

CHAPTER 187

AN ACT

HB 2027

Relating to the regulation of child care providers; amending ORS 181A.195, 329A.030, 329A.252, 329A.255, 329A.257, 329A.280, 329A.300, 329A.330, 329A.390 and 329A.505.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 329A.030, as amended by section 1, chapter 115, Oregon Laws 2018, is amended to read:

329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may maintain information in the registry through electronic records systems.

(2) A subject individual shall apply to and must be enrolled in the Central Background Registry as part of the individual's application to operate a program or serve in a position described in subsection (10) of this section.

(3)(a) Upon receiving an application for enrollment in the Central Background Registry, the office shall complete:

[(a)] (A) A criminal records check under ORS 181A.195;

[(b)] (B) A criminal records check of other registries or databases in accordance with rules adopted by the Early Learning Council;

[(c)] (C) A child abuse and neglect records check in accordance with rules adopted by the council; and

[(d)] (D) A foster care certification check and an adult protective services check in accordance with rules adopted by the council.

(b) In addition to the information that the office is required to check under paragraph (a) of this subsection, the office may consider any other information obtained by the office that the office, by rule, determines is relevant to enrollment in the Central Background Registry.

(4)(a) The office shall enroll the individual in the Central Background Registry if the individual:

(A) Is determined to have no criminal, child abuse and neglect, negative adult protective services or negative foster home certification 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 329A.275; and

(C) Has complied with the rules of the Early Learning Council adopted pursuant to this section.

(b) Notwithstanding subsection (3) of this section and paragraph (a) of this subsection, the office may enroll an individual in the registry if the Department of Human Services has completed a background check on the individual and the individual has received approval from the department for purposes of providing child care.

(5)(a) Notwithstanding subsections (3) and (4) of this section, the office may not enroll an individual in the Central Background Registry if:

(A) The individual has a disqualifying condition as defined in rules adopted by the council; or

(B) The individual is an exempt prohibited individual, as defined in ORS 329A.252.

(b) If an individual who has a disqualifying condition or who is an exempt prohibited individual is enrolled in the Central Background Registry, the office shall remove the individual from the registry.

(6)(a) The office may conditionally enroll an individual in the Central Background 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 office for enrollment in the registry.

(b) The office may enroll an individual in the registry subject to limitations identified in rules adopted by the council.

(7) An enrollment in the Central Background Registry may be renewed upon application to the office, payment of the fee established pursuant to ORS 329A.275 and compliance with rules adopted by the Early Learning Council 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 or suspended from the registry by the office.

(8)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled in the Central Background 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 Central Background Registry.

(9) The Early Learning Council may adopt any rules necessary to carry out the purposes of this section, including but not limited to rules regarding expiration and renewal periods and limitations related to the subject individual's enrollment in the Central Background Registry.

(10) For purposes of this section, "subject individual" means a subject individual as defined by the Early Learning Council 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 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 office;

(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;

(f) A child care provider who is required to be enrolled in the Central Background Registry by any state agency;

(g) A contractor, employee or volunteer of a metropolitan service district organized under ORS

chapter 268 who may have unsupervised contact with children and who is required to be enrolled in the Central Background Registry by the metropolitan service district;

(h) A provider of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 who is providing respite services as a volunteer with a private agency or organization that facilitates the provision of such respite services; or

(i) The operator or an employee of an early learning program as defined in rules adopted by the council.

(11)(a) Information provided to a metropolitan service district organized under ORS chapter 268 about the enrollment status of the persons described in subsection (10)(g) of this section shall be subject to a reciprocal agreement with the metropolitan service district. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(b) Information provided to a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 about the enrollment status of the persons described in subsection (10)(h) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(c) Information provided to a private agency or organization about the enrollment status of the persons described in subsection (10)(i) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

SECTION 2. ORS 181A.195 is amended to read: 181A.195. (1) As used in this section:

(a) "Authorized agency" means state government as defined in ORS 174.111 and the Oregon State Bar. "Authorized agency" does not include:

(A) The Oregon State Lottery Commission or the Oregon State Lottery; or

(B) A criminal justice agency, as defined in ORS 181A.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(b) "Subject individual" means a person from whom an authorized agency may require fingerprints pursuant to statute for the purpose of enabling the

authorized agency to request a state or nationwide criminal records check.

(2)(a) An authorized agency may request that the Department of State Police conduct a criminal records check on a subject individual for non-criminal justice purposes.

(b) A criminal records check under this subsection must, if requested by the authorized agency, include a name-based check of the national sex offender registry maintained by the National Crime Information Center.

(c) If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(3) The Department of State Police shall provide the results of a criminal records check conducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

(4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints, except that the Federal Bureau of Investigation may retain the fingerprint cards and records of the fingerprints for purposes described in ORS 181A.205. If the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the Department of State Police shall destroy the fingerprint cards and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards or create facsimiles for the purpose of providing information under ORS 181A.205.

(6) If only a state criminal records check is conducted, after the criminal records check is completed, the Department of State Police shall destroy the fingerprint cards and the results of the criminal records check provided to the authorized agency and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards and results or create facsimiles for the purpose of providing information under ORS 181A.205.

(7) An authorized agency may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(8) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state

and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, may adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules may include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181A.215 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

(10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143, 342.223, 443.735, 475B.785 to 475B.949 and 703.090 and paragraph (d) of this subsection, an authorized agency, using the rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall determine whether a subject individual is fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit. If a subject individual is determined to be unfit, then the individual may not hold the position, provide services, be employed or be granted a license, certification, registration or permit.

(b)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness determination of an individual under this subsection may request results of a previously made fitness determination from an authorized agency that has already made a fitness determination for the individual. An authorized agency that receives a request under this paragraph shall provide the requested information.

(B) An authorized agency may make a request under this paragraph only for individuals:

(i) Who are applying to hold a position, provide services, be employed or be granted a license, certification, registration or permit;

(ii) Who are in a category of individuals as specified by the Oregon Department of Administrative Services by rule under ORS 181A.215; and

(iii) For whom a fitness determination has already been made.

(c) Except as otherwise provided in ORS 181A.400, in making the fitness determination under this subsection, the authorized agency shall consider:

(A) The nature of the crime;

(B) The facts that support the conviction or pending indictment or that indicate the making of a false statement;

(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and

(D) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit, such as:

(i) The passage of time since the commission of the crime;

(ii) The age of the subject individual at the time of the crime;

(iii) The likelihood of a repetition of offenses or of the commission of another crime;

(iv) The subsequent commission of another relevant crime;

(v) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(vi) The recommendation of an employer.

(d) An individual prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness as a subject individual under this subsection.

(11) Criminal offender information is confidential. Authorized agencies and the Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

(12) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny any applicable position, authority to provide services, license, certification, registration or permit.

(13) If an authorized agency requires a criminal records check of employees, prospective employees, contractors, vendors or volunteers or applicants for a license, certification, registration or permit, the application forms of the authorized agency must contain a notice that the person is subject to fingerprinting and a criminal records check.

SECTION 3. ORS 329A.252, as amended by section 3, chapter 115, Oregon Laws 2018, is amended to read:

329A.252. (1) As used in this section, "exempt prohibited individual" means:

(a) An individual whose certification or registration has been denied for cause, **suspended** or revoked under ORS 329A.350.

(b) An individual whose enrollment in the Central Background Registry established by ORS 329A.030 has been denied for cause, **suspended** or removed under ORS 329A.030.

(c) An individual whose certification, registration or enrollment in the Central Background Registry is subject to an emergency order of suspension under ORS 183.430 (2).

[(c)] (d) An individual who voluntarily surrendered the individual's certification, registration or enrollment in the Central Background Registry while under investigation by the Office of Child Care or at any time after the Office of Child Care has given notice of an administrative proceeding against the individual or the individual's child care facility.

(2) For five years following the date on which an individual becomes an exempt prohibited individual, the exempt prohibited individual:

(a) Is ineligible for enrollment in the Central Background Registry; and

(b) May not provide care to a child who is not related to the exempt prohibited individual by blood or marriage within the fourth degree as determined by civil law.

(3) After the five-year period described in subsection (2) of this section, an individual ceases to be an exempt prohibited individual if the individual enrolls in the Central Background Registry.

SECTION 4. ORS 329A.280 is amended to read:

329A.280. (1) A person may not operate a child care facility, except a facility subject to the registration requirements of ORS 329A.330, without a certification for the facility from the Office of Child Care.

(2) The Early Learning Council shall adopt rules for the certification of a family child care home caring for not more than 16 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 council 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 council 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 a certified family child care home providing child care for not more than 16 children, the council shall adopt and apply separate rules appropriate for any child care facility that is a child care center.

(4) Any person seeking to operate a child care facility may apply for a certification for the facility from the Office of Child Care and receive a certification upon meeting certification requirements.

(5) A facility described in ORS 329A.250 (5)(d) may, but is not required to, apply for a certi-

fication under this section and receive a certification upon meeting certification requirements.

SECTION 5. ORS 329A.300, as amended by section 9, chapter 115, Oregon Laws 2018, is amended to read:

329A.300. (1) Upon receipt of an application for a certification, accompanied by the required fee, the Office of Child Care shall issue a certification if the office finds that the child care facility and its operations are in compliance with the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450.

(2) The Office of Child Care 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 office 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)(a) If the Office of Child Care determines that it is necessary to protect the health and safety of the children for whom a child care facility is to provide care, the office may impose a condition on the facility's certification that is reasonably designed to protect the health and safety of children. The office may impose a condition during the application process for an initial certification, during the application process for a renewal of a certification or at any time after the issuance of a certification.

(b) Except as provided in paragraph (c) of this subsection, when the office imposes a condition on a child care facility's certification, the facility shall be afforded an opportunity for a hearing consistent with the provisions of ORS chapter 183.

(c)(A) If the office finds a serious danger to the health and safety of the children receiving care at a child care facility, the office shall notify the facility of the specific reasons for the finding and may impose an emergency condition on the facility's certification without a hearing.

(B) If the facility demands a hearing within 90 days after the office notifies the facility of the emergency condition, a hearing consistent with the provisions of ORS chapter 183 must be granted to the facility as soon as practicable after the demand and the agency shall issue an order consistent with the provisions of ORS chapter 183 confirming, altering or revoking the order imposing the emergency condition.

(4) The Office of Child Care 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.

SECTION 6. ORS 329A.330, as amended by section 10, chapter 115, Oregon Laws 2018, is amended to read:

329A.330. (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 329A.280 may not operate a child care facility without registering with the Office of Child Care.

(2) A child care facility holding a registration may care for a maximum of 10 children, 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 Office of Child Care 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 Early Learning Council under ORS 329A.275. The fee shall be deposited as provided in ORS 329A.310 (2). The office may waive any or all of the fee if the office determines that imposition of the fee would impose a hardship on the provider.

(b) Upon receipt of an initial or renewal application satisfactory to the office, the office 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 office 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 office;

(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 under ORS 624.570; and

(e) The office determines that the application meets the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450, and receives a satisfactory records check, including criminal records and protective services records.

(5) Unless the registration is revoked as provided in ORS 329A.350, the registration is valid for a period of two years from the date of issuance. The office may not renew a registration of a provider operating a family child care home unless 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 registration period; and

(c) Is certified as a food handler under 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 Early Learning Council 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 office 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)(a) If the Office of Child Care determines that it is necessary to protect the health and safety of the children for whom a child care facility is to provide care, the office may impose a condition on the facility's registration that is reasonably designed to protect the health and safety of children. The office may impose a condition during the application process for an initial registration, during the application process for a renewal of a registration or at any time after the issuance of a registration.

(b) Except as provided in paragraph (c) of this subsection, when the office imposes a condition on a child care facility's registration, the facility shall be afforded an opportunity for a hearing consistent with the provisions of ORS chapter 183.

(c)(A) If the office finds a serious danger to the health and safety of the children receiving care at a child care facility, the office shall notify the facility of the specific reasons for the finding and may impose an emergency condition on the facility's registration without a hearing.

(B) If the facility demands a hearing within 90 days after the office notifies the facility of the emergency condition, a hearing consistent with the provisions of ORS chapter 183 must be granted to the facility as soon as practicable after the demand and the agency shall issue an order consistent with the provisions of ORS

chapter 183 confirming, altering or revoking the order imposing the emergency condition.

(10) The office, upon good cause shown, may waive one or more of the registration requirements. The office 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 office may not waive the on-site review requirement for applicants applying for an initial registration or renewal of a registration.

(11) The Early Learning Council, 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 office 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.

(12) In adopting rules relating to registration, the Early Learning Council 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 Early Learning Council shall consult with the appropriate interim legislative committee.

SECTION 7. ORS 329A.390 is amended to read:

329A.390. (1) Whenever an authorized representative of the Office of Child Care is advised or has reason to believe that child care that is subject to regulation by the office is being provided without a certification, registration or record, 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 181A.200, 329A.030 and 329A.250 to 329A.450.

(2) At any reasonable time, an authorized representative of the Office of Child Care 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 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450.

(3) An authorized representative of the Office of Child Care 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 office if the office receives a serious complaint about the child care facility.

(4) Complaints, including but not limited to serious complaints, made by individuals or entities regarding certified or registered child care facilities, regulated subsidy facilities, preschool recorded pro-

grams or school-age recorded programs may be received and investigated by the Office of Child Care. The name, address and other identifying information about the individual or entity that made the complaint may not be disclosed.

(5) Any state agency that receives a complaint about a certified or registered child care facility, a regulated subsidy facility, a preschool recorded program or a school-age recorded program shall notify the Office of Child Care about the complaint and any subsequent action taken by the state agency based on that complaint.

(6) A director or operator of a child care facility, a regulated subsidy facility, a preschool recorded program or a school-age recorded program shall permit an authorized representative of the Office of Child Care to inspect records of the facility or program and shall furnish promptly reports and information required by the office.

(7) In conducting an investigation under this section, the office may:

(a) Take evidence;

(b) Take the depositions of witnesses, including the person under investigation, in the manner prescribed by law for depositions in civil actions;

(c) Compel the appearance of witnesses, including the person under investigation, in the manner prescribed by law for appearances in civil actions;

(d) Require answers to interrogatories;

(e) Compel the production of books, papers, accounts, documents or testimony that pertains to the matter under investigation;

(f) Issue subpoenas; and

(g) Inspect the premises of the facility under investigation.

[(7)] **(8)** The Office of Child Care may share information regarding investigations or inspections conducted under this section with other public entities when the office determines that sharing the information would support the health or safety of children in child care.

[(8)] **(9)** The Early Learning Council shall adopt rules defining the terms “serious complaint” and “regulated subsidy facility” as used in this section and ORS 329A.020.

SECTION 8. ORS 329A.505 is amended to read:

329A.505. (1) **At any reasonable time, an authorized representative of the Office of Child Care may *[visit and conduct on-site inspections of the premises of an exempt child care provider as defined by the Office of Child Care by rule whenever such inspections are required under federal law. The inspections may be conducted at any reasonable time and shall be limited to making a determination as to whether the requirements of applicable federal law have been met]* conduct an inspection or investigation of a regulated subsidy facility, as defined by the Early Learning Council by rule.**

(2) When conducting an investigation under this section, the Office of Child Care may:

- (a) Take evidence;
- (b) Take the depositions of witnesses, including the person under investigation, in the manner prescribed by law for depositions in civil actions;
- (c) Compel the appearance of witnesses, including the person under investigation, in the manner prescribed by law for appearances in civil actions;
- (d) Require answers to interrogatories;
- (e) Compel the production of books, papers, accounts, documents or testimony that pertains to the matter under investigation;
- (f) Issue subpoenas; and
- (g) Inspect the premises of the facility under investigation.

[2] (3) The Office of Child Care may, as a condition of finalizing *[the]* an inspection, require improvements, corrections or other measures to ensure that the *[exempt child care provider]* **regulated subsidy facility** complies with the requirements *[of federal law for exempt child care providers]* **under the rules adopted under this section.**

(4) Notwithstanding ORS 329A.500 (1), the Early Learning Council, in consultation with the Department of Human Services, may adopt rules to establish minimum health and safety standards for regulated subsidy facilities and for the administration of this section.

SECTION 9. ORS 329A.255 is amended to read:

329A.255. (1) A person operating a preschool recorded program may not operate the program without performing criminal background checks for all staff and volunteers and becoming recorded with the Office of Child Care as provided in this section.

(2) To obtain recording, the person must apply to the office by submitting a completed record application form and a nonrefundable fee as established by the office. The office shall determine and apply the fee through rules adopted by the Early Learning Council under ORS 329A.275. The office shall deposit fees received under this subsection as provided in ORS 329A.310 (2).

(3) The office shall issue a record to a person operating a preschool recorded program if the office determines that the applicant meets the requirements of ORS 329A.250 to 329A.450 and the rules adopted pursuant to ORS 329A.250 to 329A.450 and subsection (9) of this section.

(4) Unless the record is revoked as provided in subsection (8) of this section, the record is valid for a period of two years from the date of issuance.

(5) A record authorizes operation of the preschool recorded program only on the premises described in the record and only by the person named in the record.

(6) The office shall create and maintain a database of preschool recorded programs recorded under this section and shall update the database annually. The database shall include, but need not be limited to, the following information:

- (a) Name and address of the program;

- (b) Name of operator; and
- (c) Significant program information, as determined by the Early Learning Council by rule.

(7) A preschool recorded program recorded under this section must post, and provide parents with, a notice that the preschool recorded program is not certified under ORS 329A.280 or registered under ORS 329A.330.

(8) An initial application or renewal application for recording of a preschool recorded program may be denied, revoked or suspended, if the office finds:

- (a) That the program or its operation does not comply with ORS 329A.250 to 329A.450, with applicable rules and with any term or condition imposed under the record; or

(b) That *[visitation, on-site]* investigation *[or inspection]* of *[a]* the program or its records authorized by ORS 329A.390 has not been permitted.

(9) The Early Learning Council shall adopt any rules necessary to carry out the provisions of this section.

(10) A person who violates any provision of this section or any term or condition of a record is subject to a civil penalty not to exceed \$100.

SECTION 10. ORS 329A.257 is amended to read:

329A.257. (1) A person operating a school-age recorded program may not operate the program without performing criminal background checks for all staff and volunteers and becoming recorded with the Office of Child Care as provided in this section.

(2) To obtain recording, the person must apply to the office by submitting a completed record application form and a nonrefundable fee as established by the office. The office shall determine and apply the fee through rules adopted by the Early Learning Council under ORS 329A.275. The office shall deposit fees received under this subsection as provided in ORS 329A.310 (2).

(3) The office shall issue a record to a person operating a school-age recorded program if the office determines that the applicant meets the requirements of ORS 329A.250 to 329A.450 and the rules adopted pursuant to ORS 329A.250 to 329A.450 and subsection (9) of this section.

(4) Unless the record is revoked as provided in subsection (8) of this section, the record is valid for a period of two years from the date of issuance.

(5) A record authorizes operation of the school-age recorded program only on the premises described in the record and only by the person named in the record.

(6) The office shall create and maintain a database of school-age recorded programs recorded under this section and shall update the database annually. The database shall include, but need not be limited to, the following information:

- (a) Name and address of the program;
- (b) Name of operator; and
- (c) Significant program information, as determined by the Early Learning Council by rule.

(7) A school-age recorded program recorded under this section must post, and provide parents with,

a notice that the school-age recorded program is not certified under ORS 329A.280 or registered under ORS 329A.330.

(8) An initial application or renewal application for recording of a school-age recorded program may be denied, revoked or suspended, if the office finds:

(a) That the program or its operation does not comply with ORS 329A.250 to 329A.450, with applicable rules and with any term or condition imposed under the record; or

(b) That [*visitation, on-site*] investigation [*or inspection*] of [*a*] **the** program or its records authorized by ORS 329A.390 has not been permitted.

(9) The Early Learning Council shall adopt any rules necessary to carry out the provisions of this section.

(10) A person who violates any provision of this section or any term or condition of a record is subject to a civil penalty not to exceed \$100.

Approved by the Governor May 30, 2019
Filed in the office of Secretary of State June 3, 2019
Effective date January 1, 2020
