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TEMPORARY ADMINISTRATIVE ORDER

INCLUDING STATEMENT OF NEED & JUSTIFICATION

CWP 71-2026

CHAPTER 413
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE PROGRAMS

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ARCHIVES DIVISION SECRETARY OF STATE & LEGISLATIVE COUNSEL

FILING CAPTION: Revisions to Child Welfare Rules Following Oregon Court of Appeals Decision

EFFECTIVE DATE: 10/16/2026 THROUGH 04/13/2027

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NEED FOR THE RULE(S):

These rules relate to the definitions and descriptions of abuse, as described in OAR chapter 413, division 015, that the Oregon Department of Human Services (ODHS) Child Welfare Program utilizes to screen and assess reports of alleged child abuse, consistent with ORS 419B.005 through 419B.050. ODHS's Office of Training, Investigations and Safety (OTIS) shares the responsibility for screening and investigating abuse.

Child Welfare must immediately amend its abuse determination rules as described in each Rule Summary to ensure child abuse definitions and descriptions in its rules are consistent with the statutory definition of abuse in ORS 419B.005(1)(a), as recently analyzed by the Oregon Court of Appeals in Oregon Education Assn. v Dept. of Human Services, 353 Or App 198 (September 23, 2026) (hereinafter "OEA opinion"). The OEA opinion held that certain OTIS rules interpreting the definition of abuse in ORS 419B.005(1)(a)(F) (negligent treatment or maltreatment of a child) depart from the statute and are invalid. Specifically, the Court analyzed OAR 419-230-0170(2)(c) and subparagraphs (C), (D) & (E) of subparagraph (c) defining "neglect" for investigations of abuse in school settings under ORS 419B.019. The OEA opinion held that the language "supervision, protection or nurturing" in OAR 419-230-0170(2)(c), and subsections of that rule that further define neglect to include lack of supervision and protection, desertion, and psychological neglect, OAR 419-230-0170(2)(c)(C), (D) and (E), respectively, are invalid. In light of the OEA opinion, and with these temporary

rules, Child Welfare is proactively revising its screening and disposition rules that are similar to the invalidated OTIS rules. OTIS and Child Welfare rules are based upon the same statute that defines abuse, ORS 419B.005(1)(a).

These temporary rules remove the invalidated language and ensure that Child Welfare's definitions of neglect, as well as its definitions of threat of harm and exposure to and manufacturing of controlled substances closely align with the statutory definition of abuse in ORS 419B.005(1)(a). OTIS is adopting similar temporary rules in OAR chapter 419, divisions 210, 220, and 240.

These changes will provide needed clarity for the investigation of abuse and the protection of children.

JUSTIFICATION OF TEMPORARY FILING:

Child Welfare's amendment of these rules ensures the definitions and descriptions of abuse in its rules align with the OEA opinion and with the statutory definition of abuse in ORS 419B.005(1)(a). The amended rules apply to Child Welfare's screening and disposition decisions. Individuals involved in and impacted by a report of alleged abuse for which Child Welfare is responsible for screening and assessing could be seriously prejudiced if Child Welfare were to engage in a lengthy process of permanent rulemaking. Immediate adoption of temporary rules will minimize the risk of confusion about whether to report abuse, the risk of dispositions of abuse that are inconsistent with the statute and the OEA opinion, the risk that individuals subject to Child Welfare's rules will lack proper notice about how Child Welfare interprets and applies the definition of abuse to its screening and disposition decisions and provides clarity about whether individuals with founded dispositions should request administrative review, and ultimately alleviates the risk that children will be unsafe when Child Welfare is responsible for screening and assessing allegations of child abuse.

Child Welfare additionally finds that its failure to act promptly will result in serious prejudice to agency partners and related stakeholders. Child Welfare's partners include law enforcement agencies, county based Multi-Disciplinary Teams (MDTs), Child Advocacy Centers, and Tribes, as well as related ODHS programs, including OTIS and the ODHS Background Check Unit. In addition to the agency partners, impacted individuals include mandatory reporters, resource parents, relative resource parents, certified respite providers, children in care, and any individual child or alleged perpetrator who is the subject of a report of abuse. Each of these agency partners, stakeholders, and individuals could be seriously prejudiced if Child Welfare does not immediately adopt these temporary rules.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

September 23, 2026, Oregon Court of Appeals Opinion A183962:
https://cdm17027.contentdm.oclc.org/digital/collection/p17027coll5/id/42860/rec/15

2025 EDITION, ORS 419B.005: https://www.oregonlegislature.gov/bills_laws/ors/ors419B.html

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RULES:
413-015-0115, 413-015-1015

AMEND: 413-015-0115

RULE TITLE: Definitions

RULE SUMMARY: Revise definition of "abuse" in (1)(a) to be consistent with ORS 419B.005(1)(a) and Oregon Court of Appeals opinion, Oregon Education Assn. v Dept. of Human Services, 353 Or App 198 (September 23, 2026). Specifically, reordering subparagraphs of (1)(a); removing subparagraphs (1)(a)(B)(ii), (iii), and (iv) from within the definition of

“neglect” and categorizing as independent abuse types. Revising definition of “harm” in (27).

RULE TEXT:
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) Access or exposure to a controlled substance or manufacturing, which includes:
(i) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.
(ii) 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.
(B) Buying or selling a person under 18 years of age including buying, selling, bartering, trading, or offering to buy or sell the legal or physical custody of a person under 18 years of age, as described in ORS 163.537.
(C) 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.
(D) Neglect is the negligent treatment or maltreatment of a child, including, but not limited to, the failure, through action or omission, to provide adequate food, clothing, shelter, or medical care that is likely to endanger the health or welfare of the child.
(E) 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.
(F) 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.
(G) Threat of harm to a child, which means subjecting a child to a substantial risk of harm to the child’s health or welfare.
(H) 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.
(I) 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) “Confidential shelter home or safe house” means a place of temporary refuge for survivors of family, domestic, or teen dating violence and their families, subject to ORS 409.290 through 409.300.
(12) "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.
(13) “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)).
(14) "CPS supervisor" means an employee of Child Welfare trained in child protective services and designated as a supervisor.
(15) "CPS worker" means an employee of Child Welfare who has completed the mandatory Child Welfare training for CPS workers.
(16) “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.
(17) "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.
(18) "Department" means the Oregon Department of Human Services.
(19) "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.
(20) "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.

(21) “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.
(22) "Face-to-face" means an in-person interaction between individuals. When the parent, guardian, or Indian custodian is an adult in custody at an Oregon Department of Corrections facility, a face-to-face contact includes virtual or video contact when in-person contact is prevented by the facility.
(23) “Family Care Plan” 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.
(24) “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.
(25) "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.
(26) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.
(27) "Harm" means any kind of impairment, damage, detriment, or injury to an alleged victim's physical, sexual, psychological, cognitive, or behavioral development or functioning.
(28) “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.
(29) "ICWA" means the Indian Child Welfare Act.
(30) "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.
(31) “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)
(32) "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.
(33) “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.
(34) "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).
(35) "Infant" means a child less than one year old.
(36) “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.
(37) "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.
(38) "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.
(39) "LEDS" means Law Enforcement Data System, the computerized criminal history information system maintained by the Oregon State Police.
(40) "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.
(41) "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.
(42) "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.
(43) "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.
(44) "Monthly face-to-face contact" means in-person interaction between individuals at least once each and every full calendar month.
(45) "Multi-disciplinary team" (MDT) means a county child abuse investigative team as defined in ORS 418.747.
(46) "Observable" means specific, real, can be seen and described. Observable does not include suspicion or gut feeling.
(47) "ODDS" means the Office of Developmental Disabilities Services within the Department.
(48) "ODDS licensed group home" means a 24-hour residential program and setting for children and adults with intellectual or developmental disabilities.
(49) "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.
(50) "ORICWA" means the Oregon Indian Child Welfare Act.

(51) “OTIS” means the Office of Training, Investigations and Safety within the Department.
(52) "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.
(53) "OYA" means the Oregon Youth Authority.
(54) "Parent” means the genetic or adoptive mother and the legal parent of the child. A legal parent is a person who has adopted the child or whose parentage has been established or declared under ORS 109.065. In cases involving an Indian child, "parent" means a 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 parentage has been acknowledged or established under ORS 109.065(1) to (6) or (9) or 419B.609. Parent 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 alleged genetic parent is not the legal or genetic parent of the child.
(55) "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.
(56) "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.
(57) "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.
(58) "Proctor foster home" means a foster home certified by a child-caring agency that is not subject to ORS 418.625 to 418.470.
(59) "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.
(60) "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.
(61) "Protective custody" means custody authorized by ORS 419B.150.
(62) “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.
(63) "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.
(64) "Referral" means a report that has been assigned for the purpose of CPS assessment.
(65) "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.
(66) "Reporter" means an individual who makes a report.
(67) “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.
(68) “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.
(69) "Restraint" means the physical restriction of a child's actions or movements by holding the child or using pressure or other means.
(70) "Safe" means there is an absence of present danger safety threats and impending danger safety threats.
(71) “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.
(72) "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.
(73) "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.
(74) "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.
(75) "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.
(76) "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.
(77) "Screening" means the process of determining Child Welfare’s response to information and requests received by the Oregon Child Abuse Hotline.
(78) “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.
(79) "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.
(80) "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.
(81) "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.
(82) "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.
(83) “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.
(84) "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.
(85) "Substitute care" means the out-of-home placement of a child who is in the legal or physical custody and care of Child Welfare.
(86) "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.
(87) "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.
(88) "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.
(89) “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.
(90) "Unsafe" means the presence of a present danger safety threat or an impending danger safety threat.
(91) "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.
(92) "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: 413-015-1015

RULE TITLE: Making the CPS Assessment Disposition Determination

RULE SUMMARY: Revise description of "abuse" for the purpose of determining the CPS assessment disposition to be consistent with ORS 419B.005(1)(a) and Oregon Court of Appeals opinion, Oregon Education Assn. v Dept. of Human Services, 353 Or App 198 (September 23, 2026). Specifically, reordering subparagraphs of subsection (1); modifying the description of neglect in subparagraph (1)(d) and removing subparagraphs (1)(d)(C), (D), and (E) related to lack of supervision and protection, desertion, and psychological neglect; removing subsections (1)(d) (A)(ii) and (iii) related to access or exposure to controlled substances or manufacturing from within the definition of "neglect" and categorizing as independent abuse types; removing subparagraph (1)(a) (abandonment); and modifying the definition of threat of harm in subparagraph (1)(g). Adding subsection (3), which was inadvertently removed from rule in filing CWP-2-2024 (effective 2/1/2024).

RULE TEXT:
(1) Except as provided in section (3) of this rule, abuse of a child, for the purpose of determining the CPS assessment disposition, includes, the behavior, conditions, and circumstances described in this section.
(a) Access or exposure to a controlled substance or manufacturing, which includes:
(A) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.
(B) 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.
(b) Buying or selling a person under 18 years of age, including buying, selling, bartering, trading, or offering to buy or sell the legal or physical custody of a person under 18 years of age, as described in ORS 163.537.
(c) 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.
(d) Neglect is the negligent treatment or maltreatment of a child, including but not limited to the failure, through action or omission, to provide adequate food, clothing, shelter, or medical care that is likely to endanger the health or welfare of the child. Chronic neglect is a persistent pattern of family functioning in which the parent or caregiver does not meet the basic needs of a child resulting in an accumulation of harm that endangers the health or welfare of the child. Neglect may include, but is not limited to the following:
(A) Failure to provide for the child's basic physical needs including adequate shelter, food, or clothing.
(B) Failure to provide adequate medical care. Medical neglect also includes withholding medically indicated treatment from infants who have disabilities and life-threatening conditions (42 USC §§ 5101 note (2); 5106a(b)(2); 5106g). However, failure to provide the child with immunizations or routine well-child care alone does not constitute medical neglect. A determination of medical neglect must be consistent with medical findings.
(e) Physical abuse, including an injury to a child that is inflicted or allowed to be inflicted by non-accidental means that results in harm. Physical abuse may include injury that could not reasonably be the result of the explanation given. Physical abuse may also include injury that is a result of discipline or punishment. Examples of injuries that may result from physical abuse include:
(A) Head injuries;
(B) Bruises, cuts, punctures, lacerations;
(C) Internal injuries;
(D) Burns or scalds;
(E) Injuries to bone, muscle, cartilage, and ligaments;
(F) Poisoning;

(G) Electrical shock;
(H) Substantial pain, physical impairment; and
(I) Death.
(f) Sexual abuse, which includes:
(A) A person's use or attempted use of a child for the person's own sexual gratification, the sexual gratification of another person, or the sexual gratification of the child. Sexual abuse includes, but is not limited to, incest, rape, sodomy, sexual penetration, fondling, and voyeurism.
(B) Sexual exploitation.
(C) Sex trafficking.
(g) Threat of harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.
(2) Except as provided in section (3) of this rule or when the abuse is familial or third party abuse, abuse of a child in care when the child in care lives with a resource family or receives services from a respite provider certified by Child Welfare includes, among others, the behavior, conditions, and circumstances described in this section.
(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.
(A) 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.
(B) 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.
(c) Neglect, which includes:
(A) Failure to provide the care, supervision, or services necessary to maintain the physical and mental health of a child in care; or
(B) 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.
(d) Physical abuse, which includes:
(A) 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
(B) Willful infliction of physical pain or injury upon a child in care.
(e) Sexual abuse, which includes:

(A) Sexual harassment.
(B) Sexual exploitation.
(C) Exposing a child in care to sexually explicit material or language that does not serve a legitimate medical, scientific, or educational purpose. This also includes any exposure to sexually explicit conduct involving a child.
(D) Sexual contact with a child in care, including, but not limited to:
(i) 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;
(ii) Any sexual contact between a person and a child or young adult that is unlawful under ORS chapter 163 and not subject to a defense under that chapter, including, but not limited to:
(I) Rape (ORS 163.355, 163.365, 163.375);
(II) Sodomy (ORS 163.385, 163.395, 163.405);
(III) Unlawful sexual penetration (ORS 163.408,163.411);
(IV) Sexual abuse (ORS 163.415, 163.425, 163.427); or
(V) Incest (ORS 163.525).
(iii) Any sexual contact that is achieved through force, trickery, threat, or coercion.
(E) Private indecency (ORS 163.467).
(F) Public indecency (ORS 163.465).
(G) Sex trafficking.
(f) Verbal abuse.
(A) 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.
(B) Verbal abuse does not include age-appropriate discipline that may involve the threat to withhold privileges.
(g) Wrongful use of restraint. A resource parent or respite provider certified by the Child Welfare or a caregiver may not use a restraint on a child in care.
(A) 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.
(B) 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 described in ORS 418.519 and 418.523.
(3) Abuse does not include reasonable discipline unless the discipline results in one of the conditions described in sections (1) or (2) of this rule.

STATUTORY/OTHER AUTHORITY: ORS 409.050, ORS 418.005

STATUTES/OTHER IMPLEMENTED: ORS 409.185, ORS 419B.005 - 419B.050, ORS 418.205 - 418.327, ORS 418.519 - 418.523