

Gaps in safety and accountability for kids in temporary lodging (TL)/temporary lodging prevention (TLP) (Updated 2/6/23)

These are some of the key statutes that ODHS states do not currently apply to kids receiving temporary lodging or temporary lodging prevention services.

ORS 418.200 Foster Care Bill of Rights.

ORS 418.256 Nondisclosure Agreements

Prohibits provider from requiring a non-disclosure agreement of employees, volunteers, contractors, etc. or causing them to believe a non-disclosure exists

ORS 418.257 Child in Care definition for abuse.

Under current law, ODHS will not investigate providers for:

- Willful infliction of pain or injury
- Financial exploitation
- Sexual contact between staff and youth that is not otherwise illegal (ie, 16 year old client with 18 yo staff; or 18 yo client and 35 yo staff). Note that the contracts only require that staff be at least 18 years old.
- Sex through trickery or coercion (again, not illegal due to age but child is made to believe they should have sex with the person; grooming; This population is particularly vulnerable to that and includes kids who have been victims of trafficking)
- Inappropriate use of Involuntary Seclusion or Restraint, as defined in ORS 418
- Verbal Abuse (ie, threatening significant physical or emotional harm to a child)

ORS 418.258 Reports of Abuse, Notifications and Investigations

- Requires ODHS to investigate when the Department becomes aware of concerns of abuse
- Requires annual child abuse reporting training for all staff providing services to children
- Prohibits staff or provider interference with an investigation of child abuse
- Liability protections for good faith reporting of abuse or other deficiencies by the provider organization provided to staff and volunteers of provider

ORS 418.259 Investigations, Findings, Notifications, reports

- Notifications to parties, including CASA, child's attorney, parent's attorney and child's caseworker when report of abuse is received

Prepared by Senator Sara Gelser Blouin, 2/6/2024; any errors are my own.

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- Allows child to be interviewed outside presence of provider or ODHS staff during a child abuse investigation whether they are an alleged victim, alleged to have committed the abuse or a witness to the alleged abuse
- Allows child to have parent or attorney present for interview with law enforcement or OTIS/CPS child abuse investigator, and requires child is notified of this prior to interview
- Required that child is interviewed directly when child is the alleged victim in a restraint investigation, including being asked directly about reportable injury
- Notifications to parties (child and parent attorney, case worker, DD worker, CASA, parent when appropriate) when abuse allegation is substantiated
- Inclusion of substantiated allegations of abuse at the provider agency in quarterly reports of abuse in care provided to the Oregon Legislature

ORS 418.260 Responsibilities of Department Employees *Both provider and child language needed*

- Requires that if a ODHS employees make a report to Department leadership if they becomes aware of conditions related to a provider organization that poses a serious threat to the health, safety or welfare of a child or to the public
- Requires ODHS to investigate and take all necessary actions to ensure safety of child when it is aware of conditions related to a provider that threaten the health, safety or welfare of a child or the public

ORS 418.305

- Protects child right to unrestricted access to attorney, caseworker, CASA and others
- Ensures CASA, caseworker, attorneys and ODHS staff are provided access to a child in care or to any premises where the child receives care at any time upon request

ORS 418.306

- Prohibits denying visitation with parents/siblings as means of discipline

ORS 418.519-418.523

- Requires staff be certified in appropriate use of physical restraint or seclusion before imposing on children
- Identifies restraints prohibited for use on a child in care
- Requires that CASA, child's attorney, child's caseworker and child's parent (when appropriate) are notified when a child experiences a restraint or involuntary seclusion
- Requires that kids be provided written information about the allowable and prohibited use of restraint

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- Requires that child be notified about how to report concerns about inappropriate use of restraint SB
- Requires information about frequency of restraint be included in the quarterly report about statewide use of restraint of children in care that is provided to the Legislature

ORS 418.606

- Foster Care Sibling Bill of Rights

Misc.

- Requires provider to use child's preferred name and pronouns
- Prohibits dress code based on biological sex
- Requirements related to reporting related to administration of psychotropics