



Oregon AFSCME Council 75
Support for HB 2484 A

May 6, 2021

Dear Chair Jama, Vice-Chair Linthicum and Members for the Committee

Thank you, for the time today to provide some background information and support for HB 2484. I truly appreciate Rep Power having the bill drafted and her help in facilitating a very helpful conversation with Multifamily NW, the Rental Housing Alliance and the Oregon Rental Housing Association. I also need to thank Dana and Amy at the Children's Institute for their work on this and of course, Zakkyia Ibrahim who came forward with her story to help us address this for all providers who are renters.

Oregon AFSCME Council 75 represents roughly 2,500 (numbers based on August 2020 member report) licensed family child care, often referred to as licensed in-home providers through AFSCME Local 132, Child Care Providers Together. There are two types of licenses for family child care - Registered, which can have no more than 10 children in care at once and Certified which can have no more than 16 children in care at once.

All types of family child care settings are an integral part of our child care system and Licensed Family Child Care are important particularly for providing care for families with children of multiple ages - many caring for 6 week olds through age 12. They are allowed to apply for a license 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 culturally specific or specialize in caring for kids with special needs. They are usually already known, trusted and likely match their families' cultural norms and values because they are from those communities.

In my ten years covering child care for AFSCME, issues of providers being asked by their landlords to choose between having to stop providing care to keep their home or find a new home to continue providing care and keep their income have repeatedly popped up. Earlier in my work, providers were able to find a new place more easily, however, as you know that has become an increasingly difficult task. For some of the



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providers the process and costs of finding a new home outweighed the income generated by their child care wages so the decision was to keep their homes and find another source of income. Some providers have been able to find a new location. However finding a new home, that doesn't disrupt, at all or very little their income or the continuity of care for their families is almost like finding a pot of gold at the end of a rainbow.

In digging in on this issue - we looked at whether or not ORS 329A.440 which provides that licensed in-home child care is a residential usage for property zoning. This means that the primary function is that it is a residence where a business is also housed and that no additional zoning or building requirements are permitted outside of what is required in the rules enforced by the Early Learning Division's Office of Child Care. The statute also provides that there are rules that licensed child care must follow and they must allow licensing specialists and DHS inspectors in their home for health, safety and other rule compliance checks. If the provider participates in the federal food program, they also must allow the employees who check paperwork on that into their homes without announcement. Providers must know and comply with local, state and federal laws related to 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.

This clarification was helpful in resolving the dilemma between some child care providers and their landlords however, we found that in a good number of the examples, the landlords had received notice from their insurance companies that they would cancel their policies on the homes unless the child care business was closed. This led us to look into ORS 742.620. The statute prohibits an insurer from cancelling or refusing to issue a renter's, homeowner's or fire policy on a private home solely on the basis that policyholder operates a child care facility. The second part of ORS 742.620 specifies that a homeowner, renter, or fire insurance policy may not provide coverage for liabilities related to child care.



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While this answered the question of cancellation, landlords were still concerned about the gap in coverage for liability related to the child care that could come up. We were able to work together on the language that is now included in HB 2484A that would allow for a landlord to require the child care provider to provide for either a waiver that names the landlord signed by families of children in care, business liability insurance or bonding to cover liability. This language was modeled after California's long standing law for in-home child care providers who are renters. The inclusion of the waiver was key for our child care providers, as sadly, child care is not a business that provides for much of a cushion in their budgets. Additional costs of the business liability insurance will remain out of reach for many providers making the waiver likely the only viable option for many of them.

This bill is the product of difficult and collaborative conversations and will hopefully help provide for a bit more stability to our child care providers who are renters and the families who depend on them for care and education of their children.

Oregon AFSCME Council 75 urges your support and passage of HB 2484A.

Respectfully,

Eva Rippeteau

Political Coordinator

Oregon AFSCME Council 75



Registered Provider Rules for number of kids in care and supervision of the children & regarding care in homes above 1st level for multi-family settings:

Copied from page 16 & 28; the full set of rules can be found at

<https://oregonearlylearning.com/wp-content/uploads/2019/02/RF-Rule-Book-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.

414-205-0110 Safety

(3) Second floors (does not apply to providers registered continuously at the same address before 2009, unless the provider has moved the child care license to a new residence):

- (a) Child care children shall not sleep on the second floor or above;
- (b) Care shall not be provided for infants and toddlers on the second floor or above;



- (c) Night care shall not be provided on the second floor or above;
- (d) Children may be allowed on the second floor to use the bathroom if the only bathroom is on the second floor;
- (e) Care can be provided for preschool and school-age children on the second floor or above, if:
 - (A) There are two staircases to the ground level and all children are mobile enough to exit safely; or
 - (B) The designated fire marshal has approved the use of the upper floor.
- (4) The provider must have a written plan for evacuating and removing children to a safe location in an emergency. The plan must be posted in the home, familiar to the children and the caregivers, and practiced at least every other month and must include:
 - (a) Procedures for notifying parents or other adults responsible for the children, of the relocation and how children will be reunited with their families;
 - (b) Procedures to address the needs of individual children, including infants and toddlers, children with special needs and children with chronic medical conditions;
 - (c) An acceptable method to ensure that all children in attendance are accounted for
 - (d) Procedures for handling natural disasters (e.g. fire, earthquake, etc.) and man-caused events, such as violence at a child-care facility;
 - (e) Procedures in the event that children must shelter-in-place or if the child-care home must be locked-down so that no one can enter or leave; and
 - (f) Procedures for maintaining continuity of child care operations.



(5) A telephone in working condition must be in the family child care home.

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

<https://oregonearlylearning.com/wp-content/uploads/2019/02/CRT-130Aen-CF-Rule-Book-2020-11-02.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;



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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.



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			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.

(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.