

Chapter 657A

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Child Care

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CHILD CARE DIVISION

657A.010 Child Care Division; Child Care Fund. (1) There is established within the Employment Department a Child Care Division. The Child Care Division, as designated by the Governor, shall be responsible for administering funds received by the State of Oregon pursuant to the federal Child Care and Development Block Grant Act of 1990,

the Dependent Care Planning and Development Grant and other federal child care funds and grants received by the State of Oregon.

(2) There is established in the State Treasury, separate and distinct from the General Fund, the Child Care Fund. Such fund shall consist of moneys collected and received by the Child Care Division pursuant to subsection (1) of this section, ORS 657A.310, and such moneys as may be otherwise made available by law. Interest earned on the fund shall be credited to the fund. The moneys in the Child Care Fund are appropriated continuously to the Child Care Division and shall be used in a manner consistent with the grant of funds or for the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450. [Formerly part of 657.601; 1995 c.37 s.7; 1997 c.431 s.6; 1997 c.753 s.3]

657A.020 Duties of division. (1) The Child Care Division staff shall provide technical assistance, linkage of local agencies, data collection and monitoring.

(2) The Child Care Division shall continually monitor and disseminate information about federal and charitable programs for the purposes of ORS 657A.100 to 657A.190. [Formerly 418.361]

657A.030 Criminal History Registry; establishment; enrollment; enrollment required for employment. (1) The Child Care Division of the Employment Department shall establish a Criminal History Registry.

(2) All subject individuals shall be enrolled in the Criminal History Registry established by the division.

(3) Upon receiving an application for enrollment in the Criminal History Registry, the division shall complete a criminal records check pursuant to ORS 181.537 and shall complete a child protective services records check with the State Office for Services to Children and Families. The division shall enroll the individual in the registry if the individual:

(a) Is determined to have no criminal or child protective services history or to have dealt with the issues and provided adequate evidence of suitability for the registry;

(b) Has paid the applicable fee established pursuant to ORS 657A.275; and

(c) Has complied with the rules of the division adopted pursuant to this section.

(4) The division may conditionally enroll an individual in the registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has met other requirements of the division for enrollment in the registry.

(5) An enrollment in the Criminal History Registry shall expire two years from the date of enrollment and may be renewed upon application to the division, payment of the fee established pursuant to ORS 657A.275 and compliance with rules adopted by the division pursuant to this section. However, an individual who is determined to be ineligible for enrollment in the registry after the date of initial enrollment shall be removed from the registry by the division.

(6)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled in the Criminal History Registry.

(b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a probationary basis an individual who is conditionally enrolled in the Criminal History Registry.

(7) The division may adopt any rules necessary to carry out the purposes of this section and the criminal records check program.

(8) For purposes of this section, "subject individual" means a subject individual as defined by the division by rule or a person who applies to be:

(a) The operator or an employee of a child care or treatment program;

(b) The operator or an employee of an Oregon prekindergarten program or parent-as-teacher program under ORS 329.170 to 329.200;

(c) The operator or an employee of a federal Head Start program regulated by the United States Department of Health and Human Services;

(d) An individual in a child care facility who may have unsupervised contact with children as identified by the division;

(e) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534; or

(f) A child care provider who is required to be enrolled in the Criminal History Registry by any state agency. [1997 c.431 s.2; 1997 c.753 s.18]

657A.050 [1993 c.733 s.3; 1995 c.278 s.1; repealed by 1997 c.431 s.18 and 1997 c.753 s.20]

RESOURCE AND REFERRAL PROGRAMS

657A.100 Definition for ORS 657A.100 to 657A.190. As used in ORS 657A.100 to 657A.190 “resource and referral agencies” means agencies with programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of child care. [Formerly 418.342; 1995 c.278 s.3]

657A.110 Policy. The Legislative Assembly believes that:

(1) Child care resource and referral programs involving a statewide network of local resource and referral agencies coordinated centrally are essential to long-range solutions to the child care crisis. Services may be both public and private ventures, which meet the needs of diverse audiences including, but not limited to:

- (a) Parents for consumer education to find, select and maintain quality child care;
- (b) Providers for access to training and consultation;
- (c) Employers for cost-effective solutions to meet the needs of their workforce;
- (d) Communities to plan effectively for improvements to the system; and
- (e) The state for the need of a productive workforce.

(2) The state has an essential role in solving the child care crisis by becoming a stable partner with parents, local communities, employers and private contributors in developing solid child care resource and referral agencies for all citizens. [Formerly 418.344]

657A.120 Services by resource and referral agencies. Services offered by resource and referral agencies shall include but are not limited to assistance for:

- (1) Parents in locating available and appropriate child care, including counseling on how to choose a quality arrangement and sources of subsidies for low income families;
- (2) Parents in locating child care during nontraditional work hours;
- (3) Parents of handicapped children in locating available and appropriate child care and respite care services;
- (4) Parents in locating child care for ill children;
- (5) Providers of child care programs in acquiring clients for their services;
- (6) Providers of child care programs in upgrading the quality of services offered and business operation;
- (7) Communities in assessing and recruiting for underserved needs; and
- (8) Employers in providing assistance to employees in locating or providing child care. [Formerly 418.346; 1995 c.278 s.4]

657A.130 Resource and referral agency requirements. Each resource and referral agency shall establish a referral process, maintain a record file of existing child care facilities in the designated area, maintain documentation of requests, provide consultation to parents and provide technical assistance to providers of child care. [Formerly 418.348]

657A.140 Referrals to certified child care facilities; access requirements. (1) Resource and referral agencies shall make referrals to certified child care facilities. Referrals shall be made to uncertified child care facilities only if there is no requirement that the facility be certified.

(2) The referral process shall:

(a) Afford parents maximum access to all referral information. Access shall include, but is not limited to, telephone referrals to be made available for at least 20 hours per week of operation, including nontraditional hours.

(b) Make every effort to be accessible to all parents within the defined geographic area, including but not limited to any of the following:

- (A) Toll-free telephone lines;
- (B) Office space convenient to parents and providers; and
- (C) Referrals in languages which are spoken in the community.

(3) Each child care resource and referral agency shall publicize its services through available sources, agencies and other appropriate methods. [Formerly 418.350]

657A.150 Resource files; content. (1) A resource file shall be maintained by resource and referral agencies to identify the full range of existing child care services through information provided by all relevant public and private agencies in the areas of service and through the development of a resource file of those services which shall be maintained and updated at least annually.

(2) The resource file shall include, but not be limited to, the following information:

- (a) Type of program;
- (b) Hours of service;
- (c) Ages of children served;
- (d) Fees and eligibility for services; and
- (e) Significant program information. [Formerly 418.352]

657A.160 Documentation of requests for service. (1) Resource and referral agencies shall maintain documentation of requests for service. The following documentation of requests shall be maintained by resource and referral agencies:

- (a) Number and time of calls and contacts to the child care resource and referral agency;
- (b) Ages of children for whom care is requested;
- (c) Time category of child care requested for each child;
- (d) Special time category, such as nights, weekends and swing shift; and
- (e) The reason child care is needed.

(2) The information shall be maintained in such a manner that it is easily accessible for dissemination and evaluation purposes. [Formerly 418.354]

657A.170 Technical assistance to providers of child care services. (1) Resource and referral agencies shall provide technical assistance, with input from providers, to existing and potential providers of all types of child care services. Assistance shall include, but not be limited to, the following:

- (a) Information on initiating new child care services, including but not limited to licensing, zoning, program and budget development and assistance in finding information from other such sources;
- (b) Information and resources which shall help existing child care services providers to maximize their ability to serve the children and parents of the community; and
- (c) Facilitation of communication between existing child care and child-related services providers in the community served.

(2) Services prescribed by this section shall be provided in order to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources. [Formerly 418.356]

657A.180 Advisory committee; members; duties. (1) There is created an advisory committee to advise the Child Care Division on the development and administration of child care resource and referral policies and practices. The advisory committee shall include but not be limited to three members of the Commission for Child Care. The Child Care Division shall, in consultation with the advisory committee, establish criteria for proposals, prepare requests for proposals, receive proposals and award grants for the establishment of resource and referral programs.

(2) The Child Care Division shall collect and report data concerning resource and referral programs.

(3) The local agencies shall match grant funds with an equal amount of financial support, including but not limited to in-kind contributions.

(4) As used in this section, "in-kind contributions" means nonmonetary contributions which include but are not limited to:

- (a) Provision of rent-free program space;
- (b) Provision of utilities;
- (c) Provision of custodial services;
- (d) Provision of secretarial services;
- (e) Provision of liability insurance or health insurance benefits;
- (f) Administrative services; and
- (g) Transportation services. [Formerly 418.358; 1995 c.278 s.5]

657A.190 Criteria for renewal of program; reallocation of funds. (1) The criteria for the renewal of a resource and referral program shall include the following:

(a) Current and continuous satisfactory performance as a resource and referral agency providing the full range of services required by ORS 657A.100 to 657A.190.

(b) Full fiscal and program compliance with contract requirements established by the Child Care Division.

(c) Cost effectiveness.

(d) Extent and quality of service to the community.

(2) The division shall reallocate any funds made available through nonrenewal of a contract for resource and referral programs.

(3) Satisfactory contract performance by a resource and referral agency shall be a condition for the renewal of that contract in the subsequent fiscal year. [Formerly 418.363; 1995 c.278 s.6]

CHILD CARE FACILITIES

(Generally)

657A.250 Definitions for ORS 657A.030 and 657A.250 to 657A.450. As used in ORS 657A.030 and 657A.250 to 657A.450, unless the context requires otherwise:

(1) "Babysitter" means a person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

(2) "Certification" means the certification that is issued by the Child Care Division to a group child care home, child care center or other child care facility pursuant to ORS 657A.280.

(3) "Child" means a child under 13 years of age.

(4) Subject to ORS 657A.440, "child care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child's home, with or without compensation. "Child care" does not include care provided:

(a) In the home of the child;

(b) By the child's parent, guardian, or person acting in loco parentis;

(c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;

(d) On an occasional basis by a person not ordinarily engaged in providing child care;

(e) By providers of medical services;

(f) By a babysitter;

(g) By a person who cares for children from only one family other than the person's own family; or

(h) By a person who cares for no more than three children other than the person's own children.

(5) "Child care facility" means any facility that provides child care to children, including a day nursery, nursery school group, group child care home, child care center, family child care home or similar unit operating under any name, but not including any:

(a) Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day.

(b) Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion.

(c) Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

(d) Facility operated by a school district as defined in ORS 332.002, political subdivision of this state or a governmental agency.

(e) Residential facility licensed under ORS 443.400 to 443.455.

(f) Babysitters.

(6) "Division" means the Child Care Division of the Employment Department.

(7) "Family" has the meaning given that term in ORS 329.145.

(8) "Occasional" means that care is provided for no more than 70 days in any calendar year.

(9) "Registration" means the registration that is issued by the Child Care Division to a family child care home where care is provided in the family living quarters of the provider's home pursuant to ORS 657A.330.

(10) "School age" means of an age eligible to be enrolled in the first grade or above and, during the months of summer vacation from school, means of an age eligible to be enrolled in first grade or above in the next school year. [Formerly 418.805; 1995 c.278 s.8; 1997 c.431 s.7; 1997 c.753 s.4; 1999 c.743 s.1]

657A.260 Minimum standards for child care facilities. (1) After consultation with appropriate agencies and interested persons, the Child Care Division by rule shall establish minimum standards for child care facilities and the operation thereof and for the administration of ORS 657A.030 and 657A.250 to 657A.450.

(2) In establishing minimum standards of health and safety, the division shall consult with the Health Division and the State Fire Marshal and shall give consideration to their recommendations and to all basic requirements for the protection of the children to receive child care, including the criteria prescribed in ORS 657A.290, and may adopt rules applicable to different categories of child care facilities, considering:

- (a) The numbers and ages of the children to receive care in the child care facility.
- (b) The number, experience and training of the staff of the child care facility.
- (c) The types and qualities of equipment and other factors in the physical plant of the child care facility.
- (d) Any other factor affecting the care provided in the child care facility. [Formerly 418.820; 1995 c.278 s.9; 1997 c.431 s.8; 1997 c.753 s.5]

657A.270 Renewal procedure for certification or registration. (1) A certification or registration authorized by ORS 657A.030 and 657A.250 to 657A.450 and issued to a child care facility may be renewed upon submission of an application and payment of the required fee not later than 30 days prior to the expiration date of the current certification or registration, if the Child Care Division of the Employment Department finds that the child care facility that is seeking renewal of the certification or registration is in compliance with the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant thereto.

(2) Upon submission of an application for renewal in proper time, manner and form, and payment of the required fee, the current certification or registration, unless officially revoked, shall remain in force until the Child Care Division has acted on the application for renewal and has given notice of the action taken. [Formerly 418.835; 1995 c.278 s.10; 1997 c.431 s.9; 1997 c.753 s.6; 1999 c.382 ss.6,7]

657A.275 Fees; approval; report; limitations. (1) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Legislative Assembly prior to adopting the fees and charges, the fees and charges established under ORS 181.537, 657A.030 and 657A.250 to 657A.450 shall not exceed the cost of administering the program of the Child Care Division of the Employment Department pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the division.

(2) Notwithstanding subsection (1) of this section and any other provision of this chapter, the following fees established by the division under ORS 657A.030 and 657A.250 to 657A.450 shall not exceed:

- (a) For Group Child Care Home Initial Certification, \$25;
- (b) For Group Child Care Home Annual Fee Per Certified Space, \$2;
- (c) For Child Care Center Initial Certification, \$100;
- (d) For Child Care Center Annual Fee Per Certified Space, \$2;
- (e) For Family Child Care Home Initial Registration, \$30;
- (f) For administering a class on child care abuse and neglect issues, \$10; and
- (g) For enrollment in the Criminal History Registry, the cost of administering the program, including fees for:
 - (A) Duplicate enrollment in the Criminal History Registry;
 - (B) Law Enforcement Data System criminal records check; and
 - (C) Federal Bureau of Investigation fingerprint check. [1995 c.647 s.2; 1997 c.431 s.5; 1997 c.753 s.7; 1999 c.382 s.5; 1999 c.743 s.3]

(Certification)

657A.280 When certification required; content of rules. (1) No person shall operate a child care facility caring for seven or more children without a certification for such facility from the Child Care Division.

(2) The Child Care Division shall adopt rules for the certification of a group child care home caring for not more than 12 children. The rules shall be specifically adopted for the regulation of certified child care facilities operated in a facility constructed as a single-family dwelling. Notwithstanding fire and other safety regulations, the rules that the Child Care Division adopts for certified child care facilities shall set standards that can be met without significant architectural modification of a typical home. In adopting the rules, the Child Care Division may consider and set limits according to factors including the age of children in care, the ambulatory ability of children in care, the number of the provider's children present, the length of time a particular child is continuously cared for and the total amount of time a

particular child is cared for within a given unit of time.

(3) In addition to rules adopted for and applied to child care facilities providing child care for not more than 12 children, the Child Care Division shall adopt and apply separate rules appropriate for any child care facility that is a child care center that cares for more than 12 children.

(4) Any person seeking to operate a child care facility may apply for a certification for such facility from the Child Care Division, and receive a certification upon meeting certification requirements. [Formerly 418.810; 1995 c.278 s.11; 1999 c.743 s.4]

657A.290 Qualifications of applicant for certification. A person applying for a certification for a child care facility shall demonstrate to the satisfaction of the Child Care Division that:

(1) The moral character and habits of the person will not endanger the well-being of children for whom the person is to provide care.

(2) The attitude of the person toward children and understanding of their needs qualify the person to care for children.

(3) The person is physically and mentally capable of caring for children.

(4) The facility and its operation are adequate to protect the health, the safety and the physical, moral and mental well-being of the children to be cared for in the facility, including but not limited to:

(a) Adequate staffing by suitable persons qualified by education or experience to meet their respective responsibilities in the care of children.

(b) Adequate physical facilities for the care of children, such as building construction, sanitation, plumbing, heating, lighting, ventilation, maintenance, indoor and outdoor activity areas and fire protection.

(c) A program of activities conforming to recognized practices in the areas of child welfare, education and physical and mental health to provide opportunity for development and recreation.

(d) Exclusion from the facility of individuals whose presence may be detrimental to the welfare of children, including exclusion of any individual with a criminal record indicating conviction of any crime which would bar the individual from operating or being employed in a child care facility under ORS 657A.260. [Formerly 418.815; 1995 c.278 s.12; 1999 c.743 s.6]

657A.300 Issuance of certification; temporary certification; division's duties under federal programs. (1) Upon receipt of an application for a certification, accompanied by the required fee, the Child Care Division shall issue a certification if the division finds that the child care facility and its operations are in compliance with the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant thereto.

(2) The Child Care Division may issue a temporary certification, subject to reasonable terms and conditions, for a period not longer than 180 days to a child care facility that does not comply with the requirements and rules if the division finds that the health and safety of any child will not be endangered thereby. Not more than one temporary certification shall be issued for the same child care facility in any 12-month period.

(3) The Child Care Division shall serve as the state agency authorized, upon request, to certify compliance with applicable federal child care standards or requirements by any facility providing child care in the state. [Formerly 418.825; 1995 c.278 s.13; 1997 c.431 s.10; 1997 c.753 s.8; 1999 c.743 s.7]

657A.310 Application; fees; use; certification applies only to premises and applicant; expiration date. (1) Application for a certification or for the annual renewal thereof shall be made to the Child Care Division on forms provided by the division and accompanied by a nonrefundable fee. The fee shall vary according to the type of facility and the number of children for which the facility is requesting to be certified, and shall be determined and applied through rules adopted by the division pursuant to ORS 657A.275.

(2) All fees received under subsection (1) of this section shall be deposited in the Child Care Fund established under ORS 657A.010 (2) and may be used for the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450.

(3) Any certification issued pursuant to ORS 657A.030 and 657A.250 to 657A.450 authorizes operation of the facility only on the premises described in the certification and only by the person named in the certification.

(4) Unless sooner revoked, a temporary certification expires on the date specified therein. Unless sooner revoked and except as provided in ORS 657A.270 (2), an annual certification expires one year from the date of issuance. [Formerly 418.830; 1995 c.647 s.3; 1997 c.431 s.11; 1997 c.753 s.9; 1999 c.743 s.8]

(Registration)

657A.330 Registration requirements; fee; waiver; renewal; rules; work sheet; civil penalty; exceptions. (1) A provider operating a family child care home where care is provided in the family living quarters of the provider's home that is not subject to the certification requirements of ORS 657A.280 may not operate a child care facility without registering with the Child Care Division of the Employment Department.

(2) A child care facility holding a registration may care for a maximum of 10 children younger than 13 years of age, including the provider's own children. Of the 10 children:

- (a) No more than six may be younger than school age; and
- (b) No more than two may be 24 months of age or younger.

(3)(a) To obtain a registration, a provider must apply to the Child Care Division by submitting a completed application work sheet and a nonrefundable fee. The fee shall vary according to the number of children for which the facility is requesting to be registered, and shall be determined and applied through rules adopted by the division pursuant to ORS 657A.275. The fee shall be deposited as provided in ORS 657A.310 (2). The division may waive any or all of the fee if the division determines that imposition of the fee would impose a hardship on the provider.

(b) Upon receipt of an initial application satisfactory to the division, the division shall conduct an on-site review of the child care facility under this section. The on-site review shall be conducted within 30 days of the receipt of a satisfactory application.

(4) The division shall issue a registration to a provider operating a family child care home if:

- (a) The provider has completed a child care overview class administered by the division;
- (b) The provider has completed two hours of training on child abuse and neglect issues;
- (c) The provider is currently certified in infant and child first aid and cardiopulmonary resuscitation;
- (d) The provider is certified as a food handler pursuant to ORS 624.570; and
- (e) The division determines that the application meets the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant thereto, and receives a satisfactory records check, including criminal offender information and protective services records.

(5) Unless the registration is revoked as provided in ORS 657A.350, the registration is valid for a period of two years from the date of issuance. The division may renew a registration of a provider operating a family child care home if the provider:

- (a) Is currently certified in infant and child first aid and cardiopulmonary resuscitation;
- (b) Has completed a minimum of eight hours of training related to child care during the most recent certification period; and
- (c) Is certified as a food handler pursuant to ORS 624.570.

(6) A registration authorizes operation of the facility only on the premises described in the registration and only by the person named in the registration.

(7) The division shall adopt rules:

- (a) Creating the application work sheet required under subsection (3) of this section;
- (b) Defining full-time and part-time care;
- (c) Establishing under what circumstances the adult to child ratio requirements may be temporarily waived; and
- (d) Establishing health and safety procedures and standards on:
 - (A) The number and type of toilets and sinks available to children;
 - (B) Availability of steps or blocks for use by children;
 - (C) Room temperature;
 - (D) Lighting of rooms occupied by children;
 - (E) Glass panels on doors;
 - (F) Condition of floors;
 - (G) Availability of emergency telephone numbers; and
 - (H) Smoking.

(8) The division shall adopt the application work sheet required by subsection (3) of this section. The work sheet must include, but need not be limited to, the following:

- (a) The number and ages of the children to be cared for at the facility; and
- (b) The health and safety procedures in place and followed at the facility.

(9) The division, upon good cause shown, may waive one or more of the registration requirements. The division may waive a requirement only if appropriate conditions or safeguards are imposed to protect the welfare of the

children and the consumer interests of the parents of the children. The division may not waive the on-site review requirement for applicants applying for an initial registration.

(10) The division, by rule, shall develop a list of recommended standards consistent with standards established by professional organizations regarding child care programs for child care facilities. Compliance with the standards is not required for a registration, but the division shall encourage voluntary compliance and shall provide technical assistance to a child care facility attempting to comply with the standards. The child care facility shall distribute the list of recommended minimum standards to the parents of all children cared for at the facility.

(11) In adopting rules relating to registration, the division shall consult with the appropriate legislative committee in developing the rules to be adopted. If the rules are being adopted during a period when the Legislative Assembly is not in session, the division shall consult with the appropriate interim legislative committee.

(12) A person who violates this section is subject to a civil penalty not to exceed \$100. The Child Care Division may impose the civil penalty for violation of any of the terms or conditions of a registration. [1993 c.733 s.2; 1995 c.278 s.14; 1995 c.647 s.4; 1997 c.399 s.1; 1999 c.382 s.8; 1999 c.743 s.9]

Note: Sections 2a and 2b, chapter 382, Oregon Laws 1999, provide:

Sec. 2a. In addition to the requirements of ORS 657A.330 (5), the Child Care Division of the Employment Department may renew a registration of a provider operating a family child care home if the provider has completed two hours of training on child abuse and neglect issues. [1999 c.382 s.2a; 1999 c.382 s.9]

Sec. 2b. Section 2a of this 1999 Act is repealed October 1, 2001. [1999 c.382 s.2b]

(Discipline; Enforcement)

657A.350 Denial, revocation or suspension of certification or registration. An initial application from a child care facility for certification or registration or a renewal application from a child care facility for certification or registration may be denied, or a temporary or regular certification or regular registration may be revoked or suspended, if the Child Care Division of the Employment Department finds:

(1) That the facility or its operation does not comply with ORS 181.537, 657A.030 and 657A.250 to 657A.450 or with applicable rules or with any term or condition imposed under the certification or registration; or

(2) That visitation, on-site review or inspection of a facility or its records authorized by ORS 657A.390 or 657A.400 has not been permitted. [Formerly 418.840; 1997 c.431 s.12; 1997 c.753 s.10; 1999 c.743 s.12]

657A.360 Notice; hearing; decision; judicial review. (1) Upon deciding to deny, revoke, suspend or not to renew a certification or registration, the Child Care Division of the Employment Department shall give notice and opportunity for hearing as provided in ORS 183.310 to 183.550.

(2) The Child Care Division shall make the final decision and notice thereof shall be sent by certified mail to the address of the child care facility as shown on the records of the division. The decision of the division is reviewable by the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases. [Formerly 418.845; 1995 c.278 s.15; 1999 c.743 s.13]

657A.370 Injunction. Without the necessity of prior administrative proceedings or hearing and entry of an order or at any time during such proceedings if they have been commenced, the Child Care Division may institute proceedings to enjoin the operation of any child care facility operating in violation of ORS 181.537, 657A.030 and 657A.250 to 657A.450 or the rules promulgated pursuant thereto. [Formerly 418.870; 1995 c.278 s.16; 1997 c.431 s.13; 1997 c.753 s.11]

(Inspection)

657A.390 Inspection; right to enter premises and to inspect records; investigation. (1) Whenever an authorized representative of the Child Care Division is advised or has reason to believe that child care that is subject to regulation by the division is being provided without a certification or registration, the authorized representative may visit and conduct an on-site investigation of the premises of the facility at any reasonable time to determine whether the facility is subject to the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450.

(2) At any reasonable time, an authorized representative of the Child Care Division may conduct an on-site investigation of the premises of any certified or registered child care facility to determine whether the child care facility is in conformity with ORS 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant thereto.

(3) An authorized representative of the Child Care Division shall conduct an on-site investigation of the premises of any certified or registered child care facility or of any other child care facility that is subject to regulation by the division if the division receives a serious complaint about the child care facility. The division, by rule, shall adopt a definition for "serious complaint."

(4) Any state agency that receives a complaint about a certified or registered child care facility shall notify the Child Care Division about the complaint and any subsequent action taken by the state agency based on that complaint.

(5) The director and operator of a child care facility shall permit an authorized representative of the division to inspect records of the facility and shall furnish promptly reports and information required by the division. [Formerly 418.850; 1995 c.278 s.17; 1997 c.431 s.14; 1997 c.753 s.12; 1999 c.743 ss.14,14a]

657A.400 Duties of Health Division; sanitarian's inspection. (1) An authorized representative of the Health Division may inspect the premises of a child care facility caring for seven or more children to determine whether the facility is in conformity with applicable laws and regulations relating to health and sanitation.

(2) An authorized representative of the Health Division shall inspect any child care facility when requested to do so by the Child Care Division in accordance with arrangements under ORS 657A.420 and shall submit written findings to the Child Care Division. The Child Care Division shall not issue or renew any certification for any child care facility for which an inspection by the Health Division has been requested unless an authorized representative of the Health Division submits a written finding that the facility is in compliance with applicable laws and regulations relating to health and sanitation.

(3) A sanitarian's inspection may be performed by a private consultant so long as the consultant is registered under ORS chapter 700. [Formerly 418.855; 1995 c.79 s.334; 1995 c.278 s.18; 1999 c.743 s.15]

657A.410 When search warrant required; procedure. (1) In the event that any authorized representative of the Child Care Division, Health Division or other agency is denied access to any premises for the purpose of making an inspection in the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450, the representative shall not inspect the premises without a search warrant.

(2) Application for a search warrant to inspect the premises shall be made to any magistrate authorized to issue a warrant of arrest. The application must be supported by an affidavit filed with the magistrate showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, the statutes and rules which provide the basis for inspection, whether it is a routine or periodic inspection, an on-site review or an investigation instituted by complaint and other specific or general information concerning the premises.

(3) If the magistrate is satisfied that there is probable cause to believe that the grounds of the application exist, the magistrate shall issue the search warrant specifying the purpose and extent of the inspection, on-site review or investigation of the premises covered by the warrant. [Formerly 418.860; 1997 c.431 s.15; 1997 c.753 s.13; 1999 c.743 s.16]

657A.420 Cooperative agreements to inspect premises. The Child Care Division may enter into cooperative arrangements with the State Office for Services to Children and Families, the Health Division, the State Fire Marshal and other public agencies for the provision of services in the inspection of child care facilities in the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450. The arrangements shall designate which services shall be reimbursed and the rate and manner of reimbursement. [Formerly 418.865; 1995 c.278 s.19; 1997 c.431 s.16; 1997 c.753 s.14]

(Miscellaneous)

657A.440 Application of zoning ordinances to registered or certified child care providers. (1) A registered child care facility or certified group child care home shall be considered a residential use of property for zoning purposes. The registered child care facility or certified group child care home shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings. No city or county shall enact or enforce zoning ordinances prohibiting the use of a residential dwelling, located in an area zoned for

residential or commercial use, as a registered child care facility or certified group child care home.

(2) A city or county may impose zoning conditions on the establishment and maintenance of a registered child care facility or certified group child care home in an area zoned for residential or commercial use, provided that such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone.

(3) A county may:

(a) Allow a registered child care facility or certified group child care home in an existing dwelling in any area zoned for farm use, including an exclusive farm use zone established under ORS 215.203;

(b) Impose reasonable conditions on the establishment of a registered child care facility or certified group child care home in an area zoned for farm use; and

(c) Allow a division of land for a registered child care facility or certified group child care home in an exclusive farm use zone only as provided in ORS 215.263 (8).

(4) This section applies only to any registered child care facility or certified group child care home where child care is offered in the home of the provider to fewer than 13 children, including children of the provider, regardless of full-time or part-time status. [Formerly 418.817; 1995 c.278 s.20; 1999 c.743 s.17]

657A.450 Assistance to staff of facility. The Child Care Division may consult with, advise or train the staffs of child care facilities or other interested persons concerning child care programs. [Formerly 418.885; 1995 c.278 s.21]

657A.460 Separate sleeping quarters not required for certain persons providing child care or babysitting services; exemption from age group segregation requirements. Notwithstanding any other provision of law, children of any person providing babysitting or child care services within the person's own home shall not be required to sleep in any area other than their normal sleeping quarters. Such children related by blood within the first degree of consanguinity shall not be segregated by age grouping while in the care of a person providing babysitting or child care services if the parents request exemption from the operation of any statute or rule requiring such segregation or separation by age. [Formerly 418.890; 1995 c.278 s.22]

CHILD CARE PROVIDER TRAINING

657A.490 Child care provider training program; fees; rules. If the Department of Education is able to find adequate funding under ORS 657A.493, the department, in partnership with organizations including, but not limited to, the Institute on Violence and Destructive Behavior at the University of Oregon, the Child Care Division of the Employment Department, the State Commission on Children and Families and the Oregon Center for Career Development in Childhood Care and Education:

(1) Shall establish, in coordination with existing training systems, a statewide child care provider training program that will educate child care providers on:

(a) The importance of healthy brain development in the first three years of a child's life.

(b) The identification of risk factors and behaviors that indicate that a child:

(A) Needs special education or mental health treatment; or

(B) Is at risk of becoming involved in the criminal justice system.

(c) Appropriate referrals for intervention for the behaviors identified under paragraph (b) of this subsection.

(2) Shall establish an application process for child care providers who wish to attend the program and may charge child care providers a fee for attending the program.

(3) May adopt any rules necessary to implement this section. [1999 c.992 s.1]

Note: 657A.490 and 657A.493 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 657A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Section 3, chapter 992, Oregon Laws 1999, provides:

Sec. 3. The Department of Education shall report to the Seventy-first Legislative Assembly on its progress in implementing the child care provider training program established under section 1 of this 1999 Act [657A.490]. [1999 c.992 s.3]

657A.493 Funds for training program. The Department of Education shall seek funds from public and private sources to implement and operate the child care provider training program established under ORS 657A.490. [1999 c.992 s.2]

Note: See first note under 657A.490.

COOPERATIVE NETWORK CHILD CARE; EXTENDED NEIGHBORHOOD LATCHKEY

657A.500 Policy; “latchkey” defined. (1) Recognizing the acute problem of inadequate availability of child care and alternatives and recognizing the problem funding traditional child care programs, it is the intent of ORS 657A.500 to 657A.530, to create an alternative type of child care program which shall be entitled Cooperative Network Child Care or Extended Neighborhood Latchkey. The intent in creating these pilot projects is to promote community and parent involvement in child care involving unified child care networking. Such a program may include schools or neighborhood networking.

(2) The purpose of ORS 657A.500 to 657A.530 is to provide seed money for a pilot child care program which encompasses a unified community network approach to child care or a comprehensive latchkey network that involves the neighborhood and integrates practical parenting skills in the child care delivery program.

(3) As used in ORS 657A.500 to 657A.530, “latchkey” means child care available before and after school. [Formerly 418.900]

657A.510 Grants to child care or latchkey programs; qualifications; amount of grant; evaluation. (1) The Child Care Division may award a grant to a child care or a latchkey program that:

(a) Is operated by a parent board of directors or some other responsible party who can demonstrate that the program involves parents or the neighborhood significantly in decision-making;

(b) Is not operated for profit;

(c) Provides parents information regarding community child care alternatives, networks and resources;

(d) Teaches practical parenting skills;

(e) Includes employer education regarding the needs and benefits of parental involvement in child care;

(f) Involves at least 10 families and 20 children and the participating parent must be either employed at least part-time or a student taking at least nine university hours or the equivalent thereof which may be in a high school or other precollege program;

(g) Incorporates a method for evaluation of participation and cost of the program; and

(h) Designates at least one staff position, called program director-teacher, who has a background in early childhood education and who can demonstrate the ability to:

(A) Administer and coordinate a child care program;

(B) Develop a cooperative child care network or extended neighborhood latchkey system, the system being defined as the identification and location of child care alternatives;

(C) Teach children the following: Self-care; self-knowledge; life roles and responsibilities in the home, school, neighborhood and community; speaking, listening, reading and writing skills; basic art awareness; thinking and reasoning skills; physical skills and social skills; and

(D) Teach parents parenting skills.

(2) The proposed program shall:

(a) Designate as program director-teacher a person who satisfies the requirements of ORS 657A.290 as well as satisfies the requirements of subsection (1)(h) of this section; and

(b) Include an advisory board comprised of a cross section of the local community; including representatives from social service agencies providing services to youth and families; members of private nonprofit agencies providing services to children and youth; members from among business, labor and professional interests; community citizen members; parent members of the program and the program director-teacher.

(3) The grant shall:

(a) Cover a period not to exceed 24 months and be covered by a contract approved by the Child Care Division with the consent of the advisory board described in subsection (2)(b) of this section;

(b) Not exceed \$30,000;

(c) Be disbursed in equal monthly instalments over the period of the grant unless otherwise approved by the Child Care Division with the consent of the advisory board described in subsection (2)(b) of this section, subject to

renegotiation for other than equal payments if services cannot be delivered or have not been performed in a timely manner; and

(d) Be used solely for the purpose of staff salaries except as provided in subsection (7) of this section.

(4) The number and amount of grants under this section shall be determined by the Child Care Division. Grant payment shall be made to the parent board of directors or, if there is no parent board of directors, to the party responsible for the program operation. Grant payment shall begin 30 days prior to operation of the child care program.

(5) The parent board of directors and the program director-teacher or person responsible for the program shall design a method of evaluating the program and include the design in the grant proposal.

(6) The advisory board shall evaluate the child care cooperative every six months.

(7)(a) The Child Care Division may award a grant to a latchkey program that:

(A) Works in cooperation with school districts, community school programs and community colleges;

(B) Involves community education in before-school and after-school child care;

(C) May be linked with existing latchkey and community programs;

(D) Enables neighborhood responsibility for a child support system; and

(E) Provides a resource person in the neighborhood.

(b) The grant shall be used for:

(A) Developing an extended latchkey program;

(B) Training of the neighborhood volunteers;

(C) Meeting specified expenses incurred to organize a neighborhood latchkey program; and

(D) Paying the salary of the program director-teacher. [Formerly 418.905; 1995 c.278 s.23]

657A.520 Grant application; guidelines for awarding grants. (1) A child care or latchkey program may apply for a grant authorized by ORS 657A.510 by submitting an application on forms approved by the Child Care Division to the division. The division shall award grants based on the following guidelines:

(a) Whether or not the proposed program meets all the criteria set forth in ORS 657A.510;

(b) Whether or not the proposed staff has an adequate background in early childhood education, parenting skills and administration;

(c) Whether the proposed program will be available a sufficient number of hours per day; and

(d) Whether or not the proposed program is operationally viable.

(2) Priority shall be given to innovative child care and latchkey programs which are adapted to the needs and utilize the resources of the community they serve. [Formerly 418.910; 1995 c.278 s.24]

657A.530 Revocation of grants. The Child Care Division may revoke a grant awarded under ORS 657A.510 if the grantee fails to meet the qualifications specified by ORS 657A.510 or fails to operate a child care or latchkey program in conformance with the information supplied in a grant application. [Formerly 418.915]

COMMISSION FOR CHILD CARE

657A.600 Commission for Child Care; report. (1) The Commission for Child Care is created within the Employment Department to address the issues, problems and alternative solutions that are critical to the development of accessible, affordable and quality child care services.

(2) The commission shall submit to the Governor at the commencement of each biennium a report containing the concerns and issues which have been identified pursuant to the terms of ORS 182.105 and 657A.600 to 657A.630, and further identifying the programs, projects and activities which the commission will undertake regarding those issues. [1985 c.753 s.1; 1993 c.344 s.25; 1995 c.278 s.25]

657A.610 Members; terms; officers; duties. (1) The membership of the Commission for Child Care shall be comprised of 15 members, to include three representatives from the Legislative Assembly, one appointed by the President of the Senate and two appointed by the Speaker of the House of Representatives who shall serve as nonvoting members on matters other than those described in ORS 657A.600. Twelve voting members shall be appointed as follows:

(a) Two persons who provide or engage in the provision of child care services at a child care facility certified or registered under ORS 657A.030 and 657A.250 to 657A.460, one of whom must be a trainer of child care facility employees, appointed by the Governor;

(b) Two persons who are representatives of state or local government, one of whom is appointed by the Speaker of the House of Representatives and one by the President of the Senate;

(c) One person who is qualified by education or experience to render an opinion with regard to the tax and legal issues concerning child care appointed by the Governor;

(d) One person who is representative of business management appointed by the President of the Senate;

(e) One person who is representative of labor appointed by the Speaker of the House of Representatives;

(f) One person who is a member at large appointed by the Governor;

(g) One person whose profession involves the physical and mental well-being of children appointed by the Governor;

(h) Two persons who are consumers of child care, as defined in ORS 657A.250, one of whom is receiving or is qualified to receive state-subsidized child care assistance, one appointed by the Speaker of the House of Representatives and one by the President of the Senate; and

(i) One person who is a representative of a child care resource and referral agency appointed by the Governor.

(2) Appointed members shall serve for three-year terms. Legislators shall serve two-year terms.

(3) The Governor shall designate the chairperson of the commission to serve for a term of one year.

(4) Members shall meet at the call of the chairperson no more than once every 30 days.

(5) Consistent with Oregon law, the Child Care Division on behalf of the commission may receive and accept grants, gifts and other funds and disburse such grants, gifts or other funds for purposes consistent with the purposes of the commission.

(6) The commission shall make recommendations to the Director of the Employment Department regarding staffing or contracting for staff services necessary to assist the commission in the performance of its duties. [1985 c.753 s.2; 1989 c.121 s.3; 1991 c.67 s.108; 1993 c.344 s.26; 1995 c.278 s.26; 1999 c.743 s.18]

657A.620 Expenses; legislator compensation and expenses. (1) Members of the Commission for Child Care who are not members of the Legislative Assembly shall receive no compensation for their services, but subject to the availability of funds therefor are entitled to reimbursement for actual and necessary travel expenses incurred in the performance of their duties. Such expenses shall be paid from the budget of the commission or from member agency accounts subject to applicable state law. Members of ad hoc committees shall not receive such compensation.

(2) Members of the commission who are members of the Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly. [1985 c.753 §4; 1987 c.879 s.19]

657A.630 Committees. (1) The commission may establish ad hoc committees to study specific areas and make periodic reports to the commission.

(2) The chairpersons of such ad hoc committees shall be appointed by the chairperson of the commission, subject to approval by the commission.

(3) Membership on ad hoc committees shall not be limited to members of the commission.

(4) The period during which an ad hoc committee may function shall be determined at the time of its creation by the commission according to the nature of the study and project undertaken.

(5) Members of the ad hoc committees shall be designated as consultants to the full commission. [1985 c.753 s.3]

657A.640 Commission for Child Care Account. There is created within the General Fund, the Commission for Child Care Account, to which shall be credited Miscellaneous Receipts collected or received by the Commission for Child Care. Moneys in the account are continuously appropriated for purposes consistent with the creation of the commission. [1989 c.110 s.4]

PENALTIES

657A.990 Criminal penalty. A person who violates ORS 657A.280 commits a Class A misdemeanor. Each day of violation is a separate offense. [Formerly part of 418.990]
