2017 LEGISLATIVE CHANGES TO CHILD-CARING AGENCIES (CCA)

This table lists all the 2017 legislative changes that impact child-caring agencies (CCA) licensed by Children's Care Licensing Program (CCLP.) Reports of abuse involving CCAs that come in through the hotline are pended to OAAPI (the Office of Adult Abuse Prevention and Investigations) for screening and investigation. CCA notifications personnel are responsible for notifications relating to reports of abuse and licensing or contracting concerns. The majority of legislative changes are minor fixes to larger changes that impacted CCAs in 2016 with the passage of SB 1515.

In addition to legislative changes, a recent leadership decision was made that reports of abuse in all eight CCA license types are the responsibility of OAAPI (previously, CPS handled three license types) and, additionally, because of OAAPI's expertise in responding to reports of abuse in facility-based settings, OAAPI will also handle reports of abuse in settings that meet the definition of a CCA, except that they are not required to be licensed as a CCA because they are operated by a county.

The changes are divided into five categories:

1. Changes to how child abuse reports involving a CCA are handled
2. Changes to notifications that must be made when DHS receives a report involving a CCA
3. Changes to licensing standards for CCAs
4. Changes to licensing actions involving a CCA
5. Miscellaneous changes impacting CCAs

The information under "Implementation Plan" includes where the requirement is reflected in rule, if applicable, and related training or other information to show how the Department plans to comply with the requirement by January 1, 2018.

CHANGES TO HOW CHILD ABUSE REPORTS INVOLVING A CCA ARE HANDLED		
REFERENCE	CHANGE	IMPLEMENTATION PLAN
NA	DHS leadership decision to make all eight CCA license types the responsibility of OAAPI, as well as a new category of substitute care	• CPS screening rule, OAR 413-015-0205(4)(b), directs screeners to make a determination early in the screening process about whether the

	settings that meets all of the statutory requirements to be a CCA, except that it is operated by a government entity.	report is the responsibility of OAAPI. Specifically, the report is immediately pended to OAAPI when the report involves any CCA, proctor foster home, or county-operated agency (defined as an agency that meets all the statutory requirements of a CCA, except that it is operated by a government entity.) • The OAAPI purpose and applicability rule is amended to remove the limitation on certain types of CCA licenses. Additionally, child-caring agency and county-operate agency are defined in OAR 407-045-0820 and referenced throughout the rules as types of reports OAAPI is responsible for.
SB 243 § 1 (36)	Clarifies that the **new definition of abuse does not apply to "a person under 21 years of age who is residing in" a CCA or proctor foster home "when the care provided is in the home of the child by the child's parent."** In the case of CCAs, this should only apply to a report alleging abuse was committed by a proctor foster parent against their own child who is residing in the proctor foster home.	• When CPS screeners are directed to determine whether a report of abuse is the responsibility of OAAPI, OAR 413-015-0205(4)(b) states that reports that allege familial abuse are not the responsibility of OAAPI, but rather CPS screens and, when required, conducts the assessment. • OAAPI rules reference the CPS rule that determines whether the report is the responsibility of OAAPI described above and state that OAAPI is only responsible for reports that are correctly assigned to them under that rule. OAAPI procedure will clarify that includes familial abuse, in which case, OAAPI is required to send the report back to CPS. (See 407-045-0825.)
SB 243 § 1 (36)	Makes slight changes to the definition of abuse applicable to CCAs and proctor foster homes.	CCAs have been subject to the new definition since July of 2016, however, minor clarifications to the definition are made, such as to the definition of involuntary seclusion. The full statutory definition of abuse has been added to the OAAPI rules (see OAR 407-045-0820) so that will reflect any changes to the law in 2017. (See also abuse determination rule, OAR 407-045-0887, which further fleshes out what the statutory terms mean when determining whether abuse occurred.)

SB 243 § 2 (37)	Requires DHS to **immediately commence an investigation** to determine whether the report is substantiated, unsubstantiated or inconclusive when a report of abuse is received regarding a child or young adult in a CCA.	• This is not new for CCAs and proctor foster homes. OAAPI rules state that when a report involving a CCA meets the definition of abuse in ORS 419B.005 or SB 243, a response time of 24 hours must be assigned, unless "the screener can clearly document how the information indicates the child's safety will not be compromised by not responding within 24 hours and whether an internal delay to allow for a planned response is less likely to compromise the safety of the child." See OAR 407-045-0845. • Although not new for OAAPI, OAAPI rules also define the possible dispositions to align with SB 243. See OAR 407-045-887.
SB 243 § 2 (37)	Requires DHS to, in addition to cross reporting required by ORS 419B.015 and OAR 413-015-0305, "**immediately report to law enforcement any crime** that the department has reason to believe has occurred with respect to a child in care or at child-caring agency [or] proctor foster home…even if the suspected crime is not related to a report of abuse."	• This is not a new requirement as it relates to CCAs and proctor foster homes. It is required in OAAPI screening and investigation activities rules (see OAR 407-045-0835 and 407-045-0885.)
SB 243 § 3 (38)	Sets the burden of proof for assessments in CCAs and proctor foster homes by defining disposition terminology (substantiated, unsubstantiated, and inconclusive) to relate to reasonable cause to believe abuse occurred.	This is not new for CCAs and proctor foster homes. These terms are defined in OAAPI rules to align with SB 243. (See OAR 407-045-0887.) In CCLP rules, "substantiated or founded" are always used together to cover both types of dispositions.
SB 243 § 3 (38)	Allows DHS to interview a child without the presence of the CCA staff or the proctor foster parent or DHS personnel.	This is not new for CCAs and proctor foster homes and is reflected in the OAAPI investigations rule, OAR 407-045-0887.
SB 243 § 3 (38)	Requires DHS to inform the child that the child may have the child's parent or guardian (if the child has not been committed to the custody of the Department or OYA) or attorney present during an interview.	This is not new for CCAs and proctor foster homes and is reflected in the OAAPI investigations rule, OAR 407-045-0887.
HB 2903 § 6	Prohibits the use of "alleged perpetrator" and requires use of "respondent" when "compiling records, reports and other information during an investigation" in a CCA or proctor foster home "and in issuing findings, letters of concern or reprimands…"	"Respondent" is defined in OAR 407-045-0820 as "the individual or entity about whom an allegation of abuse has been made" and used throughout the rules in place of "alleged perpetrator."

CHANGES TO NOTIFICATIONS THAT MUST BE MADE WHEN DHS RECEIVES A REPORT INVOLVING A CCA		
SB 243 § 2 (37)	Requires DHS to "immediately **notify appropriate personnel within the department**" including, but not limited to, licensing and certification staff for CCAs and proctor foster homes. DHS defines "appropriate personnel" to mean CCLP, BRS contract compliance personnel if the CCA has a BRS contract, and the caseworker for the child named in the report if the child is in DHS custody.	These notifications are not new and have been completed by DHS staff designated to make CCA notifications and reflected in OAR 413-080-0070. However, the notifications rule is being moved into the CCLP rules with minor amendments described later in this document. (See OAR 413-215-0136.) Specifically, for a suspected licensing or contract violation, CCA notifications personnel notify licensing and contract compliance staff. For a report of abuse, CCA notifications personnel notify licensing and contract compliance staff, as well as any Child Welfare and ODDS caseworkers for the child named in the report.
SB 244 § 1 (1)	Defines governmental agency as "an executive, legislative or judicial agency, department, board, commission, authority, institution, or instrumentality of this state or of a county, municipality or other political subdivision of the state."	This doesn't really change who is notified. Generally, CCAs hold contracts with DHS, OYA, county mental health, and county juvenile departments, and those are all notified under the CCA notifications rule.
SB 243 § 2 (37)	Requires DHS to "immediately **notify any governmental agency** that has a contract with the child-caring agency…to provide care or services to the child in care."	This is not new for CCAs and was reflected in OAR 413-080-0070 since 2016 but is now being moved into the CCLP rules as OAR 413-215-0136. Additional requirements in CCLP rules require CCAs to notify CCLP regarding contracts they have with other governmental agencies.
SB 244 § 4 (38)	Requires DHS to **notify "case managers** for the child" when a report of abuse is received regarding a child in a CCA or proctor foster home.	This is technically new for CCAs, but because case workers were considered "appropriate personnel within the department," they have been notified as provided in OAR 413-080-0070 since passage of SB 1515 by CCA notifications staff. These requirements will be moved to OAR 413-215-0136 in the CCLP rules.
SB 243 § 3 (38)	Requires DHS to **notify "the attorney for the child**" when a report of abuse is received regarding a child in a CCA or proctor foster home.	This is not new for CCAs and has been reflected in OAR 413-080-0070 since passage of SB 1515. However, effective January 1, 2018, leadership has determined that this will only apply for reports that are assigned for an OAAPI investigation and when the child or young adult is in DHS custody. (Otherwise, the parent would be the appropriate person to communicate with a child's attorney because DHS would not know how to contact an

		attorney for a child privately placed in a CCA.) Therefore, the CCA notifications rule is slightly changed to say that CCA notifications personnel will ensure notifications to legal parties are made as required by OAR 413-080-0051. CCA notifications personnel could still make the notification or the Child Welfare caseworker can, as long as it is made.
SB 243 § 3 (38)	Requires DHS to **notify the child's CASA** when a report of abuse is received regarding a child in a CCA or proctor foster home.	This is not new for CCAs and has been reflected in OAR 413-080-0070 since passage of SB 1515. However, as noted above, this is only done for children in DHS custody (privately placed children do not have CASAs) and caseworkers will be required to make the notification under OAR 413-080-0051. Therefore, the new CCA notifications rule, OAR 413-215-0136, will say that notification required in OAR 413-080-0051 will be ensured by CCA notifications staff. So either the caseworker or CCA notifications staff will make the notification.
SB 243 § 3 (38)	Requires DHS to **notify "parents or guardians** of the child" when a report of abuse is received regarding a child in a CCA or proctor foster home.	This is not new for CCAs and has been reflected in OAR 413-080-0070 since passage of SB 1515. However, this will be limited to reports that are assigned for OAAPI investigation and who makes the notification will depend on the circumstances. CCA notifications personnel and the OAAPI investigator will notify parents or guardians if the child or young adult has been privately placed in a CCA. (See OAR 413-215-0136 and 407-045-0887.) For children in DHS custody, CCA notifications personnel will "ensure" the notification is made by either the caseworker or OAAPI investigator. (See OAR 413-215-0136 and 413-080-0051.)
SB 243 § 3 (38)	Requires DHS to **notify "any attorney representing a parent or guardian** of the child" when a report of abuse is received regarding a child in a CCA or proctor foster home.	This is not new for CCAs and has been reflected in OAR 413-080-0070 since passage of SB 1515. However, going forward, CCA notifications personnel will "ensure" the caseworker makes this notification as provided in OAR 413-080-0051. (See OAR 413-215-0136.) Again, this will only apply to children in DHS custody because otherwise DHS has no way of knowing whether the parents of a privately placed child have an attorney who would need to have confidential information about their child.

SB 243 § 3 (38)	Requires DHS to **notify the Director of DHS and Director of Child Welfare** when a report is substantiated regarding a CCA or proctor foster home.	This is not new for CCAs and has been reflected in OAR 413-080-0070 since passage of SB 1515. This notification will continue to be made by CCA notifications staff under OAR 413-215-0136. (After January 1, 2018, the Sensitive Issue Review process will be reviewed and may be changed to apply to OAAPI and therefore this process could be used here. But in the meantime, CCA notifications personnel will notify DHS leadership.)
SB 243 § 3 (38) and SB 244 § 4 (38)	Requires DHS to **notify CCA licensing personnel and "case managers"** for the child in care when a report is substantiated regarding a CCA or proctor foster home.	This is not new for CCAs so was reflected in OAR 413-080-0070 since passage of SB 1515. It will now be reflected in CCLP rule, OAR 413-215-0136.
SB 243 § 3 (38) and SB 244 § 4 (38)	Requires DHS to **notify the attorney for the child in care** when a report is substantiated regarding a CCA or proctor foster home.	This is not new for CCAs so was reflected in OAR 413-080-0070 since passage of SB 1515. However, as described for other legal party notifications, this will apply only for children in DHS custody and when the report is assigned for OAAPI investigation. The caseworker will be required to make the notification (see OAR 413-080-0051) and CCA notifications personnel will be required to "ensure" it's made as provided in OAR 413-215-0136.
SB 243 § 3 (38) and SB 244 § 4 (38)	Requires DHS to **notify the CASA for the child in care** when a report is substantiated regarding a CCA or proctor foster home.	This is not new for CCAs so was reflected in OAR 413-080-0070 since passage of SB 1515. However, as described for other legal party notifications, this will apply only for children in DHS custody and when the report is assigned for OAAPI investigation. The caseworker will be required to make the notification (see OAR 413-080-0051) and CCA notifications personnel will be required to "ensure" it's made as provided in OAR 413-215-0136.
SB 243 § 3 (38) and SB 244 § 4 (38)	Requires DHS to **notify the parents or guardians** of the child or young adult when a report is substantiated regarding a CCA or proctor foster home.	This is not new for CCAs and was reflected in OAR 413-080-0070 since passage of SB 1515. However, the process will change. For children in DHS custody, CCA notifications personnel will notify the Child Welfare caseworker who in turn is required by OAR 413-080-0051 to notify the parent or guardian. For children privately placed, CCA this will be required to make this notification. (Note that there is a conflict in the statute about when parents are notified of a substantiated report.)

SB 243 § 3 (38) and SB 244 § 4 (38)	Requires DHS to **notify any attorney representing a parent or guardian** of the child or young adult when a report is substantiated regarding a CCA or proctor foster home.	This is not new for CCAs so was reflected in OAR 413-080-0070 since passage of SB 1515. However, the process will change and this will only apply to children with an open case with DHS. CCA notifications personnel will be required to notify the DHS caseworker who will make notifications required in OAR 413-080-0051, including to any attorney for the parent or guardian.
SB 243 § 3 (38)	Requires DHS to **notify the CRB** when a report is substantiated regarding a CCA or proctor foster home.	This is one of the only new notifications required on reports relating to CCAs. CCA notifications personnel will be required to notify the DHS caseworker who will notify the CRB as provided in OAR 413-080-0051.
SB 243 § 3 (38)	Requires DHS to notify the legislature each quarter regarding: • The name of any CCA in which a report of abuse was substantiated in the prior quarter • Approximate date of abuse • Nature of abuse and brief narrative • Whether physical injury, sexual abuse, or death resulted • Corrective actions taken or ordered by the Department and outcome of those actions	This is not new for CCAs. A process is in place to provide these reports.
SB 244, § 2 (11)	Requires that all appropriate personnel within the department be notified and investigate and take appropriate action without undue delay whenever any report of abuse or other concern is received regarding a CCA.	This is not new for CCAs and has been required under OAR 413-080-0070 since July 2016. It will now be reflected in OAR 413-215-0136 which will require notification to CCLP licensing staff, contract compliance staff, and ODDS staff as applicable.
SB 244, § 2 (11)	Removes the requirement to immediately report any concerns involving a CCA to "the state or governmental agency or unit, governing board, trustees, owners, managers or operators or other appropriate authorities responsible for the CCA…[and] any governmental agency or unit that has a contract with the CCA."	This change was requested by DHS to align with practice of not making extensive external notifications regarding, for example, low-level licensing concerns or similar violations. (However, in exchange for this, explicit notification was added (although not immediate) to OYA, county juvenile departments, and ODDS when the CCA also serves those children. This is described below.) To reflect this, OAR 413-215-0136 does not require notification to contracting entities when "suspected violations" are received, but the rule does require CCA notifications personnel to "notify a

		contact person deigned by the CCA as the authority responsible for such reports" just as a courtesy, even though it is not required by the law.
SB 244, § 2 (11)	Requires DHS to notify OYA, county juvenile departments, or ODDS "of the report or suspected or founded abuses, deficiencies, violations, or failures" at a CCA when it is "known or found to serve children also served by" OYA, county juvenile departments, or ODDS.	This language from 244 will be reflected in the CCA notifications rule, OAR 413-215-0136.
SB 244, § 2 (11)	Requires DHS to do the following **whenever DHS immediately suspends or revokes a license because "the abuses, deficiencies, violations, or failures to comply are or threaten a serious danger to any child or to the public, or place a child at risk with response to the child's health, safety, or welfare:** • Notify any governmental agency that has a contract with the CCA of any suspension or revocation and of any conditions placed on the license. • Immediately report the alleged deficiencies or violations to the governmental agency and the governing board responsible for oversight of the CCA.	This is not necessarily new. Since passage of SB 1515, OAR 413-080-0070 required notification to "any governmental agency that has a contract with the CCA" and the governing board of the CCA whenever DHS suspends, revokes, or places conditions on a license. This seems to satisfy this requirement. (This is now moved to OAR 413-215-0136 without amendment.)
SB 244, § 2 (11)	If a CCA fails to comply with a plan of correction in the allotted time, the Department must immediately notify (among other entities in prior law) members of the governing board, instead of "state or governmental agency or unit, governing board, trustees, owners, managers or operators or other appropriate authorities."	This is reflected in CCLP rule regarding corrective actions, OAR 413-215-0111(4).
SB 244, § 4 (38)	Removes requirement to notify parents or guardians of other children in the CCA or proctor foster home whenever a report is substantiated.	Under SB 1515 and DOJ guidance, CCA notifications staff were required to notify parents or guardians for all children in the CCA, which was very challenging in practice. It was limited to substantiated reports in which the perpetrator was the CCA itself. This removes all requirements to notify the parents or guardians of other children in the CCA and therefore is no longer reflected in the CCA notifications rule, OAR 413-215-0136.

HB 2903, § 1 (4)	The Director must notify the Governor 14 days prior to rescinding an otherwise mandatory notice of revocation.	This will be rare and the statute is extremely prescriptive, so it is not reflected in rule. In the future, a Central Office protocol may be drafted to provide guidance.
HB 2903, § 1 (4)	DHS must notify the Governor and appropriate legislative committees after rescinding an otherwise mandatory notice of revocation.	This will be rare and the statute is extremely prescriptive, so it is not reflected in rule. In the future, a Central Office protocol may be drafted to provide guidance.
HB 2903, § 1 (4)	Requires DHS to "immediately notify any state or governmental agency or unit that has a contract with the" CCA "and the governing board, trustees, owners, managers, operators or other appropriate authorities responsible for the child-caring agency, of conditions placed by the Department."	This is not necessarily new. Since passage of SB 1515, OAR 413-080-0070 required notification to "any governmental agency that has a contract with the CCA" and the governing board of the CCA whenever DHS suspends, revokes, or places conditions on a license. This seems to satisfy this requirement. (This is now moved to OAR 413-215-0136 without amendment.)
CHANGES TO LICENSING STANDARDS FOR CCAS		
SB 243, § 2 (37)	Requires the Department to require, as a condition of licensure or certification, that **CCAs have procedures and protocols on abuse reporting** that require immediate reporting of abuse; provide for annual training and written materials about the hotline; advise and educate employees to report abuse under both SB 243 and ORS 419B.005; and inform employees that the responsibility to report abuse is personal to the employee. This does not apply if the home does not have any "employees, staff, or volunteers."	This has been in licensing rules since passage of SB 1515, but the language is amended to update the statutory references. (See OAR 413-215-0061(5)). Training materials about abuse reporting requirements are currently being reviewed to make sure they are still accurate, given the minor changes to law in 2017.
SB 243, § 2 (37)	Gives DHS the authority to suspend or revoke a CCA license for a CCA for “interference or hindering an investigation of abuse of a child in care.”	This is not new and has been reflected in OAR 413-215-0121 since July 2016.
CHANGES TO LICENSING ACTIONS INVOLVING A CCA		
HB 2903, § 1 (4)	In addition to the mandatory revocation required in certain circumstances (fatality; failure to report abuse; failure to cooperate with any investigation; or failure to provide financial statements), DHS may place immediate conditions on a license when those circumstance occur	Since passage of SB 1515, licensing rules have allowed the Department to "immediately place conditions on a license" when "the Department determines at any time during or after an investigation that the abuses, deficiencies, violations or failures to comply are or threaten a serious

	"prior to a hearing if, consistent with ORS 183.430, the Department finds there is a serious danger to the public health or safety and sets forth specific reasons for such findings."	danger to any child or to the public, or place a *child in care* at risk with respect to the child in care's health, safety, or welfare." (See OAR 413-215-0121(3)(c).) I think this would capture any situation referenced here, but we will revisit this during the permanent rulemaking process.
HB 2903, § 1 (4)	Allows DHS to "immediately place conditions on any license…"	Since passage of SB 1515, OAR 413-215-0121 has allowed the Department to place conditions on a license in a wide range of situations and place immediate conditions under other conditions. This is probably more limited that the statute, so we will revisit during the permanency rulemaking process.
HB 2903, § 1 (4)	Allows the Director of DHS to rescind the notice of intent to suspend or revoke if the director determines, by agreement with the Director of OYA and OHA if applicable, that the concerns regarding the health and safety of children have been ameliorated and any conditions have been resolved. The decision must be based solely on health and safety of children; system-wide capacity may not be an element of the decision.	This will be rare and the statute is extremely prescriptive, so it is not reflected in rule. In the future, a Central Office protocol may be drafted to provide guidance.
HB 2903, § 1 (4)	For three years after rescission of an otherwise mandatory revocation, the CCA must apply for a license renewal annually.	Although the "off ramp" allowed in HB 2903 is not in the CCLP rules, OAR 413-215-0086 is amended to reference this caveat to the default length of effectiveness.
MISC. CHANGES RELATING TO CCAS		
SB 243, § 2 (37)	Provides immunity from civil and criminal liability and employment-related discipline for good-faith abuse reporting and allows disclosure of otherwise confidential information.	None.
SB 245, § 1 (1)	"Child" for purposes of CCA licensing statutes only is amended from "child in care" to "child" as defined in ORS 419B.005.	In OAR 413-215-0000, the definition of "child in care" is amended to match the definition of "child" in SB 245. However, the CCLP rules will continue to use "child in care" until more extensive amendments can be made. This is substantively accurate. It would just require hundreds of rule amendments to update the terminology so that work will be done in the permanent rulemaking process.

SB 245, § 1 (1)	Clarifies that a facility that exclusively serves individuals 18 years of age and older or that primarily serves both adults and children but requires that any child be accompanied at all times by a parent or guardian is not a CCA.	This is added to the definition of child-caring agency in OAR 413-215-0000.
HB 2344, § 1 (25)	Changes the definition and requirements for "independent residence facility."	This is not needed in rule. It allows program changes to the Independent Living Program (ILP).
HB 2903, § 1 (4)	Decision to use "off ramp" in HB 2903 must be based solely on health and safety of children; system-wide capacity may not be an element of the decision.	This will be rare and the statute is extremely prescriptive, so it is not reflected in rule. In the future, a Central Office protocol may be drafted to provide guidance.
HB 2903, § 1 (4)	Removes requirement to obtain agreement from OYA and OHA prior to rescinding a notice of intent to suspend or revoke effective January 1, 2021.	This will be rare and the statute is extremely prescriptive, so it is not reflected in rule. In the future, a Central Office protocol may be drafted to provide guidance.
HB 2903, § 5 (4)	Requires report on deemed status by September 15, 2018.	Per Dr. Richardson, this work will be contracted out to a neutral party.