or physician acceptable to parents.
 - (2) The caregiver has emergency transportation available.
 - (3) The home has an operable telephone. Emergency information posted next to the telephone includes:
 - (A) address of the home;
 - (B) physician or clinic;
 - (C) fire department;
 - (D) police department;
 - (E) poison control, 1-800-222-1222; and
 - (F) substitute caregiver.
 - (4) First aid supplies are available in the home but made inaccessible to children. Supplies include:
 - (A) ~~a~~ thermometer;
 - (B) disposable nonporous gloves;
 - (C) blunt-tipped scissors;
 - (D) tweezers;
 - (E) bandage tape;
 - (F) sterile gauze;
 - (G) non-medicated adhesive strips; ~~and~~
 - (H) current standard first aid text or equivalent first aid guide; ~~and~~
 - (I) ~~syrup of ipecac, which is:~~
 - (i) ~~used as a vomiting agent only under direction of the poison control center or a physician;~~
 - (ii) ~~not used before checking the expiration date to ensure it has not expired; and~~
 - (iii) ~~labeled with the telephone number for the poison control center.~~
 - (5) Fire and tornado drills are conducted ~~quarterly~~ monthly. A record of the drills is maintained at the home.
 - (6) The primary caregiver has a written plan for reporting and protecting from outside threats, and evacuating in case of fire, flood, tornado, blizzard, power failure, or

other natural or man-made disaster that could create structural damage to the facility or pose health hazards.

(7) Caregiver contacts poison control with any suspected child poisonings.

(e) Overnight care. Overnight care can only be provided by a caregiver who is licensed at his or her primary residence.

340:110-3-87. Transportation

- (a) **Driver qualifications.** All drivers must:
 - (1) be at least 21 years old;
 - (2) have an operator's license of the type appropriate for the vehicle that is valid in the driver's state of residence;
 - (3) have no conviction within the last three years of driving under the influence of alcohol or drugs or other impaired driving offense; and
 - (4) if driving a vehicle designed to transport ten or more passengers, complete training specific to the safe operation of that type of vehicle within three months of providing transportation to children.
- (b) **Written permission.** The primary caregiver maintains on file written permission from the parent or guardian to transport children.
- (c) **Verifications.** The vehicle is covered by liability insurance.
- (d) **Records.** The driver is provided the names of the children being transported and a method to contact the children's parents or guardians in case of an emergency.
- (e) **Passenger restraints.** Children transported are properly secured in a child passenger restraint system (car seat) or individual seat belt, in compliance with applicable state law, per Section 11-1112 of Title 47 of Oklahoma Statutes.
 - (1) The car seat is:
 - (A) federally approved;
 - (B) installed according to the manufacturer's instructions;
 - (C) appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions; and
 - (D) properly maintained.
 - (2) Each seat belt:
 - (A) is properly anchored to the vehicle; and
 - (B) fits snugly across the child's hips or securely anchors the car seat.
 - (3) Children age 12 years and younger are prohibited from sitting in the front seat of an airbag equipped passenger vehicle unless an airbag cut off switch is installed and activated or if the vehicle has airbags equipped with weight sensitive devices. If a child 12 years of age or younger must be placed in front of an air bag, because all other positions are taken, it must be a child whose age and weight requires a forward facing harness seat.
- (f) **Vehicle requirements.** All vehicles used to transport children have:
 - (1) door locks. Doors are kept locked when the vehicle is moving;
 - (2) a first aid kit as described in OAC 340:110-3-86(d)(4); and

(3) an operable heater, capable of maintaining a temperature of 65 degrees Fahrenheit in the vehicle, and a ventilation system.

(g) Supervision and safety.

- (1) Children are never left unattended ~~in the vehicle.~~
- (2) Safe conduct to and from all vehicles and safe off-street loading space is provided to protect children from:
 - (A) backing vehicles;
 - (B) being between vehicles; and
 - (C) all traffic hazards.

340:110-3-88. Records

- (a) **General requirements.** Children's records are kept on forms provided by the Oklahoma Department of Human Services (OKDHS) or on forms containing the same information. Records are kept current and easily accessible. OKDHS staff is allowed access to all records.
- (b) Caregiver records. Records on all caregivers, including the primary caregiver, assistant caregivers, and substitute caregivers, are completed and maintained in the home. Records include:
 - (1) staff information forms provided by OKDHS;
 - (2) criminal history investigations with records maintained in a confidential manner;
 - (3) documentation of training; and
 - (4) attendance records for each caregiver that reflect days and hours worked and are maintained on file for 120 days.
- ~~(b)~~ **(c) Identification and health records.** Identification and health records include:
 - (1) the child's name, date of birth, name of parent(s), home address, parents' place of employment, and telephone numbers;
 - (2) the names and telephone numbers of responsible persons to contact in an emergency if a parent cannot be located promptly;
 - (3) permission of a parent authorizing the caregiver to transport the child to emergency medical care;
 - (4) names and relationships of persons authorized to pick up the child;
 - (5) health information, including record of immunizations;
 - (6) name, address, and telephone number of the child's physician;
 - (7) medication and transportation permission, if applicable; and
 - (8) date child began care.
- ~~(e)~~ **(d) Attendance records.** Daily attendance records, including arrival and departure times, are maintained for each child and ~~kept~~ maintained on file a minimum of 120 days.
- ~~(e)~~ **(e) Public access to records-Compliance Posting.**
 - (1) The items listed in (A) - (B) are posted within clear view of the main entrance:
 - (A) OKDHS provided "Notice to Parents"; and
 - (B) Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary,

Emergency Adoptions

with findings of "Confirmed," for 120 days from the completion of the investigation.

(2) The granted waiver notification for individuals who have criminal histories as defined in OAC 340:110-3-85(c) are posted in a prominent place for as long as they are employed or living in the facility.

(f) **Compliance file.** A compliance file that is accessible to staff, parents, and others shall contain:

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

(2) the following documents issued by Child Care Licensing within the last 120 days:

(A) child care licensing monitoring reports and licensing correspondence;

(B) Form 07LC037E, Notice to Comply;

(C) licensing complaints; and

(D) unconfirmed Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary; and

(3) confirmed Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary, for one year from the completion of the investigation.

340:110-3-89.1. Parent communication

(a) **Policy.** A written statement of the caregiver's business policy is provided to parents, including:

(1) the location and accessibility of the licensing compliance file;

(2) days and hours of operation, including the holidays the program is closed;

(3) procedure for:

(A) receiving and releasing a child from care, including a method of verifying the identity of a caller or person who picks up a child;

(B) notifying parents if a concern exists when a child does not arrive as scheduled;

(C) handling illness and injuries;

(D) storing and administering children's medication;

(E) notifying parents of field trips; and

(F) transporting children;

(4) care of ill children;

(5) mandatory reporting of child abuse or neglect; and

(6) behavior and guidance policy.

(ab) **Well-being of the child.** The caregiver informs parents of the child's physical and emotional well-being.

(bc) **Department publication OKDHS child care information.** The Department's publication Oklahoma Department of Human Services (OKDHS) Publication No. 87-91, "The ABC's of Parent's Guide to Selecting Quality Child Care Parent Handbook," is made available to parents upon their child's enrollment.

(e) **Care of ill children.** The caregiver advises parents of his or her policy regarding care of ill children.

(d) **Access to the home.** Parents are provided access to all areas of the home used for child care during the hours that children are in care.

340:110-3-90. Child health

(a) **Immunizations.** Children have or are in the process of obtaining all required immunizations at the medically appropriate time. Supplement IX of DHS—publication Oklahoma Department of Human Services (OKDHS) Publication No. 86-104, Licensing Requirements for Family Child Care Homes and Large Family Child Care Homes, contains a list of the required immunizations and the recommended immunization schedule.

(b) **Medication.** ~~The requirements for medication are contained in (1)–(4) of this subsection.~~

(1) **Original container.** Medications must be provided by the parent in the original container and clearly labeled with the child's name and directions.

(2) **Parental permission.** Medication is accompanied with written dated permission from the parent giving the exact dosage and times to be administered.

(3) **Records.** To avoid duplication, each dosage administered is recorded by the caregiver and the record is readily available to parents.

(4) **Storage.** All medications are properly stored separately from food and kept in a safe place out of children's reach.

(5) **Medication injections.** When medication is administered by injection, the requirements in this paragraph apply.

(A) Syringes, needles, and lancets are only used one time.

(B) Approved sharps containers are used for any medical waste that is sharp or could cause a cut or wound. Examples include syringes, needles, and lancets used to administer insulin or test blood sugar.

(C) When the container is full, arrangements for disposal are made with the local pharmacy, county health department, or personal physician.

(c) **Ill children.** ~~The requirements for the care of ill children are contained in (1)–(3) of this subsection.~~

(1) **Contagious illness.** Any child showing symptoms of contagious illness is separated from the group.

(2) **Disease control.** The local or state health department is notified upon discovery of any case of hepatitis, meningitis, Shigellosis, Giardiasis, measles, rubella, whooping cough, tuberculosis, E coli 0157:H7, Salmonellosis, or any Haemophilus influenza invasive disease in any person associated with the family child care home.

(23) **Notification of parents.** Parents of the ill child are notified as symptoms develop or change.

(34) **Decision to provide care.** When symptoms of illness are present, the primary caregiver determines whether or not to provide care for the child, depending based upon the apparent degree of illness, other children present, and facilities available to provide care for the ill child.

(d) **Cleanliness.** ~~The requirements addressing cleanliness are contained in (1)–(3) of this subsection.~~

(1) **Handwashing - caregivers.** Caregivers wash their hands with soap and warm running water;

(A) prior to food preparation;

(B) before feeding children, or eating;

- (C) after diapering or toileting;
 - (D) after touching or cleaning up body fluids, including wiping noses;
 - (E) after handling or feeding pets.
- (2) **Handwashing - children.** Caregivers ensure that children wash their hands with soap and running water:
- (A) before eating; ~~and~~
 - (B) after toileting;
 - (C) after handling pets;
 - (D) after playing outdoors; and
 - (E) after wiping their noses.
- (3) **Handwashing supplies.** Soap and clean individual or paper towels are easily accessible to the caregiver and children for handwashing.
- (4) **Children's clothing.** A child's clothing is changed immediately following a toileting accident or in other situations when clothing becomes unsanitary. Soiled clothing is placed in a sealed, moisture-proof bag and sent home.

340:110-3-91. Daily routine and equipment

- (a) **Program.** The caregiver provides a balanced program of opportunities for learning, indoor and outdoor play, rest periods, and meals.
- (b) ~~Television and videos~~ **Media use.** Television, and videos, computers, and video games, if used, are age-appropriate and suitable for children used with discretion and selectivity.
- (c) **Play equipment.** A variety of indoor and outdoor play equipment that meets the varied developmental needs and interests of children in care is readily accessible.
- (1) Equipment must be available from the categories of:
 - (A) art supplies;
 - (B) books;
 - (C) large muscle equipment;
 - (D) musical equipment;
 - (E) blocks and accessories;
 - (F) dramatic play materials;
 - (G) manipulative toys; and
 - (H) science materials.
 - (2) Equipment is maintained in good working condition and is clean, safe, and free from rough edges, sharp corners, pinch and crush points, splinters, and exposed nails or bolts.
 - (3) Outdoor equipment, such as swings, slides, and climbing apparatus ~~are~~ is not located on a hard surface.
 - (4) Equipment not designed to be portable is anchored firmly to the ground.
 - (5) All equipment is placed in a safe location.
- (d) **Tables and chairs.** Tables and chairs that ensure children's safety and comfort are provided for meals and snacks.
- (~~e~~) **Place to rest.** Each child has an appropriately sized, individual place to rest, such as a crib, playpen, bed, cot, or mat, with clean individual bedding. The place to rest is maintained in a clean and sanitary condition and in good repair. Waterbeds, sofas, soft mattresses, pillows, beanbag chairs, and other soft surfaces are prohibited as infant sleeping surfaces.

- (f) **Mats.** ~~Mats are not used for overnight care. When used for napping, each mat is:~~
- (1) ~~at least two inches thick and covered with a fitted, durable, washable, waterproof material; and~~
 - (2) ~~only used on clean carpeted surfaces.~~
- (~~g~~) **Cribs, playpens.** ~~A crib, port-a-crib or playpen with a firm waterproof mattress or pad is used for each child under one year of age.~~
- (~~h~~) **Crib, port-a-crib and playpen safety features.** ~~Safety features for cribs, port-a-cribs and playpens are described in (1)-(4) of this subsection.~~
- (1) ~~Cribs, port-a-cribs and playpens with more than 2 and 3/8 inches between slats or between the side and end panels are not allowed.~~
 - (2) ~~Cribs with decorative cutout areas in crib end panels or tall decorative knobs on the corner posts, which can entrap a child's head or catch his clothing, are not allowed.~~
 - (3) ~~Mattresses must be tight fitting with no more than one inch between the mattress and crib. Crib sheets fit the mattress snugly.~~
 - (4) ~~Drop side latches hold sides securely and are not accessible by the child in the crib.~~
 - (5) ~~Pillows, quilts, comforters, sheepskins, stuffed toys, bumper pads, and other soft products are not permitted in infant cribs or playpens.~~
- (i) **Sleep positioning.** ~~The following sleep positioning is required:~~
- (1) ~~To reduce the risk of Sudden Infant Death Syndrome (SIDS), infants under 12 months of age are placed on their back for sleeping unless there is a medical reason why the infant should not sleep in this position as documented by a doctor. This documentation is maintained at the facility.~~
 - (2) ~~Infants who are able to turn themselves over are placed initially on their back for sleeping but allowed to sleep in a position they prefer.~~

340:110-3-91.1. Rest time

- (a) **Place to rest.**
- (1) Each child has an appropriately sized, individual place to rest, such as a crib, playpen, bed, cot, or mat, with clean individual bedding. The place to rest is maintained in a clean and sanitary condition and in good repair.
 - (2) Waterbeds, sofas, soft mattresses, bassinets, stacked cribs, pillows, beanbag chairs, and other soft surfaces are prohibited as infant sleeping surfaces.
- (b) **Mats.** Mats are not used for overnight care. When used for napping, each mat is:
- (1) at least two inches thick and covered with a fitted, durable, washable, waterproof material; and
 - (2) only used on clean carpeted surfaces.
- (c) **Cribs and playpens.** A crib, port-a-crib, or playpen with a firm waterproof mattress or pad and a tight-fitting sheet is used for each child younger than one year of age.
- (d) **Crib, port-a-crib, and playpen safety features.**
- (1) Cribs, port-a-cribs, and playpens with more than 2 and 3/8 inches between slats or between the side and end panels are not allowed.

Emergency Adoptions

(2) Cribs with decorative cutout areas in crib-end panels or tall decorative knobs on the corner posts, that can entrap the child's head or catch the child's clothing, are not allowed.

(3) Mattresses must be tight-fitting with no more than one inch between the mattress and crib.

(4) Drop-side latches hold sides securely and are not accessible by the child in the crib.

(5) Pillows, quilts, comforters, sheepskins, stuffed toys, bumper pads, and other soft products are not permitted in infant cribs, playpens, or port-a-cribs.

(e) **Sleep positioning.**

(1) To reduce the risk of Sudden Infant Death Syndrome (SIDS), infants younger than 12 months of age are placed on their back for sleeping unless there is a medical reason documented by a doctor, the infant should not sleep in this position. Documentation is maintained at the facility.

(2) Infants who are able to turn themselves over are placed initially on their back for sleeping but allowed to sleep in a position they prefer.

(3) Children's heads and faces are not covered.

340:110-3-92. Guidance Behavior and discipline guidance

(a) **Positive guidance.** Discipline is constructive and educational in nature and appropriate to the child's age and circumstances. The caregiver:

(1) recognizes and encourages acceptable behavior;

(2) teaches by example and uses fair and consistent rules in a relaxed atmosphere with discipline that is relevant to the child's behavior;

(3) supervises with an attitude of understanding and firmness;

(4) redirects children by stating alternatives when behavior is unacceptable;

(5) when necessary, intervenes as quickly as possible to ensure the safety of all children;

(6) gives clear directions and provides guidance appropriate to the child's level of understanding;

(7) speaks so that children understand they and their feelings are acceptable but unacceptable action or behavior is not;

(8) encourages children to control their own behavior, cooperate with others, and solve problems by talking things out;

(9) uses safe, natural, and logical consequences to address inappropriate behavior; and

(10) uses "time-out" periods only as necessary and not over five minutes for preschool age children to enable the child to gain control of himself or herself. Time-out periods do not exceed five minutes. No more than one minute of time-out for each year of a child's age is recommended. Time-out periods are not required to be completed should the child regain control.

(b) **Acts prohibited.** The caregiver is prohibited from:

(1) subjecting children to punishment of a physical nature, such as shaking, striking, spanking, biting, swatting,

thumping, pinching, popping, shoving, spitting, yanking, hair pulling, slamming, excessive exercise, or any cruel treatment that may cause pain;

(2) subjecting children to punishment of a psychological nature, such as humiliation, making derogatory or sarcastic remarks about them or their families, or using harsh or profane language, or making actual or implied threats of physical punishment;

(3) punishing or threatening children in association with food, rest, or toilet learning;

(4) putting anything in or on a child's mouth as punishment; ~~and~~

(5) seeking or accepting parental permission to use any punishment or act prohibited by ~~the requirements contained in~~ this subsection;

(6) restraining a child by any means other than holding. The child is only held as long as is necessary for the child to regain control;

(7) isolating a child without supervision or placing the child in a dark area;

(8) permitting a child to discipline other children; and

(9) punishing an entire group due to the actions of a few children.

340:110-3-93. Infants, and toddlers, and two-year-olds

(a) **Responding to needs.** The caregiver holds, cuddles, talks to, and sings to infants and toddlers and understands and responds to their particular needs.

(b) **Daily routine.** The daily routine is adapted to the individual needs of each infant and toddler and fits as much as possible into the schedule set up by the parent.

(1) The daily schedule is accessible and followed with reasonable regularity.

(2) Children are not left for more than 30 minutes while awake in playpens, swings, high chairs, or stationary activity centers.

(c) **Bottle-feeding.** Bottles are not propped by any means at any time.

(1) Infants up to the age of six months are held while bottle-fed.

(2) Infants of more than six months are held while bottle-fed until they are able to hold their own bottle securely.

(3) Children are not given bottles in cribs or moving swings due to increased risk of choking, ear infections, and tooth decay.

(4) Breast milk is refrigerated or frozen until immediately before feeding.

(5) Bottles of premixed formula are refrigerated until immediately before feeding.

(6) Unused breast milk or formula left in the bottle is disposed of after feeding.

(7) Bottles of formula or breast milk are not warmed in a microwave oven.

(d) **Diaper-changing.** Diapers are changed promptly when wet or soiled.

(1) A clean ~~non-porous~~ nonporous surface or pad is used for diaper changes and sanitized after each use. Care is taken to ~~prohibit~~ prevent spread of germs.

- (2) Caregivers wash their hands thoroughly with soap and warm running water after each diaper change.
- (e) **Availability and disposal of diapers.**
 - (1) ~~There are sufficient~~ Sufficient quantities of clean diapers are available, and provision for disposal is
 - (2) ~~A closed container when for soiled diapers is provided and used.~~
- (f) **Toilet learning.** Toilet learning is a relaxed, pleasant activity, ~~and~~
 - (1) ~~The caregiver shares the child's toilet learning progress shared~~ with the parent.
 - (2) Training pants or underwear are changed promptly when wet or soiled.
 - (3) Fecal content may be disposed of in a toilet, but soiled diapers or training pants are not rinsed in the toilet.
- (g) **Potty chairs.** Potty chairs are emptied and sanitized after each use.

340:110-3-94. Food and nutrition

- (a) **Daily requirement.** ~~Children~~ A child remaining in the family child care home for longer than a four-hour period ~~are~~ is served a balanced meal that provides at least one-third of the child's total daily nutritive requirement. The minimum meal pattern for children ~~can be~~ is found in Supplement VI of ~~DHS publication~~ Oklahoma Department of Human Services (OKDHS) Publication No. 86-104, Licensing Requirements for Family Child Care Homes and Large Family Child Care Homes.
- (b) **Snacks.** Snacks are provided ~~both~~ at mid-morning and mid-afternoon when the interval between regular meals is four hours or longer.
- (c) **Provision of food.**
 - (1) The caregiver provides the food for all children who are able to eat regular food. ~~Caregivers can~~ The caregiver may require parents the parent to provide food for ~~infants~~ an infant or ~~children~~ child requiring a special diet.
 - (2) Second servings are available for children.
- (d) **Encouragement to children.** Children are encouraged to try new food but are not forced to eat or punished for not eating.
- (e) **Menus.** Weekly menus are planned in advance, ~~and~~ readily available. ~~Such menus are, and~~ Reasonable substitutions are permissible, ~~although reasonable~~.
- (f) **Water.** Water is offered to children at various times throughout the day.
- (g) **Prohibited foods.** Foods that may not be served or offered to children are:
 - (1) home-canned foods;
 - (2) raw seed sprouts;
 - (3) prepackaged unpasteurized juices, milk, or juices that have a warning label;
 - (4) unpasteurized milk from animals;
 - (45) raw or undercooked animal foods, such as ham-burger, fish, or eggs;
 - (56) lightly cooked or uncooked foods containing raw shell eggs, such as meringue, eggnog, ice cream, or egg beverages.

- (h) **Food storage.** Food is covered and protected from contamination and spoilage while being obtained, stored, prepared, or served.
 - (1) All equipment and surfaces are maintained in a clean and sanitary condition.
 - (2) Refrigerated foods are maintained at 41 degrees ~~F.~~ Fahrenheit or below, ~~and~~ Stored frozen foods are maintained at 0 degrees ~~F. or below~~ frozen. A thermometer is located in the refrigerator ~~and freezer.~~
 - (3) Chemicals and toxins are not stored in the food storage area.
 - (4) Dishes washed by hand are sanitized and air-dried.
- (i) **Dishes, cups, and eating utensils.** Each child is provided with clean individual dishes, cups, and eating utensils. Disposable items are used only one time.

340:110-3-97. Fire safety

- (a) **General requirements.** It is the responsibility of the primary caregiver to ensure compliance with the construction and equipment requirements contained in this subsection. State or local fire officials are consulted as needed.
 - (1) Any building used as a family child care home meets local minimum building codes. In localities where a building code does not exist, construction conforms to the current state adopted building code.
 - (2) If care is provided on the second floor of a multi-family dwelling, the structure meets the life safety code provisions for multi-family occupancies.
 - (3) Electrical wiring is installed in accordance with state and local codes or ordinances.
 - (4) All heating and air conditioning equipment is installed in accordance with state and local building codes.
 - (5) ~~Hot water~~ Water heaters are equipped with a pressure-relief valve.
- (b) **Exits.**
 - (1) Each room used for child care has at least two means of escape, at least one of which is a door leading to an unobstructed path to the outside. The second means of escape may be an unobstructed, operable window not less than 820 square inches and large enough to allow all adults and children to escape.
 - (2) Security bars, when present, must be hinged with a quick release mechanism inside the home that requires one motion to operate, or be unlocked during the hours of child care.
 - (23) ~~Care is not provided for children under three years of age on the second level of a multi-family dwelling. Care of children, including naptime, is not provided for children three years or younger on any floor above ground level.~~
 - (34) No story above the second level, excluding basements, is used for child care.
 - (5) When care is provided on the second level, the second route of escape must be a safe means to ground level.
 - (46) Space that is accessible only by a ladder, folding stairs, or through a trap door is not used for child care.
 - (57) When care of children are is permitted on a the floor below ground level, basement, at least one exit is a door leading directly to the outside at ground level. The

Emergency Adoptions

second means of escape may be an unobstructed, operable window not less than 820 square inches and large enough to allow all adults and children to escape. Care of children is not provided more than one story below the ground.

(8) Every stairway is maintained free of obstructions and provides safe passage.

(9) Stairways within the exits with four or more steps have a railing.

(c) **Doors.**

(1) Each door, ~~which~~ that is a means of exiting the home, opens without a key and is no less than 28 inches wide.

(2) Every closet door latch is such that children can open the door from inside the closet.

(3) Every bathroom door lock is designed to permit opening of the locked door from the outside with a readily accessible opening device.

(d) **Stairs.**

~~(1) Every stairway is maintained free of obstructions and provides safe passage.~~

~~(2) Stairways with more than four steps have railings.~~

(ed) **Smoke Detectors detectors.**

(1) There is at least one operable smoke detector on each level of the home located at the top of any stairs.

(2) Any room used by children for playing or sleeping, except ~~kitchens~~ the kitchen, has a smoke detector.

(3) Smoke detectors are tested monthly and a record of the date is documented.

(fe) **Carbon monoxide detectors.**

(1) One operable carbon monoxide detector is installed according to manufacturer instructions ~~in the same room as the heat source if the heating system in use is not in an enclosed closet and is:~~ when there is a fuel burning appliance in the home.

~~(A) an open flame, natural gas or propane water heater; or~~

~~(B) an open flame, natural gas or propane home heating system, except for floor furnaces and heating systems located in the attic or garage.~~

~~(2) If the heat source is located in a room not used for child care such as the master bedroom or kitchen, the carbon monoxide detector is located in the main area used for child care.~~

(2) Carbon monoxide detectors are tested monthly and a record of the date is documented.

(gf) **Fire extinguishers.**

(1) A portable fire extinguisher, Class ABC or BC, with a gauge is provided for the cooking area. It is readily accessible.

(2) Disposable fire extinguishers with a gauge are acceptable.

(3) Extinguishing devices are UL-approved.

(4) All fire extinguishers are replaced or serviced and tagged by a competent authority every three years ~~and~~ or when the seal is broken.

(hg) **Heating equipment.**

(1) Unvented, ~~or~~ ventfree, ~~heaters, portable heaters, or~~ open-face heaters are not used while children are in care.

(2) Portable heaters are not used while children are in care, with the exception of electric oil-filled space heating units.

~~(23)~~ A guard is provided to protect children from hot surfaces and open flames.

~~(34)~~ Fireplaces in use while children are in care have solid doors that are kept closed.

~~(45)~~ A stove or combustion heater is not ~~so~~ located ~~so~~ that where it would prevent escape in case of malfunctioning of the stove or heater.

~~(56)~~ Heating equipment not specifically designed or installed as a normal heating source ~~cannot be~~ is not used for that purpose.

(ih) **Electrical services.**

(1) The use of temporary wiring or extension cords as permanent wiring is prohibited.

(2) Electrical outlet covers are used in all areas occupied by children.

(3) An operable flashlight is available at all times.

(ji) **Mobile homes.**

~~(1) There is documentation~~ Documentation is maintained that a mobile home, when used as the family child care home and manufactured after June 25, 1976, is in compliance with the current Housing and Urban Development (HUD) ~~Standards, manufactured after 6/25/76 standards.~~

~~(2) Mobile homes are~~ The mobile home is anchored and enclosed to ground level with a wind-resistant material.

340:110-3-97.1. Requirements for large family child care homes

(a) **Large family child care home.** A large family child care home is a residential family home that provides care and supervision for eight to ~~twelve~~ 12 children for part of the ~~twenty-four~~ 24 hour day.

(b) **Requirements.** Large family child care homes are required to meet the rules contained in OAC 340:110-3-81 through 340:110-3-97, except as otherwise provided in this Section.

(c) Mobile homes. Large family child care homes operated in a mobile home are required to obtain an approved fire inspection by the state or local fire official prior to caring for children.

~~(ed)~~ **Capacity.** Large family child care homes are required to meet the rules found in OAC 340:110-3-84(a). ~~However,~~ except the total number of children in care in a large family child care home is limited to ~~twelve~~ 12.

~~(de)~~ **Supervision of outdoor play.** Large family child care homes are required to meet the rules contained in OAC 340:110-3-85(a)~~(23)~~ pertaining to ~~the~~ supervision of outdoor play. ~~However,~~ except when two or more staff are needed to meet the required child to staff ratio, at least one staff is present with children outdoors at all times.

~~(ef)~~ **Required number of caregivers.** Large family child care homes are exempt from the requirements regarding the number of caregivers ~~needed—described~~ in OAC 340:110-3-84(b) - and (c). The number of caregivers required

in a large family child care home is described in (1)–(3) of this subsection.

- (1) **One caregiver.** One caregiver may care for:
 - (A) up to five children of any age;
 - (B) up to six children, with no more than three children ~~under younger than~~ two years of age;
 - (C) up to seven children, with no more than two children ~~under younger than~~ two years of age;
 - (D) up to seven children, if the children are two years of age and older;
 - (E) up to eight children, if the children are three years of age and older;
 - (F) up to ten children, if the children are four years of age and older; or
 - (G) up to ~~twelve~~ 12 children, if the children are five years of age and older.
- (2) **Two caregivers.** Two caregivers may care for:
 - (A) up to eight children ~~under younger than~~ two years of age; or
 - (B) up to twelve children, with no more than six children ~~under younger than~~ two years of age.
- (3) **Three caregivers.** Three caregivers may care for up to twelve children, with no more than eight children ~~under younger than~~ two years of age.

(~~g~~) **Qualifications of caregivers.** ~~Caregivers~~ Primary, assistant, and substitute caregivers at large family child care homes are required to meet the qualifications ~~outlined~~ in OAC 340:110-3-85(a) and (b), except as otherwise described in (1)–(2) of this subsection.

(1) **Caregiver Primary caregiver.** The primary caregiver or anyone ~~person~~ substituting for the primary caregiver must be at least 21 years of age. For any person applying after October 1, 2007, the primary caregiver must have:

- (A) ~~two years have six months~~ of satisfactory ~~full-time~~ experience ~~as the primary caregiver in a licensed or legally exempt family child care setting and a high school diploma or GED home in Oklahoma; or and~~
- (B) ~~one year of satisfactory full-time experience in a licensed or legally exempt child care setting and~~ meet one of the requirements listed in (i) – ~~through~~ (iv) of this section:

- (i) ~~A~~ a high school diploma or General Educational Development (GED) and 12 college credit hours in child development or early childhood education;
- (ii) ~~A~~ a vo-tech occupational child care program diploma;
- (~~ii~~ iii) ~~A~~ a Child Development Associate (CDA) credential; ~~or~~
- (iv) ~~An~~ an associate or bachelor degree in child development or early childhood education.

(2) **Assistant caregiver.** The assistant caregiver or ~~anyone~~ person substituting for the assistant caregiver must be at least 16 years of age. ~~However, children may be~~ Children are not left alone in the care of ~~anyone under any person younger than~~ 21 years of age.

(3) **Substitute caregiver.** Any person substituting for the primary caregiver is required to be at least 21 years of age and have current documentation of cardiopulmonary resuscitation (CPR) and first aid training.

(~~gh~~) **Training requirements.** The primary caregiver and assistant caregiver at large family child care homes are required to meet the training requirements outlined in OAC 340:110-3-85(d), except as otherwise described in (1)–(6) of this subsection.

(1) The primary caregiver is required to complete ~~30 hours of training every two years by obtaining~~ 15 clock hours of training annually.

(2) The assistant caregiver is required to complete ~~24 hours of training every two years by obtaining~~ 12 clock hours of training annually.

(3) No more than 6 hours of videos or individual job-related readings is counted toward the annual required training hours for the primary caregiver or assistant caregiver.

(4) Within two years prior to license application, the primary caregiver must have completed and documented all health and safety training listed in OAC 340:110-3-85(d)(~~23~~)(A) - (C).

(5) The primary caregiver must have documentation of current completed training in CPR and first aid prior to issuance of the initial permit.

(6) The assistant caregiver completes and documents all health and safety training listed in OAC 340:110-3-85(d)(~~23~~)(A) - (C) within six months of employment. CPR and first aid training are completed before the assistant caregiver is left alone with children.

(~~hi~~) **Outdoor play space.** The requirements regarding outdoor play space found in OAC 340:110-3-86(a)(12) must be met. ~~However, the~~ The outdoor play space must be enclosed by a building or a fence that is in good repair, begins at ground level, and is at least four feet high, ~~with no.~~ No exceptions are granted by the Oklahoma Department of Human Services.

(~~i~~) **Transportation.** ~~The driver of the vehicle in a large family child care home must be at least 21 years of age.~~

PART 14. REQUIREMENTS FOR SCHOOL-AGE PROGRAMS

340:110-3-223. Organization

(a) **Responsible agent.** A school-age program is operated by a public or private organization or an individual.

(1) A public school-age program is created and exists by an act of the State, county, city or other political subdivision and operated under the control of a governmental agency.

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

(3) A proprietary school-age program's owner is responsible for the policy and financial structure of the program.

(b) **Purpose.** A statement defining the purpose or function of the program is filed with OKDHS and includes:

Emergency Adoptions

- (1) licensed capacity;
 - (2) ages of children accepted;
 - (3) hours of operation; and
 - (4) type of care and services offered.
- (c) **Notifications.** Requirements pertaining to notifications are contained in this subsection.
- (1) The items displayed in a prominent place where staff, parents, and others may view them are:
 - (A) the program's license, permit, or notice of denial, or revocation of license;
 - (B) name of the person responsible for the program during the director's absence;
 - (C) notice of the requirement to report suspected child abuse and neglect;
 - (D) notice prohibiting smoking anywhere in the facility while children are in care;
 - (E) the daily program schedule;
 - (F) emergency procedure;
 - (G) weekly menu of all food provided by the program;
 - (H) evacuation plan;
 - (I) dates fire and tornado drills were conducted; and
 - (J) a time schedule for use of outdoor play space if the program is licensed for 24 or more children and has outdoor play space of less than 75 square feet per child.
 - (2) In accordance with Section ~~7102~~ 7103 of Title 10 of the Oklahoma Statutes, ~~anyone having~~ any person who has reason to believe ~~that~~ a child has been abused or neglected is required to report the matter promptly to OKDHS. It is a misdemeanor for any person to fail to report.
 - (3) The program is required to notify Division of Child Care Licensing Services (Licensing) by the next working day of:
 - (A) a temporary, unscheduled, or permanent closing of the program;
 - (B) a change in the director;
 - (C) any damage to the facility that affects the amount of usable square footage or compliance with any requirement;
 - (D) legal action against a program or staff person which involves or affects a child in care or the operation of the program;
 - (E) any known criminal charges or child abuse investigations involving staff ~~which~~ that are pending or have had a disposition;
 - (F) an accident involving transportation unless there were no injuries and only minor damage to the vehicles;
 - (G) any injury to a child requiring emergency medical attention; and
 - (H) the death of a child that occurred while the child was in care.
 - (4) The program is required to notify Licensing at least 30 days prior to:
 - (A) a change in ownership or sponsorship;
 - (B) a change in the name of the program;
 - (C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;
 - (D) the anticipated closing or relocation of the program; and
 - (E) a proposed change in the licensed capacity.
- (d) **Public access to records-Compliance Posting.**
- (1) The items (A) - (B) are posted within clear view of the main entrance:
 - (A) OKDHS provided "Notice to Parents"; and
 - (B) Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary, with findings of "Confirmed", for 120 days from the completion of the investigation.
 - (2) The granted waiver notification for individuals who have criminal histories as defined in section OAC 340:110-3-226(c) are posted in a prominent place, for as long as they are employed or living in the facility.
- (e) **Compliance file.** A compliance file that is accessible to staff, parents, and others shall contain:
- (1) the most recent child care licensing monitoring report provided by the licensing specialist;
 - (2) the following documents issued by Child Care Licensing within the last 120 days:
 - (A) child care licensing monitoring reports and licensing correspondence;
 - (B) Form 07LC037E, Notice to Comply;
 - (C) licensing complaints; and
 - (D) unconfirmed Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary; and
 - (3) confirmed Form 04CP004E, Notification to Division of Child Care of Child Welfare Investigative Summary, for one year from the completion of the investigation.
- (df) **Effect of change in ownership or location on license.** When a program changes ownership or location:
- (1) the license is not transferable and is returned to OKDHS; and
 - (2) the program is required to meet current licensing requirements.
- 340:110-3-224. Policy and procedure**
- (a) **Content.** A written statement of the program's policy and procedure is available to staff and parents and includes, but is not limited to:
- (1) a brief program description;
 - (2) ages of children accepted;
 - (3) days and hours of operation including the holidays the program is closed;
 - (4) fees;
 - (5) the location and accessibility of the licensing compliance file;
 - (5) procedure for:
 - (A) receiving and releasing children from the program including a method of verifying the identity of a caller or person who picks up a child;

- (B) prompt notification of parents when a child does not arrive as scheduled;
- (C) storing children's personal belongings and money;
- (D) the handling of illnesses and injuries, including procedures when children are away from the program;
- (E) storing and administering children's medicines;
- (F) notifying parents of field trips;
- (G) transportation of children;
- (H) caring for school-age children who arrive late for field trips when that child's group has already left the program;
- (I) mandatory reporting of child abuse;
- (J) meals and snacks including days when children are on field trips; and
- (K) discipline policy.

(b) **Personnel policy.** When there are more than four staff persons, the program is required to provide written personnel policy to staff that includes:

- (1) job responsibilities, qualifications, and lines of authority; and
- (2) staff performance evaluation and termination procedure.

340:110-3-237. Health

(a) **Cleanliness.** Requirements pertaining to cleanliness are listed in this subsection.

- (1) Caregivers thoroughly wash their hands with soap and warm, running water:
 - (A) before handling food;
 - (B) before feeding children or eating;
 - (C) after touching or cleaning up body fluids; and
 - (D) after handling or feeding pets.
- (2) Children are encouraged to wash their hands with soap and water before eating and after toileting, handling pets, playing outdoors, or playing in sand or water.
- (3) A child's wet or soiled clothing is changed immediately and discreetly, privacy is provided, and a supply of clean clothing is available.
- (4) Each toilet article, for example, wash cloth, towel, comb, and toothbrush, is individually assigned and stored and is not used jointly by or on children.
- (5) When a child with special needs is in diapers, arrangements are made for sanitary diaper changing, hand-washing, and privacy.

(b) **Health records.** Upon admission of a child, parents are required to submit:

- (1) the child's immunization record; and
- (2) current information regarding any special health needs of the child, with the name of the child's physician.

(c) **Immunizations.** Children have, or are in the process of obtaining, all required immunizations at the medically appropriate time. When a child is accepted for whom an exemption is claimed, documentation of the exemption is kept on file at the program.

(d) **Disease control.** At the time of enrollment, parents are informed of the program's policy regarding children who are ill.

(1) Each child is carefully observed by staff members for symptoms of illness or infestation.

(2) Any child showing symptoms of illness or infestation is separated from the group and the child's parent or physician is notified as needed.

(3) The local or state health department is notified upon discovery of any case of hepatitis, meningitis, Shigellosis, Giardiasis, measles, rubella, whooping cough, tuberculosis, or any Haemophilus influenzae invasive disease in any person associated with the program. If a program has concerns about the health of a child, the local or state health department may be contacted.

(4) Cots, bedding, and play equipment are cleaned and sanitized after use by an ill child.

(5) Disposable, nonporous gloves are used to clean up blood, vomit, or body fluids that may contain blood. Disposable gloves are discarded in a closed container immediately after use, and staff wash their hands.

(6) A commercial disinfectant or a bleach solution of one tablespoon of bleach to one gallon of water, made fresh daily, is used to disinfect surfaces when needed.

(7) Parents are notified as soon as possible of children's exposure to a contagious illness or infestation.

(8) Staff with symptoms of a communicable disease or illness are not permitted in the program.

(e) **Medication.** The requirements pertaining to administering medication are contained in this subsection.

(1) The parent signs an authorization for program staff to administer each medication. Directions are recorded for the proper amount or dosage, including time and days medication is to be administered.

(2) If a child has a chronic medical problem, the parent may sign a medication authorization for up to a nine-month period for prescribed medication to be administered when symptoms occur. Parents are notified when medication is administered.

(3) Prescription medication is not administered unless the medication is part of a prescribed therapeutic treatment.

(4) Medication is provided by the parent in the original container and labeled with the child's full name.

(5) Staff administers medication according to the label directions and only to the child for whom it is intended.

(6) To avoid duplication, each dosage administered is recorded by designated staff, and the records are readily available to parents.

(7) All medications are inaccessible to children and stored in a manner that prevents contamination of food.

(8) Medication is either returned to the parent or disposed of properly when it is out-of-date or the child has withdrawn from the program.

(f) **Injuries.** The program:

(1) contacts poison control with any suspected child poisonings;

(2) notifies parents as soon as possible of any known cuts, burns, animal bites, or injuries that may need evaluation by a physician; and

Emergency Adoptions

- (23) maintains a log or report of all injuries that occur at the program.
- (g) **Emergency procedures.** A written emergency procedure for severe injury or acute illness is prominently displayed at the program. The emergency procedure includes:
- (1) administration of first aid and location of the first aid kit;
 - (2) name and telephone number of the emergency service, physician, or clinic;
 - (3) notification of the parent; and
 - (4) notification of Licensing Services regarding the death of a child or any injury to a child that requires emergency medical attention that occurred while the child was in care, in accordance with OAC 340:110-3-223(c)(3)(G) and (H).
- (h) **First aid kits.** Readily available first aid kits are maintained at the program and taken on each field trip.
- (1) Each kit is a closed container for storing first aid supplies which is accessible to staff at all times but inaccessible to children.
 - (2) First aid kits are restocked as needed.
 - (3) At a minimum the first aid kit contains:
 - (A) disposable nonporous gloves;
 - (B) blunt-tipped scissors;
 - (C) tweezers;
 - (D) a thermometer;
 - (E) bandage tape;
 - (F) sterile gauze pads;
 - (G) rolled flexible or stretch gauze;
 - (H) non-medicated adhesive strips; and
 - (I) current standard first aid text or equivalent first aid guide.
 - (4) First aid kits taken on field trips also include:
 - (A) liquid soap and water or individually packages towelettes;
 - (B) pen or pencil and note pad;
 - (C) cold pack;
 - (D) coins for use in a pay phone; and
 - (E) the poison control center's telephone number, 1-800-222-1222.

[OAR Docket #07-1359; filed 8-21-07]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

[OAR Docket #07-1360]

RULEMAKING ACTION: EMERGENCY adoption

RULES:

- Subchapter 7. Retirement Benefits
590:10-7-13. Filing for retirement and Initial retirement benefit [AMENDED]
Subchapter 19. Medicare Gap Benefit Option
590:10-19-2. Definitions [AMENDED]
590:10-19-3. Medicare Gap Benefit option [AMENDED]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. §§901, 909 and 910

DATES:

July 19, 2007

Adoption:

July 19, 2007

Approved by Governor:

August 16, 2007

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Agency finds that an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule, amendment, revision, or revocation of an existing rule. This emergency rule is necessary as a result of recently enacted legislation in Enrolled Senate Bill 1112 from the 1st Session of the 51st Oklahoma Legislature, amending 74 O.S. § 914 and 915.3. The statutory amendment to § 914, which became effective July 1, 2007, permits the Executive Director to grant waivers of the required 60-day notice of retirement for good cause shown as defined by the Board of Trustees. Previously, only the Board of Trustees had authority to grant such waivers. Members of OPERS requesting waivers of the 60-day notice after July 1, 2007, will be immediately affected by this statutory amendment. The amendment to § 915.3, which became effective July 1, 2007, modifies the date a retiree's benefit reduction begins if the Medicare Gap Benefit Option was selected by the member. The new amendment affects any retiree selecting the Medicare Gap Benefit Option on or after July 1, 2007.

ANALYSIS:

The amendment to 590:10-7-13 authorizes the Executive Director to accept or deny an application for waiver of the 60-day notice requirement. Upon the request of the member, any denial of the waiver by the Executive Director may be reviewed by the Board of Trustees. The amendment also modifies the grounds for a waiver to include unexpected changes in job status. The amendment to 590:10-19-2 modifies the definitions under the Medicare Gap Benefit Option to reflect the change in the time periods the Medicare Gap Benefit Option increases the retirement benefit and decreases the retirement benefit. The amendment also clarifies the date of the Option Effective Date. The amendment to 590:10-19-3 sets forth and clarifies the rules as they apply to members who elected the Medicare Gap Benefit Option prior to July 1, 2007, and those members selecting the benefit option on or after July 1, 2007.

CONTACT PERSON:

Joseph A. Fox (405) 858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-13. Filing for retirement and Initial retirement benefit

- (a) It is the responsibility of all members to file a notice of retirement form with the System at least sixty (60) days but not more than one hundred eighty (180) days prior to the member's requested effective retirement date. Any member who has previously filed an application for vested benefit form will be considered to have met the sixty (60) day notice requirement;

however, it is the responsibility of any such vested member to file a retirement form selecting the type of benefit to be paid prior to the member's requested retirement date. All retirement forms shall be prescribed, produced and approved by the System in order to constitute proper notice and retirement selection.

(b) The sixty (60) day notice requirement can be waived by application to the ~~Board of Trustees~~ Executive Director. The application for waiver must state the reason for the request and the decision to grant or deny the waiver is at the sole discretion of the Board shall be made by the Executive Director. Upon request of the member, the Board may review at its next regular meeting any denial of a waiver by the Executive Director. Members are presumed to be familiar with the plan provisions and aware of the notice requirement and the ~~Board~~ Executive Director will grant the waiver only for good cause shown. Good cause is generally shown in cases of an unforeseen hardship, such as illness of the member or a member's family or a reduction in force, ~~or~~ layoff of employment, or other unexpected change in job status. Good cause is also generally shown in cases of error or delay on the part of the employer and the error or delay is due to no fault of the member.

(c) No retirement benefits are payable until the System verifies that the member has been removed from the payroll; therefore, the initial retirement benefit payment to new retirees shall be made at the end of the month following the month of retirement. Two benefit payments will be made at that time representing the month of retirement and the current month. Following this initial verification period, retirement benefits will be payable each month on the last day of that month.

(d) No retirement benefits shall be payable until the System receives a properly completed retirement form requesting such benefits. Unless otherwise specifically provided by law or by these rules, no benefits shall be payable retroactively for any time period prior to receiving the member's properly completed retirement form regardless of when the member may have become eligible for such benefits. The requested retirement date of the member shall be made in accordance with the requirements of this section.

SUBCHAPTER 19. MEDICARE GAP BENEFIT OPTION

590:10-19-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Board" means the Board of Trustees for the Oklahoma Public Employees Retirement System.

"Eligible Member" means a member of the System who retires on or after the Option Effective Date and who is not Medicare-eligible at the time of retirement, except as otherwise provided in this Subchapter.

"Medicare Gap Benefit" means an adjusted retirement benefit which is greater than the member's Regular Retirement

Benefit for months of payments prior to ~~becoming and including the month the member becomes~~ Medicare-eligible and an actuarially reduced benefit which is less than the member's Regular Retirement Benefit for months of payments after becoming Medicare-eligible and for the remaining lifetime of the member.

"Medicare Gap Benefit Election" means an irrevocable election made by an Eligible Member prior to his or her effective date of retirement to receive the alternative benefit option payable pursuant to this Subchapter.

"Medicare-eligible" means age 65 or older, or such other age at which a member becomes eligible for Medicare benefits under federal law in effect at the time a member applies for an OPERS retirement benefit. For purposes of this Subchapter, age is calculated as of the first day of the month of birth. For example, a member born September 15, 1940, is considered to be 65 and Medicare-eligible on or after September 1, 2005.

"Minimum Medicare Gap Benefit" means a gross monthly benefit payment of \$200.00 per month after all applicable actuarial reductions for either the Pre-Medicare benefit or the Post Medicare benefit.

"Option Effective Date" means May 1, 2006, which is the date when the System made the Medicare Gap Benefit option available to Eligible Members.

"Post Medicare Benefit" means the actuarially reduced monthly benefit payment for all months of retirement after the member becomes Medicare-eligible.

"Pre-Medicare Benefit" means the increased monthly benefit payment for all months of retirement prior to and including the month the member ~~becoming becomes~~ Medicare-eligible.

"Pre-Medicare Increase" means the amount added to the Regular Retirement Benefit to equal the Pre-Medicare Benefit.

"Regular Retirement Benefit" means the monthly retirement benefit that the Eligible Member would receive absent the Medicare Gap Benefit Election, which includes the actuarial adjustments as a result of the member's election of early retirement and/or survivor benefit options. It does not include amounts refunded of additional contributions paid to a member in the form of a limited retirement benefit under 74 O.S. § 910.5.

"System" or "OPERS" means the Oklahoma Public Employees Retirement System.

590:10-19-3. Medicare Gap Benefit option

(a) An alternate retirement benefit option is available to members of the Oklahoma Public Employees Retirement System provided an election form is properly completed and filed with the System after the Option Effective Date and prior to the member's effective retirement date. This alternate benefit option shall be called the Medicare Gap Benefit option. The Medicare Gap Benefit option is intended to permit certain members of the System to elect to receive an increased retirement benefit amount to help cover the cost of the health insurance premiums prior to the time that the member becomes Medicare-eligible, however, the Medicare Gap Benefit may not equal or cover the entire cost of the member's actual health insurance premiums.

Emergency Adoptions

(b) As a result of the passage of Section 2 of Enrolled Senate Bill 1112 from the 1st Session of the 51st Oklahoma Legislature (2007), members electing the Medicare Gap Benefit Option with a retirement effective date on or after July 1, 2007, shall have the Medicare Gap Benefit determined in accordance with these rules.

(c) Despite any provision to the contrary, all members who made the Medicare Gap Benefit Election with a retirement effective date from May 1, 2006, the Option Effective Date, through June 30, 2007, Medicare Gap Benefit means an adjusted retirement benefit which is greater than the member's

Regular Retirement Benefit beginning with the first retirement benefit payment through December of the year the member becomes Medicare-eligible. Beginning in January of the year following such year that the member becomes Medicare-eligible, the retirement benefit will be actuarially reduced making the member's benefit less than the Regular Retirement Benefit for the remaining lifetime of the member.

[OAR Docket #07-1360; filed 8-21-07]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2007-30.

EXECUTIVE ORDER 2007-30

I, Brad Henry, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby establish the Governor's Task Force on Children and Oral Health.

The purpose of the Task Force shall be to study the existing state, federal, and private sector funded programs that address the health of children, youth, and families to avoid duplication of effort and resources. Additionally, the Task Force shall determine ways to infuse oral health education, dental care, and dental disease prevention into these existing programs. The Task Force shall also make recommendations regarding the need for new programs and develop a State Oral Health Plan. Finally, the Task Force shall specifically address programs for children and youth as well as those with special health care needs.

The Task Force shall consist of twenty-one (21) members to be selected as follows:

1. The Secretary for Human Services or a designee;
2. The State Commissioner of Health or a designee;
3. The Executive Director of the Oklahoma Department of Environmental Quality or a designee;
4. Two members of the House of Representatives, appointed by the Speaker;
5. Two members of the Senate, appointed by the President Pro Tempore and the Co-President Pro Tempore;

The following members shall be appointed by and serve at the pleasure of the Governor:

6. Four members who shall represent entities associated with the dental industry;
7. A representative from the Oklahoma Commission on Children and Youth;

8. A person with special knowledge on children with special needs;

9. A representative from the Oklahoma Health Care Authority specializing in dentistry;

10. Two pediatric dentists;

11. A public health dentist;

12. A private dental practice hygienist;

13. A public health dental hygienist;

14. A representative from one of the Federally recognized Native American Tribes; and

15. A pediatrician representing an entity in the medical community.

The Task Force shall meet at such times and places as it deems appropriate. Members shall serve without compensation. Task Force members employed by a state agency shall be reimbursed travel expenses related to their service on the Task Force as authorized by state law by their respective state agency. Legislative members of the Task Force shall be reimbursed as authorized by state law by their respective houses for necessary travel expenses incurred in the performance of their duties. Remaining Task Force members shall be reimbursed travel expenses related to their service on the Task Force by the Oklahoma Board of Dentistry.

Administrative support for the Task Force, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force, shall be provided by the Oklahoma Board of Dentistry.

The Task Force shall elect a chair and vice chair from its membership. The Task Force shall complete a final report within two (2) years of the date of this Order. The Task Force shall provide a copy of the final report to the Governor, the President Pro Tempore and the Co-President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives.

This Executive Order shall be forwarded to the Executive Director of the Oklahoma Board of Dentistry who shall cause the provisions of this order to be implemented.

Executive Orders

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 22 day of August, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #07-1373; filed 8-24-07]

1:2007-33.

EXECUTIVE ORDER 2007-33

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, and by Section 7 of Chapter 1 of Title 4 of the United States Code, hereby declare the following:

Due to a recent change in federal law, it is appropriate that the flag of the United States of America and the flag of the State of Oklahoma be flown at half staff throughout the State of Oklahoma to honor Oklahoma citizens killed while serving in the line of active duty in the United States Armed Forces. It is imperative that we honor and remember these brave men and women who have made the ultimate sacrifice in the defense of freedom and the ideals on which this great nation was founded.

I hereby direct the appropriate steps to be taken to fly the flag of the United States of America and the flag of the State of Oklahoma at half staff throughout the State of Oklahoma from 8 a.m. to 5 p.m. on the date of interment for Oklahoma citizens killed while on active duty while serving as a member of the Oklahoma National Guard, the Oklahoma Air National Guard or the United States Armed Forces, as certified by the Oklahoma Military Department.

Like all Oklahomans, I grieve for those who have lost their lives in defense of the United States. Their memory and legacy serve as an inspiration as well as a tragic reminder of the real dangers that threaten us all.

This executive order shall be forwarded to the Oklahoma Military Department and the Director of the Department of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 16 day of August 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #07-1357; filed 8-17-07]

1:2007-34.

EXECUTIVE ORDER 2007-34

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Wednesday, August 22, 2007, to honor Sergeant First Class Jeffrey D. Kettle an Oklahoma resident, who died on Sunday, August 12, 2007, at age 31 while serving in Afghanistan.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 20 day of August, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #07-1361; filed 8-21-07]

1:2007-35.

EXECUTIVE ORDER 2007-35

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Saturday, August 25, 2007, to honor Staff Sergeant William Scates an Oklahoma resident, who died on Saturday, August 11, 2007, at age 31.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 20 day of August, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #07-1362; filed 8-21-07]

1:2007-36.

EXECUTIVE ORDER 2007-36

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. Tornadoes, severe storms and flooding beginning August 18, 2007, and continuing, have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this State.

2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a disaster emergency caused by the tornadoes, severe storms, and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety. The counties included in this declaration are:

Blaine, Caddo, Canadian, Cleveland, Comanche, Cotton, Custer, Dewey, Grady, Jefferson, Kingfisher, Kiowa, Lincoln, Logan, McClain, Muskogee, Okfuskee, Oklahoma, Okmulgee, Pontotoc, Pottawatomie, Seminole, Stephens, and Washita.

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 20 day of August, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #07-1363; filed 8-21-07]

