



Chair Gelser and Members of the Senate Committee on Human Services:

Thank you for your continued work to help ensure that families have access to quality child care in the communities where they live. AFSCME represents both registered and certified in-home child care, also known as family child care, through Local 132, Childcare Providers Together. We appreciate the work of Senator Boquist, Representative Lively and Representative Vial to address the issue of child care providers in Home Owners' Associations in both HB 3447 and SB 1051.

We had a robust discussion in the House Early Childhood and Family Supports Committee last week and it appears that both providers and HOAs have a clearer understanding of the intent of "reasonable accommodation" under HB 3447 and what restrictions and activities may be allowed for providers in HOAs.

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 and any staff they employ require 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 supervising children inside and outside of the house at every moment those children are in the providers' care. Children are not left unattended or simply left to their own devices.

For Spark rated providers, formerly Quality Rating and Improvement System, the training hours and expectations increase with every additional star rating they receive.

Providers are subject to ratios and numbers of children in their care. Concerns have been raised with regards to excessive numbers of children in common areas of HOAs, such as outdoor areas and swimming pools. A certified provider must have the required number of square footage inside their home to accommodate the provider to children ratios and number of children under their care. The outdoor area must also meet a square footage threshold and a provider to child ratio.

With regards to swimming pools and water play there are really specific rules and regulations that our providers must follow. There are rules on proper diapering and restrictions on swimming ability of the children. There are specific guidelines for the providers and their participation in the swimming activities. Please see the attached swimming regulations.

Clearly, 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 is pleased that HB 3447 includes licensed exempt providers and remains hopeful that all parties moving forward will reach "reasonable accommodations" to help solve our child care provider shortage.

Respectfully submitted by

Joe Baessler, Political Director

Attachment

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.

Swimming Activities

The following requirements apply to swimming/water activities provided on the premises of a certified family child care home, or off premises by another organization, public or private, when part of the facility's program.

(1) Definitions:

(a) "Beginning swimmer" means a child who has mastered the skills required to:

(A) Hold his breath with his head submerged;

(B) Perform a front and back float;

(C) Perform the flutter kick on his front and back;

(D) Be able to level off from a vertical entry into a float position; and

(E) Do a combined stroke (front or back) for at least 20 feet without stopping.

(b) "Non-swimmer" means a child who does not meet the definition of beginning swimmer.

(c) "Lifeguard" means a person holding current certification and meeting the requirements of OAR 333-060-0015(13).

(d) "Swimming pool" means a swimming or wading pool licensed by the Oregon Department of Human Services or one of its delegated agents under the requirements of OAR 333-060-0005 through 333-060-0225.

(e) "Wading" means water activities in which the water's depth is no higher than the child's knee.

(2) General Health and Safety:

(a) Children with diarrhea or who have had diarrhea within the last two weeks shall not use the pool.

(b) Children who are not toilet trained shall wear swim diapers.

(c) Children shall use the toilet and shower before entering the pool.

(d) Proper supervision shall be maintained, as specified in OAR 414-350-0380(3)(e), (f) and (g) and 414-350-0380(d) and (e).

(e) The pool operator shall maintain water quality as required in OAR 333-060-0200 or pool use shall cease until the water quality is restored.

(f) Children using the pool shall participate in basic water safety instruction based on their ages and developmental levels.

(A) All adults counted in the staff/child ratios in Table 4 shall be able to swim if the water is more than 48 inches deep and, regardless of the water depth, shall be dressed for swimming.

(B) For children 6 weeks to 36 months, one of the required staff must be in the water. Other staff may be on deck.

(g) Recreational swimming is not allowed for non-swimmers ages 6 weeks to 36 months in swimming pools with water depth 24 inches and over.

(h) Portable-style wading pools are not permitted.

(3) On-Premises Pool Facilities:

(a) On-premises pool facilities shall be licensed by the Oregon Department of Human Services or its delegated agent and shall comply with the requirements in OAR 333-060-0005 through 333-060-0225.

(b) On-premises pool facilities shall have toilets and showers for use by the swimmers.

(c) All new pools or pools at certified family child care homes certified after September 15, 2002, shall have dressing areas for each sex, with storage for the children's clothes.

(d) All activities occurring in a pool shall be under the direction and direct supervision of lifeguards.

(e) Center staff/child ratios shall be maintained at all times children are in the pool area, as specified in Table 4 of this rule.

(f) Lifeguard/child ratios shall be maintained at all times children are in the pool area:

(A) For children not yet attending kindergarten, there shall be one lifeguard for every 20 children;

(B) For children attending kindergarten and older, there shall be one lifeguard for every 40 children; and

(C) For mixed age groups of children, the age of the youngest child shall determine the lifeguard/child ratio.

(g) During all periods of pool operation, the appropriate number of lifeguards shall be on duty in the pool area. During periods of recreational swimming, at least one of the required number of lifeguards shall be stationed on the pool deck.

(h) Water activities that involve a sprayer or spray feature using potable water that is not recirculated or collected may be conducted by the home. [Table not included. See ED. NOTE.]

(i) A written plan for pool emergencies shall be available to all staff. The plan shall cover procedures for medical emergencies, chemical emergencies and severe weather.

(A) Staff shall be familiar with emergency procedures, the use of safety equipment and emergency contacts.

(B) The certified home shall provide in-service training and/or drills of the emergency procedures for the pool at least every six months. The provider shall keep a written record of the type, date, time and duration of the training/drills.

(C) Emergency telephone numbers shall be posted near the telephone in the pool area and near a centrally-located and accessible telephone in the certified home.

(j) Safety equipment shall be provided and comply with OAR 333-060-0005 through 333-060-0225. In addition:

(A) All pools shall have an emergency telephone located in the pool area. The telephone shall be able to dial directly for emergency assistance, unless otherwise approved by the Oregon Department of Human Services.

(B) A bodily-fluid spill clean-up kit shall be provided in the pool area. The kit shall consist, at a minimum, of protective gloves, disinfectant, clean-up materials (e.g., bucket, sponge, paper towels), and a biohazard waste bag, be stored in a complete condition, and be replaced or restocked immediately after use.

(C) A rescue tube, of the type required by the lifeguard certifying agency, shall be provided for each lifeguard on duty.

(4) Off-Premises Pool Facilities:

(a) Off-premises pool facilities used by the center shall be licensed by the Oregon Department of Human Services as public swimming pools.

(b) The off-premises pool management shall be made aware of the certified family child care home rules regarding swimming activities.

- (c) Certified family child care home staff and children shall comply with the rules and regulations of the public swimming pool.
- (d) Certified family child care home staff shall comply with the staff/child ratios in Table 4 of this rule. Lifeguard/child ratios shall be determined by the public swimming pool.
- (e) Children shall be within sight and sound of certified family child care home staff at all times.
- (f) First aid supplies and a copy of each child's medical release form shall be taken to off-premises pool facilities.

(5) Natural Bathing Areas:

- (a) The certified family child care home shall not conduct swimming activities in areas with flowing water.
- (b) Wading is the only water activity permitted in shallow surf, lakes, rivers and streams.