

# Child Care Division Complaint Policy and Procedures

## **PURPOSE**

The purpose of the Child Care Division's complaint policy and procedures is to balance the needs of children for safe, healthy and appropriate care, the needs of parents for accurate information in order to make informed choices, and the needs of child care facilities for fairness and protection of their reputations and businesses.

The Division responds to complaints of a regulatory or statutory nature. Non-regulatory and non-statutory complaints are not investigated and are not shared with individuals seeking compliance information on child care facilities. All complaints regarding child abuse or neglect are immediately reported to the Department of Human Services (DHS) Child Welfare division and if appropriate, law enforcement. The Division assists the above agencies in investigating these complaints, if requested.

If an individual wishes to know how the Division handles complaints on licensed child care facilities and possible illegal child care, Division staff will inform the individual of these complaint procedures.

## **DEFINITIONS**

A complaint is a formal statement, written or verbal, alleging a violation of state laws or administrative rules by a person or facility providing child care.

A serious complaint is defined in administrative rule and alleges one or more of the following:

- Children are in imminent danger
- There are more children in care than allowed by law
- Corporal punishment is being used
- Children are not being supervised
- Multiple or serious fire, health, or safety hazards exist in the facility
- There are extreme unsanitary conditions in the facility
- Adults are in the facility who are not enrolled in the Division's Central Background Registry

## **RECEIPT OF COMPLAINTS**

Complaint allegations are handled through the Division's Central Office in Salem. An individual wishing to make a complaint may call 503-947-1400 or 1-800-556-6616 to speak to a Division staff member. When there is an allegation of illegal care, the Division is authorized only to investigate the number of children in care, and not whether there are other statutory or regulatory violations.

Complaints are accepted in writing, by phone, or by fax. Complaints may come from state and local agencies, and others, such as DHS, law enforcement, Child Care Resource and Referral (CCR&R) programs, the United States Department of Agriculture (USDA), other child care facilities, parents, or the general public.

The Division's response to complaints received from individuals without first-hand information will be determined by an assessment of the source of the information, and the nature of the allegation. When appropriate, such callers will be asked to encourage the first-hand source to contact the Division directly.

An individual may make a complaint anonymously. However, the Division encourages individuals to provide their contact information so they may be contacted if additional information is needed.

### **COMPLAINT ASSESSMENTS**

An on-site assessment will be conducted by Division staff when a complaint is received. On-site visits will be made on an unannounced basis. The visit will include technical assistance to facility, as appropriate.

As the result of the on-site visit and complaint assessment, allegation(s) will be found:

- **Valid**- evidence that the noncompliance occurred
- **Invalid**- evidence that the noncompliance did not occur
- **Unable to Substantiate**- conflicting evidence exists or information is not available

If, during the on-site visit Division staff observe noncompliance that is not alleged in the complaint, the noncompliance will be treated as an observed noncompliance.

Following the on-site visit, Division staff will prepare and mail to the child care facility a summary report of the findings, conclusions, and if appropriate, the actions required of the facility to come into compliance. A follow-up visit may occur to confirm compliance.

In some cases, a fine may be imposed on a licensed child care facility, or a facility that is providing illegal care.

### **COMPLIANCE INFORMATION- RETENTION AND DISCLOSURE**

Complaint allegations received by the Division are public records, and are retained in the child care facility's file. ORS 162.305 prohibits the destruction, removal, or alteration of a public record.

The Division's policy is to not disclose "pending" complaints that are in the process of being assessed. When an assessment is completed, complaint information will be shared with the public, when making telephone inquiries concerning compliance history, as described below:

- Complaints found **Invalid** will not be shared with the public
- Complaints found **Unable to Substantiate** will be shared with the public for two years after the complaint assessment.

- Complaints found **Valid** will be shared with the public for 10 years after the complaint assessment.
- **Observed Noncompliance** will be shared with the public for 10 years after the complaint assessment.

A child care facility has the right to submit a written response to a complaint. The response as well as other compliance history will also be disclosed to the public.

The public will be provided with a full explanation of the retention timeframes and the meaning of each type of complaint.

Under the public records law, and upon written request, the public will be provided copies of a child care facility's complete compliance history, not subject to the above retention timeframe limitations for that information.

### **RIGHT TO REQUEST A FINDING'S REVIEW**

If a child care facility does not agree with the findings of a complaint assessment, they may request a findings review. Division staff will provide the written findings and procedures upon request.