



Dear Chair Lively, Vice-chairs Hack and Piluso and members of the committee,

Thank you, for your work and interest in ensuring that families have access to quality child care in the communities where they live and for the opportunity to provide testimony in support of HB 3447 and the -1 amendment, a bill to allow for licensed and regulated, in-home child care to operate in communities governed by Home Owners' Associations. Oregon AFSCME Council 75 represents both registered and certified in-home child care, also known as family child care through Local 132, Childcare Providers Together.

As members of the Early Childhood and Family Supports Committee, you have already heard quite a bit about our child care access and availability issues. HB 3447, is one of many ways that we could use to address this problem. As we deal with an increasing population and housing shortage, multi-family settings and planned communities that are governed by Home Owners' Associations are standard in addressing our housing needs. Child care needs should be considered along with the other important considerations that come with building these homes and communities. HB 3447 will end the ability of HOAs to prohibit child care businesses from operating in these communities. The -1 amendment ensures that child care, like all other residents must comply with other rules that govern common spaces, parking, noise and odors, and ensures that the HOA may not create other rules that could restrict a home from providing licensed or regulated child care. In-home providers know that being a good neighbor is important, and is often worked into their day-to-day lessons with the children in their care.

We are opposed to the -2 amendment for two reasons. First, we are concerned that the language about insurance could allow an HOA to easily create a prohibition by asking the insurance provider to write a letter stating that they would indeed raise their rates if a child care was allowed in the community. Second, families in residences where there are shared walls, ceilings and floors are in just as much need of affordable, quality child care and we are concerned that the language in Section 4(1)(b) could lead to the prohibition of child care in multi-family residences. We appreciate that it does not exclude the licensed-exempt (regulated child care), but have concerns about limitations this could place on families receiving subsidy care and professional development opportunities for the providers. Currently, there are incentives for parents to choose licensed care through lower co-pays, additionally, for providers there are bonuses for participating in Spark, formerly the Quality Rating and Improvement system and generally, licensed exempt providers are paid less by DHS than licensed providers. By limiting providers through prohibiting them the option for becoming licensed, you are limiting their opportunities for higher pay and more professional development opportunities. For parents, you may be putting them into the position of having to pay more, when they can't afford it, and limiting their access to care that meet their family's needs.



All types of family child care settings are an integral part of our child care system that helps meet these needs for children and families. They are allowed to operate outside of the center based hours of 7am-5:30 or 6pm, crucial for parents' whose work hours may be evenings, weekends or even overnight. They provide more personalized settings where children are exposed to learning opportunities through their teachers as well as being with kids of other ages. Family child care providers are often already known, trusted and likely match families' cultural norms and values because they are in the families' neighborhoods.

Licensed Family Child Care settings are regulated by the state, have regular inspections from the Early Learning Divisions' Office of Child Care and the Department of Human Services. The providers, any person living in their home and any staff they may employ are required to submit a background check that now includes fingerprinting and all staff are required to complete a basic level of training each year. This training includes basic health and safety as well as developing curriculum for their programs that include educational and physical activities. They have rules about providing for proper activities, both inside and outside each day and for supervising children at every moment those children are in care. Children are not left to run wild or simply placed in front of a television. For Spark rated, formerly Quality Rating and Improvement System, providers these training hours and expectations increase with every additional star rating they receive.

Rules require that the home where the child care is provided is the residence of the provider and cannot be a place that is solely a child care business. Providers must allow licensing specialists and DHS inspectors in their home for health, safety and other rule compliance checks. Providers must know and comply with local, state and federal laws related to around immunization, and communicable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act. Providers must also ensure that they take appropriate measures to protect children from vehicular traffic. They must have food handler's card and be certified in infant and child CPR and first-aid. Their homes must be kept clean and maintained for a safe and healthy environment. It is a violation to even have a cup that has been used for water to be left in the sink.

We understand the concerns that children might be noisy or create other wear and tear on property, but given the rules that providers must follow we know that they make good neighbors. Additionally, when children know that there are rules to follow and expectations about being a good neighbor that they must meet as well, they learn those and are exposed to opportunities to prepare them for school and interacting in the world in which they live.

HB 3447 is not the only solution needed to help ensure families have access to affordable quality child care in their communities, however, it is one way we can help remove barriers it. AFSCME urges your support of HB 3447 and -1 amendment.



Respectfully submitted by

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Link to DHS reimbursement rates:

<https://www.oregon.gov/DHS/ASSISTANCE/CHILD-CARE/Pages/Rates.aspx>

Registered Provider Rules for number of kids in care and supervision of the children

Copied from pages 14 & 15; the full set of rules can be found at

<https://www.oregon.gov/OCC/OCC%20Forms/RF/RF-200/RF-200.pdf>

414-205-0065 Children in Care

(1) A family child care provider may care for a maximum of 10 children under 13 years of age, or under age 18 if a child with special needs, at any one time. This includes the provider's own children, the child care children, foster children, and any other children for whom the provider is responsible.

(2) Of the 10 children under 13 years of age or under age 18 years of age with special needs, the provider may care for:

(a) A maximum of 6 children preschool age or younger, including the provider's children, of which only 2 children may be under 24 months of age.

(b) Four school-age children, in addition to the six children preschool-age or younger.

(c) More school-age children if there are fewer than 6 children preschool age or younger, as long as there are no more than 10 children in the home at any one time.

(3) Other children, including but not limited to relatives, neighborhood children or friends of the provider's children, are included in the maximum number of 10 children allowed in care if their parents or other adults responsible for supervising them are not present in the home or are not directly supervising their own child(ren).



(4) Visiting children and their parents or others directly supervising them can be in the family child care home only on an occasional basis.

(5) No child younger than 6 weeks of age can be in care in a family child care home. This does not include the provider's child(ren).

414-205-0075 Supervision of Children

(1) The provider or a substitute provider is responsible for the children in care. At all times the provider or substitute provider must:

- (a) Be within sight or sound of all children;
- (b) Be aware of what each child is doing;
- (c) Be near enough to children to respond when needed;
- (d) Be physically present when there are children under the age of 36 months playing outside; and 15
- (e) Be physically present when kindergarten-age or younger children are playing outside, unless the outside play area is fully fenced and hazard free.

Excerpts of Certified In-Home Child Care Rules taken from various pages found at :

https://www.oregon.gov/OCC/OCC%20Forms/CRT/CRT-130/CRT_130.pdf

414-350-0070 Arrival and Departure

(1) The provider shall require that the person bringing the child to the certified family child care home remain with the child until the child is accepted by a caregiver.

(2) The provider shall release a child only to a parent or another person named and identified by the parent. The provider shall verify the identification of any person who picks up a child.

(3) If a school-age child arrives at or leaves the home without a parent, there shall be arrangements in advance, in writing, from the parent for the arrival and departure times and what the provider will do if the child has not arrived by the expected time.



(4) The provider must notify parents if there will be a substitute caregiver and the caregiver's name or if the children will be away from the home for any part of the day for visits, field trips, or any other activity off the premises. In the event of an emergency, a good faith effort will be made to notify parents that a substitute will be caring for the children.

414-350-0120 Caregiver/Child Ratios and Supervision

(1) The number of caregivers and group size shall be determined by the number and ages of the children in attendance:

(a) All children in the home, including the provider's or other caregivers' own children, shall be counted in determining the caregiver/child ratio and group size;

(b) All children visiting the home on a regular basis will count in capacity. Children attending with a parent do not count as enrolled as long as the parent remains with and is responsible for non-enrolled children;

(c) The required caregiver/child ratios shall be met at all times.

(2) Children shall at all times have the full attention of and be supervised by the required number of caregivers: 23

(a) Children shall be within sight and/or sound of a caregiver at all times;

(b) A caregiver shall be near enough to children to respond when needed. Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas;

(c) Children may not be on a floor level of the home unless a caregiver is on the same floor level, except as specified in OAR 414-350-0120(2)(d);

(d) When bathroom facilities are not on the same floor level, a written plan for adequate supervision of both bathroom and child care areas shall be developed and implemented.

(3) The number of caregivers is determined by the age and number of the youngest child(ren) in the group. If the provider is certified to care for more than 12 children and plans to care for more than 8 infants and/or toddlers, the provider must develop a plan showing how infants and toddlers will be limited to a group size of not more than eight. The plan must be approved by OCC:



(a) If all children are in the same age group, the following table determines the staff/child ratio;

TABLE A

When All Children in Care Are:	No Group May Exceed:	With a Caregiver to Child Ratio of:	Notes
Six Weeks to 24 Months	12	1:4	If more than 12 children are in care, the groups must be separated, and if more than eight of the 13 children in care are infants or toddlers, the group size may not exceed eight.
24 Months to Eligible for First Grade	12	1:10	If more than 12 children are in care, the groups must be separated.
Eligible for First Grade to Age 13	16	1:15	May be one group; must have second provider if over 15 school-age children are in care.

(b) If children in care include any infants and/or toddlers, the following table determines the staff/child ratio;

TABLE B

When Children in Care Include:	No Group May Exceed:	With a Caregiver to Child Ratio of:	Notes
One Child under 24 Months	12	1:8	If more than 12 children are in care and one is under 24 months, the group must be separated. Each group must meet the appropriate adult to child ratio. Practice Note: Groups may be arranged to have the younger child in a separate group with 1:8 ratio. For other group, use ratios in Table A if all children are the same age; Table C if mixed-ages.
Two Children under 24 Months	12	1:7	If more than 12 children are in care and two are under 24 months, the group must be separated. Each group must meet the appropriate adult to child ratio.



			Practice Note: Groups may be arranged to have the younger children in a separate group with 1:7 ratio. For other group, use ratios in Table A if all children are the same age; Table C if mixed-ages.
Three Children under 24 Months	12	1:6	If more than 12 children are in care and over three are under 24 months, the group must be separated. Each group must meet the appropriate adult to child ratio. Practice Note: Groups may be arranged to have the younger children in a group with 1:6 ratio. For other group, use ratios in Table A if all children are the same age; Table C if mixed-ages.
Four or More Children under 24 Months	12	1:4	If more than 12 children are in care and four are under 24 months, the group must be separated. Each group must meet the appropriate adult to child ratio and if more than eight infants or toddlers are in care, group size may not exceed eight. Practice Note: Groups may be arranged to have the younger children in a separate group with 1:4 ratios in Table A if all children are the same age; Table C if mixed-ages.

(c) If children in care include a mix of only preschool and school aged children, the following table determines the staff/child ratio;

TABLE C

When All Children in Care Are:	No Group May Exceed:	With a Caregiver to Child Ratio of:	Notes
One Child in Care Age 24 Months to Eligible for First Grade; The rest of children in care are school-age	12	1:12	If more than 12 children are in care, the groups must be separated to create groups of 12 or fewer children.
Between two and 12 Children are Between 24 Months and Eligible for First Grade; The rest of the children in care are school-age	12	1:10	If more than 12 children are in care, the groups must be separated to create groups of 12 or fewer children.

(d) Even though staff/child ratios are specified in (a) and (b) above, a certified family child care provider may care for 10 children ages 6 weeks to school-age if:



(A) No more than 6 children are pre-school age or younger, including the provider's own children and any staff children;

(B) Of the 6, only 2 children are under 24 months of age; and

(C) Four of the children are school-age. 25

(4) The maximum number of children allowed in a certified family child care home at any one time is 16.

(5) If the home is certified to care for more than 12 children and the age blend is such that group separation is required:

(a) Groups may be joined for: meals, naps, outdoor play, and limited quiet activities such as a video or circle time;

(b) Provider must develop a plan that shows how the groups will be separated without requiring remodeling of the home. The plan must be approved by OCC.

(6) If the facility provides care to more than two children under 24 months of age, the provider shall meet the requirements specified in OAR 414-350-0100(4).

(7) Prior to a facility providing care to more than four children under 24 months of age, at least one caregiver other than the provider shall meet the requirements specified in OAR 414-350-0100(4). In addition, the provider shall have an extra 20 clock hours of training specific to infant and toddler care above and beyond the original requirements. If the facility is certified to care for more than 12 children, there must be someone who meets the training requirements of OAR 414-350-100(4) on site at all times that five or more children under 24 months of age are in care.

HOME AND YARD

414-350-0130 General Requirements

(1) The certified family child care home shall be:

(a) Located in an area zoned residential or commercial:

(A) "Residential zone" means any zone within an acknowledged urban growth boundary or an acknowledged residential exception area that allows a dwelling unit as a use permitted outright.



(B) "Commercial Zone" means any zone within an acknowledged urban growth boundary or an acknowledged commercial exception area that allows sales or service or commercial and professional offices as uses permitted outright.

(b) A building constructed as a single family dwelling; and

(c) In space designed or remodeled for living quarters.

(2) A home that is not the residence of the provider or a home located in a zone other than residential or commercial shall meet all state and local planning and zoning, occupancy, and building code requirements for a child care facility. 26

(3) If there is a structural or maintenance problem that could present a health or safety hazard to children, OCC may request that the provider have the home inspected by the appropriate authority and the provider shall comply with the request.

(4) The provider is responsible for payment of any applicable fees for inspections.

414-350-0140 Indoor Area

(1) The indoor area used for child care shall meet the following requirements:

(a) If the provider is certified to care for 12 children or fewer, there shall be a minimum of 35 square feet of indoor activity area, as defined by OAR 414-350-0010(1), per child. If the provider is certified to care for more than 12 children, there shall be a minimum of 35 square feet of indoor activity area per child for 12 or fewer children, and 50 square feet of indoor activity area available per child for each of the additional four children. This space, considered in determining capacity of the home, shall be available for use by children at all times. The following shall not be counted as part of the 35 square feet per child requirement: heating units, storage areas; large permanent equipment; any space not useable by children.

(b) There shall be a designated area for children under 24 months of age that is developmentally appropriate and safe.

(c) If the facility is certified to care for more than 12 children, the provider must develop a written plan showing that the space accessible to the children meets their safety needs, there is adequate supervision and there is adequate availability of toileting and hand washing for the children in care. OCC must approve the plan.



(d) Activity areas shall be adequately lighted and ventilated. Room temperature shall be at least 68 degrees F. (20 degrees C.) and not so warm as to be dangerous or unhealthy to children in care.

414-350-0150 Outdoor Area

(1) There shall be an outdoor activity area that children can reach safely. If the outdoor activity area is not under the control of the provider during the hours of operation of the home, written approval to use the area by OCC is required.

(2) A home shall have an outdoor play area of no less than 75 square feet for each child using the area at one time.

(3) The outside activity area shall be:

(a) Suitably surfaced and well drained. Playground equipment, such as slides, swings, climbing structures and other elevated equipment, shall be surrounded by a resilient surface of an acceptable depth or by rubber mats manufactured for such use, according to standards of the US Consumer Product Safety Commission;

(b) Kept free of litter, solid waste and refuse, ditches, or other conditions presenting a potential hazard; and

(c) Equipped to provide age-appropriate activities for gross motor development.

(4) The outdoor activity area of the home designated for use by child care children shall be enclosed by a barrier (fence, wall, or building) at least four feet high. Certified family child care homes with certification in effect on September 15, 2002, must comply with a barrier at least three feet high until such time as the existing barrier is replaced. Spacing between vertical slats of a fence shall be no greater than 4 inches. Fences must meet applicable local codes.

(5) The provider shall be aware of and protect children from any toxic or other harmful plants, shrubs, or trees.

(6) The use of swimming pools shall comply with OAR 414-350-0380. As specified in 414-350- 0380(2)(h), portable-style wading pools are not permitted.