



NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 413
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE PROGRAMS

FILED

10/31/2025 10:19 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: CPS Notification Pamphlet language is being updated within Division 015 ruleset.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/21/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Eric Warner
971-332-0319
cw.policyunit@odhsoha.oregon.gov

500 Summer St NE E-67
Salem, OR 97301

Filed By:
Eric Warner
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/17/2025

TIME: 10:00 AM - 10:30 AM

OFFICER: Eric Warner

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-277-2343

CONFERENCE ID: 957077487

SPECIAL INSTRUCTIONS:

Attendees will need to join the meeting by Microsoft Teams or phone. If you wish to provide comment, please be signed in or call in by no later than 15 minutes after the start time. Join by Microsoft Teams -Meeting ID: 2405136238216
Passcode: x94oT3rd or call in: +1-971-277-2343, Phone Conference ID: 957077487#

Everyone has a right to know about and use ODHS programs and services. ODHS provides assistance such as: sign language and spoken language interpreters, written materials in other languages, braille, large print, audio and other formats. If you need assistance or have questions, please contact CW.PolicyUnit@odhsoha.oregon.gov at least 5 days before the meeting.

NEED FOR THE RULE(S)

Senate Bill 736 of the 2025 legislative session created a significant amount of discussion regarding the ODHS 1536 handout providing notice and information to parents and caregivers during a CPS assessment. The bill did not pass, however, several suggestions for improving the handout and creating and updating current rule to help clarify the role and definition of the handout to meet the requirement of notice under ORS 409.185 (2)(h) were identified. This rule update is to meet the needs identified in those discussions and from those suggestions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 736 (2025): <https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/SB736>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

During implementation, this rule would have a positive impact on the overrepresentation of families of color in the child welfare system. May also affect how CPS assessments occur and conclude. Research shows very few families that interact with the child welfare system do not fully understand their rights. Implementing the update to rules can allow for child welfare workers to rely on resources that would increase the amount of active and consensual participation in their cases or planning. In implementation, pamphlet would show access to counsel during CPS assessment if not able to afford themselves.

FISCAL AND ECONOMIC IMPACT:

The Department and RAC estimate that there will not be any fiscal impact to state agencies, clients, the public or businesses, including small businesses for the implementation of the rule itself.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The Department estimates there will not be any cost of compliance to state agencies, units of local governments, or members of the public. (2) The Department estimates these rules will not have any effect on small business. (a) No small businesses are affected by this adoption; (b) The Department estimates there will not be any cost expected for reporting, record keeping, or administrative activities or cost to comply with the rules. (c) There is no cost of professional services, equipment supplies, labor and increased administration required for small businesses to comply with the rule(s).

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules, however, are invited to provide input during the public comment period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

413-015-0115, 413-015-0420, 413-015-0606, 413-015-0820

AMEND: 413-015-0115

RULE SUMMARY: OAR 413-015-0115 sets forth the "Definitions" and is being amended to include updates made to the CPS Notification Pamphlet and updated the definition of "Parent" to align with Senate Bill 163 and the Uniform Parentage Act.

CHANGES TO RULE:

413-015-0115

Definitions

Unless the context indicates otherwise, the following terms apply to OAR Chapter 413, Division 015.¶

(1) "Abuse":¶

(a) For purposes of screening a report of "abuse" of a child subject to ORS 419B.005, "abuse" means any of the following, except that "abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in this subsection.¶¶

(A) Mental Injury. Includes only cruel or unconscionable acts or statements made, or threatened to be made, to a child if the acts, statements or threats result in severe harm to the child's psychological, cognitive, emotional, or social well-being and functioning.¶¶

(B) Neglect. ¶¶

(i) Negligent treatment or maltreatment of a child, including, but not limited to, the failure to provide adequate food, clothing, shelter, or medical care that is likely to endanger the health or welfare of the child.¶¶

(ii) Buying or selling a person under 18 years of age as described in ORS 163.537.¶¶

(iii) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.¶¶

(iv) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a substantial risk of harm to the child's health or safety.¶¶

(C) Physical Abuse. Any assault, as defined in ORS Chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given for the injury. ¶¶

(D) Sexual Abuse.¶¶

(i) Rape of a child, which includes, but is not limited to, rape, sodomy, unlawful sexual penetration and incest, as described in ORS chapter 163.¶¶

(ii) Sexual abuse, as described in ORS chapter 163.¶¶

(iii) Sexual exploitation.¶¶

(E) Threat of harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.¶¶

(F) Restraint or seclusion of a child who is a student by personnel, contractors, or volunteers of a public education program, as defined in ORS 339.285, in violation of ORS 339.285, 339.288, 339.291, 339.303 or 339.308. ¶¶

(G) Infliction of corporal punishment on a child who is a student by a teacher, administrator, school employee, or school volunteer in violation of 339.250(9). ¶¶

(b) For purposes of screening a report of abuse of a child in care living with a resource parent or receiving services from a respite provider certified by Child Welfare, unless the abuse alleged is familial or third party abuse, "abuse" is also defined as:¶¶

(A) Abandonment, including desertion or willful forsaking of a child in care, or the withdrawal or neglect of duties and obligations owed a child in care by a resource parent or respite provider certified by Child Welfare, a caregiver, or other person.¶¶

(B) Financial exploitation.¶¶

(i) Financial exploitation includes:¶¶

(I) Wrongfully taking the assets, funds, or property belonging to or intended for the use of a child in care.¶¶

(II) Alarming a child in care by conveying a threat to wrongfully take or appropriate moneys or property of the child in care if the child in care would reasonably believe that the threat conveyed would be carried out.¶¶

(III) Misappropriating, misusing, or transferring without authorization any moneys from any account held jointly or singly by a child in care.¶¶

(IV) Failing to use the income or assets of a child in care effectively for the support and maintenance of the child in care.¶¶

(ii) Financial exploitation does not include age-appropriate discipline that may involve the threat to withhold, or the withholding of privileges.¶¶

(C) Involuntary seclusion. Involuntary seclusion means confinement of a child in care alone in a room or an enclosed space from which the child in care is prevented from leaving by any means. A resource parent or respite provider certified by Child Welfare may not put a child in care into involuntary seclusion.¶¶

(i) Involuntary seclusion includes:¶¶

(I) Involuntary seclusion of a child in care for the convenience of a resource parent or respite provider certified by Child Welfare.¶¶

(II) Involuntary seclusion of a child in care to discipline the child in care.¶¶

(III) Involuntary seclusion of a child in care as a form of punishment.¶¶

(IV) Involuntary seclusion of a child in care done in retaliation.¶¶

(ii) Involuntary seclusion does not include age-appropriate discipline, including, but not limited to, a time-out if the time-out is in a setting from which the child in care is not prevented from leaving by any means.¶¶

(D) Neglect, which includes:¶¶

(i) Failure to provide the care, supervision, or services necessary to maintain the physical and mental health of a

child in care; or¶¶

(ii) The failure of a resource parent or respite provider certified by Child Welfare, a caregiver, or other person to make a reasonable effort to protect a child in care from abuse.¶¶

(E) Physical abuse, which includes:¶¶

(i) Any physical injury to a child in care caused by other than accidental means, or that appears to conflict with the explanation given of the injury; or¶¶

(ii) Willful infliction of physical pain or injury upon a child in care.¶¶

(F) Sexual abuse, which includes:¶¶

(i) Sexual harassment, sexual exploitation as described in ORS 419B.005(1)(a)(E), or inappropriate exposure to sexually explicit material or language;¶¶

(ii) Any sexual contact between a child in care and a resource parent or respite provider certified by Child Welfare, a caregiver, or other person responsible for the provision of care or services to a child in care;¶¶

(iii) Any sexual contact between a person and a child in care that is unlawful under ORS chapter 163 and not subject to a defense under that chapter; or¶¶

(iv) Any sexual contact that is achieved through force, trickery, threat, or coercion.¶¶

(v) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.467, or 163.525.¶¶

(G) Verbal abuse.¶¶

(i) Verbal abuse includes threatening severe harm, either physical or emotional, to a child in care, through the use of:¶¶

(I) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule; or¶¶

(II) Harassment, coercion, threats, compelling or deterring conduct by threats, humiliation, mental cruelty, or inappropriate sexual comments.¶¶

(ii) Verbal abuse does not include age-appropriate discipline that may involve the threat to withhold privileges.¶¶

(H) Wrongful use of restraint. A resource parent or respite provider certified by the Child Welfare may not use a restraint on a child in care.¶¶

(i) Wrongful restraints do not include:¶¶

(I) Holding the child in care's hand or arm to escort the child in care safely and without the use of force from one area to another; or¶¶

(II) Assisting the child in care to complete a task if the child in care does not resist the physical contact;¶¶

(ii) A resource parent or respite provider certified by Child Welfare may use a physical intervention if:¶¶

(I) The intervention is necessary to break up a physical fight or to effectively protect a person from an assault, serious bodily injury or sexual contact;¶¶

(II) The physical intervention uses the least amount of physical force and contact possible; and¶¶

(III) The physical intervention is not a prohibited restraint, as described in ORS 418.519 and 418.523.¶¶

(2) "Alleged perpetrator" means the person alleged to be responsible for the abuse of a child. ¶¶

(3) "Alleged victim" means the child alleged to have been abused by the alleged perpetrator.¶¶

(4) "Caregiver" means a guardian, legal custodian, Indian custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a child or young adult.¶¶

(5) "Caseworker" means a Child Welfare employee assigned primary responsibility for a child served by Child Welfare.¶¶

(6) "Child" means a person who:¶¶

(a) Is a person under 18 years of age; or¶¶

(b) Is a child in care, as defined in ORS 418.257 as a person under 21 years of age residing in or receiving care or services from:¶¶

(A) A child-caring agency or proctor foster home;¶¶

(B) A foster home certified by the Department; or¶¶

(C) A developmental disabilities residential facility; unless¶¶

(D) The care is being provided to the child by the child's parent (ORS 418.257).¶¶

(7) "Child care" means each of the following:¶¶

(a) A Registered Family Child Care Home, which is the residence of a provider who has a current Family Child Care Registration at that address and who provides care in the family living quarters.¶¶

(b) A Certified Family Child Care Home, which is a child care facility located in a building constructed as a single-family dwelling that has certification to care for a maximum of 16 children at any one time.¶¶

(c) A Certified Child Care Center, which is certified to care for 13 or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single-family dwelling.¶¶

(d) A Regulated Subsidy Provider, which is a child care provider that is exempt from Office of Child Care licensing and that receives subsidy payments for child care on behalf of clients of the Department.¶¶

(e) Other facilities that are operating as a Registered Family Care Home, Certified Family Child Care Home,

Certified Child Care Center, or Regulated Subsidy Provider without a certification or registration when a certification or registration is required by the Office of Child Care.¶¶

(8) "Child-caring agency" is defined in ORS 418.205 and:¶¶

(a) Means any private school, private agency, private organization or county program providing:¶¶

(A) Day treatment for children with emotional disturbances;¶¶

(B) Adoption placement services;¶¶

(C) Residential care including, but not limited to, foster care or residential treatment for children;¶¶

(D) Residential care in combination with academic education and therapeutic care, including, but not limited to treatment for emotional, behavioral or mental health disturbances;¶¶

(E) Outdoor youth programs; or¶¶

(F) Other similar care or services for children.¶¶

(b) Includes the following:¶¶

(A) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;¶¶

(B) An independent residence facility as described in ORS 418.475;¶¶

(C) A private residential boarding school;¶¶

(D) A child-caring facility as described in ORS 418.950; and ¶¶

(E) A secure transportation services provider that transports or provides escort services for children on the highways of this state, along a route that begins or ends in this state as described in ORS 418.205.¶¶

(c) Child-caring agency does not include:¶¶

(A) Residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services.¶¶

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this paragraph, "respite services" means the voluntary assumption of short-term care and control of a child under age 18 without compensation or reimbursement of expenses for the purposes of providing a parent in crisis with relief from the demands of ongoing care of the parent's child;¶¶

(C) A youth job development organization as defined in ORS 344.415;¶¶

(D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645; or¶¶

(E) A foster home subject to ORS 418.625 to 418.645.¶¶

(F) A facility that exclusively serves individuals 18 years of age and older; or¶¶

(G) A facility that primarily serves both adults and children but requires that any child must be accompanied at all times by at least one custodial parent or guardian.¶¶

(9) "Child protective services" (CPS) means a specialized social service program that Child Welfare provides on behalf of children who may be unsafe after a report of abuse is received.¶¶

(10) "Child Welfare" means the Oregon Department of Human Services, Child Welfare.¶¶

(11) "CPS assessment" means an investigation into a report of abuse pursuant to ORS 419B.020 or ORS 418.205 - 418.327 that includes activities and interventions to identify and analyze safety threats, determine if there is reasonable cause to believe abuse occurred, and ensure safety through protective action plans, initial safety plans, or ongoing safety planning.¶¶

(12) "CPS assessment informational pamphlet" means an informational pamphlet created by the Department for use during a CPS assessment to provide a child's parent, guardian or caregiver, an alleged perpetrator, resource parent, respite provider, or ODHS employee with a clear written explanation of the CPS assessment and court hearing process and their rights during the CPS assessment and court proceedings related to the abuse investigations ("Client Rights - Policy" I-A.1; ORS 409.185(2)(h)).¶¶

(13) "CPS supervisor" means an employee of Child Welfare trained in child protective services and designated as a supervisor.¶¶

(134) "CPS worker" means an employee of Child Welfare who has completed the mandatory Child Welfare training for CPS workers.¶¶

(145) "Coercion", in alignment with the Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. Sec. 5101 to 5119c and ORS 163.275, includes but is not limited to:¶¶

(a) Persuading, compelling, or inducing another to engage in a behavior by physical force; ¶¶

(b) Causing or threatening harm to the person; ¶¶

(c) Causing or threatening harm to another person, animal, or property; ¶¶

(d) Any arrangement, plan, or pattern of behavior intended to cause a person to believe that failure to perform an act would result in serious harm to the person, another person, animal, or property; or¶¶

(e) Causing the abuse or threatening the abuse of a legal system.¶¶

(156) "Conditions for return" means a written statement of the specific behaviors, conditions, or circumstances that must exist within a child's home before a child can safely return and remain in the home with an in-home ongoing safety plan.¶¶

(167) "Department" means the Oregon Department of Human Services.¶

(178) "Designated medical professional" means (as described in ORS 418.747(9)) a physician, physician assistant, or nurse practitioner who has been designated by the local multi-disciplinary team and trained to conduct child abuse medical assessments (as defined in ORS 418.782), and who is - or who may designate another physician, physician assistant, or nurse practitioner who is - regularly available to conduct these medical assessments.¶

(189) "Domestic violence" means a pattern of coercive behavior, which can include physical, sexual, economic, and emotional abuse that an individual uses against a past or current intimate partner to gain power and control in a relationship.¶

(1920) "Education provider" as defined in ORS 339.370 means:¶

(a) A school district, as defined in ORS 332.002;¶

(b) The Oregon School for the Deaf;¶

(c) An educational program under the Youth Corrections Education Program;¶

(d) A public charter school, as defined in ORS 338.005;¶

(e) An education service district, as defined in ORS 334.003;¶

(f) Any state operated program that provides educational services to kindergarten through grade 12 students; or¶

(g) A private school.¶

(201) "Face-to-face" means an in-person interaction between individuals.¶

(212) "Family engagement meeting" (FEM) means a family-focused intervention facilitated by professional staff that is designed to build and strengthen the natural caregiving system for the child. The purpose of the family engagement meeting is to establish a plan that provides for the safety, attachment, and permanency needs of the child. A FEM meets the Oregon Family Decision Meeting requirements as described in ORS 417.365 to 417.375 that include extended family and rely upon the family to make decisions about planning for the children.¶

(223) "Former child in foster care" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.¶

(234) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.¶

(245) "Harm" means any kind of impairment, damage, detriment, or injury to an alleged victim's physical, sexual, psychological, cognitive, or behavioral development or functioning. "Harm" is the result of abuse and may vary from mild to severe.¶

(256) "Household" means an association of persons who live in the same home or dwelling and may be related by blood, adoption, or marriage or may be unrelated persons residing in the same home or dwelling as the child.¶

(267) "ICWA" means the Indian Child Welfare Act.¶

(278) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. When it is occurring, this type of threat is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family functioning.¶

(289) "Indian", as defined in OAR 413-115-0000, means a person who is a member of an Indian tribe or who is an Alaska Native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act (43 U.S.C. 1606)¶

(2930) "Indian child" means any unmarried person who is under age 18 and either:¶

(a) Is a member or citizen of an Indian tribe; or¶

(b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.¶

(301) "Indian custodian", as defined in OAR 413-115-0000, means any Indian, other than the Indian child's parent, who has custody of an Indian child under applicable tribal law or custom or under applicable state law, or to whom temporary physical care, custody, and control has been transferred by the Indian child's parent.¶

(312) "Indian tribe" or "tribe", as defined in OAR 413-115-0000, means any Indian tribe, band, nation, or other organized group or community of Indians federally recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. § 1602(c).¶

(323) "Infant" means a child less than one year old.¶

(334) "Infant with prenatal substance exposure" means an infant, regardless of whether abuse is suspected, for whom prenatal substance exposure is indicated at birth. This includes any of the following circumstances:¶

(a) There is credible information the birthing parent used substances during the pregnancy or at the time of birth; ¶

(b) Prenatal substance exposure is determined by a positive toxicology screen from the infant or the birthing parent at delivery; or¶

(c) An infant whose health care provider has identified signs of substance withdrawal, a Fetal Alcohol Spectrum

Disorder diagnosis, or detectable physical, developmental, cognitive, or emotional delay or harm associated with prenatal substance exposure. ¶

(345) "Initial contact" means:¶

(a) For a CPS assessment, the first face-to-face contact between a CPS worker and a family. The "initial contact" includes face-to-face contact with the alleged victim, their siblings, parent or caregiver, and any children and adults living in the home; accessing the home environment; and gathering sufficient information on the family conditions and functioning to determine if present danger safety threats or impending danger safety threats exist.¶

(b) For a third party CPS assessment, the first face-to-face contact between a CPS worker and the alleged victim and the first contact between a CPS worker and the alleged victim's parent or caregiver. The "initial contact" includes gathering sufficient information about the alleged victim, their parents or caregivers, and the alleged perpetrator's access to the alleged victim to determine whether present danger safety threats exist.¶

(356) "Initial safety plan" means a documented set of actions or interventions sufficient to protect a child from an impending danger safety threat to allow for completion of the CPS assessment.¶

(367) "LEDS" means Law Enforcement Data System, the computerized criminal history information system maintained by the Oregon State Police.¶

(378) "LEDS representative" means the staff person in the local Child Welfare office who has been designated under OAR 257-015-0050(5) and who has completed the training required by the Oregon State Police to train other employees to be LEDS users.¶

(389) "LEDS user" means a staff person in the local Child Welfare office who has been trained by a LEDS representative and has been certified by the Oregon State Police to access LEDS information.¶

(3940) "LEDS notice" means a written statement hand-delivered to the subject individual or sent via U.S. mail to their last known address informing the subject individual of subsections (a) and (b) of this section. "LEDS notice" does not imply consent or permission of the subject individual.¶

(a) Child Welfare may conduct, or has already conducted, criminal records checks.¶

(b) The subject individual has the right to obtain a copy of their LEDS record and challenge the accuracy of the information in the record through the Oregon State Police procedures outlined in OAR 257-010-0035.¶

(401) "Moderate to high needs" means observable family behaviors, conditions, or circumstances that are occurring now; and over the next year without intervention, are likely to have a negative impact on a child's physical, sexual, psychological, cognitive, or behavioral development or functioning. While intervention is not required for the child to be safe, it is reasonable to determine that short-term, targeted services could reduce or eliminate the likelihood that the negative impact will occur.¶

(412) "Monthly face-to-face contact" means in-person interaction between individuals at least once each and every full calendar month.¶

(423) "Multi-disciplinary team" (MDT) means a county child abuse investigative team as defined in ORS 418.747.¶

(434) "Observable" means specific, real, can be seen and described. Observable does not include suspicion or gut feeling.¶

(445) "ODDS" means the Office of Developmental Disabilities Services within the Department.¶

(456) "ODDS licensed group home" means a 24-hour residential program and setting for children and adults with intellectual or developmental disabilities.¶

(467) "Ongoing safety plan" means a documented set of actions or interventions that manage the safety of a child after Child Welfare has identified one or more impending danger safety threats at the conclusion of a CPS assessment or anytime during ongoing work with a family.¶

(478) "ORICWA" means the Oregon Indian Child Welfare Act.¶

(489) "OTIS" means the Office of Training, Investigations and Safety within the Department.¶

(4950) "Out of control" means family behaviors, conditions, or circumstances that can affect safety of a child are unrestrained, unmanaged, without limits or monitoring, not subject to influence or manipulation within the control of the family, resulting in an unpredictable and chaotic family environment.¶

(501) "OYA" means the Oregon Youth Authority.¶

(512) "Parent" means ~~is the biological or adoptive mother~~ person who gave birth to the child or the legal ~~father~~ parent of the child. A legal ~~father~~ parent is a ~~maperson~~ person who has adopted the child or whose ~~paternity~~ parentage has been established or declared under ORS 109.070, ~~ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA) or the Oregon Child Welfare Act (ORICWA) 65. In cases involving an Indian child, "parent" means any biological parent of an Indian child, an Indian who has lawfully adopted an Indian child, including adoptions made under tribal law or custom, or a father whose~~ paternity parentage has been acknowledged or established under ORS 109. "Parent" also includes a ~~putative father~~ 065 or 419B.609. It also includes an alleged genetic parent who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father alleged genetic parent is not the

legal or genetic parent of the child.¶

(523) "Personal representative" means a person who is at least 18 years of age and is selected to be present and supportive during the CPS assessment by a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the crime. The personal representative may not be a person who is a suspect in, party or witness to, the crime.¶

(534) "Plan of care" means a written plan for an infant with prenatal substance exposure and the infant's family, focused on meeting health needs and substance use disorder treatment needs and developed in collaboration with the family, the healthcare provider, community agencies and Child Welfare when appropriate.¶

(545) "Pre-adoptive family" means an individual or individuals who:¶

(a) Has been selected to be a child's adoptive family; and¶

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.¶

(556) "Present danger safety threat" means an immediate, significant, and clearly observable family behavior, condition, or circumstance occurring in the present tense, already endangering or threatening to endanger a child. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a child in peril.¶

(567) "Proctor foster home" means a foster home certified by a child-caring agency that is not subject to ORS 418.625 to 418.470.¶

(578) "Protective action plan" means:¶

(a) When planning for a child, an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect a child from a present danger safety threat; or¶

(b) When planning for an Indian child, an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect an Indian child from imminent physical damage or harm without removing the Indian child from either parent or Indian custodian, as described in OAR 413-115-0070.¶

(589) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a child safe.¶

(5960) "Protective custody" means custody authorized by ORS 419B.150.¶

(601) "Reasonable cause" as defined in ORS 419B.150 means a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts.¶

(612) "Reasonable suspicion" means a reasonable belief given all of the circumstances, based upon specific and describable facts, that the suspicious physical injury may be the result of abuse. Explanation: The belief must be subjectively and objectively reasonable. In other words, the person subjectively believes that the injury may be the result of abuse, and the belief is objectively reasonable considering all of the circumstances. The circumstances that may give rise to a reasonable belief may include, but not be limited to, observations, interviews, experience, and training. The fact that there are possible non-abuse explanations for the injury does not negate reasonable suspicion.¶

(623) "Referral" means a report that has been assigned for the purpose of CPS assessment.¶

(634) "Report" means an allegation of abuse that the screener evaluates to determine if it constitutes a report of abuse as defined in ORS 419B.005 or, when applicable, ORS 418.205 - 418.327.¶

(645) "Reporter" means an individual who makes a report.¶

(656) "Resource family" or "resource parent" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which the individual or individuals reside, to a child in the care or custody of the Department.¶

(667) "Respite provider" means an individual certified by the Department to provide certified respite care to a child being served in their home through an open child welfare case or a child or young adult in the care or custody of the Department.¶

(678) "Restraint" means the physical restriction of a child's actions or movements by holding the child or using pressure or other means.¶

(689) "Safe" means there is an absence of present danger safety threats and impending danger safety threats.¶

(6970) "Safe Haven Infant" means a child who is reasonably believed to be 60 days of age or younger, has been left at an authorized facility as defined in ORS 418.017 and has no evidence of abuse.¶

(701) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing safety.¶

(712) "Safety services" mean the actions, assistance, and supervision provided by safety service providers to manage the identified present danger safety threats or impending danger safety threats.¶

(723) "Safety threshold" means the point at which family behaviors, conditions, or circumstances are manifested in such a way that they are beyond being risk influences and have become an impending danger safety threat. In order to reach the "safety threshold" the behaviors, conditions, or circumstances must meet all of the following criteria: be imminent, be out of control, affect a vulnerable child, be specific and observable, and have potential to cause severe harm. The "safety threshold" criteria are used to determine the presence of an impending danger

safety threat.¶

(734) "School administrator" means the principal, vice principal, assistant principal, or any other person performing the duties of a principal, vice principal, or assistant principal at a school, as defined in the Teacher Standards and Practices Commission (TSPC) OAR 584-005-0005.¶

(745) "Screener" means a Child Welfare employee with training required to receive information and requests at the Oregon Child Abuse Hotline and assess the information and requests to determine Child Welfare's response.¶

(756) "Screening" means the process of determining Child Welfare's response to information and requests received by the Oregon Child Abuse Hotline.¶

(767) "Screening supervisor" means an employee of Child Welfare whose primary responsibility is to oversee the work of a screener and ensure compliance with rules and consistency in the practice of screening.¶

(778) "Sexual exploitation", as described in ORS 419B.005 means:¶

(a) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163.435, and any other conduct which allows, employs, authorizes, permits, induces, or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording, or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes. ¶

(b) Allowing, permitting, encouraging, or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to patronize a prostitute as described in ORS 167.008.¶

(789) "Severe harm" as defined in ORS 419B.150 means:¶

(a) Life-threatening damage; or¶

(b) Significant or acute injury to a person's physical, sexual, or psychological functioning.¶

(7980) "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person under the age of 18 for the purpose of a commercial sex act or the recruitment, harboring, transportation, provision, or obtaining of a person over the age of 18 using force, fraud, or coercion for the purpose of a commercial sex act.¶

(801) "Sibling" means one of two or more children who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways: ¶

(a) By blood or adoption through a common parent; ¶

(b) Through the marriage of the legal or biological parents of the children or young adults; or ¶

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.¶

(812) "Student" means any person who is in any grade from prekindergarten through grade 12, or twenty-one years of age or younger and receiving educational or related services from an education provider that is not a post-secondary institution of education, or who was previously known as a student by the person engaging in sexual conduct and who left school or graduated from high school within 90 days prior to the sexual contact as defined in ORS 339.370. ¶

(823) "Substance" means any legal or illegal drug with potential for misuse, including any controlled substance as defined by ORS 475.005, prescription medications, over-the-counter medications, or alcoholic beverages.¶

(834) "Substitute care" means the out-of-home placement of a child who is in the legal or physical custody and care of Child Welfare.¶

(845) "Suspicious physical injury" (as defined in ORS 419B.023) includes, but is not limited to:¶

(a) Burns or scalds;¶

(b) Extensive bruising or abrasions on any part of the body;¶

(c) Bruising, swelling, or abrasions on the head, neck, or face;¶

(d) Fractures of any bone in a child under the age of three;¶

(e) Multiple fractures in a child of any age;¶

(f) Dislocations, soft tissue swelling, or moderate to severe cuts;¶

(g) Loss of the ability to walk or move normally according to the child's developmental ability;¶

(h) Unconsciousness or difficulty maintaining consciousness;¶

(i) Multiple injuries of different types;¶

(j) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or¶

(k) Any other injury that threatens the physical well-being of the child.¶

(856) "Teacher" means (as defined in TSPC OAR 584-005-0005) a licensed or registered employee in a public school or charter school, or employed by an education service district, who has direct responsibility for instruction, coordination of educational programs, or supervision or evaluation of teachers; and who is compensated for services from public funds.¶

(867) "Third party abuse" means abuse by a person who is not the alleged victim's parent, caregiver, guardian, or other member of the alleged victim's household, and who is not responsible for the alleged victim's care, custody, and control.¶

(878) "Third party CPS assessment" means an investigation into a report of third party abuse pursuant to ORS 419B.020 that includes activities conducted to determine if there is reasonable cause to believe abuse occurred, and whether the alleged victim is safe from the alleged perpetrator of third party abuse.¶

(889) "Unsafe" means the presence of a present danger safety threat or an impending danger safety threat.¶

(890) "Vulnerable child" means a child who is unable to protect themselves. This includes a child who is dependent on others for sustenance and protection. A "vulnerable child" is defenseless, exposed to behaviors, conditions, or circumstances that they are powerless to manage, and is susceptible and accessible to a threatening parent or caregiver. Vulnerability is judged according to physical and emotional development, ability to communicate needs, mobility, size, and dependence.¶

(901) "Young adult" means a person aged 18 through 20 years.

Statutory/Other Authority: ORS 409.185, ORS 418.005, ORS 418.747, ORS 419B.017, ORS 419B.024, ORS 419B.035, ORS 418.205 - 418.327, ORS 419.050, ORS 409.050

Statutes/Other Implemented: ORS 409.185, ORS 418.005, ORS 418.747, ORS 418.205 - 418.327, ORS 147.425, ORS 418.015, ORS 419B.005 - 419B.050

AMEND: 413-015-0420

RULE SUMMARY: OAR 413-015-0420 sets forth the "Make Initial Contact" and is being amended to include updates made to the CPS Notification Pamphlet.

CHANGES TO RULE:

413-015-0420

Make Initial Contact ¶¶

- (1) The CPS worker must make an initial contact within the assigned response time-line.¶¶
- (2) The CPS worker must provide advanced notification to the Indian tribe of any intent to make contact with an individual on a reservation (as defined in OAR 413-115-0000). ¶¶
- (3) The following outlines contacts the CPS worker is required to attempt and, when possible, complete at initial contact. The CPS worker must:¶¶
 - (a) Have face-to-face contact with and interview the alleged victim, their siblings, and any children living in the home except as provided in OAR 413-015-0606. The purpose of the face-to-face contact and interview with the alleged victim, their siblings, and any children living in the home is to gather information regarding possible abuse, gather information about functioning and vulnerability, and assess immediate safety.¶¶
 - (A) Interview and observe the alleged victim and any children as follows:¶¶
 - (i) The CPS worker must notify parents of the intent to interview, unless notification could compromise safety.¶¶
 - (ii) The CPS worker must make diligent efforts to make contact at home, school, day care, or any other place where the worker believes the child or young adult may be found. If the CPS worker is unsuccessful, the CPS worker must document in the Child Welfare electronic information system all attempted contacts and the dates of those attempted contacts.¶¶
 - (iii) When the CPS worker makes contact at home and the parent or caregiver is not present:¶¶
 - (I) The CPS worker must consult with a CPS supervisor and seek assistance from LEA if the referral indicates there is reasonable cause to believe the alleged victim or any child's health or safety is endangered by the conditions of the dwelling; or supervision is inadequate and there is an immediate need to evaluate health and safety.¶¶
 - (II) The CPS worker must wait until the parent is present in the home to complete an interview in the home if there is not reasonable cause to believe health or safety is endangered by the conditions of the dwelling or that supervision is inadequate.¶¶
 - (iv) When the CPS worker is denied access to the alleged victim or to the alleged victim's residence, the CPS worker must, if the referral indicates the alleged victim may be unsafe, request assistance from LEA in assessing the situation and in taking protective custody if needed. If the referral indicates that the alleged victim is presently safe, the CPS worker must consider the following:¶¶
 - (I) Attempting to contact other persons who may have relevant information regarding the referral;¶¶
 - (II) Persisting in attempts to gain cooperation from the family or caregivers, depending on the known safety information;¶¶
 - (III) Seeking LEA assistance;¶¶
 - (IV) Consulting with the CPS supervisor, the district attorney, assistant attorney general, or the county juvenile department to discuss possible juvenile court action; or¶¶
 - (V) Seeking a protective custody order from the juvenile court.¶¶
 - (v) The CPS worker must conduct interviews in a manner that assures privacy.¶¶
 - (vi) If the parent or caregiver is the alleged perpetrator or if the presence of the parent or caregiver might impede the interview, the CPS worker must attempt to interview outside the presence of their parents or caregivers.¶¶
 - (vii) A CPS worker must allow a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the abuse to have a personal representative be present during an interview. If a CPS worker believes that the personal representative would compromise the CPS assessment, the CPS worker may prohibit a personal representative from being present during the interview.¶¶
 - (viii) The CPS worker must observe injuries or signs of abuse. The CPS worker may need to remove the alleged victim's clothing to make adequate observations. In that event, the CPS worker must:¶¶
 - (I) Use discretion and make the alleged victim as comfortable as possible.¶¶
 - (II) Seek parental consent and assistance, when possible and appropriate.¶¶
 - (III) Consider requesting a worker or other support person, who is the same gender as the alleged victim, be present to serve as a witness and provide comfort.¶¶
 - (ix) The CPS worker may observe injuries to the anal or genital region if the alleged victim is not school aged and if the injury can be observed without the CPS worker touching the anal or genital region.¶¶
 - (B) The CPS worker must notify the parents or caregivers the same day the interview occurred. If the same day notification could make a child or adult unsafe, a CPS supervisor may authorize an extension for one day to allow a

planned notification that is less likely to compromise safety. The CPS worker must document in the Child Welfare electronic information system the supervisory approval and an explanation describing the basis for the approval.¶

(b) Have face-to-face contact with and interview the non-offending parent or caregiver and all adults living in the home. The purpose of this face-to-face contact and interview is to find out what the non-offending parent or caregiver and other adults living in the home know about the alleged abuse, gather safety related information, including parent and caregiver functioning, and gather information to determine if the parent or caregiver can or cannot and will or will not protect the alleged victim.¶

(A) Whenever practicable, the CPS worker must interview both parents and caregivers in person, as outlined in OAR 413-015-0422.¶

(B) Provide all adults living in the home with a written notice that a criminal records check may be conducted on them, as described in OAR 413-015-1120.¶

(C) The CPS worker must provide each parent or caregiver with a ~~"What you need to know about a Child Protective Services assessment"~~ the appropriate CPS assessment informational pamphlet, which includes written information regarding the CPS assessment process, ~~including the court process and the rights of the parent and caregiver.~~¶

(D) The CPS worker must interview the non-custodial legal parent during the CPS assessment. This is not required during the initial contact but must be completed as part of the assessment process because the non-custodial parent may have essential information or be a placement resource. If the interview of the non-custodial legal parent may make a child or adult unsafe, a CPS supervisor may authorize an exception to this requirement based on written documentation that supports the conclusion that an interview with a non-custodial legal parent should not be conducted.¶

(c) Have face-to-face contact with and interview the alleged perpetrator. Except as provided in this subsection, the CPS worker must make face-to-face contact with and interview the alleged perpetrator during the initial contact when they are the custodial parent, caregiver, any person living in the home, or are present in the home when the CPS worker makes contact. The purpose of this interview is to evaluate the alleged perpetrator's reaction to allegations of abuse as well as to the alleged victim and their condition, and to gather further information about the alleged perpetrator and the family in relation to the safety of the alleged victim. When the parent is a child and an alleged perpetrator, the purpose is also to determine if the parent is also an alleged victim of abuse (under paragraph (D) of this subsection).¶

(A) The CPS worker is not required to make face-to-face contact with or interview the alleged perpetrator during the initial contact if:¶

(i) The alleged perpetrator is not a custodial parent, caregiver, anyone living in the home, or is not present in the home when the CPS worker makes contact and delaying contact will not compromise child safety. The CPS worker still must interview the alleged perpetrator, but may complete the interview during the course of the CPS assessment; or¶

(ii) There is a criminal investigation and the interview cannot be coordinated with an LEA within the timelines for initial contact.¶

(B) The decision to delay interview of an alleged perpetrator as provided in subparagraphs (A)(i) or (ii) of this subsection must be approved by a CPS supervisor, and the CPS worker must document in the Child Welfare electronic information system both the approval and the reason for delaying the interview.¶

(C) When interviewing the alleged perpetrator, the CPS worker must:¶

(i) Coordinate the interviews of the alleged perpetrator with LEA when law enforcement is conducting an investigation;¶

(ii) Consult with a CPS supervisor if an interview with the alleged perpetrator could make a child or adult unsafe;¶

(iii) Provide the alleged perpetrator with a written notice that a criminal records check may be conducted on them, as described in OAR 413-015-1120; and¶

(iv) Make inquiries about the employment status of the alleged perpetrator. If the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department of Human Services (DHS) or OYA, the CPS worker must notify a CPS supervisor. The CPS supervisor must notify the DHS Office of Human Resources at the time of the assessment and at the time the assessment is reviewed as required in OAR 413-015-0475. The CPS supervisor must document the notifications in the Child Welfare electronic information system.¶

(D) When interviewing the alleged perpetrator who is a child and the parent of the alleged victim, the CPS worker must ask questions to determine if there is an allegation of abuse with the child parent as an alleged victim. If it is determined that there is an allegation of abuse with the child parent as an alleged victim, the information must be reported to a screener.¶

(E) When interviewing an alleged perpetrator who is the parent or caregiver, the CPS worker must provide the parent or caregiver with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the

rights of the parent and caregiver.¶¶

(4) Gather safety related information through interviews and observation. The CPS worker must begin to gather safety related information through interviews and observation as outlined in OAR 413-015-0422.¶¶

(5) Determine if there is a present danger safety threat or impending danger safety threat. During the initial contact, the CPS worker must determine, based on the information obtained at that time, if there is a present danger safety threat or impending danger safety threat as outlined in OAR 413-015-0425.¶¶

(6) Documentation of the Initial Contact. The CPS worker must document the dates of attempted and successful contacts in the Child Welfare electronic information system. If it was not possible during the initial contact for the CPS worker to successfully complete a required contact, the CPS worker must document why contact was not made and must complete the face-to-face contact and interview as soon as possible.

Statutory/Other Authority: ORS 418.005, ORS 409.050

Statutes/Other Implemented: ORS 418.005, ORS 147.425, ORS 409.185, ORS 418.015, ORS 418.747, ORS 418.785, ORS 419B.005 - 419B.050

AMEND: 413-015-0606

RULE SUMMARY: OAR 413-015-0606 sets forth the "Additional CPS Assessment Activities for a Report Involving a Resource Family or Respite Provider Certified by Child Welfare" and is being amended to include updates made to the CPS Notification Pamphlet.

CHANGES TO RULE:

413-015-0606

Additional CPS Assessment Activities for a Report Involving a Resource Family or Respite Provider Certified by Child Welfare

(1) CPS Worker and CPS Supervisor Actions.¶¶

(a) If the report involving a resource family or respite provider certified by Child Welfare is referred for a CPS assessment, the assigned CPS worker must convene a staffing before making initial contact unless the timing of the staffing will compromise child or young adult safety. The purpose of the staffing is:¶¶

(A) To determine and coordinate the response to the referral;¶¶

(B) To notify those listed in OAR 413-015-0604(1)(a)(C) of the referral; and¶¶

(C) To share information regarding the resource family or respite provider, the children or young adults placed in the home or receiving services from the respite provider, any caregivers, and any other individuals living in the home of the resource family or respite provider.¶¶

(b) The CPS worker must ensure that the people listed in OAR 413-015-0604(1)(a)(C) and those identified in subsection (c)(B) are invited to the staffing.¶¶

(c) The CPS supervisor or their designee must:¶¶

(A) Ensure that the staffing discussed in subsection (a) of this section occurs prior to the initial contact unless the timing of the staffing will compromise child or young adult safety;¶¶

(B) Determine whether the Child Welfare Program Manager, CPS Consultant, Foster Care Coordinator, Respite Care Coordinator, or any other appropriate personnel should be invited to the staffing; and¶¶

(C) If the staffing does not occur prior to the initial contact, ensure the staffing described in subsection (a) occurs the next business day and all the individuals identified in subsection (b) are invited.¶¶

(d) The CPS worker must complete the following activities during the CPS assessment:¶¶

(A) Comply with CPS assessment requirements in OAR 413-015-0400 to 413-015-0485. When the alleged victim in the referral is a young adult, references in OAR 413-015-0400 to 413-015-0485 to "child" include a young adult unless the context indicates otherwise.¶¶

(B) At initial contact, provide the resource family or the respite provider with the appropriate ~~"What you need to know about a Child Protective Service Assessment"~~ pamphlet CPS assessment informational pamphlet which includes written information regarding CPS assessments involving resource parents or respite providers.¶¶

(C) Prior to conducting an interview with a child or young adult the CPS worker must inform the child or young adult:¶¶

(i) When the child or young adult is not in the custody of Child Welfare, that they may have their parent or caregiver or attorney present.¶¶

(ii) When the child or young adult is in the custody of Child Welfare, that they may have their attorney present.¶¶

(D) Notify and interview the parent or caregiver of any child or young adult residing in the home of a resource family or respite provider certified by Child Welfare who is not in the legal custody of Child Welfare and gain permission to interview the child or young adult. If the CPS worker is denied permission to interview, but such interviews are needed to complete the assessment, the CPS worker should consult with a supervisor and seek the assistance of an assistant attorney general.¶¶

(E) Consult with a CPS supervisor before making the decision to remove any child or young adult from the resource family.¶¶

(F) Provide ongoing information to the assigned Child Welfare certifiers and to the caseworkers identified in OAR 413-015-0604(1)(a)(C).¶¶

(G) Notify law enforcement immediately when a crime is suspected to have occurred even if unrelated to a report of abuse:¶¶

(i) To a child or young adult living with a resource family certified by Child Welfare; or¶¶

(ii) At the home of a resource family or respite provider certified by Child Welfare.¶¶

(H) Determine and document the basis for the determination of whether there is reasonable cause to believe that abuse occurred as outlined in OAR 413-015-1015.¶¶

(I) Complete the CPS assessment.¶¶

(2) Child Welfare Certifier and Certification Supervisor Actions. When the assigned certifier is notified that information received by a screener involving a resource family or respite provider certified by Child Welfare is

referred for a CPS assessment;¶

(a) Within one business day after the CPS worker has made initial contact, the certifier must contact and notify the resource family or respite provider and provide them with the following information:¶

(A) The certifier is available to answer questions related to certification but will not discuss the specifics of the CPS assessment;¶

(B) The resource family or respite provider is immediately placed on inactive referral status pending the completion of the CPS assessment;¶

(C) The resource family or respite provider has the option of having another resource parent or relative resource parent available for support during the assessment; and¶

(D) The names of resource families who have agreed to be available for support.¶

(b) Within one business day, the certifier must document the initiation of a CPS assessment and the placement of the resource family or respite provider on inactive referral status in provider case notes in the Child Welfare electronic information system.¶

(c) Within one business day, the certifier must notify Child Welfare staff responsible for placement that the resource family or the respite provider is on inactive referral status.¶

(d) Within 14 calendar days of the notification required in paragraph (2)(a)(B) of this rule, Child Welfare must provide written notification to the resource family or respite provider that the home has been placed on inactive referral status and place a copy of the written notification in the certification file.¶

(e) The certifier must provide ongoing information regarding the resource family or respite provider and any individuals living in the home to the assigned CPS worker and the caseworkers of each child or young adult placed in the home.¶

(f) The certification supervisor must ensure that the actions required in subsections (a) through (e) of this section are completed if the certifier is unavailable.¶

(3) Assigned Caseworker Actions.¶

(a) When the assigned caseworker is notified that a report of abuse involving a child or young adult on an open case has been referred for a CPS assessment, the assigned caseworker must comply with OAR 413-080-0051.¶

(b) When a caseworker has not yet been assigned, the CPS worker is responsible for requirements in OAR 413-080-0051.

Statutory/Other Authority: ORS 409.050, ORS 418.005

Statutes/Other Implemented: ORS 418.005, ORS 409.185, ORS 418.015, ORS 419B.015, ORS 419B.020

AMEND: 413-015-0820

RULE SUMMARY: OAR 413-015-0820 sets forth the "Make Initial Contact on a Third Party CPS Assessment" and is being amended to include updates made to the CPS Notification Pamphlet.

CHANGES TO RULE:

413-015-0820

Make Initial Contact on a Third Party CPS Assessment

- (1) The CPS worker must make an initial contact, within the assigned response timeline, unless:
- (a) A CPS worker determines delaying contact will not compromise child safety or the gathering of time-sensitive information; and
 - (b) The CPS supervisor approves delaying initial contact because additional time is required to:
 - (A) Collaborate with law enforcement;
 - (B) Schedule forensic interviews; or
 - (C) Ensure a trauma-informed response.
- (2) The CPS worker must provide advanced notification to the Indian tribe of any intent to make contact with an individual on a reservation (as defined in OAR 413-115-0000).
- (3) The following outlines contacts the CPS worker is required to attempt and, when possible, complete at initial contact. The CPS worker must:
- (a) Have face-to-face contact with and interview the alleged victim. The purpose of the face-to-face contact and interview with the alleged victim is to gather information regarding possible abuse, gather information about the alleged victim's functioning and vulnerability, and assess immediate safety.
 - (A) Interview and observe the alleged victim as follows:
 - (i) The CPS worker must make diligent efforts to notify alleged victim's parent or caregiver of the third party CPS assessment and request to interview the alleged victim.
 - (ii) If the CPS worker is unsuccessful, the CPS worker must document in the Child Welfare electronic information system all attempted contacts and the dates of those attempted contacts.
 - (iii) When the CPS worker makes contact at home and the parent or caregiver is not present the CPS worker must wait until the parent or caregiver is present and allows the interview.
 - (iv) When the CPS worker is denied access to the alleged victim, the CPS worker must, if there is reason to believe the alleged victim may be unsafe, consult with a CPS supervisor and refer to OAR 413-015-0850 as any identified safety concerns must be addressed on a familial case. If the referral indicates that the alleged victim is presently safe, the CPS worker must consider the following:
 - (I) Attempting to contact other persons who may have relevant information regarding the referral;
 - (II) Persisting in attempts to gain cooperation from the parents or caregivers, depending on the known safety information;
 - (III) Consult with the CPS supervisor.
 - (v) The CPS worker must conduct interviews in a manner that assures privacy.
 - (vi) If the parent or caregiver might impede the interview, the CPS worker must attempt to interview outside the presence of their parents or caregivers.
 - (vii) A CPS worker must allow a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the abuse to have a personal representative be present during an interview. If a CPS worker believes that the personal representative would compromise the third party CPS assessment, the CPS worker may prohibit a personal representative from being present during the interview.
 - (viii) The CPS worker must observe injuries or signs of abuse. The CPS worker may need to remove the alleged victim's clothing to make adequate observations. In that event, the CPS worker must:
 - (I) Use discretion and make the alleged victim as comfortable as possible.
 - (II) Seek a parent or caregiver's consent. Request their assistance when possible and appropriate.
 - (III) Consider requesting a worker or other support person be present to serve as a witness and provide comfort.
 - (ix) The CPS worker may observe injuries to the anal or genital region if the alleged victim is not school aged and if the injury can be observed without the CPS worker touching the anal or genital region.
 - (B) The CPS worker must notify the parents or caregivers the same day the interview occurred. If notification could make a child or adult unsafe, immediately consult with a CPS supervisor and refer to OAR 413-015-0850.
 - (b) Interview the parent or caregiver. The purpose of this interview is to find out what the parent or caregiver knows about the alleged abuse, gather safety related information, and gather information to determine if the parent or caregiver is willing and able to protect the alleged victim from the alleged perpetrator. In order to gather sufficient information to make those determinations, face-to-face contact with the parent or caregiver may be required.
 - (A) Whenever practicable, the CPS worker must interview all parents and caregivers as outlined in OAR 413-015-

0822.¶

(B) The CPS worker must provide each parent or caregiver with a ~~"What you need to know about a Child Protective Services Third Party the appropriate CPS Assessment"~~ informational pamphlet, which includes written information regarding the third party CPS assessment process, ~~and the rights of the parent and/or caregiver.~~¶

(C) The CPS worker must interview the non-custodial legal parent during the third party CPS assessment. This is not required during the initial contact but must be completed as part of the assessment process because the non-custodial parent may have essential information. If the interview of the non-custodial legal parent may make a child or adult unsafe, a CPS supervisor may authorize an exception to this requirement based on written documentation that supports the conclusion that an interview with a non-custodial legal parent should not be conducted.¶

(c) Interview the alleged perpetrator. The purpose of this interview is to evaluate the alleged perpetrator's reaction to allegations of abuse as well as to the alleged victim and their condition, and to gather further information about the alleged perpetrator in relation to the safety of the alleged victim. In order to gather sufficient information, face-to-face contact with the alleged perpetrator may be required.¶

(A) When interviewing the alleged perpetrator, the CPS worker must:¶

(i) Coordinate the interviews of the alleged perpetrator with LEA when law enforcement is conducting an investigation;¶

(ii) Consult with a CPS supervisor if an interview with the alleged perpetrator could make a child or adult unsafe and refer to OAR 413-015-0850;¶

(iii) Provide the alleged perpetrator with a written notice that a criminal records check may be conducted on them; and¶

(iv) Make inquiries about the employment status of the alleged perpetrator. If the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department of Human Services (DHS) or OYA, the CPS worker must notify a CPS supervisor. The CPS supervisor must notify the DHS Office of Human Resources at the time of the assessment and at the time the assessment is reviewed as required in OAR 413-015-0475. The CPS supervisor must document the notifications in the Child Welfare electronic information system.¶

(B) In addition to subsection (A), if a child has been identified as an alleged perpetrator, the CPS worker must also:¶

(i) Make diligent efforts to notify the child's parent or caregiver of the third party CPS assessment and request to interview the child.¶

(ii) Ask the child identified as an alleged perpetrator questions to determine if the child is alleged victim of abuse. If it is determined there is report of abuse, the information must be reported to a screener.¶

(4) Gather safety related information through interviews and observation. The CPS worker must begin to gather safety related information through interviews and observation as outlined in OAR 413-015-0822.¶

(5) Determine if there is a present danger safety threat. During the initial contact with the alleged victim, the CPS worker must determine, based on the information obtained at that time, if there is a present danger safety threat. If there is reason to believe a child is unsafe, refer to OAR 413-015-0850.¶

(6) Documentation of the Initial Contact. The CPS worker must document the dates of attempted and successful contacts in the Child Welfare electronic information system. If it was not possible during the initial contact for the CPS worker to successfully complete a required contact, the CPS worker must document why contact was not made and must complete the face-to-face contact and interview as soon as possible.

Statutory/Other Authority: ORS 418.005, ORS 409.050

Statutes/Other Implemented: ORS 418.005, ORS 147.425, ORS 409.185, ORS 418.015, ORS 418.747, ORS 418.785, ORS 419B.005 - 419B.050