

Chapter 413 Department of Human Services, Child Welfare Programs

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DIVISION 310

FINANCIAL MANAGEMENT

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DIVISION 330

POLICY

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DIVISION 350

INFORMATION MANAGEMENT

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DIVISION 1

MODEL RULES FOR RULEMAKING

413-001-0000

Notice of Rulemaking

See the current version of OAR 407-001-0000 and 407-001-0005 which apply to notices of rulemaking for rules in chapter 413. Stat. Auth.: ORS 183.341, 409.050 & 418.005
Stats. Implemented: ORS 183.330, 183.335, 183.341 & 409.050
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 10-2006, f. & cert. ef. 6-1-06

DIVISION 10

CLIENT RIGHTS

Confidentiality of Client Information

413-010-0000

Definitions

The following definitions apply to OAR chapter 413, division 10.

(1) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the ongoing needs of the child or young adult. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

(2) "Adoption records, papers, and files" means all documents, writings, information, exhibits, and other filings retained in the court's record of an adoption case pursuant to ORS 109.319 and includes but is not limited to the Adoption Summary and Segregated Information Statement described in ORS 109.317 and exhibits attached to the statement, the petition and exhibits attached to the petition pursuant to ORS 109.315, and any other motion, judgment, document, writing, information, exhibit, or filing retained in the court's record of the adoption case.

(3) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child who joined the family through a judgment of the court.

(4) "Adult" means a person 18 years of age or older.

(5) "Base rate payment" means a payment to the foster parent or relative caregiver at a rate established by the Department for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the chronological age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

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(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(6) “Case plan” means a written, goal oriented, and time-limited individualized plan for the child and the child’s family, developed by the Department and the parents or guardians, to achieve the child’s safety, permanency, and well-being.

(7) “Central Office CPS Founded Disposition Review” means a process wherein a Central Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to the CPS Program Manager or designee, and the CPS Program Manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(8) “Central Office CPS Founded Disposition Review Committee” means a group of two child welfare employees who make a recommendation or recommendations to the Child Protective Services Program Manager or designee regarding the CPS founded disposition. No one may serve on the “Central Office CPS Founded Disposition Review Committee” who participated in or observed the Local Child Welfare Office CPS Founded Disposition Review or had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the “Central Office CPS Founded Disposition Review Committee” are found in OAR 413-010-0745 and 413-010-0746. The two child welfare staff on the committee must include any two of the following:

- (a) Either the Program Manager for CPS or a designee;
- (b) A CPS program coordinator;
- (c) A CPS consultant; or
- (d) A Department supervisor.

(9) “Certificate of Approval” means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(10) “Certified family” 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 they reside, to a child or young adult in the care or custody of the Department.

(11) “Child” means a person under 18 years of age.

(12) “Child Protective Services (CPS)” means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(13) “Client” means any individual receiving services from the Department, including the parent or legal guardian of a child or young adult, or the custodian of an unemancipated minor client.

(14) “Client file” means an electronic or paper file that the Department marks with the names of one or more clients, into which the Department places all of the named clients’ records. A “client file” may contain confidential information about other clients and persons who are not clients.

(15) “Client information” means confidential information about a client or identified with a client.

(16) “Client record” means any record that includes client information and is created, requested, or held by the Department. A “client record” does not include general information, policy statements, statistical reports, or similar compilations of data which are not identified with an individual child, family or other recipient of services.

(17) “Confidential information” means information that is unavailable to the public by statute, rule, or court order.

(18) “Contract Provider” means any individual or organization that provides services to a Child Welfare client pursuant to a contract or agreement with Child Welfare.

(19) “Court Appointed Special Advocate (CASA)” means a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419A.170.

(20) “CPS Disposition” means a determination that completes a CPS assessment. Dispositions are discussed in OAR 413-015-1000 and include founded, unfounded, and unable to determine.

(21) “Department” means the Department of Human Services, Child Welfare.

(22) “Discipline” means a training process a family uses to help a child or young adult develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(23) “Disclose” means reveal or provide client information to a person, agency, organization, or other entity outside of the Department of Human Services. Disclosing includes, but is not limited to:

(a) Showing or providing a client record or copy of a client record; and

(b) Orally transmitting client information.

(24) “Foster parent” means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(25) “Guardian” means an individual who has been granted guardianship of a child through a judgment of the court.

(26) “Guardianship assistance” means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. “Guardianship assistance” may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(27) “Indian child” means an unmarried person who is under 18 years of age and who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe.

(28) “Juvenile” means a person younger than the age of 18 years who is identified as a perpetrator. OAR 413-010-0716 provides specific requirements regarding application of these rules to juveniles.

(29) “Legal finding” means a court or administrative finding, judgment, order, stipulation, plea, or verdict that determines who was responsible for the child abuse that is the subject of a CPS founded disposition.

(30) “Legal proceeding” means a court or administrative proceeding that may result in a legal finding.

(31) “Legally emancipated” means a person under 18 years of age who is married or has been emancipated by the court in accordance with the requirements of ORS 419B.558.

(32) “Level of care payment” means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(33) “Level of personal care payment” means the payment to a qualified provider for performing the personal care services for an eligible child or young adult based on the child’s or young adult’s need for personal care services as determined by applying the personal care services algorithm to the results of the personal care services rating scale.

(34) “Licensee” means a private child-caring agency or an organization or school that offers a residential program for children (regulated pursuant to ORS 418.327) and holds a license issued by the Department.

(35) “Local Child Welfare Office CPS Founded Disposition Review” means a process wherein a Local Child Welfare Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to a Child Welfare program manager or designee, and the Child Welfare program manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(36) “Local Child Welfare Office CPS Founded Disposition Review Committee” means a group of two child welfare employees who make a recommendation or recommendations to a Child Welfare Program Manager or designee regarding a CPS founded disposition. One of the members must be a manager and one must be staff trained in CPS assessment and dispositions. No one may serve

on the “Local Child Welfare Office CPS Founded Disposition Review Committee” in the review of an assessment in which he or she had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the “Local Child Welfare Office CPS Founded Disposition Review Committee” are found in OAR 413-010-0735 and 413-010-0738.

(37) “Parent” means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. “Parent” also includes a putative father 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.

(38) “Participating tribe” means a federally recognized Indian tribe in Oregon with a Title IV E agreement with the Department.

(39) “Party” means a person entitled to a contested case hearing under these rules.

(40) “Perpetrator” means the person the Department has reasonable cause to believe is responsible for child abuse in a CPS founded disposition.

(41) “Person Requesting Review” or “Requestor” means a perpetrator, his or her attorney, or, if a juvenile is identified as the perpetrator, the person who may request a review on behalf of the juvenile, who requests a review of the founded disposition.

(42) “Potential guardian” means an individual who:

(a) Has been approved by the Department or participating tribe to be a child’s guardian; and

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

(43) “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.

(44) “Private child-caring agency” is defined by the definitions in ORS 418.205, and means a “child-caring agency” that is not owned, operated, or administered by any governmental agency or unit.

(a) A “child-caring agency” means an agency or organization 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) Outdoor youth programs (defined at OAR 413-215-0911); or

(E) Other similar services for children.

(b) A child-caring agency does not include 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.

(45) “Record” means a record, file, paper, or communication and includes, but is not limited to, any writing or recording of information including automated records and printouts, handwriting, typewriting, printing, photostating, photographing, magnetic tapes, videotapes, or other documents. “Record” includes records that are in electronic form.

(46) “Registered domestic partner” means an individual joined in a domestic partnership that has been registered by a county clerk in accordance with ORS 106.300 to 106.340.

(47) “Relative” means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a “relative” under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a “relative” in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a “relative” for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a “relative” for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(48) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(49) "Request for a Central Office CPS Founded Disposition Review" means a written request for a Central Office CPS Founded Disposition Review from a requestor who has received a Local Child Welfare Office CPS Founded Disposition Review Decision (Form CF 314) to retain a founded disposition. The specific requirements for a request for review by Central Office are described in OAR 413-010-0740.

(50) "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 a child's safety.

(51) "Service" means assistance that the Department provides clients.

(52) "Sibling" means one of two or more children or young adults 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.

(53) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(54) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(55) "Voluntary services" means services that the Department provides at the request of a person or persons and there is no open and related juvenile court proceeding.

(56) "Young adult" means a person 18 through 20 years of age.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.225, 419A.255

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15; CWP 22-2015, f. & cert. ef. 10-6-15

413-010-0010

Purpose

The purpose of OAR 413-010-0010 to 413-010-0075 is to describe circumstances in which the Department may and may not disclose client information without a court order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.225, 419A.170, 419A.255

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

413-010-0030

Protection of Information

In the interest of family privacy and to protect children, families, and other recipients of services, except as provided by Oregon statutes and these rules (OAR 413-010-0010 to 413-010-0075):

(1) Client information is confidential.

(2) Client records are not available for public inspection.

(3) Oregon statutes, OAR 407-014, and these rules regulate the Department's disclosure of client information by prohibiting

disclosure of some client information, mandating disclosure of some information, and giving the Department discretion to disclose some information, as provided in OAR 413-010-0035, 413-010-0045, 413-010-0055, 413-010-0065, and 407-014.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.225, 419A.255 & 419B.035

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0035

Prohibited Disclosures

(1) If a court order or a specific statute requires the Department to disclose information that this rule protects, the Department must disclose the information.

(2) The Department may not disclose client information:

(a) For purposes not directly connected with the administration of child welfare laws; or

(b) When disclosure is not required nor authorized by:

(A) ORS 419B.035 (governing confidentiality of child abuse records), set out in section (11) of this rule;

(B) ORS 419A.255 (governing confidentiality of juvenile court records) set out in section (12) of this rule; or

(C) Another statute.

(3) The Department may not disclose investigatory information compiled for criminal law purposes, including the record of an arrest or a report of a crime, unless law enforcement explicitly authorizes the Department to disclose such information.

(4) Department employees may not disclose the information described in section (3) of this rule unless authorized to do so by the branch manager or designee.

(5) A person authorized to review client records may not review the complete case file if the complete file contains confidential information about other persons, including, but not limited to other clients, ex-spouses, battering partners, housemates, and half-siblings unless the other person provides written consent that meets the requirements of OAR 413-010-0045(2)(a).

(6) The Department may not disclose the records of a patient at a drug and alcohol abuse treatment facility to any person without the consent of the patient.

(7) The Department may not disclose client information contained in a record sealed by a court order of expunction or any part of the expunged record.

(8) Adoption Records, Papers, and Files.

(a) The Department may not access, use, or disclose adoption records, papers, and files in its possession except as provided in ORS 109.319.

(b) Subject to subsection (c) of this section, the Department may, without a court order, access, use, or disclose adoption records, papers, and files in its possession for the purpose of providing adoption services or administering child welfare services that the Department is authorized to provide under federal or state law.

(c) The Child Permanency or Post-Adoption Program Manager, or their designee, must authorize access to, use of, or disclosure of adoption records, papers, and files by other Department employees.

(9) Adoption Assistance Records. Records and information obtained or created by the Department for the purposes of determining eligibility or making payment for adoption assistance are client records and may only be accessed, used, and disclosed for purposes directly connected with the administration of the adoption assistance program or child welfare laws in accordance with OAR 413-010-0010 to 413-010-0075.

(10) Reporter of Abuse. The identity of the person making a report of suspected child abuse, and any identifying information about the reporting person, must be removed from the records or shielded from view before records are viewed or copied. The name, address or other identifying information may only be disclosed to a law enforcement officer or district attorney in order to complete an investigation report of child abuse.

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(11) Reports and Records Compiled Pursuant to the Child Abuse Reporting Law.

(a) Each report of suspected child abuse must be immediately reported to a law enforcement agency.

(b) The Department must assist in the protection of a child who is believed to have been abused or neglected by providing information as needed to:

(A) The juvenile court;

(B) The district attorney;

(C) Any law enforcement agency or a child abuse registry in another state investigating a child abuse report;

(D) Members of a child protection team or consultants involved in assessing whether or not abuse occurred and determining appropriate treatment for the child and family;

(E) A physician who is examining a child or providing care or treatment, and needs information about the child's history of abuse; and

(F) A non-abusing parent, foster parent, or other non-abusing person responsible for the care of the child.

(c) A report, record, or findings of an assessment of child abuse may not be disclosed until the assessment is completed, except for the reasons stated in paragraphs (e)(A) and (B) of this section. An assessment will not be considered completed while either a protective service assessment or a related criminal investigation is in process. The Department determines when the protective service assessment is completed. The district attorney determines when a criminal investigation is completed.

(d) Records or findings of completed child abuse assessments must be released upon request to the following:

(A) Attorneys of record for the child or child's parent or guardian in a juvenile court proceeding for use in that proceeding; and

(B) A citizen review board established by the Department or by a juvenile court to review the status of children under the jurisdiction of the court for the purpose of completing a case review. Before providing information to a citizen review board, the Department must assure that the board has informed participants of their statutory responsibility to keep the information confidential, and will maintain records in an official, confidential file.

(e) Records or information from records of abuse and neglect assessments may be disclosed to other interested parties if the Department determines that disclosure to a person or organization is necessary to:

(A) Administer child welfare services and is in the best interests of the affected child. When disclosure is made for the administration of child welfare services, the Department will release only the information necessary to serve its purpose; and

(B) Prevent abuse and neglect, assess reports of abuse or neglect, or protect children from further abuse or neglect.

(12) Juvenile Court Records in Department Files.

(a) The Department may not disclose records and information in its possession that are also contained in the juvenile court's record of the case or supplemental confidential file, defined in subsections (b) and (c) of this section, except as provided in ORS 419A.255 and other federal and state confidentiality laws pertaining to client records.

(b) Record of the Case.

(A) The juvenile court's "record of the case", as defined in ORS 419A.252, includes but is not limited to the summons, the petition, papers in the nature of pleadings, answers, motions, affidavits, and other papers filed with the court, orders and judgments, including supporting documentation, exhibits and materials offered as exhibits whether or not received in evidence, and other records listed in ORS 419A.252.

(B) The record of the case is unavailable for public inspection, but is open to inspection and copying as provided in ORS 419A.255.

(c) Supplemental Confidential File.

(A) The juvenile court's "supplemental confidential file", as defined in ORS 419A.252, includes reports and other material relating to the child's history and prognosis, including but not

limited to reports filed under ORS 419B.440, that are not or do not become part of the record of the case and are not offered or received as evidence in the case.

(B) The supplemental confidential file is unavailable for public inspection, but is open to inspection and copying as provided in ORS 419A.255.

(C) The Department is entitled to copies of material maintained in the supplemental confidential file and if such material is obtained, the Department must ensure the confidentiality of that material as provided in ORS 419A.255.

(d) Reports and other materials relating to the child's history and prognosis in the record of the case or in the supplemental confidential file are privileged and except at the request of the child, are unavailable for public inspection but are open to inspection and copying as provided in ORS 419A.255.

(e) When the Department inspects or obtains copies of reports, materials, or documents pursuant to ORS 419A.255(4), the Department may not use or disclose the reports, materials, or documents except as provided in ORS 419A.255.

(13) Records Received from the Oregon Youth Authority or the Juvenile Department. The Department must preserve the confidentiality of reports and other materials it receives from the Oregon Youth Authority or the juvenile department relating to the child, ward, youth or youth offender's history and prognosis, as provided in ORS 419A.257.

Stat. Auth.: ORS 409.050, 418.005 & 418.340

Stats Implemented: ORS 109.319, 409.010, 409.194, 409.225, 418.005, 419A.102, 419A.252, 419A.255, 419A.263, 419B.035, 432.420

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0045

Mandatory Disclosure

(1) The Department must disclose client information if disclosure is required by ORS 419A.255 or 419B.035.

(2) Unless a client record is exempt from disclosure under the Public Records Law, ORS 192.410 through 192.505, the Department must disclose the client record in the circumstances described below:

(a) If the client is 18 years or older or legally emancipated, the Department must disclose, upon request:

(A) The client's records to the client if no court order prohibits the disclosure; or

(B) The client's records to a third party if no court order prohibits the disclosure and the client has authorized the Department in writing to disclose the records to the third party.

(b) Upon the request of a child's parent or guardian, the Department must disclose a child's client records to the parent or guardian if the child is receiving voluntary Department services.

(c) Upon the request of a child's parent or guardian, the Department must disclose a child's client records to the parent or guardian if the child is or has been in the Department's custody unless:

(A) The child objects;

(B) Disclosure would be contrary to the best interests of any child; or

(C) Disclosure could be harmful to the person caring for the child, including, but not limited to, foster parents, treatment providers and relatives other than the child's parent or guardian.

(d) The Department must disclose a child's client record to the juvenile court in juvenile proceedings, including tribal proceedings regarding the child;

(e) The Department must disclose a child's client records to an attorney who identifies himself or herself as the child's attorney if the juvenile court confirms that he or she is the attorney of record in a juvenile proceeding.

(3) Information related to the Department's activities and responsibilities in child abuse or neglect cases. Upon request, the Director or the Director's designee must review the information related to the Department's activities and responsibilities:

(a) When child abuse or neglect causes the death or near death of a child or an adult is charged with a crime related to child abuse or neglect; and

(b) Unless the information is exempt from disclosure under other law, the Director or the Director's designee must determine an appropriate time for disclosing the information and that determination must depend on, among other things, the status of any child abuse or criminal investigations and the privacy interests of the victims.

(4) Disclosure to Court Appointed Special Advocate (CASA):

(a) Access to information. Upon presentation of the order of appointment by the court, a CASA, without the consent of the child or children or parents, may inspect and copy any records relating to the child or children involved in the case held by the following entities:

(A) The Department, the state courts, and any other agency, office or department of the state; and

(B) Hospital, school organization, division, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic.

(b) All records and information acquired or reviewed by a CASA during the course of official duties are confidential;

(c) When a CASA is also the guardian ad litem pursuant to federal law, this rule governs the guardian ad litem's access to information.

(5) If, in the professional judgment of the caseworker, information about a child indicates that the child presents a clear and immediate danger to another person or entity, the Department must disclose the information to the appropriate authority and to the person or entity in danger. The decision to release information in these circumstances will be made in consultation with a supervisor.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS Ch. 192.410–192.505, 409.225, 419A.170 & 419B.035

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0055

Mandatory Disclosure if in the Child's Best Interest

(1) Unless client information is exempt from disclosure under another provision of law, and if disclosure is in the child's best interest, the Department will disclose client information records to the following persons:

(a) Employees of the Department of Human Services to the extent necessary to perform their official duties, determine the child's or family's eligibility for services, or provide services to the child or family;

(b) The Division of Child Support of the Department of Justice, when information is needed in order to locate children or absent parents, and to establish support for children in substitute care; and

(c) Treatment providers, foster parents, adoptive parents, school officials or other persons providing services to the child or family to the extent that such disclosure is necessary to provide services to the child or family. Such services include, but are not limited to, those provided by foster parents, child care centers, private child caring agencies, treatment centers, Indian social service or child welfare agencies, physicians and other health care providers, mental health professionals, volunteers, student interns, and child protection teams.

(2) Sensitive Review Committee.

(a) The Director of the Department of Human Services (Director) may choose to convene, either on the Director's own motion or upon a request of the President of the Senate or the Speaker of the House, a sensitive review committee for the purpose of reviewing the actions of the Department, in order to improve the quality of and strengthen child welfare practice in future cases. If the Director convenes a committee at the request of the President or the Speaker, then the Director must submit the final written report containing the findings, conclusions, and recommendations of the committee to the President and the Speaker no more than 180 days after receiving the request from the President or the Speaker.

(b) Unless client information is exempt from disclosure under ORS Chapter 192 or another provision of law, and if disclosure is in the child's best interest, the Director or the Director's designee must direct disclosure of relevant client information to persons appointed to a sensitive review committee convened by the Director.

(A) Any record disclosed to the committee members must be kept confidential by the members of the committee and must be used only for the purpose for which the record was disclosed.

(B) Any records disclosed to the committee members must be returned to the Department upon completion of the review.

Stat. Auth.: ORS 409.050, 409.194 & 418.005

Stats. Implemented: ORS 409.010, 409.194, 409.225 & 418.005

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 17-2010(Temp), f. & cert. ef. 7-19-10 thru 1-15-11; CWP 24-2010, f. & cert. ef. 12-29-10; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0065

Discretionary Disclosure

(1) The Department may disclose client information when disclosure is required or authorized by:

(a) ORS 491B.035 (governing confidentiality of child abuse reports and records), set out in OAR 413-010-0035(11); or

(b) ORS 419A.255 (governing confidentiality of juvenile court records) set out in OAR 413-010-0035(12).

(2) The Department may disclose client information for purposes directly connected with the administration of child welfare laws including, but not limited to:

(a) Disclosure to employees of the Secretary of State's Office, the Department of Administrative Services, the Department of Health and Human Services, and the Department who require information to complete audits, program reviews and quality control;

(b) Disclosure to law enforcement officers and district attorneys' offices needing information for child abuse assessments, criminal investigations, civil and criminal proceedings connected with administering the agency's child welfare programs; and

(c) Disclosure to the public if a child in the Department's legal custody has been abducted or is missing and believed to be abducted, and is in danger of harm or a threat to the welfare of others. The Department may disclose limited information to the extent necessary to identify, locate, or apprehend the child, including the child's name, description, and that the child may pose a threat to the public or himself or herself.

(3) The Department may disclose general information including, but not limited to policy statements, statistical reports or similar compilations of data which are not identified with an individual child, family or other recipient of services, unless protected by other provisions of law.

(4) Presumed Waiver of Protection of ORS 409.225(1). The Department may disclose the information described in section (5) of this rule if the Director or the Director's designee determines that all of the following circumstances are present:

(a) An adult client is the subject of client information made confidential by ORS 409.225(1);

(b) The Public Records Law does not exempt the information from disclosure;

(c) The adult client has publicly revealed or caused to be revealed any significant part of the confidential information and thus is presumed to have voluntarily waived the confidentiality protection of ORS 409.225(1);

(d) Disclosure is in the best interest of the child; and

(e) Disclosure is necessary to the administration of the child welfare laws.

(5) If disclosure is authorized under section (4) of this rule, the Department may disclose information about the person making or causing the public disclosure, not already disclosed, but related to the information made public.

(6) Review of Department records for research purposes. The Director or the Director's designee may authorize a person or organization to review Department records for research purposes. The Department may not approve the request until the researcher has

agreed, in writing, to maintain the confidentiality of individual clients, not to copy the Department records, and not to include identifying information about any client in the report or reports of the research.

(7) Investigation of Other Crime:

(a) Except as authorized by subsection (2)(b) of this rule, and ORS 409.225, Department employees may not disclose to law enforcement client information obtained from client records, conversations with clients or other sources if the employee or employees acquired the information because a person is or has been a client of the Department;

(b) A manager or the manager's designee may disclose to law enforcement a client's current address when:

(A) The law enforcement officer provides the name and social security number of the client; and

(B) The officer satisfactorily demonstrates that the client is a fugitive felon (as defined by the state), the location or apprehension of such felon is within the law officer's official duties, and the request is made in the proper exercise of those duties.

Stat. Auth.: ORS 418.005 & 419B.035

Stats. Implemented: ORS 409.225, 409B.230, 419A.225 & 419B.035

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-

2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0068

Disclosure of Information Exempt Under the Public Records

Law

Unless required by court order or specific statute, the Department may not disclose information in a client file if the information is exempt under the Public Records Law.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 192.410–192.505 & 418.005

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-

2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0075

Disclosure Procedures

(1) The manager or the manager's designee must supervise access to records.

(2) The manager or manager's designee must approve in writing the disclosure or redisclosure of client information in the following circumstances:

(a) The Department currently is the child's legal custodian or guardian or the Department was the child's legal custodian or guardian when the Department authorized services;

(b) The Department currently is serving the child pursuant to an Interstate Compact or other interstate agreement; and

(c) The child is or was evaluated or provided services in conjunction with the Department assessment following a protective service report, regardless of the child's legal status at the time.

(3) The Department may require a reasonable period of time to prepare a client's record for review at the branch or disclosure by mail.

(4) The Department may require that a person who seeks to review client records, review the records at an appointed time.

(5) Except as provided in OAR 413-010-0065(6), (access to records for research purposes), a person authorized to review the Department record may copy the record.

(6) Any record disclosed must be kept confidential by the person to whom the record is disclosed and must be used only for the purpose for which disclosure was made.

(7) To redisclose lawfully, the person must obtain, before the redisclosure, the written consent of the branch manager or the branch manager's designee.

(8) All social service agencies, courts, foster parents, service providers (including medical providers), or agents of the Department providing services to the Department's client at the request of the agency are subject to the Oregon statutes and the Department rules governing disclosure of client information.

(9) The Department may not permit a person authorized to review a particular client's file to review the complete file if the file includes information about any other client. The Department must permit review of the particular client's records.

(10) When copies of confidential information are released, the material must be stamped: "Confidential not to be redisclosed".

(11) When confidential records and information are part of the record in an administrative hearing before the Department, the Department and all participants in the hearing must take all reasonable measures to maintain the confidentiality of the information.

Stat. Auth.: ORS 418.005 & 419B.035

Stats. Implemented: ORS 418.005 & 419A.255

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14

Rights of Children

413-010-0170

Purpose

The purpose of these rules, OAR 413-010-0170 to 413-010-0185, is to:

(1) Describe the rights and protection each child and young adult in the legal custody of the Department is entitled to receive from the Department; and

(2) Establish the Oregon Foster Children's Bill of Rights, as provided in ORS 418.200 through 418.202.

Stat. Auth.: ORS 418.005, 418.202

Stats. Implemented: ORS 418.005, 418.201, 418.202, 419B.343

Hist.: SOSCF 6-1998, f. 2-10-98, cert. ef. 2-15-98; CWP 14-2009, f. & cert. ef. 11-3-09; CWP 13-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0175

Definitions

Definitions for OAR 413-010-0170 to 413-010-0185 are in OAR 413-010-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 14-2009, f. & cert. ef. 11-3-09; CWP 13-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

413-010-0180

Rights of Children and Young Adults

(1) Every child and young adult in the legal custody of the Department has rights, including but not limited to the right:

(a) To be placed in the least restrictive environment that appropriately meets individual needs;

(b) To be provided basic needs such as adequate food, clothing, and shelter;

(c) To receive appropriate care, supervision, and discipline, and to be taught to act responsibly and respect the rights of others;

(d) To be provided routine and necessary medical, dental, and mental health care and treatment;

(e) To be provided with free and appropriate public education;

(f) To be protected from physical and sexual abuse, emotional abuse, neglect, and exploitation;

(g) To be provided services designed for reunification with the parent or guardian except when there is clear evidence that the parent or guardian may not protect the child's or young adult's welfare;

(h) To be provided services to develop a safe permanent alternative to the family, when family resources are not available;

(i) To be accorded the least restrictive legal status that is consistent with the need for protection, to have the Department present its position on best interests to the court, and to attend court hearings and speak directly to the judge;

(j) To receive respect, be nurtured, and attend activities in accordance with his or her background, religious heritage, race, and culture within reasonable guidelines as set by the case plan, the visitation plan, and the court;

(k) To visit and communicate with a parent or guardian, siblings, members of his or her family, and other significant people within reasonable guidelines as set by the case plan, the visitation plan, and the court;

(l) To be involved, in accordance with his or her age and ability and with the law, in making major decisions that affect his or her life, to participate in the development of his or her case plan, permanency plan, and comprehensive transition plan and to discuss his or her views about the plans with the judge;

(m) To receive encouragement and be afforded reasonable opportunities to participate in extracurricular, cultural, and personal enrichment activities consistent with his or her age and developmental level; and

(n) To earn and keep his or her own money and to receive guidance in managing resources to prepare him or her for living independently.

(2) This section establishes the Oregon Foster Children's Bill of Rights. In addition to the rights listed in section (1) of this rule, every child and young adult in the legal custody of the Department who is or was in substitute care has the following rights, as provided in ORS 418.201:

(a) To have the ability to make oral and written complaints about care, placement, or services that are unsatisfactory or inappropriate, and to be provided with information about a formal process for making complaints without fear of retaliation, harassment, or punishment.

(b) To be notified of, and provided with transportation to, court hearings and reviews by local citizen review boards pertaining to the child's or young adult's case when the matters to be considered or decided upon at the hearings and reviews are appropriate for the child or young adult, taking into account the age and developmental stage of the child or young adult.

(c) To be provided with written contact information of specific individuals whom the child or young adult may contact regarding complaints, concerns, or violations of rights, that is updated as necessary and kept current.

(d) When the child or young adult is 14 years of age or older, to be provided with written information within 60 days of the date of any placement or any change in placement, regarding:

(A) How to establish a bank account in the child's or young adult's name as allowed under state law;

(B) How to acquire a driver license as allowed under state law;

(C) How to remain in foster care after reaching 18 years of age;

(D) The availability of a tuition and fee waiver for a current or former foster child under ORS 351.293;

(E) How to obtain a copy of the child's or young adult's credit report, if any;

(F) How to obtain medical, dental, vision, mental health services, or other treatment, including services and treatments available without parental consent under state law; and

(G) A transition toolkit, including a comprehensive transition plan.

(e) With respect to a child's or young adult's rights under the federal and state constitutions, laws, including case law, rules, and regulations:

(A) To receive a document setting forth such rights that is age and developmentally appropriate within 60 days of the date of any placement or any change in placement;

(B) To have a document setting forth such rights that is age and developmentally appropriate posted at the residences of all foster parents, child-caring agencies, and independent resident facilities; and

(C) To have an annual review of such rights that is age and developmentally appropriate while the child or young adult is in substitute care.

(f) To be provided with current and updated contact information for adults who are responsible for the care of the child or young adult and who are involved in the child's or young adult's case, including but not limited to caseworkers, caseworker supervisors, attorneys, foster youth advocates and supporters, court appointed special advocates, local citizen review boards, and employees of the Department that provide certification of foster parents, child-caring agencies, and independent resident facilities.

(g) To have a hotline phone number that is available to the child or young adult at all times for the purposes of enabling the child or young adult to make complaints and assert grievances regarding the child's or young adult's care, safety, or well-being.

(3) Children and young adults in the legal custody of the Department may have other rights not specified in this rule as appropriate to the child's or young adult's age and developmental stage.

Stat. Auth.: ORS 418.005 & 418.201

Stats. Implemented: ORS 418.005, 418.200, 418.201 & 418.202

Hist.: SOSCF 6-1998, f. 2-10-98, cert. ef. 2-15-98; CWP 14-2009, f. & cert. ef. 11-3-09; CWP 13-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 1-2015, f. & cert. ef. 1-1-15

413-010-0185

Department Responsibilities

(1) The Department will develop information and materials to be provided to children and young adults in the legal custody of the Department who are or were in substitute care regarding their rights under OAR 413-010-0180(2). The Department will review and update the information and materials periodically, and may develop other information and materials it determines will be helpful in informing children and young adults about their rights and how to assert and protect them.

(2) The Department will make training available to caseworkers and other employees who will provide the information and materials specified in section (1) to children and young adults, to ensure the information and materials are provided in a manner that is timely and appropriate to age and developmental stage.

(3) The Department will make training available to caseworkers and other employees about the Department's obligations under ORS 418.201, OAR 413-010-0180(2), and this rule, to ensure the obligations are carried out in a manner that is timely and appropriate to age and developmental stage.

(4) The Department will develop information and materials and make training available to substitute caregivers regarding their obligations to ensure the children and young adults in their care are

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informed of their rights under OAR 413-010-0180(2) in a manner that is timely and appropriate to age and developmental stage.

(5) The Department will develop and publish a process for children and young adults in the legal custody of the Department who are or were in substitute care to make complaints regarding their care. The process will include a phone number that is available at all times.

Stat. Auth.: ORS 418.005 & 418.202

Stats. Implemented: ORS 418.005, 418.201 & 418.202

Hist.: CWP 13-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 1-2015, f. & cert. ef. 1-1-15

Protecting the Rights of Children (Interrogations, Interviews and Polygraph Tests)

413-010-0200

Purpose

These rules establish guidelines for Child Welfare staff and agents to follow to assure that the rights are maintained.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

Policy

413-010-0210

Department Responsibilities

Department through staff, contracted providers of care and other agents, will assert and protect the rights of children in the legal custody of Department by fulfilling the following responsibilities:

(1) Developing and implementing service plans and agreements that address the needs, rights, and best interests of the child;

(2) Advocating for the child's rights when family members, community institutions (such as school/law enforcement), or Department administrative practices appear to encroach upon the child's rights;

(3) Arranging for a guardian ad litem or a court appointed special advocate to represent a child when Department cannot freely or objectively advocate for the child's rights.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-010-0220

Interrogation/Polygraph

When a law enforcement agency (LEA) asks to interrogate or conduct a polygraph examination for a child suspected of violating the law or having knowledge of a law violation, Child Welfare staff and/or the child's physical custodian will:

(1) Assure the officer has proper identification.

(2) Determine if the officer has a warrant. If there is a warrant, Child Welfare will assist the LEA officer insofar as such assistance does not infringe upon the child's right to remain silent and to have legal representation present.

(3) Advise the officer that no mechanical or electronic recording may be made of the interview.

(4) If the LEA does not have a warrant, make sure:

(a) The child's legal guardian consents to the interrogation and/or polygraph (see I-B.1.4, Responsibility of Staff to Secure a Legal Consent);

(b) The child's attorney, a staff person or the child's custodian is present during the interview, and ensures that the interview is terminated if there is any indication of improper conduct on the part of the interrogator.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-010-0230

Attorney Interview

When an attorney asks to interview a child, the following shall apply:

(1) An attorney of record representing the child may interview

the child privately. However, if the attorney or the child requests, a

Child Welfare staff member shall be present during the interview.

(2) An adversarial attorney shall not be permitted to interview

a child unless the child's legal guardian consents to the interview

and the child's own attorney is also present.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-010-0240

Other Interviews

When a request to interview a child is received from representatives of the Social Security Administration, Veteran's Administration, Department of Revenue, insurance representatives, etc., staff and/or custodians will:

- (1) Ensure that the requestor has proper identification;
- (2) Determine if the interview is related to pending litigation or the child may be a party to or a witness to an incident related to a litigation;
- (3) Determine whether or not the child should have legal counsel during the interview;
- (4) Set the time and place of the interview;
- (5) Inform the interviewers that no mechanical or electronic recording will be made of the interviews.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

Rights of Relatives

413-010-0300

Purpose

The Department recognizes the importance of preserving the family ties and relationships of a child or young adult who is placed in the legal custody of the Department. These rules, OAR 413-010-0300 to 413-010-0340, describe the rights of relatives and the responsibilities of the Department regarding involvement of a child or young adult's relatives in a child welfare case.

Stat. Auth.: ORS 109.119, 418.005

Stats. Implemented: ORS 109.119, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2010, f. & cert. ef. 7-1-10; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0310

Definition

Definitions for OAR 413-010-0300 to 413-010-0340 are in OAR 413-010-0000.

Stat. Auth.: ORS 109.119, 418.005, 419A.004

Stats. Implemented: ORS 109.119, 418.005, 419A.004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2010, f. & cert. ef. 7-1-10; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 13-2015, f. & cert. ef. 8-4-15

413-010-0320

Relative Involvement in Case Planning and Court Hearings

(1) The Department may involve a relative as a safety service provider after the assessment that determines the individual is a safe and appropriate resource for involvement in managing a child's safety as required under Child Welfare Policy I-AB.7, "Assessment of an Individual as a Safety Service Provider", OAR 413-015-1200 to 413-015-1230.

(2) The Department must consider a family decision-making meeting as described in ORS 417.365 and when the family decision-making meeting is held, the Department may include any family member as defined in ORS 417.371(4)(a) or relative in this meeting under Child Welfare Policy I-B.3.1, "Developing and Managing the Case Plan", OAR 413-040-0008.

(3) The Department must provide notice of a court hearing to:

- (a) A relative who is currently providing substitute care for a child in the legal custody of the Department pursuant to juvenile court jurisdiction as set forth in ORS 419B.875(6); and

- (b) A grandparent of a child or young adult in the Department's custody, as required by ORS 419B.875(7). For purposes of this subsection, "grandparent" means the legal parent of the child or young adult's legal parent, as defined in ORS 109.119.

(4) A relative who expresses to the Department an interest in a child has a right to provide information about the child's background and to provide input on the safety, attachment, and permanency needs of the child.

(5) Unless an exception to contact is provided by the child welfare program manager or designee under Child Welfare Policy I-E.1.1, "Search for and Engagement of Relatives", OAR 413-070-0072(1) or an order of a court, under 42 USC 671(a)(29) the Department must provide notice, within 30 calendar days after the removal of a child from the custody of the parent or parents of the child, to all grandparents and other adult relatives of the child known to the Department, that complies with all of the following subsections:

(a) Specifies that the child has been or is being removed from the custody of the parent or parents of the child;

(b) Explains options under federal and state law to participate in the care and placement of the child;

(c) Describes the requirements the individual must meet to become a relative caregiver and the services and supports available for a child placed with a relative caregiver under federal and state law; and

(d) Describes the eligibility criteria for and availability of Guardianship Assistance benefits when all Guardianship Assistance eligibility criteria are met under Child Welfare Policy I-E.3.6.2, "Guardianship Assistance", OAR 413-070-0900 to 413-070-0974.

(6) An exception to contact by the Child Welfare program manager or designee under Child Welfare Policy I-E.1.1, "Search for and Engagement of Relatives", OAR 413-070-0072(1) does not relieve the Department of its obligation to provide notice of court hearings to grandparents under subsection (3)(b) of this rule.

Stat. Auth.: ORS 109.119 - 109.123, 417.365, 417.371, 418.005, 419B.875

Stats. Implemented: ORS 109.119-109.123, 417.365, 417.371, 418.005, 419B.875

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2010, f. & cert. ef. 7-1-10; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0330

Communication and Visitation

A relative has the right to communicate and visit with a child or young adult in the Department's legal custody when such communication or contact is set forth in:

(1) The child or young adult's visitation plan developed under Child Welfare Policy I-E.3.5, "Visits and Other Types of Child and Family Contact", OAR 413-070-0800 to 413-070-0880;

(2) The opportunities for ongoing connection and support developed under Child Welfare Policy I-E.1.1, "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0087 and approved by the caseworker; or

(3) An order of a court.

Stat. Auth.: ORS 109.119, 418.005

Stats. Implemented: ORS 109.119, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2010, f. & cert. ef. 7-1-10; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14

413-010-0340

Department Responsibility to Make Diligent Efforts to Place a Child or Young Adult with Relatives

The Department must:

(1) Make diligent efforts to place a child or young adult in substitute care with a relative or person who has a caregiver relationship, as defined in ORS 419B.116, to the child pursuant to 419B.192(1).

(2) Make diligent efforts to place a child or young adult in substitute care with his or her siblings so long as placement with the siblings is in the best interests of the child or young adult and the child or young adult's siblings pursuant to ORS 419B.192(2).

(3) In making the diligent efforts described in sections (1) and (2) of this rule, the Department must consider the factors set forth in ORS 419B.192(3) and follow the assessment process described in Child Welfare Policies I-E.1.1, "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0087 and II-B.1.1, "Responsibilities for Certification and Supervision of Foster Parents, Relative Caregivers and Approval of Potential Adoptive Resources", OAR 413-200-0270 to 413-200-0296.

Stat. Auth.: ORS 109.119, 418.005, 419B.116, 419B.192

Stats. Implemented: ORS 109.119, 418.005, 419B.116, 419B.192

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Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2010, f. & cert. ef. 7-1-10; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14

Complaint Review

413-010-0400

Purpose

These rules (OAR 413-010-0400 to 413-010-0480) prescribe the standards and procedures for reviewing and resolving complaints about Child Welfare.

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 21-2007, f. 11-30-07, cert. ef. 12-1-07

413-010-0410

Definitions

Definitions for OAR 413-010-0400 to 413-010-0480 are in OAR 413-010-0000.

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 21-2007, f. 11-30-07, cert. ef. 12-1-07; CWP 13-2015, f. & cert. ef. 8-4-15

413-010-0420

Right to Review

(1) An individual may receive a review of any action or decision of Child Welfare.

(2) In addition to the review provided under section (1) of this rule, a contract provider (413-010-0000) may receive a review of any action or decision of Child Welfare that violates a condition or term of the contract or agreement.

(3) When a client or family member of a client notifies the Department that the client or family member has a complaint, the client or family member will be assisted in setting a meeting with a caseworker and the caseworker's supervisor (see DHS Form 0170, section about Resolving Complaints Informally).

(4) An individual or contract provider may file a written complaint or report of discrimination by completing DHS Form 0170. The complaint or report of discrimination may be sent to the Governor's Advocacy Office, 500 Summer Street NE, Salem, or submitted as provided on DHS Form 0170.

(a) When an individual or contract provider submits a written customer service complaint (defined in OAR 407-005-0105), Child Welfare will follow the procedures set out in 407-005-0100 to 407-005-0120.

(b) When a client submits a report of discrimination arising from his or her disability, the formal complaint review must comply with OAR 407-005-0030.

(c) When a client with a disability requests a reasonable modification (see OAR 407-005-0025) or requests auxiliary aids, auxiliary services, or alternative format communication (see 407-005-0005 and 407-005-0010), the initial decision must comply with 407-005-0000 to 407-005-0030 and Department Policy DHS-010-0005, "Non Discrimination on the Basis of Disability for Programs, Services and Activities."

(d) When an individual or contract provider submits a written complaint, which does not fall within subsections (a) to (c) of this section, Child Welfare will follow the procedures set out in Department Procedure DHS-010-005-01, "Filing a Client Complaint or Report of Discrimination".

(5) No individual or contract provider shall be subjected to a reprisal for seeking review of a complaint.

(6) The complaint review shall be administered in a manner that protects the confidentiality of client records to the extent prescribed by OAR 413-010-0010 to 413-010-0075.

(7) If an individual or contract provider or any agent of the individual or contract provider chooses to disclose his or her version of case information to the media or community members who would otherwise not be involved, the local Child Welfare program manager must consult Administrative Procedure DHS-120-003-01, "Sensitive Issues" and may, as allowed by OAR 413-010-0010 to 413-010-0075, disclose information from the case record

that is not third-party information to respond to the statements of the individual or contract provider by providing the Department's understanding of the facts.

(a) Third-party information includes but is not limited to psychological and psychiatric evaluations, police reports, references, alcohol and drug evaluations or reports, and reports from mental health professionals.

(b) Third-party information may be disclosed only if the individual or contract provider has signed a release of information, and the third-party that provided the confidential information has approved the disclosure.

(8) At any time, the parties may agree to resolve the complaint through an alternative dispute resolution procedure.

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 21-2007, f. 11-30-07, cert. ef. 12-1-07

413-010-0430

Grievances Not Subject to These Rules

(1) Except as provided in section (2) of this rule and in OAR 413-010-0440(1) and (2), complaint review procedures in these rules (413-010-0400 to 413-010-0480) are not required in each of the following situations:

(a) The individual or contract provider has requested a contested case hearing.

(b) The matter, which would be the subject of the complaint review, is presently the subject of a juvenile court proceeding.

(c) The individual or contract provider has initiated court action.

(d) The subject matter of the complaint has been reviewed by a judge.

(e) A term or condition in a contract provider's contract or agreement provides for a different process.

(f) The complainant has requested review of a Child Protective Services (CPS) disposition, under OAR 413-010-0700 to 413-010-0750 (Review of Founded Dispositions), that is the subject matter of the complaint.

(g) The complainant has requested review of an Adoption Committee Decision, under OAR 413-120-0060 (Review of Adoption Committee Decision), that is the subject matter of the complaint.

(2) A complaint about a "reasonable modification" (see OAR 407-005-0005(10)) or a report of discrimination arising from the disability of a client (see 407-005-0005(6)) is handled as described in these rules, in 407-005-0025 and 407-005-0030, and in Department Policy DHS-010-0005, "Non-Discrimination on the Basis of Disability for Programs, Services and Activities."

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 21-2007, f. 11-30-07, cert. ef. 12-1-07

413-010-0440

Informal Complaint Review

(1) A client, family member of a client, or contract provider may request an informal complaint review if no written complaint is submitted and the client, family member, or contract provider informs the caseworker or the caseworker's supervisor of the request.

(2) Within one week of the caseworker or caseworker's supervisor receiving the request for an informal complaint review, the client, family member, or contract provider will be contacted to schedule a meeting at an agreed-upon time involving the caseworker, the supervisor, and the client, family member, or contract provider. The focus will be defining the problem, identifying the desired outcome, and establishing a plan for resolution. Every effort will be made to resolve the complaint through this informal discussion. In some local Department offices, the supervisor and the program manager may be the same individual.

(3) If the matter has not been resolved and the program manager did not participate in the informal complaint review, the program manager shall participate in an additional discussion with

the client or contract provider to attempt to resolve it. This discussion will be scheduled as soon as possible at a mutually agreed-upon time.

(4) If the client, family member, or contract provider remains dissatisfied following discussion with the program manager, the program manager will give the client or contract provider a written decision regarding the subject of the complaint within five working days. If OAR 413-010-0430 does not make the matter ineligible for review, the written decision shall include information about the steps necessary to file a written complaint or report of discrimination (Form DHS 0170 and Department Procedure DHS-010-005-01, "Filing a Client Complaint or Report of Discrimination").

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 21-2007, f. 11-30-07, cert. ef. 12-1-07

413-010-0480

Judicial Review

These rules (OAR 413-010-0400 to 413-010-0480) do not create a contested case, as defined by ORS 183.310, subject to judicial review under 183.482.

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 21-2007, f. 11-30-07, cert. ef. 12-1-07

Contested Case Hearings

413-010-0500

Purpose, Right to Request Hearing, Applicable Rules, and Computation of Time

(1) The purpose of these rules (OAR 413-010-0500 to 413-010-0535) is to:

(a) State the rights of individuals and entities to request a contested case hearing when the Department takes certain actions; and

(b) Set forth rules governing some aspects of the contested case hearings process.

(2) The individuals and entities described below have the right to request a contested case hearing under ORS Chapter 183. In order to exercise the right to a hearing, the individual or entity must submit and the Department must receive a hearing request which complies with OAR 413-010-0505 within the timeframes described in that rule.

(a) A child or young adult placed in substitute care by the Department may request a hearing in the manner set forth in OAR 413-010-0505 when the Department issues a notice and decision that includes a statement of hearing rights that:

(A) Reduces or terminates the base rate payment;

(B) Determines, denies, reduces or terminates a level of care payment;

(C) Determines, denies, reduces or terminates a level of personal care payment;

(D) Denies eligibility under Title IV-E of the Social Security Act when such denial impacts a benefit;

(E) Denies, reduces or terminates the base rate payment made on behalf of the child's or young adult's minor child when the minor child:

(i) Lives with the child or young adult in substitute care; and

(ii) Is not in the legal custody of the Department; or

(F) Denies eligibility for medical assistance under Child Welfare Policy I-E.6.2, "Title XIX and General Assistance Medical Eligibility," (OAR 413-100-0400 through 413-100-0610) when such denial impacts assistance.

(G) Denies prior authorization for the BRS Program under Child Welfare Policy I-E.5.1.1.1, "Behavior Rehabilitation Services Program," (OAR 413-090-0075(2)(b)).

(b) Unless an adoption assistance agreement automatically expires, a pre-adoptive family or an adoptive family applying for or receiving adoption assistance under Child Welfare Policy I-G.3.1, "Adoption Assistance," (OAR 413-130-0000 to 413-130-0130) may request a hearing in the manner set forth in OAR 413-

010-0505 when the Department issues a notice and decision that includes a statement of hearing rights and:

(A) Denies Title IV-E adoption assistance benefits;

(B) Denies adoption assistance from state funds;

(C) Reduces adoption assistance payments or terminates adoption assistance without the concurrence of the adoptive family;

(D) Reduces adoption assistance payments or terminates adoption assistance for a reason other than a child turning age 18 or a young adult turning age 21 when an extension has been granted; or

(E) Offers the family a specific amount or type of adoption assistance when the Department and the adoptive family or pre-adoptive family are unable to reach agreement through a negotiation or renegotiation under OAR 413-130-0070 or 413-130-0075.

(c) Unless a guardianship assistance agreement automatically expires, a potential guardian or a guardian applying for or receiving guardianship assistance payments under Child Welfare Policy I-E.3.6.2, "Guardianship Assistance," (OAR 413-070-0900 to 413-070-0974) in the manner set forth in OAR 413-010-0505 when the Department issues a notice and decision that includes a statement of hearing rights and:

(A) Denies Title IV-E guardianship assistance benefits;

(B) Terminates, reduces, or otherwise changes guardianship assistance payments without the concurrence of the guardian;

(C) Terminates guardianship assistance for a reason other than a child turning age 18 or a young adult turning age 21 when an extension has been granted; or

(D) Offers the family a specific amount or type of guardianship assistance when the Department and the guardian or potential guardian are unable to reach agreement through a negotiation or renegotiation under OAR 413-070-0917, 413-070-0939, or 413-070-0969.

(d) An applicant for a Certificate of Approval or a certified family may request a hearing in the manner set forth in OAR 413-010-0505 when the Department denies the application or revokes a certificate under Child Welfare Policy II-B.1, "Standards for Certification of Foster Parents, Relative Caregivers, and Approval of Potential Adoptive Resources," (OAR 413-200-0301 to 413-200-0396);

(e) An applicant for a license to operate a private child-caring agency or a licensee may request a hearing in the manner set forth in OAR 413-010-0505 when the Department denies, suspends, or revokes a license or imposes a civil penalty under Child Welfare Policy II-C.1, "Licensing Umbrella Rules," (OAR 413-215-0000 to 413-215-0131);

(f) An organization or school that operates a residential care program for children and is not also a private child-caring agency may request a hearing in the manner set forth in OAR 413-010-0505 when the Department orders the organization or school to alter the conditions under which a child lives or receives schooling or denies, suspends or revokes a license under Child Welfare Policy II-C.1, "Licensing Umbrella Rules," (OAR 413-215-0000 to 413-215-0131);

(g) An applicant to adopt or an applicant for a Certificate of Approval may request a hearing in the manner set forth in OAR 413-010-0505 when the Department determines that the applicant is unfit based on the criminal offender information or a false statement regarding criminal offender information of the applicant or of another individual in the household of the applicant under Child Welfare Policy I-G.1.4, "Criminal Records Check Requirements for Relative Caregivers, Foster Parents, Adoptive Resources, and Other Persons in the Household," (OAR 413-120-0400 to OAR 413-120-0475).

(3) A person may request a hearing in the manner set forth in OAR 413-010-0505 when that person has the right to a contested case hearing under a statute concerning Child Welfare Programs or a rule in Chapter 413.

(4) These rules (OAR 413-010-0500 to 413-010-0535), apply to contested cases arising from the properly made hearings requests

described in sections (2) and (3) of this rule. The following other rules do or do not apply as noted:

(a) OAR 137-003-0501 to 137-003-0700 apply to these contested cases, except to the extent that rules in Chapter 413 are permitted to and provide otherwise.

(b) Rules in Chapter 461 do not apply to these contested cases unless a rule in Chapter 413 expressly refers to them.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095 & 418.005

Hist.: SOSCF 32-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 20-2009, f. & cert. ef. 12-29-09; CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 6-2012, f. & cert. ef. 9-7-12; CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14

413-010-0501

Definitions

Definitions for OAR 413-010-0500 to 413-010-0535 are in OAR 413-010-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

413-010-0502

Representation

(1) When a child or young adult has the right to a hearing because the Department takes an action under OAR 413-010-0500(2)(a), the foster parent or relative caregiver may:

(a) Request a hearing on behalf of the child or young adult; and

(b) Participate in the hearing as a representative on behalf of the child or young adult.

(2) When the Department takes an action to deny, reduce, or terminate a benefit or service that is provided under Title IV-E or Title XIX of the Social Security Act, a party may be represented by an attorney, a relative, a friend, or other spokesperson as authorized by federal law.

(3) In all other cases, a party may represent themselves or be represented by an attorney.

(4) The Department, with the consent of the Attorney General, has authorized its employees to represent the Department in cases involving the actions described in OAR 413-010-0500(2)(a).

(5) A Department employee acting as the Department's representative may not make legal argument on behalf of the Department.

(a) "Legal argument" includes argument on:

(A) The jurisdiction of the Department to hear the contested case;

(B) The constitutionality of a statute or administrative rule or the application of a constitutional requirement to the Department; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of a motion, evidence, examination and cross-examination of a witness, or presentation of a factual argument or arguments on:

(A) The application of a statute or administrative rule to the facts in the contested case;

(B) Comparison of a prior Department action when handling a similar situation;

(C) The literal meaning of a statute or administrative rule directly applicable to an issue in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of a procedure being followed in the contested case hearing.

(6) The Department may be represented in any contested case proceeding by the Department of Justice.

(7) Contested cases under these rules are not open to the public and are closed to nonparticipants, except nonparticipants may attend subject to the consent of each party and the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11

413-010-0505

Hearing Requests

(1) To request a hearing under OAR 413-010-0500(2)(a):

(a) The party or the party's representative must complete and sign a hearing request form approved by the Department; and

(b) The form must be received by the Department not later than 30 days following the mailing date or date of personal delivery of the notice.

(2) Requests for a hearing under OAR 413-010-0500(2)(b)-(g) must be in writing and must be received by the Department by the date specified in the Department's notice.

(3) In the event a request for a hearing is not timely, OAR 137-003-0528 applies, except to the extent provided otherwise in section (5) of this rule.

(4) If a contested case notice was sent by regular mail, and the party or party's representative indicates that neither the party nor the party's representative received or had actual knowledge of the contested case notice, the Department must advise the party or party's representative of the right to request a hearing under section (5) of this rule.

(5) When the Department receives a hearing request that is not filed within the timeframe required by section (1) or section (2) of this rule but is filed no later than 60 days after a notice becomes a final order under OAR 413-010-0510(3):

(a) If the Department finds that the party and party's representative did not receive the written notice and did not have actual knowledge of the notice, the Department refers the request for a hearing to the Office of Administrative Hearings (OAH) for a contested case hearing on the merits of the Department's action described in the notice.

(b) The Department may refer the request for a hearing to the OAH for a contested case proceeding to determine whether the party or party's representative received the written notice or had actual knowledge of the notice. At the hearing, the Department must show that the party or party's representative had actual knowledge of the notice or that the Department mailed the notice to the correct address of the party or party's representative.

(6) Upon receipt of a hearing request that is not described in OAR 413-010-0500(2), the Department may enter an order that the hearing request is not eligible for referral to OAH. Alternately, the Department may refer a hearing request to OAH for a decision on the question of whether there is a right to a contested case hearing.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 411.103 & 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 20-2009, f. & cert. ef. 12-29-09; CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11

413-010-0510

Notice

(1) When the Department takes any of the actions described in OAR 413-010-0500(2), the Department issues a written notice to the person that has the right to a contested case hearing.

(2) When the Department takes any of the actions described in OAR 413-010-0500(2)(a)-(c), the written notice must:

(a) Specify the date the notice is mailed or personally delivered;

(b) Specify the action the Department intends to take and the effective date of the action. If benefits are reduced or closed to reflect cost-of-living adjustments in benefits or other mass change under a program operated by a federal agency or to reflect a mass change to payments in another program operated by the Department, it is sufficient to meet this requirement that the notice state all of the following:

(A) The general nature of the change.

(B) Examples of how the change affects the benefits of the group of affected clients.

(C) The month in which the change will take place.

(c) Specify the circumstances under which payments or benefits are continued if a hearing is requested and whether continued payments or benefits may be subject to recovery by the Department if the Department's action is upheld; and

(d) If the Department intends to terminate benefits or payments because the individual is ineligible for the benefits or payments or the program is terminated, state that the individual may reapply for assistance if circumstances affecting the eligibility of the individual change.

(3) Department notices indicate that the Department designates the record of the proceeding, including information in the Department's file or files and materials added by a party, as the record upon default. The Department's notice becomes a final order:

(a) The day after the date prescribed in the notice as the deadline for requesting the hearing if the party fails to request a hearing; or

(b) The day the Department or OAH mails an order dismissing the hearing request because the party withdraws the request or fails to appear on the date and at the time set for the hearing.

(4) When the Department terminates or reduces benefits or services under subsections (2)(a) through (2)(c) of OAR 413-010-0500, the Department must send the notice:

(a) At least 10 calendar days before the effective date of the action, except as provided in subsection (b) of this section.

(b) When the Department changes a benefit standard that results in the reduction, suspension or closure of a grant of public assistance:

(A) At least 30 days before the effective date of the action; or

(B) At least 10 working days before the effective date of the action when the Department has fewer than 60 days before the effective date to implement the proposed change.

(c) For purposes of this rule, the term "changes a benefit standard" means a change to the applicable inflation-adjusted contribution, income, or payment standard. It does not include the annual adjustment to a standard based on a federal or state inflation rate.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 20-2009, f. & cert. ef. 12-29-09; CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11

413-010-0515

Continuation of Benefits

(1) Except as otherwise provided in this rule, a recipient of benefits is entitled to receive continuing benefits when the Department takes any action to suspend, reduce, or terminate benefits or services as described in subsections (2)(a)(A)–(F), (2)(b), or (2)(c) of OAR 413-010-0500, and the Department has:

(a) Provided at least 10 days notice of such action as required by OAR 413-010-0510;

(b) Received a request for a hearing from the recipient not later than 30 days following the mailing date or date of personal delivery of the notice, whichever is earlier; and

(c) Received such request prior to the effective date of the action.

(2) Any continuing benefits authorized by this rule are subject to recovery by the Department to the extent that the Department's action is sustained or otherwise upheld.

(3) Continuing benefits may not be provided:

(a) When the recipient specifically requests that he or she not receive continued assistance pending a hearing decision;

(b) After a final order is issued by the Department;

(c) After a change affecting the recipient's grant, as described in subsections (2)(a)(A), (B), (D), and (E), (2)(b) or (2)(c) of OAR 413-010-0500, occurs while the hearing decision is pending and the recipient fails to request a hearing after notice of the change; or

(d) After a determination is made at a hearing that the sole issue is one of state or federal law or policy or change in state or federal law and not one of incorrect grant computation.

(4) Except as otherwise provided in this rule, if the Department provides less than 10 days notice of an action to suspend, reduce, or terminate benefits or services as described in subsections

(2)(a)(A), (B), (D), and (E), (2)(b) or (2)(c) of OAR 413-010-0500, a recipient of benefits is entitled to receive continuing benefits if the Department:

(a) Receives a request for a hearing from the recipient within 10 days of the mailing of the notice of the action; and

(b) Determines that the action resulted from other than the application of federal or state law or policy or a change in state or federal law.

(5) Except as otherwise provided in this rule, if the Department provides less than 10 days notice of an action to suspend, reduce, or terminate benefits or services as described in subsection (2)(a)(C) or (F) of OAR 413-010-0500, or 5 days notice in cases of probable fraud as described in 42 CFR 431.214, a recipient of benefits is entitled to receive continuing benefits if the Department:

(a) Receives a request for a hearing from the recipient within 10 days of the mailing of the notice of the action; and

(b) Determines that the action resulted from other than the application of federal or state law or policy.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 20-2009, f. & cert. ef. 12-29-09; CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11

413-010-0520

Informal Conference

(1) The Department representative and the party or party's representative may have an informal conference to discuss any of the matters listed in OAR 137-003-0575(4). The informal conference also may be used to:

(a) Provide an opportunity for the Department and the party to settle the matter;

(b) Ensure the party understands the reason for the action that is the subject of the hearing request;

(c) Give the party an opportunity to review the documents that are the basis for that action;

(d) Give the party an opportunity to review the rules that support the Department's action;

(e) Give the party and the Department the chance to correct any misunderstanding of the facts; and

(f) Give the Department an opportunity to review its action.

(2) The party may, at any time prior to the hearing date, request an additional informal conference with the Department representative.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 20-2009, f. & cert. ef. 12-29-09; CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11

413-010-0525

Burden of Proof

In any contested case covered by these rules (OAR 413-010-0500 to 413-010-0535), the party has the burden of proof.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 20-2009, f. & cert. ef. 12-29-09; CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11

413-010-0530

Withdrawals and Dismissals

(1) Withdrawals.

(a) A party or party's representative may withdraw a request for a hearing orally or in writing at any time before a final order has been issued on the contested case.

(b) Following a withdrawal under subsection (a) of this section, the Department or OAH sends an order dismissing the hearing request to the party's last known address. The party may cancel the withdrawal if a request to cancel the withdrawal is received by the Department representative up to the tenth work day following the date such an order is sent. If the party withdrew the

hearing request in writing, the Department must receive a timely written request to cancel the withdrawal.

(c) The Department may withdraw any pending referral from OAH at any time before a final order is served when:

(A) The Department provides to the party the relief sought; or

(B) The Department and the party reach an agreement under ORS 183.417(3).

(2) Dismissals. An order dismissing a hearing request is issued when the party or the party's representative does not appear at the time and place specified for the hearing.

(a) The dismissal by order is effective on the date the order is issued.

(b) The Department may reconsider and cancel the dismissal under OAR 137-003-0675 on request of the party on a timely showing that the party was unable to attend the hearing and unable to request a postponement for reasons beyond party's reasonable control. The Department may refer the reconsideration decision to OAH.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 20-2009, f. & cert. ef. 12-29-09; CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11

413-010-0535

Proposed and Final Orders

(1) When the Department refers a contested case under these rules (OAR 413-010-0500 to 413-010-0535) to OAH, the Department indicates on the referral whether the Department is authorizing:

(a) A proposed order;

(b) A proposed and final order (OAR 137-003-0645(4); or

(c) A final order.

(2) During or after a contested case hearing, when it is determined that the correct application of OAR 413-020-0230, 413-090-0133, or 413-090-0150 requires the consideration of facts that differ from the facts on which the Department made a decision to deny, reduce, or terminate either a level of care payment or a level of personal care payment, the Department will reapply 413-020-0230, 413-090-0133, or 413-090-0150 based on new or different facts.

(3) When the Department authorizes either a proposed order or a proposed and final order:

(a) The party may file written exceptions and written argument to be considered by the Assistant Director for Children, Adults, and Families Division or the Assistant Director's designee. The exceptions and argument must be received at the location indicated in the order not later than the tenth day after service of the proposed order or proposed and final order.

(b) If the party does not submit timely exceptions or argument following a proposed and final order, the proposed and final order becomes a final order on the eleventh day after service of the proposed and final order unless the Department has issued a revised order or has notified the parties and the administrative law judge that the Department will issue the final order.

(c) When the Department receives timely exceptions or argument, the Department issues the final order, unless the Department requests that OAH issue the final order under OAR 137-003-0655.

(4) A request by a party for reconsideration or rehearing must be filed with the person who signed the final order within the time limits of OAR 137-003-0675.

(5) A final order should be issued or the case otherwise resolved no later than 90 days following the receipt of the request for a hearing.

(6) A final order is effective immediately upon being signed or as otherwise provided in the order.

(7) The Department reserves the right to withdraw or amend any final order issued by OAH or the Department at any time permitted by law.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 20-2009, f. & cert. ef. 12-29-09; CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11

Notice and Review of CPS Founded Dispositions

413-010-0700

Purpose

(1) The purpose of these rules (OAR 413-010-0700 to 413-010-0750) is to establish procedures for ensuring the rights of individuals to receive notice and the opportunity to request a review when a Child Protective Services (CPS) assessment results in a CPS founded disposition.

(2) The Federal Child Abuse Prevention and Treatment Act (CAPTA) requires child protective service agencies to provide notice to individuals identified as responsible for child abuse or neglect and to provide individuals with an opportunity to request and have a review of the disposition.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0705

Definitions

Definitions for OAR 413-010-0700 to 413-010-0750 are in OAR 413-010-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; SOSCF 9-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12; CWP 13-2015, f. & cert. ef. 8-4-15

413-010-0710

Required Forms

Several Department forms are referred to by form number in these rules. The forms are available at the Department's website. When use of a form is required by these rules, the current version of the form must be used.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0714

Department Employee — Application of Department Employee Policies

When the perpetrator is a Department employee, the Department will follow the Department employee policies (see Child Welfare Policy III-E.4.8.12, "Review of Founded CPS Disposition for Child Welfare Employees").

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0715

Providing Notice of a CPS Founded Disposition

(1) The local Child Welfare office must deliver a "Notice of a CPS Founded Disposition" (Form CF 313 or CF 319 as appropriate) to the person identified as the perpetrator in the CPS founded disposition, except as provided in section (2) of this rule. If the perpetrator is a juvenile, notice must be provided as required by OAR 413-010-0716. If the perpetrator is not a juvenile, the notice must be delivered as follows:

(a) By certified mail, restricted delivery, with a return receipt requested to the last known address of the perpetrator; or

(b) By hand delivery to the perpetrator. If hand delivered, the notice must be addressed to the perpetrator and a copy of the notice must be signed and dated by the perpetrator to acknowledge receipt, signed by the person delivering the notice, and filed in the child welfare case file.

(c) If subsection (2)(b) of this rule does not apply, the method or process for providing notice of a CPS founded disposition when domestic violence has been identified should maximize the safety of the child, the adult victim, and Department employees. The Department will not use the adult victim to deliver the notice.

(2) A “Notice of a CPS Founded Disposition” (Form CF 313) is not required if:

(a) The CPS founded disposition was made prior to August 4, 2000. Notice will be given on CPS founded dispositions made prior to August 4, 2000 as provided in OAR 413 010-0717.

(b) Domestic violence has been identified and if providing the notice would increase the risk of harm to a child, adult victim, or Department employee. This exception may only be made with Department management approval based on documentation of risk.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03;

CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05;

CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0716

Providing Notice of a CPS Founded Disposition and Other Documents to a Juvenile

(1) The local Child Welfare office that determines a juvenile is the perpetrator must deliver the “Notice of CPS Founded Disposition” (Form CF 313) to one of the following persons who may act on behalf of the juvenile in submitting a request for review based on having legal custody of the juvenile:

(a) The juvenile’s parent; or

(b) The juvenile’s guardian.

(2) If the juvenile is in the legal custody of the Department or the Oregon Youth Authority, the notice must be sent to both of the following:

(a) The juvenile’s attorney; and

(b) The juvenile’s parent, unless there is cause to believe such communication will be detrimental to the juvenile (see OAR 413-020-0170(3)(c)).

(3) If the juvenile is in the legal custody of the Department and is unrepresented, the Department will ask the juvenile court to appoint an attorney for the juvenile.

(4) The “Notice of a CPS Founded Disposition” (Form CF 313) must be delivered by certified mail, restricted delivery, with a return receipt requested to the last known address of each mandatory recipient identified in sections (1) and (2) of this rule.

(5) Any other notices or documents that must be provided to perpetrators pursuant to these rules must be delivered to the appropriate persons as outlined in this rule if the perpetrator is a juvenile.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419.370

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03;

CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05;

CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0717

Inquiry about a Review When a CPS Founded Disposition was Made Prior to August 4, 2000

(1) The Department will not deliver a “Notice of Founded CPS Disposition” (Form CF 313) to a person identified as a perpetrator in a CPS founded disposition completed prior to August 4, 2000, unless a person makes an inquiry to the Department about an opportunity for review and qualifies for a review as described in section (2) of this rule.

(2) An individual identified as a perpetrator in a CPS founded disposition completed prior to August 4, 2000 may contact any Child Welfare office and inquire about a review of the disposition. If a complete record of the incident, including a complete copy of the CPS assessment and documentation collected during the CPS assessment, is still available, the Department proceeds in accordance with OAR 413-010-0718. If a complete record of the incident is no longer available, the Department will not conduct a review but will provide notice to the individual that a review will not be conducted and the reasons for that determination.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03;

CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05;

CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0718

Inquiry about a Review of a CPS Founded Disposition When a Person Believes They Have Not Received a Notice

If a person believes he or she is entitled under these rules (OAR 413-010-0700 to 413-010-0750) to a “Notice of CPS Founded Disposition” (Form CF 313) but has not received one, the person may contact any Child Welfare office to inquire about a review of the disposition.

(1) If the local Child Welfare office determines that the person making the inquiry has been identified as a perpetrator in a CPS founded disposition since August 4, 2000, staff must determine whether a “Notice of CPS Founded Disposition” (Form CF 313) was delivered to the perpetrator or the perpetrator refused the delivery of the notice, as evidenced by the returned receipt.

(2) If a notice was delivered to the perpetrator or the perpetrator refused delivery of the notice, as evidenced by a returned receipt, and the time for requesting review of the CPS founded disposition has expired, the local Child Welfare office must either prepare and deliver a “Notice of Waived Rights for Review” (Form CF 316) or inform the perpetrator by telephone of the information required in the “Notice of Waived Rights for Review” and document the telephone notification in the child welfare case file.

(3) If the perpetrator is a juvenile, the local Child Welfare office must prepare and deliver a “Notice of Waived Rights” to the appropriate persons identified in OAR 413 010-0716.

(4) If no returned receipt exists or if it appears that notice was not properly provided, the local Child Welfare office must deliver a “Notice of CPS Founded Disposition” as provided in OAR 413-010-0720 or, if the perpetrator is a juvenile, as provided in OAR 413-010-0716.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03;

CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05;

CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0720

Information Included in the “Notice of a CPS Founded Disposition” (Form CF 313)

The “Notice of a CPS Founded Disposition” (Form CF 313) must include all of the following:

(1) The case and sequence numbers assigned to the CPS assessment that resulted in the CPS founded disposition.

(2) The full name of the individual who has been identified as responsible for the child abuse as it is recorded in the case record.

(3) A statement that the CPS Disposition was recorded as “founded” including a description of the type of child abuse or neglect identified.

(4) A description of the CPS assessment that briefly explains how the CPS founded disposition was determined.

(5) A statement about the right of the individual to submit a request for review of the CPS founded disposition.

(6) Instructions for making a request for review, including the requirement that the requestor provide a full explanation why the requestor believes the CPS founded disposition is in error.

(7) A statement that the Department will not review a CPS founded disposition when a legal proceeding is pending and that the person requesting a review maintains the right to request a review for 30 days following resolution of the pending legal proceeding unless the proceeding results in a legal finding that is consistent with the CPS founded disposition.

(8) A statement that the person waives the right to request a review if the request for review is not received by the local Child Welfare office within 30 calendar days from the date of receipt of

the “Notice of CPS Founded Disposition,” as documented by a returned receipt.

(9) A statement that the local Child Welfare office will consider relevant documentary information contained in the Department’s case file, including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information submitted with the request for review by the person requesting review.

(10) A statement that the review process will not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse.

(11) A statement that the local Child Welfare office will send the requestor a “Notice of Local Child Welfare Office CPS Founded Disposition Review Decision” (Form CF 314) within 30 days of receiving a request for review.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0721

Making a Request for a Review of a CPS Founded Disposition

A person requesting a review must use information contained on the “Notice of CPS Founded Disposition” to prepare a written request for review. The written request for review must be delivered to the local Child Welfare office within 30 calendar days of the receipt of the Notice of CPS Founded Disposition and must include the following items:

(1) Date the request for review is written;

(2) Case number and sequence number found on the “Notice of CPS Founded Disposition;”

(3) Full name of the person identified as responsible for abuse or neglect in the CPS founded disposition;

(4) A full explanation, responsive to the information provided in the Department’s notice, explaining why the person believes the CPS founded disposition is in error and providing any additional information and documents the person wants considered during the review;

(5) The person’s current name (if it has changed from the name noted in section (3) of this rule);

(6) The person’s current street address and telephone number; and

(7) The person’s signature.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0722

Determining When Legal Findings Preclude a Right to Request a Review and Providing Notice of Legal Proceeding (Form CF 317)

(1) The Department does not conduct a review when there is a legal finding consistent with the CPS founded disposition. In that case, a “Notice of Legal Finding” must be provided as provided in OAR 413-010-0723.

(2) If the Department is aware that a legal proceeding is pending, the local Child Welfare office will not review the CPS founded disposition until the legal proceeding is completed.

(3) If the Department is aware that a legal proceeding is pending, the local Child Welfare office must prepare and deliver a notice of legal proceedings (CF 317) within 30 days after receipt of a request for review. This informs the requestor that the Department will not review the disposition until the legal proceeding is completed and will take no further action on the request.

(4) The requestor may, at the conclusion of the legal proceeding, again submit a request for review within 30 days.

(5) The requestor retains the right to request a review for 30 days following resolution of the legal proceeding.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0723

Providing a Notice of Legal Finding (Form CF 318)

If a requestor inquires about a review of a CPS founded disposition and there is a legal finding consistent with the CPS founded disposition, the local Child Welfare office staff must prepare and deliver a “Notice of Legal Finding” (Form CF 318) that informs the requestor that the Department will not review the disposition.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0732

Local Child Welfare Office Responsibilities Related to Notices and Reviews

(1) If an individual asks to review Department records for the purpose of reviewing a CPS founded disposition, state and federal confidentiality law, including OAR 413-010-0010 to 413-010-0075 and 413-350-0000 to 413-350-0090 govern the inspection and copying of records.

(2) The local Child Welfare office must maintain records to demonstrate the following, when applicable:

(a) Whether the Department delivered a “Notice of CPS Founded Disposition;”

(b) Whether or not the Notice of CPS Founded Disposition was received by the addressee, as evidenced by a returned receipt documenting that the notice was received, refused, or not received within the 15-day period provided by the United States Postal Service;

(c) The date a Request for a Local Child Welfare Office CPS Founded Disposition Review was received by the local Child Welfare office;

(d) If a review is conducted by a local Child Welfare office, whether the “Notice of the Local Child Welfare Office CPS Founded Disposition Review Decision” (Form CF 314) was received by the addressee as evidenced by a returned receipt documenting that the notice was received, refused, or not received within the 15-day period as provided by the United States Postal Service; and

(e) The date a request for review by Central Office was received by the Department.

(3) The Child Welfare supervisor in each local Child Welfare office or designee must maintain a comprehensive record of the reviews completed by the local Child Welfare office on CPS founded dispositions arising out of the local Child Welfare office to which the supervisor is assigned. The record must include the date, case number, sequence number, and the decision for each review completed by the local Child Welfare office.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0735

Local Child Welfare Office Review CPS Founded Dispositions

(1) The local Child Welfare office must conduct a review and issue a “Notice of Local Child Welfare Office CPS Founded Disposition Review Decision” (Form CF 314) to the requestor within 30

days from the date the local Child Welfare office receives a request for review of a CPS founded disposition.

(2) If the request for review was delayed because a legal proceeding was pending as provided in OAR 413-010-0720(6), or the proceeding has been completed without a legal finding that would preclude a review, the review must occur within 30 days from the date the local Child Welfare office receives a new request for review.

(3) The Local Child Welfare Office CPS Founded Disposition Review must occur as follows:

(a) The review may not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse or neglect.

(b) The review must be based on current child welfare practice and definitions of child abuse. Procedural rules in place at the time the CPS assessment was completed also must be considered.

(c) The following must be considered by the Local Child Welfare Office CPS Founded Disposition Review Committee members and the Child Welfare Program Manager or designee:

(A) Relevant documentary information contained in the Department's child welfare case file including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information provided by the person requesting review;

(B) Whether there is reasonable cause to believe that child abuse occurred;

(C) Whether there is reasonable cause to believe that the person requesting review is responsible for the child abuse; and

(D) Whether there is reasonable cause to believe that the type of abuse for which the CPS assessment was founded is correctly identified in the assessment.

(d) The Local Child Welfare Office CPS Founded Disposition Review Committee must:

(A) Make recommendations as follows:

(i) Retain the founded disposition;

(ii) Change the disposition to unfounded or unable to determine;

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS Disposition was founded.

(B) At the conclusion of the Review Committee, each committee member must make his or her respective recommendations known to the Child Welfare Program Manager or designee.

(e) The Child Welfare Program Manager or designee must:

(A) Observe the Review Committee;

(B) Ask questions of the committee members as needed for clarification;

(C) Consider the committee's recommendation or recommendations and the basis for the recommendation or recommendations; and

(D) Make one of the following decisions:

(i) Retain the founded disposition.

(ii) Change the disposition to unfounded disposition or unable to determine.

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS Disposition was founded.

(f) The decision and the basis for the decision must be documented.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0738

Notice of Local Child Welfare Office CPS Founded Disposition Review Decision

(1) The Child Welfare supervisor or designee must prepare a "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) as described in OAR 413-010-0738.

(2) The "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) must include the following:

(a) Whether there is reasonable cause to believe that child abuse occurred;

(b) Whether there is reasonable cause to believe the person requesting the review was responsible for the child abuse;

(c) The decision resulting from the Local Child Welfare Office CPS Founded Disposition Review;

(d) If the CPS founded disposition is changed, whether it will be changed to "unable to determine" or to "unfounded;"

(e) If the Local Child Welfare Office CPS Founded Disposition Review results in a decision that the CPS founded disposition should be retained but that the type of abuse for which the disposition was founded should be changed, the type of abuse that should be founded and the reason for this change;

(f) If the CPS founded disposition is retained but the type of abuse is changed, notice that the person requesting the review has the right to request a new Local Child Welfare Office CPS Founded Disposition Review of the change;

(g) A summary of the information and reasoning of the Local Child Welfare Office CPS Founded Disposition Review upon which the decisions were based;

(h) If a CPS founded disposition is determined to be "unable to determine" or "unfounded," notice that the change will be noted in the CPS assessment narrative;

(i) If the founded disposition is retained, a statement about how to request a review by Central Office, as described in OAR 413-010-0740.

(3) The local Child Welfare office must place the request for review and a copy of the "Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) in the child welfare case file. A change may not be made in the existing written child welfare case file except to add the determinations.

(4) The Department must send the "Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) by certified mail, restricted delivery, with a return receipt requested, to the person requesting review within 30 days of the request for review.

(5) When as a result of a Local Child Welfare Office CPS Founded Disposition Review, a decision is made to change a CPS founded disposition, the Child Welfare supervisor or designee must assure the revised disposition is reflected in the Department's information system. The Child Welfare supervisor or designee forwards the necessary information (Form CF 322) to the Department's Office of Information Services (OIS) Service Desk.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0740

Requesting a Central Office Review

(1) A person entitled to the notice described in OAR 413-010-0738 may, within 30 days of receipt of the notice, request a Central Office CPS Founded Disposition Review.

(2) A person requesting a Central Office CPS Founded Disposition Review may use a copy of the request for local Child Welfare office review or prepare a new request for Central Office Review, following the requirements outlined in OAR 413-010-0721.

(3) A person requesting a Central Office CPS Founded Disposition Review must deliver the request to the local Child Welfare office within 30 days of the date the "Notice of Local Child

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Welfare Office CPS Founded Disposition Review Decision” (Form CF 314) was received by the requestor, as evidenced on a United States Postal Service return receipt.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0743

Local Office Responsibilities in a Request for Central Office CPS Founded Disposition Review

Within 10 calendar days after receiving a request for a Central Office CPS Founded Disposition Review, the local Child Welfare office must forward the following documents to the Department’s Central Office CPS Program Unit:

(1) The request for review; and

(2) A copy of the child welfare case records pertinent to the CPS founded disposition, including the information reviewed as part of the Local Child Welfare Office CPS Founded Disposition Review.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0745

Central Office Review of CPS Founded Dispositions

(1) Central Office must conduct a review and issue a “Notice of Central Office CPS Founded Disposition Review Decision” (Form CF 315) within 60 days from the date Central Office receives a request for a review.

(2) The Central Office CPS Founded Disposition Review must occur as follows:

(a) The CPS program office schedules a review of the CPS founded disposition when a written request for review and case file information is received from the local Child Welfare office.

(b) The review may not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse or neglect.

(c) The review must be based on current child welfare practice and definitions of child abuse and neglect. Procedural rules in place at the time the CPS assessment was completed also must be considered.

(d) The following must be considered by the Central Office CPS Founded Disposition Review Committee members and the CPS Program Manager or designee:

(A) Relevant documentary information contained in the Department’s child welfare case file, including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information provided by the person requesting review.

(B) Whether there is reasonable cause to believe that child abuse or neglect occurred;

(C) Whether there is reasonable cause to believe that the person requesting review is responsible for the child abuse or neglect; and

(D) Whether there is reasonable cause to believe that the type of abuse is correctly identified in the assessment.

(e) The Central Office CPS Founded Disposition Review Committee must:

(A) Make recommendations as follows:

(i) Retain the founded disposition;

(ii) Change the disposition to unfounded or unable to determine;

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS Disposition was founded.

(B) At the conclusion of the Review Committee, each committee member makes his or her respective recommendation known to the CPS Program Manager or designee.

(f) The Central Office CPS Program Manager or designee must:

(A) Observe the Review Committee;

(B) Ask questions of the committee members as needed for clarification;

(C) Consider the committee’s recommendation or recommendations and the basis for the recommendation or recommendations; and

(D) Make one of the following decisions:

(i) Retain the founded disposition.

(ii) Change the disposition to unfounded or unable to determine.

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS Disposition was founded.

(g) The decision and the basis for the decision must be documented.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0746

Notice of Central Office CPS Founded Disposition Review Decision

(1) Within 60 calendar days of the date Central Office receives the request for review from the local Child Welfare office, a CPS Program Coordinator or designee prepares and sends to the requestor by certified mail, restricted delivery, with a return receipt requested, a “Notice of Central Office CPS Founded Disposition Review Decision” (Form CF 315) that includes the following information:

(a) Whether there is reasonable cause to believe that child abuse occurred;

(b) Whether there is reasonable cause to believe that the person requesting review was responsible for the child abuse;

(c) The decisions resulting from the Central Office CPS Founded Disposition Review;

(d) If the CPS founded disposition is changed, whether the change will be to “unable to determine” or to “unfounded disposition;”

(e) If the Central Office CPS Founded Disposition Review results in a decision that the CPS founded disposition should be retained but the type of abuse for which the disposition was founded should be changed, the new type of abuse and the reason for this change;

(f) If the CPS founded disposition is retained but the type of abuse or neglect is changed, notice that the person requesting the review has the right to request a new Central Office CPS Founded Disposition Review based on the change;

(g) A summary of the information used as part of the Central Office CPS Founded Disposition Review and the reasoning for reaching the decision; and

(h) If a CPS founded disposition is changed to “unable to determine” or “unfounded,” notice that the change will be made to the CPS assessment narrative.

(2) A “Notice of Central Office CPS Founded Disposition Review Decision” (Form CF 315) is sent to the person requesting review, the local Child Welfare office for filing in the child welfare case record, the CPS worker, and the supervisor involved in the initial CPS assessment and determination of disposition.

(3) The CPS Program Office maintains a comprehensive record of the reviews of CPS founded dispositions conducted by Central Office. The record includes the date of the review, case number, sequence number, a copy of the materials used in the review and the decision that resulted from the review for each review conducted by Central Office.

Chapter 413 Department of Human Services, Child Welfare Programs

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0748

Review Initiated by the Department

The CPS Program Manager may direct that either the local Child Welfare office or Central Office review a founded disposition if there is good cause to do so, such as a determination that there is a legal finding that contradicts the CPS founded disposition.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 16-2004, f. & cert. ef. 10-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0750

Revising Founded Child Abuse Dispositions in the Department's Electronic Information System

When as a result of a Central Office CPS Founded Disposition Review, a decision is made to change a CPS founded disposition, the CPS Program Coordinator or designee forwards the necessary information (Form CF 322) to the Department's Office of Information Services (OIS) Service Desk or other appropriate organizational unit to make changes in the Department's Electronic Information System.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

DIVISION 15

INTRODUCTION TO CPS RULES

413-015-0100

Child Protective Service Authority and Responsibility

Reports of alleged child abuse or neglect are received by the Department and screened for Department response. The processes and time lines for completion are provided in division 15 of this chapter of rules, and also in OAR chapter 407 division 045 for Children's Care Providers. OAR 413-015-0100 to 413-015-0125 provide an overview of division 015, which implements ORS 409.185, 418.015, and 419B.005 to 419B.050.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015 & 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 22-2007(Temp), f. & cert. ef. 12-3-07 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0105

Purpose of Child Protective Services

The purposes of Child Protective Services are to identify unsafe children and to assure protection of children after a report of alleged child abuse or neglect is received by a screener.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.015 & 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0115

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 015:

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

(2) "Child" means a person under 18 years of age.

(3) "Child abuse or neglect" means any form of abuse, including abuse through neglect and abuse or neglect by a third party, of a person under age 18.

(4) "Child protective services" (CPS) means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(5) "Child protective services assessment" (CPS assessment) means an investigation into a report of child abuse pursuant to ORS 419B.020, that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.

(6) "Child protective services supervisor" (CPS supervisor) means an employee of the Department trained in child protective services and designated as a supervisor.

(7) "Child protective services worker" (CPS worker) means an employee of the Department who has completed the mandatory Department training for child protective service workers.

(8) "Child Safety Meeting" means a meeting held at the conclusion of a CPS assessment for the purpose of developing an ongoing safety plan.

(9) "Children's Care Provider" (CCP) means a DHS-licensed Residential Care Agency, Day Treatment Program, Foster Care Agency, Therapeutic Boarding School, or Outdoor Youth Program that has assumed responsibility for all or a portion of the care of a child. The term includes the CCP's employees, agents, contractors and their employees, and volunteers.

(10) "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.

(11) "Day Care Facility" 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 Listed Facility, 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 of Human Services.

(12) "Department" means the Department of Human Services, Child Welfare.

(13) "Department response" means how the Department intends to respond to information that a child is unsafe after a report of alleged abuse or neglect is received.

(14) "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.

(15) "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.

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

(17) "Former foster child" 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.

(18) “Guardian” means an individual who has been granted guardianship of a child through a judgment of the court.

(19) “Harm” means any kind of impairment, damage, detriment, or injury to a child’s physical, sexual, psychological, cognitive, or behavioral development or functioning. “Harm” is the result of child abuse or neglect and may vary from mild to severe.

(20) “ICWA” means the Indian Child Welfare Act.

(21) “Impending danger safety threat” means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that 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.

(22) “Initial contact” means the first face-to-face contact between a CPS worker and a family. The initial contact includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, and other 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.

(23) “Initial safety plan” means a documented set of actions or interventions sufficient to protect a child from an impending danger safety threat in order to allow for completion of the CPS assessment.

(24) “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. The potential negative impact is not judged to be severe. 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.

(25) “Monthly face-to-face contact” means in-person interaction between individuals at least once each and every full calendar month.

(26) “Multi-disciplinary team” (MDT) means a county child abuse investigative team as defined in ORS 418.747.

(27) “Observable” means specific, real, can be seen and described. Observable does not include suspicion or gut feeling.

(28) “Ongoing safety plan” means a documented set of actions or interventions that manage a child’s safety after the Department has identified one or more impending danger safety threats at the conclusion of a CPS assessment or anytime during ongoing work with a family.

(29) “Out of control” means family behaviors, conditions, or circumstances that can affect a child’s safety 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.

(30) “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.

(31) “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.

(32) “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.

(33) “Private child-caring agency” is defined in ORS 418.205, and means a “child-caring agency” that is not owned, operated, or administered by any governmental agency or unit.

(a) A “child-caring agency” means an agency or organization providing:

(A) Day treatment for disturbed children;

(B) Adoption placement services;

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

(D) Outdoor youth programs as defined in OAR 413-215-0911; or

(E) Other similar services for children.

(b) A “child-caring agency” does not include 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.

(34) “Protective action plan” means 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.

(35) “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.

(36) “Protective custody” means custody authorized by ORS 419B.150.

(37) “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.

(38) “Referral” means a report that has been assigned for the purpose of CPS assessment.

(39) “Report” means an allegation of child abuse or neglect provided to the Department that the screener evaluates to determine if it constitutes a report of child abuse or neglect as defined in ORS 419B.005.

(40) “Reporter” means an individual who makes a report.

(41) “Safe” means there is an absence of present danger safety threats and impending danger safety threats.

(42) “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 a child’s safety.

(43) “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 to a child.

(44) “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 to a child. The “safety threshold” criteria are used to determine the presence of an impending danger safety threat.

(45) “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.

(46) “Screener” means a Department employee with training required to provide screening services.

(47) "Screening" means the process used by a screener to determine the Department response when information alleging abuse or neglect is received.

(48) "Severe harm" means:

(a) Significant or acute injury to a child's physical, sexual, psychological, cognitive, or behavioral development or functioning;

(b) Immobilizing impairment; or

(c) Life threatening damage.

(49) "Substance" means any controlled substance as defined by ORS 475.005, prescription medications, over-the-counter medications, or alcoholic beverages.

(50) "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.

(51) "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.

(52) "Third-party abuse" means abuse by a person who is not the child's parent, not the child's caregiver or other member of the child's household, and not a person responsible for the child's care, custody, and control. Examples of persons who could be considered as a third-party under this definition include school personnel, day-care providers, coaches, and church personnel.

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

(54) "Vulnerable child" means a child who is unable to protect him or herself. 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 he or she is 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.

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

Stat. Auth.: ORS 409.185, 418.005, 418.747, 419B.017, 419B.024, 419B.035

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 22-2007(Temp), f. & cert. ef. 12-3-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10; CWP 21-2010, f. & cert. ef. 11-15-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-015-0125

Department Responsibility Ends

The Department is not responsible for providing child protective services when:

(1) A screener determines that information received during screening does not meet the statutory definition of child abuse or neglect (see OAR 413-015-0210(2)(a) and (b));

(2) The CPS assessment has determined the child is safe; or

(3) The CPS assessment does not identify information sufficient to request juvenile court intervention or the juvenile court declines to intervene, and the parents or caregivers do not request or agree to voluntarily receive services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 3-2007, f. & cert. ef. 3-20-07;

CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

Screening

413-015-0200

Screening Rules, Purpose

OAR 413-015-0200 to 413-015-0225 describe how the Department handles and documents information received, and outlines the criteria used to determine a Department response to the information, including the Department response time lines. This process is known as screening and is conducted by a screener.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0205

Screening Activities

The screener must complete the following activities:

(1) Gather information. When gathering information, the screener must do both of the following:

(a) Accept reports of child abuse and neglect regardless of where the child resides or where the alleged child abuse or neglect may have occurred. If the report is about a child that does not reside in the county where the report is received, the screener must forward the completed screening report form to the local child welfare office in the county or state where the child resides. The screener must forward the screening report form on the same day the report is received and confirm that it has been successfully forwarded.

(b) Accept and handle anonymous reports of child abuse and neglect in the same manner as other reports, gather the same information from the anonymous reporter as the screener would from any other reporter, and encourage the reporter to provide identifying information.

(2) If appropriate, refer the person to community services and resources.

(3) Determine the type of information received, Child Protective Services or Family Support Services, and where and when to document the information received.

(a) Child Protective Services. This type of information is related to reports of alleged child abuse or neglect.

(A) Child Protective Services information is documented in the Department's electronic information system.

(B) The time line for screeners to complete and document their actions, and document information gathered, unless a CPS supervisor grants the screener an extension as provided in OAR 413-015-0220, is:

(i) Immediately when a "within 24 hours" response time line is assigned;

(ii) Within the same day when a "within five days" response time line is assigned; or

(iii) No later than the next working day after the screening determination is made when the report is closed at screening.

(b) Family Support Services. This type of information is not a report of alleged child abuse or neglect, and it does not include information that indicates a child is unsafe.

(A) This information is documented in the Department's electronic information system using a screening report form.

(B) The time line for screeners to complete and document their actions, and document information gathered is within two days of receiving the request for services.

(C) Family Support Services information falls within one of the categories described below:

(i) Request for Placement — Information falls within this category when:

(I) A parent or guardian requests out-of-home placement of their child due solely to obtain services for the emotional, behavioral, or mental disorder or developmental or physical disability of the child;

(II) The parent or guardian requests the Department take legal custody of their child; or

(III) The court has ordered a pre-adjudicated delinquent into the care of the Department.

(ii) Request for Independent Living Program Services — Information falls within this category when a former foster child qualifies for Independent Living Program (ILP) services, is not a participant on an open case, and requests to enroll in the Department's ILP.

(iii) Request for Post Legal Adoption and Post Guardianship Services — Information falls within this category when a family requests post legal adoption or post guardianship services, if the adoption or guardianship occurred through the Department.

(iv) Request for Voluntary Services — Information falls within this category when it does not meet the criteria in subparagraphs (i), (ii), or (iii) of this paragraph, a parent or caregiver requests assistance with a child in the home, and all of the following apply:

(I) Other community resources have been utilized and determined to be ineffective.

(II) Members of the extended family and other responsible adults who are well known to the child have been explored or utilized and determined to be unsafe, unavailable, unwilling, or ineffective as support for the family.

(III) The parent or caregiver is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical condition or a mental health diagnosis.

(IV) The parent's or caregiver's inability to fulfill parental responsibilities is temporary and immediate, and will be alleviated with short term services or short term services will transition the family to community services.

(V) A Child Welfare program manager approves the request for voluntary services.

(4) When the screener receives Child Protective Services information, the screener must complete the screening activities described below.

(a) The screener must gather the following information, which is critical to effectively identify if there is a report of child abuse or neglect as defined in ORS 419B.005 and if the information alleges that behaviors, conditions, or circumstances could result in harm to the child:

(A) The type of alleged child abuse or neglect and the circumstances surrounding the report;

(B) How the alleged child abuse or neglect or the surrounding circumstances are reported to affect the safety of the child;

(C) Information that identifies how the child is vulnerable; and

(D) Reported parent or caregiver functioning and behavior.

(b) After gathering and documenting the information required in subsection (a) of this section, if the report is about a condition or circumstance that occurred in a Children's Care Provider (CCP) or a behavior of a CCP, the screener must complete the requirements in paragraphs (A) through (C) of this subsection. CPS screening activities for CCP referrals are complete after the completion of the activities in paragraphs (A) through (C) of this subsection and additional screening activities in this rule do not apply:

(A) Immediately pend the screening information to the Office of Adult Abuse Prevention and Investigation (OAAPI) screener's workload;

(B) Immediately send an e-mail to the OAAPI screener to let the screener know that a screening report has been assigned to the screener's workload; and

(C) When the report is new information on an open Department case:

(i) Notify the CPS supervisor;

(ii) Notify each assigned case worker and their respective supervisors of all new information received on the same day the information is received, and document this notification in the Department's electronic information system case notes; and

(iii) Complete notification on the same day the information is received.

(c) Gather information from individuals who can provide firsthand information necessary to determine the appropriate Department response. This may include individuals who have regular contact with the child, doctors, teachers, or others who have evaluated or maintain records on the child, people who are in an established personal or professional relationship with the parent or caregiver and who can judge the quality and nature of the parent or caregiver behavior, and those who have records or reason to know things about the parent or caregiver as a result of their involvement with or exposure to the parent or caregiver.

(d) Research Department history of every identified child, parent, caregiver, and household member for information about current or previous Department involvement relevant to the current child abuse or neglect report. If the research reveals an "unable to locate" disposition that has not been assessed, the screener must reference that assessment, the date the assessment was completed, and those allegations not able to be assessed in the current report summary.

(e) Inquire regarding possible Indian or Alaskan Native heritage (for further direction see OAR 413-015-0215(5)).

(f) Request relevant information when available and appropriate from law enforcement agencies (LEA), including domestic disturbance calls, arrests, warrants, convictions, restraining orders, probation status, and parole status.

(g) Determine the location and corresponding law enforcement jurisdiction of the family's residence and the site where the alleged child abuse or neglect may have occurred.

(h) Immediately comply with Child Welfare Policy I-B.2.2.3, "Department Responsibilities During Screening and Assessment of a Child Abuse or Neglect Report Involving the Home of a Department Certified Foster Parent or Relative Caregiver", OAR 413-200-0404 to 413-200-0424, when information is related to a Department approved and certified home that is a foster home, relative caregiver home, or home of a pre-adoptive family.

(i) Immediately comply with the Child Welfare "Fatality Protocol" when information is related to the death of a child.

(5) Explain to reporters the information in all of the following subsections:

(a) That the Department will not disclose the identity of the reporter unless disclosure is to an LEA for purposes of investigating the report, disclosure is required because the reporter may need to testify as a witness in court, or the court orders the Department to disclose the identity of the reporter.

(b) That anyone making a report of child abuse or neglect in good faith, who has reasonable grounds to make the report, is immune from liability in respect to making the report and the contents of the report.

(c) The Department's decisions about paragraphs (A) through (C) of this subsection. If the decisions have not been made when the report is completed, the screener must notify the reporter that, if contact information is provided, diligent efforts will be made to contact him or her at a later date and inform him or her of the decisions:

(A) Whether contact with the child was made;

(B) Whether the Department determined child abuse occurred; and

(C) Whether services will be provided.

(d) If applicable, that the information reported does not meet the screening criteria to be documented and retained in the Department's electronic information system.

(e) That mandatory reporters should consider maintaining a record of their report to document compliance with ORS 419B.010 and 419B.015.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 & 419B.020

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 22-2007(Temp), f. & cert. ef. 12-3-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 5-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 20-2008, f. & cert. ef. 9-2-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0210

Determining Department's Response and Required Time Lines for CPS Information

(1) After the screener completes screening activities required by OAR 413-015-0205, and the screener determines the information received is CPS information, the screener must determine the Department response, either CPS assessment required or close at screening. If a CPS assessment is required, the screener must then determine the time line for the Department response, either within 24 hours or within five calendar days.

(2) CPS assessment required. A CPS assessment is required if:

(a) The screener determines that information received constitutes a report of child abuse or neglect, as defined in ORS 419B.005, and the information indicates:

(A) The alleged perpetrator is a legal parent of the alleged child victim;

(B) The alleged perpetrator resides in the alleged child victim's home;

(C) The alleged perpetrator may have access to the alleged child victim, and the parent or caregiver may not be able or willing to protect the child; or

(D) The alleged child abuse occurred in a day care facility, the home of a Department certified foster parent or relative caregiver, or a private private child-caring agency that is not a Children's Care Provider (CCP).

(b) A tribe or LEA requests assistance from the Department with an investigation of child abuse or neglect, and a CPS supervisor agrees that assistance from the Department is appropriate.

(3) Response Time Lines. If the screener determines that a CPS assessment is required, the screener must:

(a) Determine the CPS assessment response time line. The time line for the Department response refers to the amount of time between when the report is received at screening and when the CPS worker is required to make an initial contact. When determining the response time, the screener must take into account the location of the child, how long the child will be in that location, and access that others have to the child.

(A) Within 24 hours: This response time line is required, unless paragraph (B) of this subsection applies, when the information received constitutes a report of child abuse or neglect as defined in ORS 419B.005.

(B) Within five calendar days: This response time line must only be used when the screener can clearly document how the information indicates the child's safety will not be compromised by not responding within 24 hours and whether an intentional delay to allow for a planned response is less likely to compromise the safety of the child.

(b) Complete a screening report form immediately when a "within 24 hour" response time line is assigned or the same day when a "within five calendar days" response time is assigned, unless a CPS supervisor grants an extension as provided in OAR 413-015-0220.

(c) Refer the CPS assessment to the appropriate county as described in OAR 413-015-0213.

(4) Close at Screening: A report will be closed at screening if one of the following subsections applies:

(a) The screener determines that information received:

(A) Does not constitute a report of child abuse or neglect, as defined in ORS 419B.005, and the screener determines that the information describes family behaviors, conditions, or circumstances that pose a risk to a child;

(B) Is third party child abuse or neglect that does not require a CPS assessment because the alleged perpetrator does not have

access to the child, and the parent or caregiver is willing and able to protect the child; or

(C) Is a report that there are no children in the home and:

(i) An expectant mother is abusing substances during her pregnancy;

(ii) An expectant mother or a household member has had his or her parental rights to another child terminated; or

(iii) An expectant mother or a household member is known to have conditions or circumstances that would endanger a newborn child.

(b) When a report is received, but the screener, after extensive efforts, is unable to obtain sufficient information to locate the child. Name and exact address are not necessary if a location is obtained.

(5) If a report is closed at screening, the screener must:

(a) Document the current information that supports the decision to close the report at screening.

(b) Decide whether other services are appropriate and make service or resource referrals, as necessary. Document what service or resource referrals are made, if any.

(c) Make diligent efforts to contact the reporter if contact information was provided and when the reporter was not informed of the following information prior to completing the screening report form.

(A) Whether contact with the child was made;

(B) Whether the Department determined child abuse occurred; and

(C) Whether services will be provided.

(d) Complete a screening report form no later than the next working day after the screening determination is made, unless a CPS supervisor grants an extension, as provided in OAR 413-015-0220.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0211

Additional Screening Activities

In the specific circumstances described below, the screener must complete additional activities to complete the screening process.

(1) The screener receives information on an open CPS assessment.

(a) When a screener receives duplicate information (same alleged victim, same alleged perpetrator, same allegation of child abuse or neglect, and same incident dates) on an open CPS assessment, the screener must:

(A) Inform the reporter that a new screening report will not be documented because the information has already been received;

(B) Provide the reporter with the assigned caseworker's name and phone number; and

(C) Provide contact information about the reporter and any information the screener received to the assigned caseworker.

(b) When a screener receives information that constitutes a new report of child abuse or neglect as defined in ORS 419B.005 on an open CPS assessment, the screener must:

(A) Document the information in a new screening report form; and

(B) Notify the assigned CPS worker and their supervisor of all new information received on the same day the information is received, and document this notification in the Department's electronic information system.

(c) When a screener receives information that constitutes a closed at screening on an open CPS assessment, the screener must:

(A) Document the information in a new screening report form; and

(B) Notify the assigned CPS worker and their supervisor of all new information received on the same day the information is

received, and document this notification in the Department's electronic information system.

(2) The screener receives new information on an open Department case.

(a) When a screener receives new information on an open Department case, the screener must:

(A) Consult with a CPS supervisor;

(B) Notify each assigned case worker and their respective supervisors of all new information received on the same day the information is received, and document this notification in the Department's electronic information system's case notes; and

(C) Complete notification on the same day the information is received.

(b) When a screener receives a new report of child abuse or neglect, as defined in ORS 419B.005, but there is no open CPS assessment, the screener must document the information in a new screening report form.

(c) The information received by a screener on an open Department case that will not be documented in a new screening report form but must be documented in the Department's electronic information system's case notes includes:

(A) Additional information on an open case that does not meet the criteria for a new CPS assessment or closed at screening;

(B) When an in-home protective action plan, initial safety plan, or ongoing safety plan is violated, but the violation is not a new incident of child abuse or neglect;

(C) Reports of an ongoing concern in an open case, which the Department is currently addressing;

(D) Reports of a missing child or young adult; and

(E) Any requests for case information received by the screener.

(3) When a screener receives information related to the home of a Department certified foster parent or relative caregiver, the screener must notify and document that the screener has notified each assigned case worker, assigned certifier, and their respective supervisors of all information received (see OAR 413-200-0404 to 413-200-0424).

(4) When a screener receives information related to a minor parent as an alleged perpetrator:

(a) The screener must gather information to determine if there is a report of abuse or neglect with the minor parent as an alleged victim.

(b) If the screener determines there is a report of abuse or neglect of the child of the minor parent with the minor parent as an alleged perpetrator and another report with the minor parent as an alleged victim, the screener must document the information in the following manner to determine when to use the mother or father's name as the case name:

(A) The allegation with the minor parent as an alleged perpetrator must be documented with the mother or father of the alleged victim as the case name (the mother or father being a minor does not preclude them from being the case name); and

(B) The allegation with the minor parent as an alleged victim must be documented with the mother or father of the minor parent as the case name.

(5) When a screener receives a report of a child fatality alleged to be the result of abuse or neglect or involving a child known to the Department, the screener must:

(a) Consult with a CPS supervisor;

(b) Refer to the Child Welfare "Fatality Protocol";

(c) Complete a screening report form identifying in the Department's electronic information system that the report involves a child fatality;

(d) Notify the CPS consultant; and

(e) Complete subsections (a) through (d) of this section even when there are no siblings to the deceased child and no other children in the home where the fatality occurred.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 15-2009, f. & cert. ef. 11-3-09; CWP 10-

2014, f. 5-20-14, cert. ef. 5-27-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-015-0212

Screener Consultation with a CPS Supervisor

Screeners may consult with a CPS supervisor about any screening determination. Screeners must consult with a CPS supervisor or designee in each of the following situations:

(1) A report of child abuse or neglect involving a child, parent, caregiver, or perpetrator who was a child, parent, caregiver, or perpetrator in a CPS assessment that resulted in a founded disposition in the preceding six months.

(2) A review of Department records on a family that is the subject of a child abuse or neglect report finds multiple consecutive reports were closed at screening, and the information received in the current report, in combination with the prior reports regarding the same family, may meet the criteria to refer the report for a CPS assessment.

(3) A new report involving a family that has an open Department case.

(4) A report involving the home of a Department certified foster parent or relative caregiver.

(5) A report involving a private child-caring agency.

(6) A report involving a day care facility.

(7) A report of a child fatality.

(8) A decision not to refer for assessment a report of a baby who is born with substances in his or her system.

(9) A report of child abuse or neglect in which a community partner or an employee of any program, office, or division of the Department of Human Services or the Oregon Youth Authority is the alleged perpetrator.

(10) A report of child abuse or neglect that is expected to receive media attention or that already is being reported by the media.

(11) A decision that an additional screening report form is needed because the reported information alleges a threat of harm to additional children in other families.

(12) A review of Department history reveals a prior allegation that has not been assessed because the Department was unable to locate the family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0213

Determining the County to which the CPS Assessment will be Referred

(1) Except as described in section (2) of this rule, the screener must refer the CPS assessment to the local Department office in the county where the child resides, and that county is responsible for completing the CPS assessment.

(2) When the alleged child abuse or neglect occurred in a foster home or a residential care facility, the screener must refer the CPS assessment to the local Department office in the county where the alleged child abuse or neglect occurred, and that county is responsible for completing the CPS assessment.

(3) The District Managers in the affected counties must jointly approve any exception to sections (1) or (2) of this rule. When a joint decision cannot be made, the CPS Program Manager or designee must approve the exception.

(4) As a courtesy, and to assist with the CPS assessment process, when the child resides in a different county than the county where the alleged child abuse or neglect occurred, CPS workers may be assigned in the county of the child's residence and the county where the alleged child abuse or neglect occurred. The county that is responsible for completing the CPS assessment is described in sections (1) and (2) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0214

Assignment of the CPS Assessment

Whenever possible, separate CPS workers must be assigned to complete the assessments of allegations when a minor parent is an alleged perpetrator and alleged victim.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 15-2009, f. & cert. ef. 11-3-09

413-015-0215

Notifications to Specific Agencies or Entities

(1) Law Enforcement Agency (LEA). The screener must cross report to LEA as required by OAR 413-015-0305(1).

(2) Office of Child Care, Department of Education, Early Learning Division. The screener must notify the Office of Child Care when a report involves a day care facility, as required by ORS 419B.020(1). If the report is closed at screening, a copy of the completed screening report form must be sent to the Compliance Unit of the Office of Child Care after information related to the reporter's identity and other confidential information is removed.

(3) Office of Adult Abuse Prevention and Investigation (OAAPI). The screener must report to the OAAPI when:

(a) A report involves a Children's Care Provider as outlined in OAR 413-015-0205(4)(b); or

(b) A report involves a child with intellectual or developmental disabilities in a residential group home licensed by the Office of Developmental Disabilities Services.

(4) Indian Tribes. If the screener knows or has reason to know that the child is an Indian child, the screener must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted.

(5) Teacher Standards and Practices Commission (TSPC). The screener must notify the TSPC when a teacher or school administrator, as defined in OAR 413-015-0115, is identified as an alleged perpetrator in a report. A copy of the report must be sent to the TSPC after information related to the reporter's identity and other confidential information is removed.

(6) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The screener must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the screener has reasonable cause to believe:

(a) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the screener comes into contact while the screener is acting in an official capacity, has suffered abuse; or

(b) That any person with whom the screener comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, developmental disability, or physical disability, or any person 65 years of age or older.

Stat. Auth.: ORS 418.005 & 419B.017

Stats. Implemented: ORS 418.005, 419B.015 & 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0220

Screening Extensions

(1) Except as provided in section (2) of this rule, the CPS supervisor may grant an extension to the deadline in OAR 413-015-0205 if the screener is unable to complete all required screening activities the same day that the report alleging child abuse or neglect is received because critical information, such as the child's location, is still needed to determine the Department response. The screener must document in the Department's electronic information system the reason for the extension, including the critical information that remains to be collected, and the CPS supervisor's approval.

(a) The CPS supervisor may grant a one-business day extension up to two times; and

(b) Screening activities may not exceed two business days beyond the day the report alleging child abuse or neglect is received by the Department.

(2) If the screener has the critical information needed to determine the Department response or has information that indicates the child is unsafe, no extension to the deadline in OAR 413-015-0205 may be allowed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0225

Supervisory Review

The CPS supervisor or designee must review all closed-at-screening reports within five days of the completion of screening activities and electronic submission of the screening report forms for review.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

Cross Reporting

413-015-0300

Cross Reporting Defined

The Department and law enforcement agencies are required by ORS 419B.015 to notify each other when a report of child abuse or neglect, as defined in 419B.005, is received. This process is known as cross reporting, and the notification is called a cross report. OAR 413-015-0300 to 413-015-0310 explain when and how a report of child abuse or neglect received by Child Welfare or a law enforcement agency is cross reported. Information is not cross reported until it is received.

Stat. Auth.: ORS 418.005 & 419B.015

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0302

Purpose of Cross Reporting

The purpose of the cross report is to share reports of alleged child abuse or neglect between Child Welfare and law enforcement agencies.

Stat. Auth.: ORS 418.005, 419B.017

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0305

Cross Reporting Requirements

(1) Who is Required to Cross Report and to Whom.

(a) When a report of child abuse or neglect is received by a Child Welfare screener, the screener or designee must cross report to a law enforcement agency in the county where the report was made. If the abuse or neglect is alleged to have occurred in a different county, the screener must cross report a second time to the law enforcement agency in the county where the alleged abuse or neglect occurred.

(b) When a report of child abuse or neglect is received by a law enforcement agency, the law enforcement agency must cross report to the local office of Child Welfare in the county where the report was made.

(2) What to include in a Cross Report. A cross report from either Child Welfare or law enforcement agencies must include:

(a) The information provided by the person making the report of child abuse or neglect. This may include, the name of and contact information for the confidential reporter, the names and addresses of the child, the names and addresses of the child's parent or caregiver, the child's age, the nature and extent of the

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abuse or neglect, any evidence of previous abuse or neglect, the explanation given for the abuse or neglect, where the abuse or neglect occurred, identity and whereabouts of the alleged perpetrator, and any other information provided by the person making the report that would be helpful in establishing the cause of the abuse or neglect and the identity and whereabouts of the alleged abuser; and

(b) The name and contact information for the assigned CPS worker and officer, if known.

(3) When and How to Cross Report.

(a) The Department. When and how the Department must cross report to a law enforcement agency is described below.

(A) The same day.

(i) Child Welfare must cross report to a law enforcement agency on the same day the screener determines that a report of alleged child abuse or neglect requires a within 24 hours response by the Department or immediate notification to law enforcement. This requirement includes, but is not limited to any reports of:

(I) Moderate to severe physical abuse;

(II) Visible injuries to a child;

(III) Sexual abuse; or

(IV) Suspicious or unexpected death of a child.

(ii) The reports of child abuse or neglect that the Department cross reports on the same day must be cross reported in one of the following ways:

(I) Verbal Cross Report. When a cross report is verbal and Child Welfare and law enforcement do not respond to the report of child abuse or neglect together, a completed screening report must be sent to the law enforcement agency.

(II) Electronic Transmission.

(III) Hand Delivery.

(B) No later than ten days.

(i) All other reports of child abuse or neglect, including reports assigned for CPS assessment and closed at screening, must be cross reported within a time frame that ensures the receipt of the cross report by law enforcement no later than ten days after receiving the report.

(ii) The reports of child abuse or neglect that the Department cross reports within a time frame that ensures the receipt of the cross report no later than ten days must be cross reported in one of the following ways:

(I) Electronic transmission.

(II) Hand delivery.

(III) Mail.

(C) Department cover sheet. In order for law enforcement agencies to quickly and easily prioritize reports and respond accordingly, all written cross reports from the Department must have a cover sheet. The following information must be included on the cover sheet:

(i) Date and time of the cross report;

(ii) How the cross report is made;

(iii) If additional cross reports occurred, and if so, to what agencies;

(iv) Name and number of the screener or designee making the cross report;

(v) If the report was assigned or not assigned;

(vi) Name and number of the assigned caseworker;

(vii) Cross reporting time frame;

(viii) If the report is an original or follow-up cross report; and

(ix) Date of the original cross report, if it is a follow-up cross report.

(D) Supplemental cross reporting by the Department. Child Welfare may receive information not previously cross reported but apparently related to a report of child abuse or neglect involving the same victim and the same alleged perpetrator that has been previously cross reported. If the information relates to the same incident of abuse or neglect, the screener must make a supplemental cross report of the additional information to each law enforcement agency that received the prior cross report. Supplemental information that is determined to be critical, given the information in the original report, must be cross reported immediately. All other sup-

plemental information must be cross reported within a time frame that ensures the receipt of the information no later than ten days after the information was received.

(b) Law Enforcement. When and how law enforcement agencies must cross report to Child Welfare is described below.

(A) Immediate.

(i) Law enforcement agencies must cross report to Child Welfare immediately when a law enforcement agency determines that a report of alleged child abuse or neglect requires a joint immediate response.

(ii) The reports of child abuse or neglect that law enforcement agencies cross report immediately must be cross reported by verbal cross report to the local office of Child Welfare without delay.

(B) Next Business Day.

(i) Law enforcement agencies must cross report to Child Welfare all other reports of child abuse or neglect no later than the end of the next business day after receiving the report.

(ii) The reports of child abuse or neglect that law enforcement agencies cross report no later than the end of the next business day must be cross reported in one of the following ways:

(I) Verbal report.

(II) Electronic transmission.

(III) Hand delivery.

Stat. Auth.: ORS 418.005, 419B.017

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0310

Department Documentation and Verification Requirements

Documentation and Verification:

(1) If the Department cross reports a report of child abuse or neglect on the same day the report is received, the Department screener or designee must document in FACIS:

(a) The date the cross report is made from Child Welfare to law enforcement;

(b) To which law enforcement agency the cross report is made; and

(c) How the cross report is made.

(2) Copies of the cover sheet for a cross report must be maintained in the case record.

(3) If the cross report is faxed, the screener or designee must attach the fax transmittal confirmation sheet to each cover sheet.

Stat. Auth.: ORS 418.005, 419B.017

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

CPS Assessment

413-015-0400

Purpose and Overview of the CPS Assessment Rules

(1) These rules, OAR 413-015-0400 to 413-015-0485, describe the activities required to sufficiently complete a CPS assessment.

(2) Completing a CPS assessment involves the following:

(a) Making face-to-face contact with the alleged victim, his or her siblings, his or her parent or caregiver, including the non-custodial legal parent, other children and adults living in the home, and the alleged perpetrator;

(b) Accessing the home environment;

(c) Gathering safety-related information through interviews and observation;

(d) Determining if there is a present danger safety threat;

(e) Determining if there is an impending danger safety threat by applying the safety threshold criteria:

(A) Imminent;

(B) Observable;

(C) Vulnerable child;

(D) Out of control; and

(E) Severity

(f) Developing a protective action plan when a child is determined to be unsafe due to a present danger safety threat;

(g) Developing an initial safety plan when a child is determined to be unsafe due to an impending danger safety threat;

(h) Developing an ongoing safety plan when a child is determined to be unsafe from an impending danger safety threat at the conclusion of a CPS assessment;

(i) Determining whether the initial safety plan or ongoing safety plan is the least intrusive plan sufficient to manage child safety by identifying how the impending danger safety threat is occurring and applying the in-home safety plan criteria;

(j) Developing conditions for return when an out-of-home ongoing safety plan is established;

(k) Determining whether a family has moderate to high needs when a child is determined to be safe;

(l) Offering and, if appropriate, referring a family with moderate to high needs to available non-contracted community services; and

(m) Determining if there is reasonable cause to believe that child abuse or neglect has occurred.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 17-2014, f. & cert. ef. 12-24-14

413-015-0403

Assignment of CPS Assessment

(1) A CPS assessment may only be assigned to a Department employee whose current position is a CPS worker, a CPS supervisor, or an employee who meets the definition of CPS worker.

(2) Whenever possible, separate CPS workers must be assigned to complete the assessments of allegations when a minor parent is an alleged perpetrator and alleged victim.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015 & 419B.005 - 419B.050

Hist.: CWP 15-2009, f. & cert. ef. 11-3-09; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0404

Receipt of New Information on an Open CPS Assessment

When a CPS worker receives notification from a screener that a closed at screening or new referral was created on an open CPS assessment the CPS worker must:

(1) Review the new information, in consultation with the CPS supervisor, on the same day the CPS worker received notification of the new information.

(2) Link a new referral to an open assessment only when the date the new referral was assigned is within 60 days of the date the open assessment was assigned.

(3) Create a new assessment when a new referral was assigned more than 60 days from the date the open assessment was assigned.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0405

CPS Assessment Response Time Lines

(1) The time line for the Department response refers to the amount of time from the receipt of a report at screening to the time when the CPS worker is required to make an initial contact.

(2) Except as provided in sections (3) and (4) of this rule, every CPS assessment must be assigned one of the following response time lines by a screener pursuant to OAR 413-015-0210 and the CPS worker must make an initial contact within the assigned response time line:

(a) Within 24 hours.

(b) Within five calendar days.

(3) A CPS supervisor may change the initial contact time lines established in section (2) of this rule as follows:

(a) The CPS supervisor may change the response time line from within five calendar days to within 24 hours.

(b) The CPS supervisor may change the response time line from within 24 hours to within five calendar days, but the supervisor must explain in writing why the time line was changed and how child safety was considered when the change was approved.

(4) If a screener was granted an extension to complete the screening process, the CPS supervisor may adjust the initial contact time lines as follows:

(a) Within 24 hours: The CPS worker must make an initial contact within 24 hours of the end date of either the last screening extension or the date the CPS assessment was assigned, whichever is earlier.

(b) Within five calendar days: The CPS worker must make an initial contact within five calendar days of the end date of either the last screening extension or the date the CPS assessment was assigned, whichever is earlier.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015 & 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 15-2005(Temp), f. & cert. ef. 10-20-05 thru 3-31-06; CWP 17-2005(Temp) f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 1-2006, f. & cert. ef. 2-1-06; Suspended by CWP 3-2006(Temp), f. & cert. ef. 2-1-06 thru 6-30-06; CWP 12-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0409

Exception to Completing CPS Assessment Activities

(1) The only exception to completing the CPS assessment activities required by these rules (OAR 413-015-0400 to 413-015-0485) on an assigned referral is when a CPS worker, in consultation with a CPS supervisor or designee, determines prior to the initial contact (see OAR 413-015-0420) that the referral does not require a CPS assessment because:

(a) The referral was opened in error; or

(b) There is no longer an allegation of abuse or neglect. The CPS worker received information after being assigned the referral and that information in combination with the corresponding screening report no longer constitutes a report of child abuse or neglect as defined in ORS 419B.005. This exception may be used only when the CPS worker and the CPS supervisor or designee determine the information:

(A) Is not from the alleged perpetrator;

(B) Relates directly to and specifically negates all allegations in the screening report; and

(C) Is considered on the basis of the objectivity of the individual providing the information and the quality of the information.

(2) The exception in section (1) of this rule is not permitted and a CPS assessment must be completed when the CPS worker has already made contact with the parent, caregiver, or alleged victim, unless the parent, caregiver, or alleged victim is the original reporter.

(3) The CPS worker must document the determination in the Department's electronic information system and explain the basis for the determination that a CPS assessment is not necessary.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015 & 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 6-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 20-2008, f. & cert. ef. 9-2-08; CWP 13-2009, f. 10-1-09, cert. ef. 10-2-09; CWP 13-2009, f. 10-1-09, cert. ef. 10-2-09; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14

413-015-0415

CPS Assessment Activities

The required CPS assessment activities are outlined below. The activities are described in a logical order in these rules, but the order in which they occur is controlled by the specific circumstances in a given case.

(1) Review Records.

(a) The assigned CPS worker must:

(A) Thoroughly review the documentation in the referral;

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(B) Thoroughly review the paper and electronic records maintained by the Department for historical information on the family and the child that may be useful in completing the CPS assessment;

(C) Thoroughly review available Self-Sufficiency records; and

(D) Make diligent efforts to contact another state's child welfare agency to obtain records, if any, when the CPS worker has information that the family has lived in another state.

(b) The CPS worker must review the documents to identify information related to:

(A) Present danger safety threats or impending danger safety threats;

(B) History or a pattern of abuse or neglect;

(C) Child and family support systems and protective capacity; and

(D) Worker safety.

(2) Addressing Prior Allegations That Have Not Been Assessed Because the Department was Unable to Locate the Family. The assigned CPS worker must address in the current assessment any allegations not previously assessed because the Department was unable to locate the family as follows:

(a) Discuss the prior unassessed allegations during interviews;

(b) Consider all information about prior unassessed allegations when determining child safety; and

(c) Document the consideration of prior unassessed allegations in interviews, observations, and dispositional findings.

(3) Contact Collateral Sources.

(a) The CPS worker must contact collateral sources who can clarify or supplement the information in the referral and in records already reviewed.

(A) The CPS worker must contact the assigned Self-Sufficiency worker, if any.

(B) The CPS worker may contact other collateral sources including, but not limited to:

(i) Individuals who have regular contact with the child;

(ii) Doctors or others who have evaluated or maintain records on the child;

(iii) People who are in an established personal or professional relationship with the parent or caregiver and who can judge the quality and nature of the parent or caregiver behavior and functioning; and

(iv) People who have records or information about the parent or caregiver as a result of their involvement with, or exposure to, the parent or caregiver.

(b) The CPS worker must gather information from collateral sources throughout the CPS assessment.

(c) The CPS worker must:

(A) Protect the identity of collateral sources to the extent possible.

(B) Consult with the district attorney or the assistant attorney general to obtain a court order for records from a collateral source, if the source is unable or unwilling to share information with the Department.

(4) Consult with CPS Supervisor.

(a) The CPS worker must consult with a CPS supervisor or designee:

(A) When 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 or Oregon Youth Authority (OYA);

(B) When a referral involves the home of a Department certified foster parent or relative caregiver;

(C) When a referral involves allegations that child abuse or neglect occurred in a private child-caring agency;

(D) When a CPS worker receives notification from a screener that a closed at screening or new referral was created on an open CPS assessment;

(E) Prior to a decision to place a child in protective custody, or after placement if consultation before placement will delay the safety intervention;

(F) Prior to initiating court action, or after initiating court action if consultation before will delay the safety intervention;

(G) Prior to developing an initial safety plan with a Department certified foster parent or relative caregiver;

(H) When the referral involves a child fatality;

(I) When making a disposition in a complicated or sensitive situation or case; or

(J) When closing an assessment with the disposition of "unable to locate".

(b) Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at additional key points during the assessment, such as:

(A) Before making initial contact with the family; or

(B) When a referral indicates potential danger to the worker.

(5) Contact and Work with Other Entities.

The CPS worker may need to work with representatives of other entities to gather and analyze safety-related information, develop a sufficient protective action plan, initial safety plan, or ongoing safety plan, and to complete the CPS assessment.

(a) The CPS worker may, as appropriate, notify or consult with other Department of Human Services programs or other agencies, including but not limited to the Office of Vocational Rehabilitation Services and Animal Control.

(b) The CPS worker must report to or contact and work with other entities as follows:

(A) Office of Child Care. The CPS worker must notify and coordinate with the Compliance Unit of the Office of Child Care when a report involves a registered day-care home or a licensed day-care center, as required by ORS 419B.020(1).

(B) Oregon Youth Authority (OYA). The CPS worker must notify OYA when the allegation involves an OYA certified foster home.

(C) Office of Adult Abuse Prevention and Investigation (OAAPI). The CPS worker must notify the OAAPI when an allegation involves a child with intellectual or developmental disabilities in a residential group home licensed by the Office of Developmental Disabilities Services.

(D) Office of Licensing and Regulatory Oversight. The CPS worker must notify the Office of Licensing and Regulatory Oversight Children's Care Licensing Unit when the allegation involves a licensed private child-caring agency which is not a Children's Care Provider (CCP).

(E) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The CPS worker must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the CPS worker has reasonable cause to believe:

(i) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the CPS worker comes into contact while acting in an official capacity, has suffered abuse.

(ii) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older.

(F) Indian Tribes. If the CPS worker knows or has reason to know that the child is an Indian child, the CPS worker must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted unless the screener documented completion of this notification in the referral.

(G) Probation and Parole. The CPS worker must contact probation and parole when the allegation involves a parent or caregiver, or alleged perpetrator who is supervised by probation or parole.

(H) Law Enforcement. If the screener did not cross report, the CPS worker must contact one or more law enforcement agencies (LEA) in accordance with the protocols of the local MDT agreement and in accordance with cross reporting rules, OAR 413-015-0300 to OAR 413-015-0310. When there is a joint response

involving a CPS worker and LEA staff, the CPS worker is still responsible for all of the activities necessary to complete a CPS assessment which are summarized in OAR 413-015-0400. The CPS worker must, in consultation with a CPS supervisor, determine whether to coordinate assessment activities with LEA in the following situations:

(i) Presence of danger. When the CPS worker has information that indicates that the child is unsafe right now.

(ii) Family cooperation. When the CPS worker has information that the family may not allow the CPS worker to observe the alleged victim or other children in the home.

(iii) Protective custody. When the CPS worker has information that a child may need to be placed in protective custody for the child's safety.

(iv) Child interview. When the CPS worker and the LEA officer must each interview a child, it is preferable to coordinate the interviews to reduce the number of interactions with the child.

(v) Worker safety. When the CPS worker has information that indicates the family behaviors, conditions, or circumstances could pose a danger to the CPS worker.

(vi) Crime committed. When the CPS worker suspects or receives a report that a crime may have been committed.

(I) Public or Private Schools. The CPS worker may interview a child at school when the worker believes it will be the best environment in which to assure a child's safety when making contact with the child. ORS 419B.045 provides requirements for CPS investigations that are conducted on school premises. The CPS worker must do following:

(i) Notify the school administrator that a CPS assessment must be conducted. If the school administrator is a subject of the CPS assessment, then notification is not required.

(ii) Report to the school office, provide identification, inform school personnel of the CPS assessment, and provide the name of the child to be interviewed.

(iii) Request information from school personnel regarding the disabilities of the child, if any, prior to an interview with the affected child.

(iv) Interview the child out of the presence of other persons, unless the CPS worker believes the presence of a school employee or other person would facilitate the interview. If the CPS worker believes that a school employee does not need to be present, but the school employee insists on being present during the interview, the worker may confer with the CPS supervisor for assistance in handling the situation.

(v) Discuss further actions with the child at the conclusion of the interview.

(vi) Inform school personnel when the interview has been completed.

(vii) Inform school personnel if the child is taken into protective custody.

(viii) Inform school personnel that the CPS worker will notify parents of the interview.

(ix) Contact the CPS supervisor if school officials refuse to allow the assessment to take place on school property.

(J) Multi-Disciplinary Teams (MDTs). Department district managers must develop interagency agreements regarding assessment of child abuse and neglect, as necessary, with local MDTs. Requirements for MDT protocols are set out in ORS 418.747.

(6) Obtain Interpreters and Translation. The CPS worker must obtain the services of a competent interpreter and competent written translation service for families, including hearing-impaired family members, who have limited or no means of communicating in or reading English.

(7) Determine Indian Child Welfare Act (ICWA) Status and Comply with ICWA, if Applicable.

The CPS worker must initiate the process to determine the child's ICWA status and notify the Indian child's tribe if ICWA applies. To initiate this process, the CPS worker must:

(a) Assure completion of a form CF 1270, "Verification of ICWA Eligibility", to assist in determining ICWA eligibility.

(b) Contact the child's tribe when an Indian child is the subject of a CPS assessment. Federally recognized tribes must be notified within 24 hours after information alleging abuse or neglect is received by the Department.

(c) If the Indian child is enrolled or eligible for enrollment in a federally recognized tribe, notify the child's tribe if the child may be placed in protective custody.

(d) Consult with the local Department ICWA liaison, a supervisor, or the ICWA manager if the worker has questions regarding the involvement of a tribe or the ICWA status of a child.

(e) Make a diligent attempt to address the following when determining the placement resource:

(A) Contact the tribe's social services department;

(B) Search for relative resources;

(C) Search for available Indian homes; and

(D) Contact other Indian tribes and other Indian organizations with available placement resources.

(f) Unless the Indian child's tribe has established a different order of preference, comply with the ICWA placement preference, which is:

(A) Placement with a member of Indian child's extended family.

(B) Placement with a foster family that is licensed, approved or specified by the Indian child's tribe.

(C) Placement with an Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(D) Placement with an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(8) Determine Refugee Status and Comply with the Refugee Children Act, if applicable. During a CPS assessment, the CPS worker must consider whether the child is a refugee child. Under ORS 418.925, a "refugee child" is a "person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion."

(a) If it appears that a child is a refugee child, the CPS worker must ask about the child or parents' country of origin, length of time the child or parents have been in the United States, reasons why the child or parents came to the United States, and ethnic and cultural information relevant to the child's status as a refugee. The CPS worker does not have to make a legal determination that the child and parent are refugees, but if the child or the parents indicate they are refugees, then the CPS worker must proceed as if they are, until or unless it is known that they are not refugees.

(b) The CPS worker may not take a refugee child into protective custody unless, in addition to the other requirements for taking a child into custody, the CPS worker determines that:

(A) Removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(B) Reasonable efforts to alleviate the harm through remedial or preventive services do not alleviate the harm, have failed, or are not practical in an emergency situation.

(c) Unless it is a voluntary placement, no refugee child may remain in placement more than five days unless there has been a judicial determination, supported by clear and convincing evidence that:

(A) Preventative or remedial services provided by the Department have failed to alleviate the need for removal; and

(B) Return to the home will likely result in psychological or physical damage to the child.

(d) When a refugee child is placed in care, the juvenile court petition must include, in addition to the information required by ORS 419B.809, the following information:

(A) A specific and detailed account of the circumstances that led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;

(B) Specific actions the Department has taken or is taking to alleviate the need for removal;

(C) Assurance that the Department has complied with placement preferences listed in ORS 418.937 and listed in subsection (e) of this section; and

(D) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected refugee family members and to the Refugee Child Welfare Advisory Committee that the petition has been filed.

(e) The CPS worker must consider the refugee child's culture and tradition when making any placement decision for a refugee child and, unless shown to be inappropriate and inconsistent with the best interests of the child, place the child with the following in order of preference:

(A) Natural parents.

(B) Extended family member.

(C) Members from the same cultural heritage.

(D) Persons with knowledge and appreciation of the child's cultural heritage.

(f) The CPS worker may determine that placement under subsection (e) of this section is inappropriate and inconsistent with the best interests of the child if:

(A) The preferred placement presents a threat to the child's safety;

(B) The extreme medical, physical, or psychological needs of the child cannot be met in the placement; or

(C) There is an informed request from either of the child's biological parents not to use a placement, if the request is consistent with stability, security, and the individual needs of the child.

(g) When a juvenile court petition is filed and a refugee child is placed in care, the CPS worker must staff the case with the Refugee Child Welfare Advisory Committee (RCWAC). The CPS worker must contact the International Case Consultant for the Department to arrange a time for the staffing. In preparation for the staffing, the CPS worker must:

(A) Invite the CPS supervisor to the staffing; and

(B) Be prepared to discuss the reasons for the CPS referral, the information indicating that family members are refugees, and their country of origin.

(9) Take Photographs. The CPS worker must, during the CPS assessment, take photographs and document, as necessary, child abuse or neglect and the observable nature of any present danger safety threat or impending danger safety threat.

(a) As provided in ORS 419B.028, a law enforcement officer or the CPS worker may take photographs for the purpose of documenting the child's condition at the time of the CPS assessment.

(b) As provided in ORS 419B.028, if the CPS worker conducting a CPS assessment observes a child who has suffered suspicious physical injury and the CPS worker is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the CPS worker, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, will immediately photograph or cause to have photographed the suspicious physical injuries. Regardless of whether the child has previously been photographed or assessed during a CPS assessment, the CPS worker will photograph or cause to be photographed any suspicious injuries if the CPS worker is certain or has a reasonable suspicion the suspicious injuries are the result of abuse:

(A) During the assessment of a new allegation of abuse; and

(B) Each time, during the assessment, an injury is observed that was not previously observed by the assigned CPS worker.

(c) When a child is photographed pursuant to subsection (b) of this section:

(A) The person taking the photographs or causing to have the photographs taken must, within 48 hours or by the end of the next regular business day, whichever occurs later:

(i) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional; and

(ii) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in the Department record labeled with the case name, case number, child's name, and date taken.

(B) If a county multidisciplinary team staffing of the case is held, photographs of the injury will be made available to each team member involved in the case staffing at the first meeting regarding the child's case.

(d) The CPS worker must document injuries, hazardous environments, and the observable nature of any present danger safety threat or impending danger safety threat in the assessment narrative by use of photographs, written description, or illustrations.

(e) Photographs of the anal or genital region may be taken only by medical personnel.

(10) Obtain Medical Assessment.

The CPS worker must, during the CPS assessment as required in this section, facilitate a medical assessment of the child and obtain the child's medical history when necessary to assure child safety, determine treatment needs, reassure the child and family, or assist in analyzing safety-related information.

(a) When the CPS worker determines that the child is in need of a medical assessment as part of a CPS assessment, the CPS worker must consult with a CPS supervisor as soon as possible, but not at the expense of delaying medical treatment.

(b) If a person conducting an assessment under ORS 419B.020 observes a child who has suffered suspicious physical injury as defined in ORS 419B.023 and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person must, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, ensure that:

(A) A designated medical professional conducts a medical assessment within 48 hours of the observation of the suspicious physical injury, or sooner if dictated by the child's medical needs; or

(B) An available physician, physician assistant, or nurse practitioner conducts a medical assessment if, after reasonable efforts to locate a designated medical professional, a designated medical professional is not available to conduct a medical assessment within 48 hours. The CPS worker is required to document in the Department's electronic information system efforts to locate the designated medical professional when an available physician, physician assistant, or nurse practitioner is used.

(c) The CPS worker must facilitate an assessment by a medical professional if the alleged child abuse or neglect involves injury to the anal or genital region.

(d) When there are indications of severe physical trauma to the child, the CPS worker must make arrangements to immediately transport the child to a medical facility, which may include calling 911. The CPS worker must also make arrangements for medical examination of a child for mild or moderate physical trauma.

(e) To make arrangements for the medical examination of a child, the CPS worker must do the following, unless completing the action would delay medical treatment for the child:

(A) Discuss with the parent or caregiver the need for medical examination or treatment.

(B) Ask the parent or caregiver to take the child to a medical facility for a medical examination or treatment.

(C) Request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Information".

(D) Contact an LEA immediately and seek a juvenile court order to obtain protective custody of the child for the purpose of obtaining a medical examination or treatment when:

(i) The parent or caregiver refuses to obtain needed medical examination or treatment;

(ii) The parent or caregiver may flee with the child; or

(iii) Delaying medical examination or treatment could result in severe harm to the child.

(E) Immediately seek medical care and consultation when the child may have a life-threatening condition, or a deteriorating condition that may become life-threatening.

(F) As soon as possible and not later than 24 hours after learning of the exposure, make arrangements to have the child tested for chemical exposure to harmful substances when there is reason to believe a child has been exposed to dangerous chemicals such as those found in a chemical drug lab.

(f) When a report of suspected medical neglect of an infant with a disability and with life-threatening conditions is referred for CPS assessment, the assigned CPS worker must comply with Child Welfare Policy I-B.2.2.2, "Investigation of Suspected Medical Neglect-Infants", OAR 413-030-0600 to 413-030-0650.

(g) When it is medically indicated to subject a child in the custody of the Department to HIV testing, the CPS worker must comply with Child Welfare Policy I-B.5.1, "HIV Testing of Children in Custody and HIV Confidentiality", OAR 413-040-0400 to 413-040-0450.

(h) As provided in ORS 147.425, a child who is the victim of a person crime and is at least 15 years of age at the time of the abuse may have a personal representative present during a medical examination. If a CPS worker believes that a personal representative would compromise the CPS assessment, a CPS worker may prohibit a personal representative from being present during the medical examination.

(i) When the CPS worker is assessing a CPS allegation of medical neglect, the CPS worker must consult with a health care professional as part of the assessment.

(11) Obtain Psychological and Psychiatric Evaluations.

(a) The CPS worker must make a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child by a mental health professional to assure child safety, determine treatment needs, or assist in analyzing safety-related information when during the CPS assessment the CPS worker identifies a specific condition or behavior that requires additional professional evaluation. This includes but is not limited to:

(A) Unusual or bizarre forms of punishment;

(B) Mental illness;

(C) Suicidal ideation;

(D) Homicidal ideation; or

(E) Unusual or bizarre child or parental behavior that is indicative of emotional problems.

(b) The CPS worker must obtain consent of the parent or caregiver prior to making a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child, unless the evaluation is court ordered.

(12) Make Monthly Face-to-Face Contact. The CPS worker must make a minimum of monthly face-to-face contact as described in 413-080-0054.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 418.747, 418.785 & 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 6-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 20-2008, f. & cert. ef. 9-2-08; CWP 23-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; CWP 4-2010, f. & cert. ef. 4-2-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-015-0420

Make Initial Contact

(1) The CPS worker must make an initial contact within the assigned response time line.

(2) 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, his or her siblings, and other children living in the home. The purpose of the face-to-face contact and interview with the alleged victim, his or her siblings, and other children living in the home is to gather information regarding possible child abuse and

neglect, gather information about the children's functioning and vulnerability, and assess the children's immediate safety.

(A) Interview and observe children as follows:

(i) The CPS worker must notify parents of the intent to interview a child, unless notification could compromise the child's safety.

(ii) The CPS worker must make diligent efforts to contact the child at home, school, day care, or any other place where the worker believes the child may be found. If the CPS worker is unsuccessful, the CPS worker must document in the Department's electronic information system all attempts made to contact the child and the dates of those attempted contacts.

(iii) When the CPS worker contacts the child 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 child's health or safety is endangered by the conditions of the dwelling; or the child is inadequately supervised and there is an immediate need to evaluate the child's health and safety.

(II) The CPS worker must wait until the parent is present in the home to complete a child interview in the home if there is not reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling or that the child is inadequately supervised.

(iv) When the CPS worker is denied access to the child or to the child's residence, the CPS worker must, if the referral indicates that the child may be unsafe, request assistance from LEA in assessing the situation and in taking the child into protective custody if needed. If the referral indicates that the child 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 child 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 for the child.

(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 children 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 the child's injuries or signs of neglect. The CPS worker may need to remove a child's clothing to make adequate observations. In that event, the CPS worker must:

(I) Use discretion and make the child 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 child, be present to serve as a witness and provide comfort for the child.

(ix) The CPS worker may observe injuries to a child's anal or genital region if the child is not school aged and if the injury can be observed without the CPS worker touching the child's anal or genital region.

(B) The CPS worker must notify the parents or caregivers the same day a child is interviewed. 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 Department's 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 child abuse or neglect, gather information related to the safety of the child, 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 child.

(A) Whenever practicable, the CPS worker must interview both parents and caregivers in person, as follows:

(i) Interview each person in a manner that considers each person's privacy and safety and assures effective communication. This may require interviewing parents or caregivers individually and also together depending on the information being gathered;

(ii) Ask questions about domestic violence in separate interviews only; and

(iii) Provide all adults living in the home with a written notice that a criminal records check may be conducted on them.

(B) The CPS worker must provide each 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.

(C) 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 he or she is the child's custodial parent, caregiver, any person living in the home, or is 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 or neglect as well as to the child and his or her condition, and to gather further information about the alleged perpetrator and the family in relation to the safety of the child. When the alleged perpetrator is a minor parent, the purpose is also to determine if the minor parent is 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 time lines 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 Department's 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; 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 confirm the person's employee status by contacting a Central Office Field Services representative. If the CPS supervisor determines the alleged perpetrator is an employee of the DHS or OYA, 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 Department's electronic information system.

(D) When interviewing the alleged perpetrator who is a minor and the parent of the alleged victim, the CPS worker must ask questions to determine if there is an allegation of abuse or neglect with the minor parent as an alleged victim. If it is determined that there is an allegation of abuse or neglect with the minor 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.

(3) 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, "Gather Safety Related Information through Interview and Observation".

(4) 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 to the child as outlined in OAR 413-015-0425, "Determine if there is a Present Danger Safety Threat or Impending Danger Safety Threat".

(5) Documentation of the Initial Contact. The CPS worker must document the dates of attempted and successful contacts in the Department's 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.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 15-2009, f. & cert. ef. 11-3-09; CWP 2-2010(Temp), f. & cert. ef. 2-12-10 thru 8-11-10; CWP 4-2010, f. & cert. ef. 4-2-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14

413-015-0422

Gather Safety Related Information through Interview and Observation

(1) The CPS worker must gather relevant information and facts necessary to complete all parts of the CPS assessment. The CPS worker must gather information through interview and observation about the following:

(a) The extent of the child abuse or neglect;

(b) The circumstances surrounding the child abuse or neglect;

(c) Child functioning;

(d) Adult functioning;

(e) Parenting practices and skills; and

(f) Disciplinary practices.

(2) Interview.

(a) Except as outlined in subsection (b) of this section, interview each person in a manner that considers each person's privacy and safety and assures effective communication. This may require interviewing family members individually or also together depending on the information being gathered. Use information gathered from one interview to assist in the next interview.

(b) When domestic violence is alleged:

(A) And the adult victim is not alleged to be a perpetrator of abuse or neglect, consider interviewing the alleged adult victim first; and

(B) Ask questions about domestic violence in separate interviews only.

(c) The CPS worker must, to the extent possible, do the following during interviews with family members:

(A) Present identification to the family at the beginning of the interview and provide a business card or other document to the parents and caregivers containing the CPS worker's name and phone number;

(B) Clearly state the reason for the interview, provide statutory authority to assess reports of child abuse and neglect, and give an explanation of the alleged child abuse or neglect;

(C) Allow the parent or caregiver to respond to each allegation;

(D) Assure the privacy of the persons being interviewed;

(E) Focus the interview on the safety of the children;

(F) Assess whether the parents or caregivers are involved in domestic violence;

(G) Summarize and discuss the initial impressions and intentions resulting from the interview with appropriate family members or caregivers;

(H) Obtain from the parents or caregivers the names of persons who can provide additional information in determining child safety and completing the CPS assessment;

(I) Ask the parents and caregivers to sign an authorization to release information to enable the Department to obtain confidential information from physicians, mental health providers, school employees, or other service or treatment providers, if applicable; and

(J) Inform the parents and caregivers about the Department grievance procedure.

(3) Observation. The CPS worker must observe the identified child, parent or caregiver, and the home environment. When the child resides in more than one home environment the CPS worker must observe both home environments. Specific areas for observation are:

(a) Physical condition of the child, including any observable effects of child abuse or neglect;

(b) Emotional state of the child, including mannerisms, signs of fear, and developmental status;

(c) Reactions of the parents or caregivers to the Department concerns;

(d) Emotional and behavioral status of the parents or caregivers during the interviewing process;

(e) Interactions between family members, including verbal and body language;

(f) Condition of the child's living space, including where the child sleeps; and

(g) Physical condition of the home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 419B.005 - 419B.050

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0425

Determine if there is a Present Danger Safety Threat or Impending Danger Safety Threat

(1) Present Danger Safety Threat. At initial contact and at any time during the CPS assessment the CPS worker must determine if a present danger safety threat is occurring. To determine there is a present danger safety threat, the CPS worker must conclude the danger is immediate, significant, and clearly observable.

(2) Impending Danger Safety Threat. Throughout the CPS assessment as new information is gathered and also at the conclusion of the CPS assessment when all information is gathered, the CPS worker must apply the following safety threshold criteria to determine if an impending danger safety threat is present. When the CPS worker concludes all the criteria apply to the family behaviors, conditions, or circumstances, an impending danger safety threat is present.

(a) Imminent. The family behavior, condition, or circumstance is likely to occur in the immediate to near future.

(b) Observable. The family behavior, condition, or circumstance is observable and can be clearly described and articulated.

(c) Vulnerable Child. The child's vulnerability is determined by considering the child's physical and emotional development, ability to communicate needs, mobility, size and dependence, and the child's personal characteristics in relation to the family behaviors, conditions, and circumstances.

(d) Out of Control. A family behavior, condition, or circumstance that can affect a child's safety is 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. The CPS worker must determine whether a parent or caregiver can or cannot and will or will not protect the child from the family behavior, condition, or circumstance.

(e) Severity. A family behavior, condition, or circumstance is likely to result in severe harm to a child.

(3) When the CPS worker determines there is a present danger safety threat or impending danger safety threat the CPS worker must:

(a) If the CPS worker determines a child is unsafe due to a present danger safety threat, establish a protective action plan as outlined in OAR 413-015-0435, "Develop a Protective Action Plan", and continue the activities required to sufficiently complete the CPS assessment.

(b) If the CPS worker determines a child is unsafe due to an impending danger safety threat, establish:

(A) An initial safety plan as outlined in OAR 413-015-0437, "Develop an Initial Safety Plan", and continue the activities required to sufficiently complete the CPS assessment when the determination is made prior to the conclusion of the CPS assessment.

(B) When the CPS worker determines a child is unsafe due to an impending danger safety threat at the conclusion of the CPS assessment, the CPS worker must establish an ongoing safety plan as outlined in OAR 413-015-0450, "Develop an Ongoing Safety Plan".

(4) Documentation of Present Danger Safety Threats and Impending Danger Safety Threats. The CPS worker must document in the Department's electronic information system the determination that a present danger safety threat or impending danger safety threat is present or not, and explain the information that supports the determination.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0428

Identify How the Impending Danger Safety Threat is Occurring

(1) When the CPS worker determines an impending danger safety threat is present, the CPS worker must identify how the impending danger safety threat is occurring in the family to determine the necessary level of safety intervention required to assure child safety. The CPS worker must use the information gathered to determine:

(a) The length of time the family behaviors, conditions, or circumstances have posed a threat to child safety;

(b) The frequency with which the family behaviors, conditions, or circumstances pose a threat to child safety;

(c) The predictability of the family behaviors, conditions, or circumstances that pose a threat to child safety;

(d) Specific times (during the day or week), if any, that require special attention due to the way the family behaviors, conditions, or circumstances are occurring;

(e) Identified individual or family behaviors, conditions, or circumstances that prevent a parent or caregiver from adequately functioning in their primary parenting role; and

(f) Anything else that is associated with, occurs at the same time as, or influences the family behaviors, conditions, or circumstances that pose a threat to child safety.

(2) Documentation of how the impending danger safety threat is occurring. The CPS worker must document how each impending danger safety threat is occurring in the Department's electronic information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 419B.005 - 419B.050

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0432

Develop Safety Plans

(1) When a present danger safety threat or impending danger safety threat is identified, a CPS worker must put a safety plan in place to manage the threat. There are three types of safety plans: the protective action plan which manages present danger safety threats, and the initial safety plan and the ongoing safety plan, which manage impending danger safety threats.

(2) Shared requirements for a protective action plan, initial safety plan, or ongoing safety plan:

(a) When developing a protective action plan, initial safety plan, or ongoing safety plan, the CPS worker must:

(A) Assure the plan focuses on and controls the identified present danger safety threat or impending danger safety threat;

(B) Not use a parent or caregiver who is the alleged perpetrator of physical abuse, sexual abuse, or domestic violence to provide protection or any other adult who was aware of the threats to child safety and did not protect;

(C) Include safety service providers that have been confirmed to be suitable to provide safety for the child (refer to OAR 413-015-1200 through 413-015-1230, "Assessment of an Individual as a Safety Service Provider");

(D) Involve the child's parent or caregiver;

(E) Use the Indian child's tribe as a resource, unless the tribe declines, when the CPS worker knows or has reason to know the child is an Indian child; and

(F) Assure it has been approved by a Department supervisor.

(b) The protective action plan, initial safety plan, or ongoing safety plan, whether in-home or out-of-home, must:

(A) Be a written document between the parent or caregiver and the Department;

(B) Provide a detailed description of the present danger safety threat or impending danger safety threat;

(C) Describe how identified present danger safety threats or impending danger safety threats will be managed, including:

(i) If impending danger safety threats will be managed in-home, an explanation of how the in-home criteria outlined in (2)(c)(B) of this rule were met;

(ii) If impending danger safety threats will be managed out-of-home, an explanation of how the in-home criteria outlined in (2)(c)(B) of this rule were not met; and

(iii) How the plan will be monitored.

(D) Identify the safety service providers and the safety services necessary to implement the plan; and

(E) Establish the time commitments and availability of those involved in the plan.

(c) The CPS worker must determine whether the impending danger safety threat will be managed with an in-home or out-of-home initial safety plan or ongoing safety plan by determining how the impending danger safety threat is occurring and applying the in-home safety plan criteria.

(A) The CPS worker must understand how the impending danger safety threat is occurring as required in OAR 413-015-

0428, "Identify How the Impending Danger Safety Threat is Occurring", and use the information about how the impending danger safety threat is occurring to develop the least intrusive plan that can manage the identified impending danger safety threat occurring within the particular family;

(B) An in-home initial safety plan or in-home ongoing safety plan is required when all of the following in-home safety plan criteria are met:

(i) There is a home-like setting where the parent and child live.

(ii) The home is calm enough to allow safety service providers access and activities to occur.

(iii) At least one parent is willing to cooperate with the plan.

(iv) The necessary safety activities and resources are available to implement the plan.

(C) An out-of-home initial safety plan or out-of-home ongoing safety plan is required when any of the in-home safety plan criteria outlined in (B)(i) through (iv) above are not met.

(d) A protective action plan, initial safety plan, or ongoing safety plan may be a combination of in-home and out-of-home in order to assure the least intrusive intervention.

(e) The CPS worker must make modifications to the protective action plan, initial safety plan, or ongoing safety plan, as necessary, to continue to control the identified present danger safety threats or impending danger safety threats.

(f) When assessing an allegation of sexual abuse, if a plan includes a parent or caregiver, who is the alleged perpetrator, consenting to leave the family home, the CPS worker must notify the local district attorney responsible for the MDT in the county where the child resides that a plan of this type has been developed, pursuant to ORS 418.800. The notice must:

(A) Be in writing; and

(B) Be provided within three business days of the date the parent or caregiver leaves the family home.

(g) When a plan includes a parent or caregiver, who is the alleged perpetrator, consenting to leave the family home without their children or have their children leave the family home without them, the CPS worker must, in consultation with a supervisor, file a petition alleging the child is within the jurisdiction of the juvenile court pursuant to ORS 419B.100 within 10 calendar days of the date the parent or caregiver or their children leave the home if the plan is still necessary to assure child safety and will continue to be necessary for the immediate future.

(3) Additional Requirements for a Protective Action Plan. Refer to OAR 413-015-0435, "Develop a Protective Action Plan", for additional requirements when developing a protective action plan.

(4) Additional Requirements for an Initial Safety Plan. Refer to OAR 413-015-0437, "Develop an Initial Safety Plan", for additional requirements when developing an initial safety plan.

(5) Additional Requirements for an Ongoing Safety Plan. Refer to OAR 413-015-0450, "Develop an Ongoing Safety Plan", for additional requirements when developing an ongoing safety plan.

(6) Documentation. The CPS worker must provide a detailed description of the protective action plan, initial safety plan, or ongoing safety plan developed to manage the present danger safety threat or impending danger safety threat. Documentation must be completed in the Department's electronic information system within five business days following the identification of the threat and must include:

(a) All requirements outlined in paragraphs (2)(b)(A) through (G) of this rule;

(b) A summary of the parents' and caregivers' agreement to and acceptance of the plan; and

(c) The date the plan was reviewed by a supervisor and the name of the supervisor who reviewed it.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015 & 419B.005 - 419B.050

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14

413-015-0435

Develop a Protective Action Plan

(1) If the CPS worker determines the child is unsafe due to a present danger safety threat, the CPS worker must immediately initiate a protective action plan. This usually occurs during the initial contact, but must occur at any time during the CPS assessment if it is determined that the child is unsafe due to present danger. The purpose of the protective action plan is to assure that children are safe while CPS intervention continues and a fuller understanding of the family behaviors, conditions, and circumstances is obtained. A protective action plan occurs the same day that it is determined the child is unsafe and provides a child with responsible adult supervision and care.

(2) Requirements for a Protective Action Plan. When developing a protective action plan the CPS worker must assure all requirements in OAR 413-015-0432, "Develop Safety Plans", are met and that the protective action plan:

- (a) Manages present danger safety threats;
- (b) Is in place before the CPS worker leaves the home;
- (c) Does not remain in place longer than 10 calendar days; and
- (d) Does not remain in place after the CPS assessment is complete.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0437

Develop an Initial Safety Plan

(1) If the CPS worker determines the child is unsafe due to an impending danger safety threat, the CPS worker must develop and document an initial safety plan. The purpose of the initial safety plan is to assure that children are safe while CPS intervention continues and a fuller understanding of the family behaviors, conditions, or circumstances is obtained.

(2) Requirements for an initial safety plan. When developing an initial safety plan the CPS worker must assure all requirements in OAR 413-015-0432, "Develop Safety Plans", are met and that the initial safety plan:

- (a) Manages impending danger safety threats; and
- (b) Does not continue or remain in place after the CPS assessment is complete.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 419B.005 - 419B.050

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0440

Determine Disposition of the CPS Assessment

(1) After gathering all the information necessary to complete the CPS assessment, the CPS worker must determine the disposition.

(2) Requirement to Determine Disposition of the CPS Assessment. The CPS worker must determine if there is reasonable cause to believe that child abuse or neglect occurred and explain the basis for that determination. The requirements for determining dispositions are described in OAR 413-015-1000, "The CPS Assessment Dispositions".

(3) When a disposition is founded for child abuse or neglect, the CPS worker must refer all victims three years old and under to Early Intervention. In completing the referral, the CPS worker must use the "CPS to Early Intervention Referral Form" (DHS 323) when a release of information is not signed.

(4) Documentation. The CPS worker must document that determination and explain the basis for the determination in the disposition narrative section of the Department's electronic information system prior to completing the CPS assessment.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0445

Make Child Safety Decision and Determine Whether to Open a Case

(1) After all the necessary information is gathered for the CPS assessment and the disposition has been determined, the CPS worker must determine if the child is safe or unsafe at the conclusion of the CPS assessment. To make a child safety decision at the conclusion of a CPS assessment, the CPS worker must again determine if an impending danger safety threat is present as outlined in OAR 413-015-0425, "Determine if there is a Present Danger Safety Threat or Impending Danger Safety Threat".

(2) When at the conclusion of the CPS assessment the CPS worker determines one or more impending danger safety threats are present, including a previously identified threat that has not been eliminated, the CPS worker must conclude the child is unsafe. When the CPS worker concludes the child is unsafe at the conclusion of the CPS assessment, the CPS worker must:

(a) Determine how the impending danger safety threat is occurring to support the development of an ongoing safety plan as outlined in OAR 413-015-0428, "Identify How the Impending Danger Safety Threat is Occurring";

(b) Develop an ongoing safety plan as outlined in OAR 413-015-0450, "Develop Safety Plans";

(c) Complete the CPS assessment; and

(d) Open a case.

(3) When at the conclusion of the CPS assessment the CPS worker determines no impending danger safety threats are present and any threat identified previously has been eliminated, the CPS worker must conclude the child is safe. When the CPS worker concludes the child is safe at the conclusion of the CPS assessment, the CPS worker must comply with all of the following subsections:

(a) Dismiss the protective action plan or initial safety plan if one is in place.

(b) Determine if the family has moderate to high needs unless completing a CPS assessment involving the home of a Department certified foster parent or relative caregiver.

(A) If the family does not have moderate to high needs the CPS worker must complete and close the CPS assessment.

(B) If the family does have moderate to high needs the CPS worker must:

(i) Offer the family referrals to relevant non-contracted community services as available; and

(ii) If the family accepts the offer for referrals to non-contracted community services, the CPS worker must refer the family to relevant non-contracted community services as available.

(c) Complete the CPS assessment.

(d) Close the CPS assessment without opening a case.

(4) Documentation of the Child Safety Decision. The CPS worker must document in the Department's electronic information system the child safety decision including all of the following subsections as applicable:

(a) If the child is safe and the assessment will be closed or the child is unsafe and the case will be opened.

(b) If the child is safe:

(A) Whether the family was identified as having moderate to high needs; and

(B) If applicable, whether the family accepted the offer for non-contracted community service referrals.

(c) The basis for the determination in subsection (a) of this section.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0450

Develop an Ongoing Safety Plan

(1) At the completion of the CPS assessment when the CPS worker determines, through an analysis of the safety-related information, that a child is unsafe, the CPS worker must develop and document an ongoing safety plan unless completing a CPS assessment involving the home of a Department certified foster parent or

relative caregiver. The purpose of the ongoing safety plan is to control the impending danger safety threats as they are uniquely occurring within a particular family.

(2) Requirements for an Ongoing Safety Plan. When developing an ongoing safety plan the CPS worker must assure all requirements in OAR 413-015-0432, "Develop Safety Plans", are met and:

(a) Use a Child Safety Meeting unless a supervisor approved an exception;

(b) Include conditions for return when an out-of-home ongoing safety plan is developed; and

(c) Re-evaluate the initial safety plan, if one is in place, to determine if it is appropriate and sufficient as an ongoing safety plan and re-confirm all commitments with all safety service providers identified in the initial safety plan if it is to become an ongoing safety plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 17-2014, f. & cert. ef. 12-24-14

413-015-0455

Protective Custody and Juvenile Court Action

(1) Protective Custody.

(a) The CPS worker may take a child into emergency protective custody when there is severe harm or threat of severe harm to a child in the present and law enforcement assistance is not available. If there is any resistance or threatened resistance to taking the child into protective custody, which creates a substantial risk of physical injury to any person, the CPS worker may not take the child into custody, but must wait for law enforcement assistance or obtain an order of protective custody from the juvenile court.

(b) As provided in ORS 419B.171, when a child is taken into protective custody without a court order, the person taking the child into custody must promptly file a brief written report with the court. A written report is required even if the child is released to a parent or other responsible person prior to a shelter care hearing. The written report must be completed and sent to the court the day the child is taken into custody or no later than the morning of the next working day.

(c) If the child is not released to a parent or other responsible person, but is retained in protective custody, a shelter hearing must be scheduled as required by ORS 419B.183.

(d) If a child is placed in protective custody, the CPS worker must notify the child's parents, including a non-custodial parent; the child's caregivers; and the child's tribe, if applicable, in writing.

(e) The CPS worker or designee must immediately make diligent efforts to identify the child's legal parents and any putative fathers after a child is taken into protective custody. Information about putative fathers must be recorded on form CF 418, "Father(s) Questionnaire" and filed in the case record.

(2) Juvenile Court Petition. When a child is taken into protective custody or juvenile court intervention is necessary to assure the child and family receive appropriate services, the CPS worker must make arrangements for a juvenile court petition to be filed, as provided in ORS 419B.809.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050, 419B.171, 419B.183, 419B.809

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; Renumbered from 413-015-0410, CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0460

Visitation

(1) If an out-of-home ongoing safety plan is developed, the CPS worker must arrange for visitation between the child and the child's family.

(2) The CPS worker must refer to Child Welfare Policy I-E.3.5, "Visits and Other Types of Child and Family Contact", OAR 413-070-0800 to 413-070-0880.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0465

Medical Assessment, Dental Assessment, and Mental Health Assessment for All Children in Substitute Care

(1) The child's caseworker must refer a child placed in substitute care for:

(a) A medical assessment within 30 days of entering care;

(b) A dental assessment within 30 days of entering care; and

(c) A mental health assessment within 60 days of entering care.

(2) The assigned caseworker must assure that the child receives all required, covered medical treatment recommended in the assessments described in section (1) of this rule. (See Child Welfare Policy I-C.4.1, "Medical Services Provided through the Oregon Health Plan".)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0470

Notifications

(1) Requirements for Providing Notifications. The CPS worker must:

(a) Unless the Department determines that disclosure is not permitted under ORS 419B.035, notify the reporter, if the reporter provided the Department with contact information, whether contact was made, whether the Department determined that child abuse or neglect occurred, and whether services will be provided.

(b) Provide the child's parents, including a non-custodial legal parent, and caregivers verbal notification of all CPS assessment dispositions (unfounded, unable to determine, or founded) and whether the Department will provide services as a result of the CPS assessment. When the child's parent is the perpetrator, the notice under subsection (c) of this section also must be provided. If notification may make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation supporting that conclusion.

(c) Provide perpetrators written notification of founded dispositions. This written notification must include information about the founded disposition review process as outlined in Child Welfare Policy I-A.6.1, "Notice and Review of CPS Founded Dispositions", OAR 413-010-0700 to 413-010-0750. If the notification could make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.

(d) Provide the Teacher Standards and Practices Commission (TSPC) notification of a completed assessment by providing TSPC with a copy of the completed CPS assessment when a teacher or school administrator, as defined in OAR 413-015-0115, is identified as an alleged perpetrator in a report. Regardless of a disposition, a copy of the report must be sent to TSPC after information related to the reporter's identity and other confidential information is removed.

(2) Documentation of Notifications. The CPS worker must document the notifications as described in this rule in the Department's electronic information system and the documentation must include:

(a) Who made the notification.

(b) To whom the notification was made.

(c) The date the notification was made.

(d) That the notifications have been attempted or made within the following time lines:

(A) Prior to completing the CPS assessment for a notification provided under subsection (1)(a) of this rule.

(B) Within five business days of supervisory approval of the CPS assessment for a notification provided under subsection (1)(b) through (1)(d) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 8-2009, f. 7-29-09, cert. ef. 8-3-09; CWP 1-2012(Temp), f. & cert. ef. 3-12-12 thru 9-8-12; CWP 5-2012, f. & cert. ef. 9-7-12; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0475

CPS Assessment Documentation and Supervisory Review Requirements

(1) The CPS worker must record assessment activities and information gathered during the assessment process.

(2) The CPS worker must complete the CPS assessment and electronically submit the CPS assessment for review by a CPS supervisor, within 30 days of the day that the information alleging child abuse or neglect is received by the screener, except as provided in OAR 413-015-0480, "CPS Assessment Extensions".

(3) A CPS supervisor or designee must review and approve a completed CPS assessment within five working days of the electronic submission of the assessment by the CPS worker. After the assessment is reviewed by a CPS supervisor, if the alleged perpetrator is an employee of any program, office or division of the Department or OYA, the CPS Supervisor must inform the Department's Office of Human Resources of the disposition. If the disposition is founded, the CPS supervisor must also inform the Department's Office of Human Resources of the type of abuse. The CPS supervisor must document the notification in the Department's electronic information system.

(4) Each local Department office may designate an individual to electronically enter into the Department's electronic information system the verification of the completed review and approval of a CPS assessment by a CPS supervisor or designee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0480

CPS Assessment Extensions

The CPS supervisor may approve a one-time extension of an additional 30 days for completion of the CPS assessment if critical information (information necessary to determine child safety or a child abuse or neglect disposition) is outstanding. Additional extension of time may be approved by the Child Welfare program manager if the ability to obtain critical information is beyond the reasonable control of the CPS worker.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0485

Confidentiality

Information gathered and records and reports compiled during a CPS assessment are confidential and may be disclosed only as provided in ORS 419B.035. The identity of the person reporting child abuse or neglect may not be disclosed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; Renumbered from 413-015-0740, CWP 3-2007, f. & cert. ef. 3-20-07

Day Care Facility Investigation

413-015-0520

Purpose and Overview of the Day Care Facility Investigation

(1) OAR 413-015-0520 to 413-015-0565 describe the activities required to complete a child abuse or neglect investigation in a day care facility.

(2) A day care facility is:

(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; or

(d) A listed facility, 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 the Department of Human Services' clients.

(3) Completing a Day Care Facility Investigation involves all of the following:

(a) Making initial contact within the assigned response time line, which includes:

(A) Face-to-face contact with the alleged victim or victims;

(B) Contact with the parent or caregiver of the victim or victims; and

(C) Contact with other children as needed for child safety.

(b) Gathering safety-related information regarding the day care facility through interviews and observation.

(c) Determining if the parent or caregiver can and will protect the child and documenting the basis for that determination.

(d) Determining if there is reasonable cause to believe that child abuse or neglect occurred and documenting the basis for that determination.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015 & 419B.005 - 419B.050

Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0525

Contact and Work with Other Entities

The CPS worker may need to work with representatives of other entities to complete a day care facility investigation.

(1) Office of Child Care. The CPS worker must notify and coordinate with the Compliance Unit of the Office of Child Care when a report involves a day care facility as required by ORS 419B.020(1).

(2) Law Enforcement. If the screener did not cross report to appropriate law enforcement agencies, the CPS worker must contact one or more law enforcement agencies in accordance with the protocols of the local MDT agreement and in accordance with cross reporting rules, OAR 413-015-0300 to 413-015-0310. The Department and the law enforcement agency (LEA) shall jointly determine the roles and responsibilities of the Department and the LEA in their respective investigations. When there is a joint response involving CPS and law enforcement, the CPS worker is responsible for all of the activities necessary to complete the day care investigation. Whenever possible, the CPS worker must coordinate investigation activities with LEA.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050

Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0530

Day Care Facility Investigation Response Time Lines

The response time lines for investigations in day care facilities are the same as the response timelines for all CPS assessments. Those time lines are established in OAR 413-015-0405.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050

Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08

413-015-0535

Day Care Facility Investigation Activities

The required investigation activities are outlined below. The activities are described in a logical order in these rules (OAR 413-015-0520 to 413-015-0565), but the order in which they occur is controlled by the specific circumstances in a given case.

(1) Review Records. The assigned CPS worker must:

(a) Thoroughly review the documentation in the referral;

(b) Thoroughly review the paper and electronic records maintained by the Department for historical information on the alleged child victim, the alleged perpetrator and their families, which must include a review for the following:

(A) History or a pattern of abuse or neglect by the alleged perpetrator; and

(B) History of abuse or neglect of the child victim or victims.

(c) When the CPS worker has information that the alleged perpetrator has lived in another state, make diligent efforts to contact the child welfare agency in the other states where the alleged perpetrator has lived and obtain records, if any, that may be relevant to the current investigation.

(2) Contact Collateral Sources.

(a) The CPS worker must contact collateral sources who can clarify or supplement the information in the referral and in records already reviewed. These collaterals may include:

(A) Doctors or others who have evaluated or maintain records on the alleged child victim in regard to the abuse or any effects of the abuse;

(B) Other people who may have information about the day care facility or the alleged perpetrator;

(C) Staff members, including past staff members, of the day care facility that may have information regarding the abuse or the alleged perpetrator;

(D) Other children that attend the day care facility and their parents that may have information about the day care facility or the alleged perpetrator.

(b) The CPS worker must gather information from collateral sources throughout the CPS assessment.

(c) The CPS worker must:

(A) Protect the identity of collateral sources to the extent possible.

(B) Consult with the district attorney or the assistant attorney general to obtain a court order for records from a collateral source, if the source is unable or unwilling to share information with the Department.

(3) Consult with CPS Supervisor. The CPS worker must consult with a CPS supervisor or designee:

(a) At the beginning of the investigation of a day care facility;

(b) At any time during the investigation when there are additional child victims identified;

(c) At any time during the investigation when information obtained indicates a licensing or a safety concern that requires an immediate protective action.

(d) A report of child abuse or neglect that is expected to receive media attention or that already is being reported by the media.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050
Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0540

Make Initial Contact

The CPS worker must make an initial contact within the assigned response time line with the alleged child victim's custodial parent or caregiver and the alleged child victim as follows:

(1) As required by OAR 413-015-0420, notify the custodial parents or caregivers of the intent to interview an alleged child victim.

(2) Have face-to-face contact with and interview the alleged child victim or victims. The purpose of the face-to-face contact and each interview is to gather information regarding possible child abuse, observe any signs of neglect or child injuries, determine if there are other alleged child victims, and assess the immediate safety of the child or children.

(3) Have face-to-face contact with and interview each custodial parent or caregiver of the alleged child victim or victims. The purpose of this face-to-face contact and interview is to find out what the parent or caregiver knows about the alleged child abuse or neglect and to gather information about their ability and willingness to protect.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050
Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14

413-015-0545

Other Contacts and Observations Required During the Investigation

The CPS worker must:

(1) Interview the non-custodial parent of the alleged child victim during the investigation. This is not required during the initial contact but must be completed as part of the investigation.

(2) Notify and interview the provider, owner or director of the day care facility. Except as provided below, the CPS worker must meet with the provider, owner or director of the day care at the beginning of the investigation to notify them of the allegations, arrange for access to the facility, plan interviews that will take place at the facility, and gain access to names of other children and their parents who may have been a witness or could be a collateral source for the investigation. The CPS worker is not required to meet with the provider, owner, or director of the facility if it could compromise a child's safety or a criminal investigation.

(3) Interview staff of the day care facility that may have information regarding the alleged abuse or the alleged perpetrator.

(4) Identify and select other children to be interviewed. Other children that attend the day care facility where the abuse allegedly occurred may need to be interviewed. They are children who:

(a) Witnessed the alleged abuse or neglect;

(b) Have information pertinent to the investigation about the day care facility; or

(c) Have information pertinent to the investigation about the alleged perpetrator.

(5) Notify and interview the parent or caregiver of any children who are selected to be interviewed during the investigation. The intent of the interview is to gain permission to interview their child and to learn of any information they may have about the alleged perpetrator and the alleged incident. Interviews with children that are not alleged victims must not occur prior to receiving permission by a parent or caregiver. If the CPS worker is denied permission to interview children who are not alleged victims, but such interviews are needed to complete the investigation, the CPS worker should consult with their supervisor and seek the assistance of a district attorney or assistant attorney general.

(6) Interview the selected children. The purpose of the interview is to gain information about the alleged abuse and the alleged perpetrator and assess the child's safety at the day care facility.

(7) Interview the alleged perpetrator. The purpose of the interview is to notify the alleged perpetrator of the allegations, allow them to respond to the allegations, determine if the alleged perpetrator poses a threat to other children, and notify them of the steps needed to complete the investigation. When interviewing the alleged perpetrator, the CPS worker must:

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

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

(c) Provide the alleged perpetrator with a written notice that a criminal records check may be or has been conducted on them.

(8) Observation of the day care facility. The purpose of observing the day care facility is to gather information about the alleged incident and to assess the overall safety of the setting.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050
Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08

413-015-0550

Determining If the Parent or Caregiver Can or Cannot and Will or Will Not Protect

The CPS worker must determine if the parent or caregiver can or cannot and will or will not protect the child. When the CPS worker determines the parent or caregiver cannot or will not protect the child, the CPS worker must determine whether to make a report of abuse or neglect against the parent or caregiver.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050
Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0555

Determine Disposition of the CPS Assessment

The CPS worker must comply with OAR 413-015-0440 to determine the disposition of the CPS assessment.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050

Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08

413-015-0560

Notification of Disposition

In addition to requirements of OAR 413-015-0470, the CPS worker must notify the:

(1) Office of Child Care, Department of Education, Early Learning Division. A copy of the investigation must be sent to the Compliance Unit of the Office of Child Care after information relating to the reporter's identity and other confidential information is removed. Any recommendations regarding the day care facility may also be included.

(2) Owner or director of the day care facility. When there is no owner or director the notification is to the provider. If the owner, director, or provider is not the alleged perpetrator, parent or caregiver, the notification will include whether the Department determined that child abuse or neglect occurred and information necessary to protect children from abuse and neglect in the facility in the future.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050

Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-0565

Documentation and Supervisory Review Requirements

The CPS worker must refer to and comply with OAR 413-015-0475, "CPS Assessment Documentation and Supervisory Review Requirements".

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015, 418.747 & 419B.005 - 419B.050

Hist.: CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

The CPS Assessment Dispositions

413-015-1000

The CPS Assessment Dispositions

(1) This rule describes child abuse and neglect for the purpose of making CPS assessment dispositions.

(2) As part of completing the CPS assessment, the CPS worker must determine whether there is reasonable cause to believe child abuse or neglect occurred. The possible determinations are:

(a) "Founded," which means there is reasonable cause to believe that child abuse or neglect occurred.

(b) "Unfounded," which means no evidence of child abuse or neglect was identified or disclosed.

(c) "Unable to determine," which means there are some indications of child abuse or neglect, but there is insufficient data to conclude that there is reasonable cause to believe that child abuse or neglect occurred. The "unable to determine" disposition may be used only in the following circumstances:

(A) After extensive efforts have been made, the CPS worker is unable to locate the family; or

(B) After completing an assessment that complies with the Department's rules:

(i) The child is unable or unwilling to provide consistent information and there is insufficient information to support a founded or unfounded determination; or

(ii) There is conflicting or inconsistent information from collateral contacts or family, and there is insufficient information to support a founded or unfounded determination.

(d) When a CPS worker is assigned a CPS assessment the CPS supervisor may determine that no face-to-face contact is necessary with the alleged child victim and the alleged perpetrator of abuse only in the following circumstances:

(A) The assessment was opened in error. This is a determination that the referral is mistakenly opened.

(B) The reported information is addressed in another open CPS assessment. This is a determination that the report content is being included in another, currently open CPS assessment, under the same case number.

(C) The allegation was cleared through collateral contact. This is a determination that the CPS worker has, through collateral contacts, received information that indicates there is no longer a report of child abuse or neglect, as defined in 419B.005.

(3) When determining whether there is reasonable cause to believe child abuse or neglect occurred, the CPS worker shall consider, among others, the following parent or caregiver behavior, conditions, and circumstances:

(a) Abandonment, including parental behavior showing an intent to permanently give up all rights and claims to the child.

(b) Child selling, including the selling of a child that consists of buying, selling, bartering, trading, or offering to buy or sell the legal or physical custody of a child.

(c) Mental injury (psychological maltreatment), including cruel or unconscionable acts or statements made, threatened to be made, or permitted to be made by the parent or caregiver that has a direct effect on the child. The parent or caregiver's behavior, intentional or unintentional, must be related to the observable and substantial impairment of the child's psychological, cognitive, emotional, or social well-being and functioning.

(d) Neglect, including failure, through action or omission, to provide and maintain adequate food, clothing, shelter, medical care, supervision, protection, or nurturing. Chronic neglect is a persistent pattern of family functioning in which the parent or caregiver does not sustain or meet the basic needs of a child resulting in an accumulation of harm that can have long term effect on the child's overall physical, mental, or emotional development. Neglect includes each of the following:

(A) Physical neglect, which includes each of the following:

(i) Failing to provide for the child's basic physical needs including adequate shelter, food, and clothing.

(ii) Permitting a child to enter or remain in or upon premises where methamphetamines are being manufactured.

(iii) Unlawful exposure of a child to a substance that subjects a child to severe harm to the child's health or safety. When the CPS worker is making a determination of physical neglect based on severe harm to the child's health due to unlawful exposure to a substance, this determination must be consistent with medical findings.

(B) Medical neglect is a refusal or failure to seek, obtain, or maintain necessary medical, dental, or mental health care. Medical neglect includes withholding medically indicated treatment from infants who have disabilities and life-threatening conditions. However, failure to provide the child with immunizations or routine well-child care alone does not constitute medical neglect. When the CPS worker is making a determination of medical neglect, this determination must be consistent with medical findings.

(C) Lack of supervision and protection, including failure to provide supervision and protection appropriate to the child's age, mental ability, and physical condition.

(D) Desertion, which includes the parent or caregiver leaving the child with another person and failing to reclaim the child, or parent or caregiver failure to provide information about their whereabouts, providing false information about their whereabouts, or failing to establish a legal guardian or custodian for the child.

(E) Psychological neglect, which includes serious inattention to the child's need for affection, support, nurturing, or emotional development. The parent or caregiver behavior must be related to the observable and severe harm of the child's psychological, cognitive, emotional, or social well-being and functioning.

(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, lacerations
- (C) Internal injuries
- (D) Burns or scalds
- (E) Injuries to bone, muscle, cartilage, and ligaments
- (F) Poisoning
- (G) Electrical shock
- (H) Death

(f) Sexual abuse, which includes 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 incest, rape, sodomy, sexual penetration, fondling, and voyeurism.

(g) Sexual exploitation, including the use of a child in a sexually explicit way for personal gain, for example, to make money, in exchange for food stamps or drugs, or to gain status. Sexual exploitation also includes using children in prostitution or using children to create pornography.

(h) Threat of harm, including all activities, conditions, and circumstances that place the child at threat of severe harm of physical abuse, sexual abuse, neglect, mental injury, or other child abuse or neglect.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.015 & 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 6-2005, f. & cert. ef. 4-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08

Access to Law Enforcement Data System (LEDS) in Local Child Welfare Offices

413-015-1100

Authority and Responsibility

(1) ORS 418.005 provides that, in order to establish, extend, and strengthen welfare services for the protection and care of dependent or neglected children, the Department of Human Services may make all necessary rules and regulations for administering child welfare services. Among other duties outlined by ORS 409.010, the Department is responsible for the delivery and administration of programs and services relating to children and families, including child protective services and foster care. ORS 419B.020 provides that, upon receipt of a report of child abuse, the Department or a law enforcement agency is required to immediately cause an investigation to be made to determine the nature and cause of the abuse. In addition, ORS 418.640 requires the Department to adopt rules it deems necessary or advisable to protect the best interests of children in foster homes. Finally, ORS 181.537 authorizes the Department to conduct criminal records checks on subject individuals, as defined by the Department, if deemed necessary by the Department.

(2) The Department of Human Services Child Welfare Program has determined that, in order to protect children from abuse or neglect and to protect the best interests of children in foster homes, it is necessary for the Department to permit local Child Welfare offices to perform criminal records checks on subject individuals when the Department is conducting a child protective services assessment, has an open child welfare case, or determines that emergency foster home certification decisions must be made.

Stat. Auth.: ORS 181.537, 409.050, 418.005 & 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05

413-015-1105

Purpose

(1) The primary purposes of LEDS access in local Child Welfare offices are to assist staff in making decisions about child safety, specifically related to child protective services, assessing safety service providers, and emergency certification as outlined in these rules (OAR 413-015-1100 to 413-015-1125). Criminal history information obtained from LEDS will be considered, along with other safety-related information, to:

(a) Identify present danger safety threats and impending danger safety threats; or

(b) Determine if behavior that is revealed by criminal history is inconsistent with providing care to children or having access to children.

(2) These rules do not address criminal records checks for non-emergency certification or adoption approval. Criminal records checks for non-emergency certification or adoption approval are governed by OAR 413-120-0400 to 413-120-0470.

Stat. Auth.: ORS 181.537, 409.050 & 418.005

Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10; CWP 21-2010, f. & cert. ef. 11-15-10; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14

413-015-1110

Definitions

The following definitions apply to OAR 413-015-1100 to 413-015-1125:

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

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

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

(4) "Notice" means a written statement hand delivered to the subject individual or sent via U.S. mail to his or her last known address informing the subject individual of subsections (a) and (b) below. "Notice" does not imply consent or permission on the part of the subject individual.

(a) The Department may conduct, or has already conducted, criminal records checks.

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

Stat. Auth.: ORS 181.537, 409.050, 418.005

Stats. Implemented: ORS 181.537, 181.557, 409.010, 418.005, 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 27-2008, f. & cert. ef. 10-3-08; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10; CWP 21-2010, f. & cert. ef. 11-15-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-1115

Requirements

(1) LEDS representatives must train and certify designated LEDS users as outlined in OAR 257-015-0050.

(2) The Department will complete background checks on all LEDS representatives and LEDS users as provided in OAR 257-015-0050(6).

(3) The Department will implement information security measures as provided in OAR 257-015-0000 to 257-015-0100.

Stat. Auth.: ORS 181.537, 409.010, 418.005 & 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05

413-015-1120

LEDS Use for Child Protective Service Purposes

(1) The local Child Welfare office may conduct criminal records checks on a subject individual using the LEDS system available in the local office and use LEDS information pertaining to a subject individual for the purpose of making decisions about child safety specifically related to Child Protective Services when a:

- (a) Child abuse allegation is being assessed; or
- (b) Child Welfare case is open.

(2) When conducting criminal records checks for a Child Protective Services purpose under this rule, a subject individual is defined as a person:

- (a) Alleged to be the perpetrator of child abuse or neglect when the allegation is being assessed by Child Protective Services;
- (b) Residing in or frequenting a household where the alleged victim of child abuse resides on a full- or part-time basis;
- (c) Being assessed as a safety service provider; or
- (d) In the household to which a child is being returned.

(3) Timelines for providing written notice to a subject individual when a criminal records check is conducted for a Child Protective Services purpose:

(a) Prior to the conclusion of an assessment of a child abuse allegation: Notice as defined at OAR 413-015-1110(4) must be provided to:

(A) The subject individual defined in subsection (2)(a), (b), or (d) of this rule no later than seven working days after the date the check was conducted.

(B) The subject individual defined in subsection (2)(c) of this rule before the check is conducted.

(b) After the conclusion of an assessment of a child abuse allegation and while a Child Welfare case is still open: Notice as defined at OAR 413-015-1110(4) must be provided to the subject individual before the check is conducted.

Stat. Auth.: ORS 181.537, 409.050, 418.005

Stats. Implemented: ORS 181.537, 181.557, 409.010, 418.005, 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 27-2008, f. & cert. ef. 10-3-08; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10; CWP 21-2010, f. & cert. ef. 11-15-10

413-015-1125

LEDS Use for Certification Purposes in Emergency Situations

(1) The local Child Welfare office may perform criminal records checks using the LEDS system available in the local office and use LEDS information pertaining to a subject individual for the purpose of making decisions about child safety, specifically related to emergency certification when:

(a) The subject individual has consented to the Department conducting a criminal records check by signing form DHS 1011F, "Consent For Criminal Records & Fingerprint Check";

(b) There is an emergent need to place a child or maintain a placement of a child, and the Department of Human Services Background Check Unit is unable to complete the check in time;

(c) Staff refer to and comply with OAR 413-120-0400 to 413-120-0475; and

(d) A child abuse allegation is being assessed or there is an open child welfare case.

(2) When conducting criminal records checks for emergency certification purposes under this rule, a subject individual is defined as:

(a) An adult who resides in or plans to reside in a household that is being certified for placement of a child;

(b) An adult who resides in or plans to reside in a household that is being re-certified to place or maintain a child in the household;

(c) A person assisting in the household to enrich the care provided to children placed in the household by tutoring or providing recreation, relief care, or other services such as household chores, whether paid or unpaid; or

(d) A member of the household under 18 years of age if there is reason to believe that member may pose a risk to children placed in the household.

(3) Staff in local Child Welfare offices who access LEDS information for emergency certification purposes as outlined in these rules must:

(a) Refer to and comply with OAR 413-120-0400 to 413-120-0475; and

(b) Forward fingerprints and consent forms to the Department of Human Services Background Check Unit for processing if:

(A) LEDS information reveals an arrest or conviction of any kind;

(B) The subject individual discloses an arrest or conviction of any kind; or

(C) It is known that the subject individual has lived outside of Oregon within the last five years.

Stat. Auth.: ORS 181.537, 409.010, 418.005 & 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

Assessment of an Individual as a Safety Service Provider

413-015-1200

Purpose

(1) The purpose of these rules, OAR 413-015-1200 to 413-015-1230, is to describe the Department's responsibility to assess an individual for consideration as a safety service provider and to determine whether the individual is suitable as a *safety service provider*.

(2) An individual employed by an agency providing services to a family through a current contract with the Department is not covered under these rules.

(3) Requirements for the assessment of an individual for the purpose of ongoing connection and support with a child or certification as a relative caregiver or foster parent are not covered under these rules.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 9-2010, f. & cert. ef. 7-1-10

413-015-1210

Definitions

In addition to the definitions in OAR 413-015-0115, the following definitions apply to 413-015-1200 to 413-015-1230:

(1) "Caseworker" means a Department employee assigned primary responsibility for a child or young adult served by the Department.

(2) "Child" means a person under 18 years of age.

(3) "CPS worker" means a Child Protective Services (CPS) worker who is an employee of the Department who has completed the mandatory Department training for child protective service workers.

(4) "Department" means the Department of Human Services, Child Welfare.

(5) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

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

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

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

(9) "Protective action plan" means 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.

(10) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(11) "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 a child's safety.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 9-2010, f. & cert. ef. 7-1-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-1220

Assessment of an Individual's Involvement in Safety Management

(1) To assess an individual as a safety service provider for a specific family in a protective action plan, initial safety plan, or an ongoing safety plan, the CPS worker or caseworker must take all of the following actions:

(a) Identify and contact an individual who is a prospective safety service provider.

(b) Gather information from the individual regarding his or her:

(A) Relationship with the child and the child's family; and

(B) Willingness and ability to fulfill the specific role and responsibilities of a safety service provider for the identified family.

(c) Provide the individual with information regarding the specific role and responsibility of the individual to assist in managing the child's safety.

(d) Search the Department's information system and review any historic information regarding the individual that may be useful in assessing the individual's ability to be a safety service provider.

(e) If in an individual's role as a safety service provider the individual will have contact with the child, conduct a criminal records check on the individual using LEDS, provide notice as described in Child Welfare Policy I-AB.6, "Access to Law Enforcement Data System in Local Child Welfare Offices" OAR 413-015-1100 to 413-015-1125, and review the individual's criminal history to assess the individual's ability to be a safety service provider.

(2) After the CPS worker or caseworker has considered all the information gathered pursuant to section (1) of this rule, the CPS worker or caseworker must determine the individual's suitability as a safety service provider. In making this determination, the worker must consider whether the individual is willing and able to:

(a) Assist in managing the safety of the child;

(b) Cooperate with any restrictions on contact between the child and others;

(c) Support, verbally and through actions, the protective action plan, initial safety plan, and ongoing safety plan; and

(d) Fulfill the identified role and responsibilities required of the individual in a protective action plan, initial safety plan, or an ongoing safety plan.

(3) The CPS worker or caseworker must consult with and receive approval from a supervisor prior to engaging an individual as a safety service provider whenever the individual's past behaviors, conditions, or circumstances include one of the items listed in the subsections of this section so long as those behaviors, conditions, or circumstances do not impact negatively the individual's ability to fulfill the specific role and responsibilities in managing the child's safety:

(a) A record of child abuse or neglect;

(b) A criminal history; or

(c) A history of drug or alcohol abuse.

(4) The CPS worker or caseworker must document in the Department's information system:

(a) The basis for the determination regarding whether an individual is suitable as a safety service provider; and

(b) The supervisor who provided the approval required in section (3) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 9-2010, f. & cert. ef. 7-1-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-1230

Safety Service Provider Approval

(1) The CPS worker or caseworker must inform an individual who has been considered and selected as a safety service provider that the individual has been approved as a safety service provider. The CPS worker or caseworker must further inform an approved safety service provider that the role of a safety service provider:

(a) Is temporary; and

(b) The role or responsibilities may change if the Department obtains new information that changes the determination that the individual is suitable to manage a child's safety, prevents the individual from fulfilling the role identified in assisting to manage a child's safety, or the threat to child safety changes, is eliminated, or can be managed by a child's parent or guardian.

(2) The CPS worker or caseworker must inform an individual who has been considered but has not been selected as a safety service provider that the individual has not been approved to be a safety service provider.

(3) When an individual has been informed that the individual is approved or not approved as a safety service provider or the determination that an individual is approved changes, if the status change results in a change in the protective action plan, initial safety plan, or ongoing safety plan, the CPS worker or caseworker must refer to OAR 413-015-0435 and 413-015-0450.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 9-2010, f. & cert. ef. 7-1-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

Differential Response

413-015-9000

Authority, Responsibility, and Applicability

(1) ORS 418.005 provides that, in order to establish, extend, and strengthen welfare services for the protection and care of dependent or neglected children, the Department of Human Services may make all necessary rules and regulations for administering child welfare services. Among other duties outlined by ORS 409.010, the Department is responsible for the delivery and administration of programs and services relating to children and families, including child protective services (CPS).

(2) The Department has determined that in order to effectively administer child protective services it is necessary to adopt a child abuse assessment system that allows CPS to respond differently to reports of child abuse and neglect that meet the criteria to assign for CPS assessment. This system is called "differential response" and includes two types of CPS assessments, traditional response assessments and alternative response assessments. These changes in the Department's practice will be implemented, over time, on a county-by-county basis.

(3) Only the Department local offices in those counties identified by the Department to implement the Differential Response system must comply with the requirements outlined in these rules, OAR 413-015-9000 through 413-015-9040. Those counties will be referred to as DR implementation counties and are listed in subsections (a) through (f) of this section. Department local offices in all other counties must comply with the rules in OAR chapter 413, but are not responsible for OAR 413-015-9000 through 413-015-9040.

(a) Benton County, effective April 6, 2015.

(b) Clackamas County, effective December 1, 2015.

(c) Coos County, effective November 16, 2015.

(d) Curry County, effective November 16, 2015.

(e) Jackson, effective November 2, 2015.

(f) Josephine, effective November 2, 2015.

(g) Klamath County, effective May 27, 2014.
(h) Lake County, effective May 27, 2014.
(i) Lane County, effective May 29, 2014.
(j) Lincoln County, effective April 6, 2015.
(k) Linn County, effective April 6, 2015.
(l) Washington County, effective April 20, 2015.
(4) Except as provided in OAR 413-015-9000 through 413-015-9040, employees in the DR implementation counties remain responsible for all other rules in OAR chapter 413.

Stat. Auth.: ORS 409.027, 409.050, 418.005, 418.598
Stats. Implemented: ORS 409.010, 409.027, 409.050, 409.185, 418.005, 418.015, 418.580, 418.598, 419B.020
Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 10-2015, f. & cert. ef. 4-1-15; CWP 23-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

413-015-9010

Purpose

The purpose of Differential Response is to achieve the following objectives:

- (1) Allow for different approaches to Child Protective Services assessments depending on severity and type of child abuse and neglect allegations;
- (2) Identify a family's needs and connect the family to community services to meet those needs;
- (3) Increase the number of children who can be safely at home and in their communities;
- (4) Reduce the number of children who re-enter the Department's system;
- (5) Reduce the number of referrals on a family; and
- (6) Reduce disproportional representation of children of color in the Department's foster care system.

Stat. Auth.: ORS 409.027, 409.050, 418.005, 418.598
Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020
Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-015-9020

Definitions

In addition to the terms defined in OAR 413-015-0115, these terms are defined for use in these rules, OAR 413-015-9000 through 413-015-9040:

(1) "Alternative response assessment" means a type of CPS assessment that, in addition to the other requirements of a CPS assessment, utilizes community partners and support persons and assesses the strengths and needs of the family and child, but does not require a formal determination of whether there is reasonable cause to believe child abuse or neglect occurred.

(2) "Strengths and needs assessment" means a tool used to assess the strengths and needs, including service needs, of a family determined to have moderate to high needs.

(3) "Strengths and needs assessment provider" means an individual or organization trained to complete a strengths and needs assessment.

(4) "Traditional response assessment" means a type of CPS assessment used to assess reports of child abuse and neglect that require a formal determination of whether there is reasonable cause to believe child abuse or neglect occurred.

Stat. Auth.: ORS 409.027, 409.050, 418.005, 418.598
Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020
Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 10-2015, f. & cert. ef. 4-1-15

413-015-9030

Screening CPS Information — Determining Department's Response, Type of CPS Assessment, and Response Time Lines

Except as provided below, screeners in DR implementation counties must comply with OAR 413-015-0200 through 413-015-0225. OAR 413-015-0210(1) through (3) are replaced by the following:

(1) After the screener completes activities required by OAR 413-015-0205, and determines the information received is CPS information, the screener must determine the Department response, either CPS assessment required or close at screening. If a CPS

assessment is required, the screener must determine the type of CPS assessment and the time line for the Department response.

(2) CPS assessment required. A CPS assessment is required if:

(a) The screener determines that information received constitutes a report of child abuse or neglect, as defined in ORS 419B.005, and the information indicates:

(A) The alleged perpetrator is a legal parent of the alleged child victim;

(B) The alleged perpetrator resides in the alleged child victim's home;

(C) The alleged perpetrator may have access to the alleged child victim, and the parent or caregiver may not be able or willing to protect the child; or

(D) The alleged child abuse occurred in a day care facility, the home of a Department certified foster parent or relative caregiver, or a private child-caring agency that is not a Children's Care Provider (CCP).

(b) A tribe or law enforcement agency (LEA) requests assistance from the Department with an investigation of child abuse or neglect, and a CPS supervisor agrees that assistance from the Department is appropriate.

(3) Type of CPS Assessment. If the screener determines that a CPS assessment is required, the screener must:

(a) Determine the type of CPS assessment required. The screener must determine if the report is assigned for a traditional response assessment or an alternative response assessment.

(A) Traditional Response Assessment. This type of CPS assessment is required when the report alleges or the information gathered indicates:

(i) The child has suffered or could likely suffer severe harm;

(ii) The abuse occurred in a day care facility, the home of a Department certified foster parent or relative caregiver, or a private child-caring agency that is not a Children's Care Provider (CCP);

(iii) The perpetrator is a day care employee, certified foster parent or relative caregiver, or a Department of Human Services employee;

(iv) There are multiple allegations in the same report and any of the allegations meet one of the criteria outlined in (i) through (iii) of this paragraph for a traditional response assessment;

(v) There is a prior report of child abuse or neglect that has not been assessed because the Department was unable to locate the family and the prior allegation or the current allegation meets the criteria for a traditional response assessment;

(vi) There is an open traditional response assessment and the date the open traditional response assessment was assigned is within 60 days of the date the new report will be assigned; or

(vii) There is an open Department case with an identified impending danger safety threat.

(B) Alternative Response Assessment. This type of CPS assessment is required when the report alleges or the information gathered indicates the child has suffered or could likely suffer harm, but the harm is not severe harm and none of the conditions outlined in (A)(i) through (vii) of this rule apply.

(b) Consult with a CPS supervisor. The screener must consult with the CPS supervisor or designee when the screener determines the type of CPS assessment required is a traditional response assessment and there is an open alternative response assessment.

(c) Document the type of CPS assessment required. The screener must document the type of CPS assessment required and document the justification for the determination.

(4) Response Time Lines. If the screener determines that a CPS assessment is required, the screener must:

(a) Determine the CPS assessment response time line. The time line for the Department response refers to the amount of time between when the report is received at screening and when the CPS worker is required to make an initial contact. When determining the response time, the screener must take into account the location of the child, how long the child will be in that location, and access that others have to the child.

(A) Traditional Response Assessment. The screener is required to assign the following response time lines for a traditional response assessment:

(i) A “within 24 hours” response time line unless (ii) below applies.

(ii) A “within five calendar days” response time line is only permitted for a traditional response assessment when the screener can clearly document how the information indicates child safety will not be compromised or an intentional delay to allow for a planned response is less likely to compromise the safety of the child.

(B) Alternative Response Assessment. The screener is required to assign the following response time lines for an alternative response assessment:

(i) A “within five calendar days” response time line is required unless (ii) below applies.

(ii) A “within 24 hours” response time line is only required for an alternative response assessment when the information indicates:

(I) A child is in danger right now; or

(II) A child has a current injury as a result of the alleged abuse or neglect.

(b) Complete a screening report form immediately when a “within 24 hour” response time line is assigned or the same day when a “within five calendar days” response time is assigned. A CPS supervisor may grant an extension for the completion of a screening report form as provided in OAR 413-015-0220.

(c) Refer the CPS assessment to the appropriate county as described in OAR 413-015-0213.

Stat. Auth: ORS 409.027, 409.050, 418.005, 418.598

Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 17-2014, f. & cert. ef. 12-24-14

413-015-9040 Assessment

(1) Except as provided in this rule, CPS workers in DR implementation counties must comply with OAR 413-015-0400 through 413-015-0485.

(2) Overview. The following outlines the primary components of all CPS assessments and the components unique to traditional response assessment and alternative response assessment.

(a) Completing a CPS assessment, whether traditional response assessment or alternative response assessment, involves all of the following:

(A) Making efforts to schedule the initial contact when a response timeline of “within five calendar” days is assigned.

(B) Making face-to-face contact with the alleged victim, his or her siblings, his or her parent or caregiver, other children and adults living in the home, and the alleged perpetrator.

(C) Accessing and viewing the home environment.

(D) Gathering safety-related information through interviews and observation.

(E) Determining if there is a present danger safety threat.

(F) Determining if there is an impending danger safety threat by applying the safety threshold criteria:

(i) Imminent;

(ii) Observable;

(iii) Vulnerable child;

(iv) Out of control; and

(v) Severity.

(G) Developing a protective action plan when a child is determined to be unsafe due to a present danger safety threat.

(H) Developing an initial safety plan when a child is determined to be unsafe due to an impending danger safety threat.

(I) Developing an ongoing safety plan when a child is determined to be unsafe from an impending danger safety threat at the conclusion of a CPS assessment.

(J) Determining whether the initial safety plan or ongoing safety plan is the least intrusive plan sufficient to manage child safety by identifying how the impending danger safety threat is occurring and applying the in-home safety plan criteria.

(K) Developing conditions for return when an out-of-home ongoing safety plan is established.

(L) Determining whether a family has moderate to high needs when a child is determined to be safe.

(M) Referring a family for a strengths and needs assessment and subsequently for community services when a family is determined to have moderate to high needs and accepts the referrals.

(b) In addition to the components of a CPS assessment outlined in paragraphs (a)(A) through (M) of this section, completing a traditional response assessment includes determining if there is reasonable cause to believe that child abuse or neglect occurred.

(c) In addition to the components of a CPS assessment outlined in paragraphs (a)(A) through (M) of this section, completing an alternative response assessment includes offering the family the option of having a community partner or support person accompany the worker when a response timeline of “within five calendar” days is assigned.

(3) Make Initial Contact. When completing a traditional response assessment or an alternative response assessment the CPS worker must comply with OAR 413-015-0420, “Make Initial Contact”, and the additional requirements outlined in this section when a response timeline of “within five calendar days” is assigned:

(a) The CPS worker must make efforts to schedule the initial contact; and

(b) The CPS worker must, when completing an alternative response assessment:

(A) Offer the family the option of having a community partner or support person accompany the worker on initial contact;

(B) Obtain a release of information signed by the parent or caregiver specific to the identified community partner or support person; and

(C) Document, if applicable, whether the CPS worker completed the initial contact with a community partner or support person. When a community partner or support person was not present at initial contact, the CPS worker must document why not. When a community partner or support person was present, the CPS worker must document who was present.

(4) Change from Alternative Response Assessment to Traditional Response Assessment. When changing the type of CPS assessment from alternative response assessment to traditional response assessment the CPS worker must:

(a) Assure one of the following applies:

(A) Any of the criteria outlined in 413-015-9030(3)(a)(A)(i) through (vi);

(B) A referral is received on an open alternative response assessment within 60 days of the date the open assessment was assigned and the new referral meets the screening criteria to assign as a traditional response assessment;

(C) The CPS worker filed a petition alleging the child is within the jurisdiction of the juvenile court pursuant to ORS 419B.100; or

(D) The CPS worker determined the child is unsafe at the conclusion of the CPS assessment and an ongoing safety plan will be established and the case will be opened for services.

(b) Assure the decision is approved by a Department supervisor; and

(c) Document in the Department’s electronic information system the decision to change from alternative response assessment to traditional response assessment and explain the basis for the decision.

(5) Make Child Safety Decision and Determine Whether to Open a Case. The CPS worker must comply with the requirements outlined in this section which replaces OAR 413-015-0445, “Child Safety Decision”.

(a) After all the necessary information is gathered for the CPS assessment and the disposition has been determined, the CPS worker must determine if the child is safe or unsafe at the conclusion of the CPS assessment. To make a child safety decision at the conclusion of a CPS assessment, the CPS worker must again determine if an impending danger safety threat is present as

outlined in OAR 413-015-0425, “Determine if there is a Present Danger Safety Threat or an Impending Danger Safety Threat”.

(b) When at the conclusion of the CPS assessment the CPS worker determines one or more impending danger safety threats are present, including a previously identified impending danger safety threat that has not been eliminated, the CPS worker must conclude the child is unsafe. When the CPS worker concludes the child is unsafe at the conclusion of the CPS assessment, the CPS worker must:

(A) Determine how the impending danger safety threat is occurring to support the development of an ongoing safety plan as outlined in OAR 413-015-0428, “Identify How the Impending Danger Safety Threat is Occurring”;

(B) Develop an ongoing safety plan as outlined in OAR 413-015-0450, “Develop an Ongoing Safety Plan”;

(C) Complete the CPS assessment; and

(D) Open a case.

(c) When at the conclusion of the CPS assessment the CPS worker determines no present danger safety threats or impending danger safety threats are present and any identified previously have been eliminated, the CPS worker must conclude the child is safe. When the CPS worker concludes the child is safe at the conclusion of the CPS assessment, the CPS worker must:

(A) Dismiss the protective action plan or initial safety plan if one is in place; and

(B) Determine if the family has moderate to high needs unless completing a CPS assessment involving the home of a Department certified foster parent or relative caregiver.

(d) When the CPS worker determines the family does not have moderate to high needs the CPS worker must complete and close the CPS assessment.

(e) When the CPS worker determines the family does have moderate to high needs, the CPS worker must offer the family the option to have a strengths and needs assessment completed by a strengths and needs assessment provider:

(A) If the family declines the offer to have a strengths and needs assessment completed the CPS worker must:

(i) Offer the family referrals to relevant non-contracted community services as available;

(ii) If the family accepts the offer, the CPS worker must refer the family to relevant non-contracted community services as available; and

(iii) Complete and close the CPS assessment.

(B) If the family accepts the offer to have a strengths and needs assessment completed the CPS worker must:

(i) Refer the family to a strengths and needs assessment provider;

(ii) Meet with the family and the strengths and needs assessment provider after the completion of the strengths and needs assessment, discuss contracted and non-contracted community service referral options, offer relevant community service referrals as available, and identify the family’s preferences;

(iii) If the family accepts the offer for community service referrals, refer the family to relevant contracted or non-contracted community services as available.

(C) Complete and close the CPS assessment.

(f) The CPS worker must document in the Department’s electronic information system the child safety decision including all of the following:

(A) If the child is safe and the assessment will be closed, or if the child is unsafe and the case will be opened.

(B) If the child is safe:

(i) Whether the family was determined to have moderate to high needs and the basis for the determination;

(ii) Whether the family accepted or declined to participate in a strengths and needs assessment and if they declined whether the family accepted the offer for relevant non-contracted community service referrals;

(iii) Whether the family accepted or declined to participate in services recommended as the result of the strengths and needs assessment; and

(iv) If applicable, what contracted or non-contracted community services were declined or accepted.

(6) CPS Assessment Documentation, Supervisory Review Requirements, and Extensions.

(a) The CPS worker must comply with OAR 413-015-0475, “CPS Assessment Documentation and Supervisory Review Requirements”, with the exception of section (2) which this subsection replaces. The CPS worker must complete the CPS assessment and electronically submit the CPS assessment for review by a CPS supervisor, within 45 days of the day that the information alleging child abuse or neglect is received by the screener, except as provided in subsection (b) of this section.

(b) This subsection replaces OAR 413-015-0480, “CPS Assessment Extensions”. The CPS supervisor may approve a one-time extension of an additional 15 days for completion of the CPS assessment if the supervisor has confirmed critical information (information necessary to determine child safety or a child abuse or neglect disposition) is outstanding or, if applicable, the strengths and needs assessment is not complete. Additional extension of time may be approved by the Child Welfare program manager if the ability to obtain critical information is beyond the reasonable control of the CPS worker.

Stat. Auth: ORS 409.027, 409.050, 418.005 & 418.598

Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580 & 419B.020

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14

DIVISION 20

CASE MANAGEMENT

Voluntary Agreements

413-020-0000

Definitions

The following definitions apply to OAR chapter 413, division 20.

(1) “Adoption assistance agreement” means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the pre-adoptive family or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(2) “Adoptive family” means an individual or individuals who have legalized a parental relationship to the child through a judgment of the court.

(3) “Age-appropriate or developmentally appropriate activities” means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(4) “BRS” means Behavior Rehabilitation Services, a Medicaid-funded program that provides behavioral intervention, counseling, or skill building services in a professional, shelter, or residential (including therapeutic foster care formerly referred to as proctor care) placement setting.

(5) “CANS screener” means an individual, who performs CANS screenings under the supervision of the Level of Care Manager, under a contract with the Department, and who annually completes the training in the use of the Oregon CANS Comprehensive

Screening Tool with a documented reliability score of 0.70 or greater.

(6) “CANS screening” means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult used for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(7) “Caseworker” means the agency staff person assigned primary responsibility for a child or young adult served by the Department.

(8) “Certified family” 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 he or she resides, to a child or young adult in the care or custody of the Department.

(9) “Certifier” means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster care home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(10) “Child” means a person under 18 years of age.

(11) “Department” means the Department of Human Services, Child Welfare.

(12) “Designated Consultant Neonatologist” means a neonatologist whose services are available to Child Welfare to review medical information and consult with Child Welfare and other experts deemed necessary in cases of suspected medical neglect.

(13) “Designated hospital liaison” means an individual, usually the hospital administrator, designated by each respective hospital to assist Child Welfare with coordination, consultation, and prompt notification of suspected cases of medical neglect.

(14) “Disabled infant” means a child of less than one year of age having a physical or mental impairment which may substantially limit one or more major life functions such as breathing, seeing, hearing, walking, caring for one’s self, performing manual tasks, learning, and working.

(15) “Enhanced supervision” means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(16) “Foster parent” means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(17) “Guardian” means an individual who has been granted guardianship of the child through a judgment of the court.

(18) “Guardianship assistance” means assistance provided on behalf of an eligible child or young adult to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the child or young adult. “Guardianship assistance” may be in the form of payments, medical coverage, or reimbursement of nonrecurring guardianship expenses.

(19) “Guardianship assistance agreement” means a written agreement, binding on the parties to the agreement, between the Department and the guardian of an eligible child or young adult setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(20) “Hospital Review Committee (HRC)” is a committee established by a medical facility or hospital to offer counsel and

review in cases involving a disabled infant with life-threatening conditions.

(21) “Legal custodian” means a person, agency, or institution with legal custody of a child and all of the following duties and authority:

(a) To have physical custody and control of a child.

(b) To supply the child with food, clothing, shelter, and incidental necessities.

(c) To provide the child with care, education, and discipline.

(d) To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the child and, in an emergency where the child’s safety appears urgently to require it, to authorize surgery or other extraordinary care.

(e) To make such reports and to supply such information as the court may require.

(f) To apply for any benefits to which the child is entitled and to use them to pay for the child’s care.

(22) “Legal custody” means that a person or agency has legal authority:

(a) To have physical custody and control of a child;

(b) To supply the child with food, clothing, shelter and other necessities;

(c) To provide the child with care, education and discipline;

(d) To authorize medical, dental, psychiatric, psychological, hygienic or other remedial care or treatment for the child, and in any emergency where the child’s safety appears urgently to require it, to authorize surgery or other extraordinary care; and

(e) “Legal custody” includes temporary custody of a child under an order of a court.

(23) “Level of care payment” means the payment provided to an approved or certified family, a guardian, a pre-adoptive family or an adoptive family based on the child or young adult’s need for enhanced supervision as determined by applying the CANS algorithm to the results of the CANS screening.

(24) “Mechanical restraint” means the use of any physical device to involuntarily restrain the movement of all or a portion of a child’s body as a means of controlling his or her physical activities in order to protect the child or other persons from injury. “Mechanical restraint” does not apply to movement restrictions stemming from medicinal, dental, diagnostic, or surgical procedures which are based on widely accepted, clinically appropriate methods of treatment by qualified professionals operating within the scope of their licensure.

(25) “Medical neglect” means the failure to provide adequate medical care, including the withholding of medically indicated treatment, from a disabled infant with life-threatening conditions.

(26) “Medical Neglect Investigator” means Child Welfare staff designated and trained to provide consultation and complete investigations of alleged medical neglect reports.

(27) “Medically indicated treatment” means treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s reasonable medical judgment, is most likely to be effective in amelioration or correcting a life-threatening condition. It does not include the failure to provide treatment other than nutrition, hydration, or medication to an infant when, in the treating physician’s reasonable medical judgment, any of the following circumstances apply:

(a) The infant is chronically irreversibly comatose.

(b) The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant’s life-threatening conditions, or otherwise be futile in terms of survival of the infant.

(c) The provisions of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(28) “Participating tribe” means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(29) “Permanent custody” means legal custody of a child:

(a) Who has been permanently committed to the Department by the juvenile court after parental rights have been terminated under ORS 419B.527; or

(b) Who has been released and surrendered to the Department by the parents under ORS 418.270.

(30) “Physical custodian” means a person or agency, including a child’s legal or biological parent, a relative, foster parent, adoptive parent, or a licensed child-caring agency who is authorized by the Department to provide a residence and day-to-day care for a child who is in the legal custody of the Department.

(31) “Physical restraint” means the act of restricting a child or young adult’s voluntary movement as an emergency measure to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult’s behavior. “Physical restraint” does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(32) “Potential guardian” means an individual who:

(a) Has been approved by the Department or participating tribe to be a child’s guardian; and

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

(33) “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.

(34) “Reasonable and prudent parent standard” means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult to participate in extracurricular, enrichment, cultural, and social activities.

(35) “Reasonable medical judgment” means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(36) “Relative caregiver” means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(37) “Seclusion” means the involuntary confinement of a child alone in a specifically designed room from which the child is physically prevented from leaving.

(38) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(39) “Supervision plan” means a documented set of strategies that is developed to assist a relative caregiver or foster parent in providing the additional support, observation, direction, and guidance necessary to promote and ensure the safety and well-being of a child or young adult.

(40) “Voluntary custody” means legal custody given to the Department, by written agreement, by a parent or guardian of a child.

(41) “Voluntary Custody Agreement” means a written agreement between the Department and the parent or guardian of a child, which transfers legal custody to the Department; the Department assumes all parental authority and responsibilities that the agreement does not specifically reserve to the parents or guardians, as permitted by state law; and the Department provides the child substitute care or treatment, or both, if the family falls within a circumstance described in OAR 413-020-0010(2)(a)-(c).

(42) “Voluntary Placement Agreement” means a binding, written agreement between the Department and the parent or guardian of a child that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or guardian, the child, and the Department while the child is in placement.

(43) “Withholding of medically indicated treatment” means the failure to respond to an infant’s life-threatening condition.

(44) “Young adult” means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15

413-020-0005

Purpose

The purpose of OAR 413-020-0005 to 413-020-0050 is to describe:

(1) The circumstances in which parents or guardians and the Department may enter into a Voluntary Custody Agreement concerning a child who is in the legal custody of the parents or guardians; and

(2) The responsibilities of the parents or guardians and the Department in connection with these agreements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

Hist.: SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0010

Voluntary Custody Agreement

(1) Under a “Voluntary Custody Agreement”, the parent or legal guardian gives the Department the legal custody of the child. The Department assumes all parental and legal responsibilities that the agreement does not specifically reserve to the parents or legal guardians as permitted under ORS 418.015 and becomes the child’s legal custodian.

(2) It is appropriate for the Department to place a child in substitute care and provide services if all of the following subsections apply:

(a) The parent or legal guardian requests the Department take custody of the child.

(b) The parent or legal guardian is immediately and temporarily unable to fulfill his or her parental responsibilities.

(c) This inability will be alleviated with short-term placement when one of the following conditions exists:

(A) The child cannot remain at home due to a temporary crisis in the family, and cannot safely stay with a member of the extended family or another responsible adult who is well known to the child.

(B) The parent or legal guardian is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical or mental health condition.

(C) The child needs to be placed outside the home due to problems in the family that could compromise the safety of a family member, and a placement of limited duration in conjunction with intensive services is likely to reunite the family and reduce safety concerns.

(3) A Voluntary Custody Agreement is not appropriate when the Department’s Child Protective Services has determined, within the past 12 months, that the parent or legal guardian was the perpetrator of a founded disposition of child abuse or neglect or when the parent or legal guardian is unwilling to be a permanent resource for the child.

(4) A Child Welfare Program Manager must approve entering into a Voluntary Custody Agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0020

Legal Consent

(1) Only a parent or guardian who has legal custody of the child may enter into a Voluntary Custody Agreement (CF 1005).

(2) All persons who have legal custody of the child must sign the agreement unless one person with legal custody of the child is missing.

(3) If one person with legal custody of the child is missing, all other persons with legal custody of the child must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person's whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with legal custody of the child to provide him or her notice of the agreement.

(4) The parent or guardian must provide information to the Department about insurance and other financial resources to meet the medical, dental, and mental health needs of the child by completing a Medical Resource Report Form (DHS 415H).

(5) If the child is an Indian child, who is an enrolled member of or may be eligible for membership in an Indian tribe, each parent or Indian custodian who has legal custody must sign the Voluntary Custody Agreement in a hearing before a judge of a court with appropriate jurisdiction. The child must be more than 10 days old. See OAR 413-070-0240 for detailed requirements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0025

Developing the Family Support Services Case Plan when a Parent or Legal Guardian Enters into a Voluntary Custody Agreement with Child Welfare

(1) The caseworker must develop a family support services case plan as described in OAR 413-030-0016 with the parent or legal guardian who signs a Voluntary Custody Agreement.

(2) The caseworker must develop a visit and contact plan as described in OAR 413-070-0800 to 413-070-0880.

(3) The parent or legal guardian must agree to:

(a) Full and ongoing cooperation in developing the family support services case plan as described in OAR 413-030-0006(2)(a)–(c) and making decisions for the child based on the child's identified needs;

(b) Visit and financially support the child to the fullest extent possible; and

(c) Work cooperatively with the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0040

Required Reviews

Federal and state law, including the Adoptions and Safe Families Act (Pub. L. 105-89), require review of the cases of all children placed in substitute care. The child placed by the Department with a Voluntary Custody Agreement will be scheduled for Citizen Review Board and court reviews pursuant to OAR 413-040-0100 to 413-040-0170.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0045

Criteria for Continuing a Voluntary Custody Agreement After a Child Reaches 18 Years of Age

(1) The Department determines that the child will need placement services after reaching 18 years of age and continues a Voluntary Custody Agreement after the child reaches 18 years per ORS 418.027(5) if:

(a) One of the conditions in OAR 413-020-0010(2)(a)–(c), which led the Department to assume voluntary custody of the child, continues at the time of the child's 18th birthday;

(b) The young adult agrees to the Department's continued assumption of all parental and legal responsibilities that the Voluntary Custody Agreement does not specifically reserve to the parents or legal guardians; and

(c) The District Manager approves the continuation of the Voluntary Custody Agreement.

(2) The court must determine continued custody is in the best interests of the young adult and approve the continuation of the Voluntary Custody Agreement every 180 days.

Stat. Auth.: ORS 418.005, 418.027

Stats. Implemented: ORS 418.015, 418.027

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0050

Termination of Voluntary Agreement

(1) Either the Department or a parent or legal guardian who signed the agreement may terminate the agreement by providing 48 hours written notice. If an agreement continues after the child reaches 18 years of age, a young adult may terminate the agreement by providing 48 hours written notice.

(2) If a parent or legal guardian requests the termination of the voluntary agreement and there is reason to believe the child will be unsafe if returned to the home of the parent or legal guardian, the caseworker must report the information to a CPS screener.

(3) OAR 413-070-0240(5) governs the withdrawal by a parent or Indian custodian of consent concerning an Indian child, within the meaning of the Indian Child Welfare Act, who is in substitute care and the subject of a "Voluntary Custody Agreement" with the Department. OAR 413-070-0240(5) prescribes:

(a) That the parent or Indian custodian may withdraw consent orally or in writing at any time;

(b) That an Indian child shall immediately be released to the parent or Indian custodian upon withdrawal of a voluntary consent; and

(c) Notification to the court, and other actions are required when return of an Indian child to the parent or Indian custodian would place the child in imminent danger or harm.

Stat. Auth.: ORS 418.005, 418.027

Stats. Implemented: ORS 418.015, 418.027

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

Voluntary Placement Agreement

413-020-0060

Purpose

These rules, OAR 413-020-0060 to 413-020-0090, describe:

(1) The circumstances in which parents or legal guardians and the Department may enter into a Voluntary Placement Agreement to place a child, who is in the legal custody of the parents or legal guardians, for care or services from the Department; and

(2) The responsibilities of the parents or legal guardians and the Department in connection with these agreements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0070

Voluntary Placement Agreement Limitations

(1) Under a Voluntary Placement Agreement, the parent or legal guardian retains legal authority over the child and is obligated to continue to exercise and perform all parental authority and legal responsibilities, except those that the parent or legal guardian specifically delegates to the Department by a binding agreement. The agreement specifies, while the child is in placement, the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department.

(2) The Department must use a Voluntary Placement Agreement (CF 499) under ORS 418.312 in all cases in which the sole reason for placing the child in a foster home, group home, or institutional child care setting is the need to obtain services for the child's emotional, behavioral, or mental disorder or developmental or physical disability.

(3) Under a Voluntary Placement Agreement, the Department has responsibility for the child's placement and care.

(4) The parent or legal guardian who requests substitute care for the child through a Voluntary Placement Agreement may enter into a child support agreement with the Division of Child Support (DCS) or receive a child support order.

(a) The caseworker must inform the parent or legal guardian that he or she may enter into a non-adversarial support agreement with DCS to discharge support obligations. Other, existing child obligations of the parent or legal guardian are not superseded by support agreements with DCS.

(b) The caseworker must provide the parent or legal guardian who signs the Voluntary Placement Agreement with the “DCS Referral for Non-Adversarial Support Agreement” (CF 496). The parent or legal guardian completes the form and returns it to the caseworker. If the form is not returned to the caseworker within 30 days, a support order may be entered.

(c) The caseworker must forward the completed form (CF 496) and a signed copy of the Voluntary Placement Agreement to the Children’s Benefits Unit of the Department.

(5) The parent or legal guardian must provide information to the Department about insurance and other financial resources to meet the medical, dental, and mental health needs of the child by completing a Medical Resource Report Form (DHS 415H).

(6) A Child Welfare Program Manager must approve entering into a Voluntary Placement Agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0075

Legal Consent

(1) Only a parent or guardian who has legal custody of the child may enter into a Voluntary Placement Agreement.

(2) All persons who have legal custody of the child must sign the agreement unless one person with legal custody of the child is missing.

(3) If one person with legal custody of the child is missing, all other persons with legal custody of the child must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person’s whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with legal custody of the child to provide him or her notice of the agreement.

(4) If the child is an Indian child who is an enrolled member of or may be eligible for membership in an Indian tribe, each parent or Indian custodian who has legal custody of the child must sign the Voluntary Placement Agreement in a hearing before a judge of a court with appropriate jurisdiction. The child must be more than 10 days old. See OAR 413-070-0240 for detailed requirements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0080

Developing the Family Support Services Case Plan and a Voluntary Placement Agreement with the Department

(1) The caseworker must prepare the Voluntary Placement Agreement (CF 499), which must specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department.

(2) The caseworker must develop a family support services case plan (see OAR 413-030-0016) with the parent or legal guardian who signs a Voluntary Placement Agreement.

(3) The caseworker must develop a visit and contact plan as described in OAR 413-070-0800 to 413-070-0880.

(4) The parent or legal guardian must agree to:

(a) Full and ongoing cooperation in the family support services case plan described in OAR 413-030-0006(2)(a)–(c) and in making decisions for the child based on the child’s identified needs;

(b) Visit and financially support the child to the fullest extent possible; and

(c) Work cooperatively with the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0085

Required Reviews

Federal and state law, including the Adoptions and Safe Families Act (Pub. L. 105-89), require review of the cases of all children in substitute care. The child placed by the Department with a Voluntary Placement Agreement will be scheduled for Citizen Review Board and court reviews pursuant to OAR 413-040-0100 to 413-040-0170. Under state law:

(1) When the child remains in voluntary placement for more than 180 days, the juvenile court must make a determination within the first 180 days of the placement that the placement is in the best interests of the child.

(2) The juvenile court must hold a permanency hearing as provided in ORS 419B.476 to determine the future status of the child no later than 14 months after the child’s original voluntary placement and not less frequently than once every 12 months thereafter during the continuation of the child’s original voluntary placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0090

Termination of Voluntary Agreement

(1) Either the Department or a parent or legal guardian who signed the Voluntary Placement Agreement may terminate the agreement by providing 48 hours written notice. The child support agreement may be terminated at the same time by sending a copy of the written termination notice to the Children’s Benefits Unit of the Department.

(2) If the parent or legal guardian requests the termination of the Voluntary Placement Agreement and there is reason to believe the child is unsafe, the caseworker must report the information to a CPS screener.

(3) OAR 413-070-0240(5) governs the withdrawal by a parent or Indian custodian of consent concerning an Indian child who is in substitute care and the subject of a Voluntary Placement Agreement with the Department. OAR 413-070-0240(5) prescribes:

(a) That the parent or Indian custodian may withdraw consent orally or in writing at any time;

(b) That an Indian child shall immediately be released to the parent or Indian custodian upon withdrawal of a voluntary consent; and

(c) Notification to the court and other actions required when return of an Indian child to the parent or Indian custodian would place the child in imminent danger or harm.

(4) A Voluntary Placement Agreement ends when the child reaches 18 years of age.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312, 419C.080

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

Guardian and Legal Custodian Consents

413-020-0100

Purpose

The purpose of OAR 413-020-0100 through 413-020-0170 is to:

(1) Define the Department’s authority as guardian and legal custodian of children in its care or in the care of its agents;

(2) Specify how that authority will be exercised by the Department and its agents; and

(3) Specify requirements to be met when this authority is exercised.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640 & 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03

413-020-0120

Responsibility of Staff to Secure a Legal Consent

When the legal consent of a parent or guardian is needed for a child in the care and custody of the Department, the caseworker shall secure the consent of the person authorized to approve the

proposed service or activity. Relevant information shall be provided to the authorized person to assure the Department's authority to consent, the need for and advisability of the service or activity and, when feasible, the concurrence of parents and physical custodians.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640 & 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0130

Department Authority in Voluntary Placement and Voluntary Custody Agreements

(1) When a parent or guardian of a child authorizes a voluntary placement with the Department, the parent or guardian remains guardian of the child and retains legal authority, and is obligated to continue to exercise and perform all parental duties and legal responsibilities except those delegated to the Department by the signed CF 499 Voluntary Placement Agreement.

(2) In the event the parent or legal guardian is unavailable or unwilling to fulfill the responsibilities of a guardian, the Department will petition the Juvenile Court and request authority to provide essential services to the child.

(3) When a child is in the voluntary custody of the Department, the Department or the physical custodian exercises the authority of a legal custodian as assigned in the CF 1005 Voluntary Custody Agreement.

(4) Voluntary custody agreements are covered in OAR 413-020-0005 to 413-020-0050 and voluntary placement agreements are covered in OAR 413-020-0060 to 413-020-0090.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640 & 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0140

Exercise and Delegation of Legal Authority

(1) When the Department has legal custody of a child through a Voluntary Custody Agreement, a court order, or a Release and Surrender Agreement, the Department will exercise its authority through Department staff and through delegation to other persons as described in this rule.

(2) Physical Custodian. The Department delegates the following responsibilities to the physical custodian. This delegation continues as long as the child or young adult is in the legal custody of the Department and resides with the physical custodian. Any exception to this rule must be given in writing to the custodian of the child or young adult and a copy will be maintained in the child or young adult's case record with the Department. The Department will delegate to the child's physical custodian its authority to consent to:

(a) Enrollment and disenrollment of the child or young adult in regular public school; assisting with selecting or changing class schedules; authorizing absence from school; and enrollment in free and reduced meal programs. Consent for standardized testing and assessment. Assessment and implementation of special education, unless the child or young adult has a surrogate parent assigned (see OAR 581-015-2000). School pictures, except those listed under subsection (2)(b) of this rule;

(b) Routine medical care and dental care, including vaccinations and immunization; routine examinations and lab tests;

(c) Short term inter-county travel;

(d) Application for work permits or releases; and

(e) Participation of the child or young adult in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities. When determining whether to allow a child or young adult to participate, the physical custodian must apply the reasonable and prudent parent standard. When applying the reasonable and prudent parent standard, the physical custodian must consider:

(i) The age, maturity, and developmental level of the child or young adult;

(ii) The nature and inherent risks of harm; and

(iii) The best interest of the child or young adult based on information known by the caregiver.

(2) The caseworker may exercise the Department's consent authority to any action to which the physical custodian may consent. In addition, the caseworker may exercise the Department's authority to give consent for the following:

(a) Psychiatric or psychological evaluation, outpatient psychiatric or psychological treatment, and behavioral rehabilitation services for the child; and

(b) Photographs taken for publicity purposes or media promotions that may draw attention to the individual.

(3) District Manager or Designee. The District Manager or designee may exercise the Department's consent authority to any action to which the physical custodian or caseworker may consent. In addition, the District Manager or designee may exercise the Department's authority to consent to all of the following actions with respect to children serviced by the district:

(a) Emergency medical care and/or surgery, to include anesthesia.

(b) Major medical and surgical procedures that are not extraordinary or controversial, to include anesthesia.

(c) Admission to SAIP (Secure Adolescent Inpatient Program), SCIP (Secure Children's Inpatient Program), or a private hospital for purpose of psychiatric treatment.

(d) Enrollment in specialized schools, including private, charter, alternative, international study program, GED, or home schools.

(e) Application for driver's training, permits and license.

(f) Interstate travel and international travel.

(g) Examination by law enforcement agency (e.g., polygraphs, interrogations without a warrant, etc.).

(h) Use of firearms for purpose of recreational hunting, target practice, and/or Hunter Safety Course.

Stat. Auth.: ORS 161.390, 418.005

Stats. Implemented: ORS 109.640, 161.327, 161.336, 161.341, 161, 346, 161.365, 161.370, 418.005, 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 2-2006, f. & cert. ef. 2-1-06; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0150

Exercise and Delegation of Guardian Authority

(1) When the Department has legal custody of a child or young adult through a court order in which the Department has specifically been given guardianship, or a Release and Surrender Agreement, the Department will exercise its authority through Department staff as described in this rule.

(2) District Manager or Designee: may exercise the Department's authority to consent to the following actions with respect to children served by that district:

(a) Enlistment of a child in the Armed Forces or the Job Corps; and

(b) Marriage.

(3) Department Child Permanency Program Manager: may exercise the Department's authority under ORS 109.325 to consent to the adoption of a child who is in the permanent custody of the Department.

(4) Department Chief Operating Officer or Department Director for Child Welfare, or in their absence and in the event of an emergency the Deputy Director for Child Welfare or Field Services may consent to any of the following actions for a child:

(a) Termination of a pregnancy, except when a young woman 15 years of age or older exercises her statutory right to consent to her own termination of a pregnancy.

(b) Extraordinary or controversial medical or surgical procedures, such as Do Not Resuscitate Order (DNR), organ transplants, kidney dialysis, open heart surgery, transgender medical services, or any procedure involving substantial life threat.

(c) Any medical or surgical procedure to which a legal parent or guardian of the child or the child is opposed.

(d) Sterilization under ORS chapter 436, but only when such procedure is necessary to protect the child's life.

(5) Department Director, Director for Child Welfare, Deputy Director for Child Welfare, and Deputy Director for Field Services may exercise the Department's authority to consent to any action to

which the physical custodian, caseworker, and District Manager may consent.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640 & 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0160

Actions Not Authorized

(1) A Department employee may not consent to educational planning which is defined as the responsibility of a parent or surrogate parent (see OAR 581-015-2000).

(2) A Department employee or agent may not exercise the Department's authority to give consent to the purchase of, or ownership of, a motor vehicle by a child in legal custody of the Department. This prohibition does not prevent a child in the legal custody of the Department from exercising the right to purchase or own a motor vehicle on his or her own account.

(3) A Department employee may not co-sign or counter-sign any purchase contract for a child or young adult in the Department's custody.

(4) A Department employee may not accept responsibility or serve as conservator of a child or young adult's property or estate.

(5) A Department employee or agent may not consent to the sterilization of a child or young adult, except pursuant to ORS chapter 436, and to save the child or young adult's life.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640 & 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0170

General Provisions

(1) The Department acknowledges the right of a minor 15 years of age or older to consent to hospital care, medical and surgical diagnosis, or treatment without the consent of the parent or guardian see ORS 109.640).

(2) The Department acknowledges the right of a minor 14 years of age or older to obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder or chemical dependency, excluding methadone maintenance, by a physician (see ORS 109.675).

(3) Whenever Department staff exercise the agency's authority to authorize actions described as the responsibility of a guardian under these rules, Department staff must:

(a) Consider the impact of the proposed action upon the welfare of the child, the child's family and the community prior to deciding whether to consent to or authorize the proposed action;

(b) Consult with the physical custodian of the child;

(c) When the child is not in the permanent custody of the Department, make reasonable efforts to consult the child's parents or guardians about the action proposed and consider the parents or guardians' preference concerning the action proposed prior to making a decision to consent to or authorize the proposed action unless there is cause to believe such consultation will be detrimental to the child; and

(d) Prepare a brief written record of the circumstances of the action consented to whenever the Department provides a written consent for actions defined as the responsibility of a guardian. The written record and a copy of any consent made in writing will be filed in the child's case record.

(4) In any case where Department staff consider it necessary or appropriate, they may notify the juvenile court, or seek the court's concurrence, prior to consenting to or authorizing any of the actions described in these rules with respect to children in the Department's custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.675

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

CANS Screening and Enhanced Supervision

413-020-0200

Purpose

The purpose of these rules (OAR 413-020-0200 to 413-020-0255), is to describe the responsibilities of the Department to:

(1) Identify the supervision needs of a child or young adult in substitute care with a certified family;

(2) Develop a supervision plan describing the actions and activities provided by a certified family, the Department, and other individuals to meet the child or young adult's need for enhanced supervision;

(3) Describe the responsibilities of the certified family and the Department when physical restraint is used;

(4) Monitor the completion of behavior and crisis management training when physical restraint is included in a child or young adult's supervision plan; and

(5) Conduct a CANS screening during the negotiation of guardianship assistance pursuant to OAR 413-070-0900 through 413-070-0974 or negotiation of adoption assistance pursuant to OAR 413-130-0000 through 413-130-0130.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96; CWP 3-2003, f. & cert. ef. 1-7-03; CWP 6-2007, f. & cert. ef. 5-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 9-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 29-2011, f. 12-27-11, cert. ef. 12-28-11

413-020-0230

Referral for and Review of the CANS Screening

(1) The caseworker of the child or young adult must complete a CANS screening referral:

(a) Within the first 20 days of a child's initial placement in substitute care with a certified family;

(b) Unless subsection (d) of this section applies, ten months from the date of the most recent CANS screening and annually thereafter when the child or young adult has continuously lived with a certified family and the certified family has received a level of care payment; and

(c) Unless subsection (d) of this section applies, five business days after a child or young adult, whose initial placement in substitute care was a BRS placement, moves to the home of a certified family.

(d) When a child's permanency plan is adoption or guardianship and the caseworker has submitted an adoption assistance application or a guardianship assistance application, the caseworker must consult with the Adoption Assistance and Guardianship Assistance Unit prior to submitting a referral.

(2) After consultation with and approval of a supervisor, the caseworker of a child or young adult may complete and submit to the Level of Care Manager a CANS screening referral under any of the following circumstances unless subsection (1)(d) of this rule applies:

(a) When a child or young adult currently living with a certified family has never had a CANS screening and is currently exhibiting ongoing behavior or functioning that may indicate the need for enhanced supervision and a level of care payment;

(b) When a child or young adult returns to a placement with a certified family after a BRS placement of six months or longer;

(c) When a child or young adult is living with a certified family and the certified family has observed ongoing, documented changes in behavior or functioning which:

(A) Have not improved after a revision of the supervision actions and activities provided by the certified family and other individuals; or

(B) Endanger the safety of the child or young adult or the safety of others.

(3) An adoption assistance coordinator or guardianship assistance coordinator may complete and submit a CANS screening referral to the Level of Care Manager under the following circumstances:

(a) Written documentation of the current behavior and functioning of the child or young adult has been submitted to the adoption assistance and guardianship assistance coordinator by one of the following individuals:

(A) An adoptive family of the child or young adult, regardless of whether there has been a previous CANS screening;

(B) A child's pre-adoptive family when the child is not in the legal custody of the Department;

(C) A guardian of the child or young adult, regardless of whether there has been a previous CANS screening; or

(D) A potential guardian of the child or young adult who has been approved by a participating tribe.

(b) The written documentation submitted under subsection (a) of this section demonstrates ongoing behavior or functioning indicating the need for enhanced supervision and a level of care payment, and one of the following apply:

(A) A CANS screening has never been completed;

(B) A CANS screening has not been completed within the past twelve months; or

(C) The child or young adult exhibits a significant, ongoing change in behavior since the CANS screening that was completed within the 12 month period following the previous CANS screening.

(4) The Level of Care Manager, within five business days of receipt of a CANS screening referral submitted under section (2) or (3) of this rule:

(a) May approve a CANS screening after reviewing the referral, if the child or young adult's behavior and functioning, as described in the referral, indicates a CANS screening is needed to assess the need for enhanced supervision and a level of care payment;

(b) Must notify the individual who submitted the CANS screening referral whether a CANS screening has been approved and the basis for the decision; and

(c) Must send an approved CANS screening referral to a CANS screener.

(5) A CANS screener, upon receipt of the CANS screening referral submitted under section (1) or section (4) of this rule must:

(a) Review the referral information;

(b) Contact the caseworker, when the child is in substitute care, to gather information about the child or young adult's strengths and needs;

(c) Contact the certified family, pre-adoptive family, adoptive family, potential guardian identified by a participating tribe, or guardian of the child or young adult and gather information about the child or young adult's strengths and needs;

(d) Contact the child or young adult and other individuals who provide services to the child or young adult as appropriate and gather sufficient information to understand the child or young adult's strengths and needs to complete the CANS screening; and

(e) When a child or young adult has current suicidal ideation or intent:

(A) Notify the child or young adult's caseworker or adoption or guardianship assistance coordinator and, if applicable, notify the pre-adoptive family, adoptive family, potential guardian, or guardian; and

(B) Immediately develop a supervision plan with the certified family when the child or young adult is in substitute care with a certified family.

(6) After the CANS screener has gathered information regarding the child or young adult's strengths and needs, as described in subsections (5)(a)–(d), the CANS screener rates each element of a child or young adult's behavior and functioning on a scale of zero to three, in a manner consistent with the principles of the Child and Adolescent Needs and Strengths Comprehensive Screening Tool appropriate for the child or young adult's age. The CANS screener documents the appropriate rating for each element and provides written explanation for any rating of either 2 or 3 on an element that is a need and any rating of 0 or 1 on an element that is a strength.

(a) When the child is five years old or younger, the CANS screener rates the child using the DHS 9601 — Child and Adolescent Needs and Strengths Comprehensive Screening Tool Ages Birth through Five, dated August 2009, and revised in June 2011, which by reference is incorporated in OAR 413-090-0010(2)(f)(A).

(b) When the child or young adult is six years old or older, the CANS screener rates the child or young adult using the DHS 9602 — Child and Adolescent Needs and Strengths Comprehensive Screening Tool ages Six through Twenty dated July, 2009, and revised in June 2011, which by reference is incorporated in OAR 413-090-0010(2)(f)(B).

(c) The Department maintains these documents on the Department's website. Printed copies of these documents may be obtained by contacting the Department of Human Services, Children, Adults and Families, ATTN: Level of Care Manager, 500 Summer Street NE, E-93, Salem, OR 97301.

(7) The CANS screener must complete the activities in sections (5) and (6) and submit the CANS screening results to the Level of Care Manager within fifteen business days following the receipt of the referral.

(8) Within ten business days of the receipt of the CANS screening results, the Level of Care Manager or designee:

(a) Reviews the CANS screening results;

(b) Contacts the CANS screener when results appear inconsistent with the referral information or documentation of a child or young adult's strengths and needs and may instruct the CANS screener to:

(A) Gather additional information;

(B) Reapply the CANS ratings; and

(C) Resubmit the CANS screening results.

(c) Approves the CANS screening results unless subsection (b) applies; and

(d) Applies the CANS algorithm which by reference is incorporated in OAR 413-090-0010(2)(f)(C) to the approved CANS screening results to determine whether:

(A) The child or young adult living with a certified family is eligible for a level of care payment and requires enhanced supervision; or

(B) The child or young adult eligible for adoption assistance or guardianship assistance is eligible for a level of care payment.

(9) The Level of Care Manager may approve a revision of the ratings of an approved CANS screening when new or different information relevant to the correct application of the CANS screening has been presented:

(a) In preparation for a contested case hearing requested under OAR 413-010-0500(2)(a)–(c):

(b) During an informal conference under OAR 413-010-0520; or

(c) During the renegotiation of an adoption assistance agreement under OAR 413-130-0075 or a guardianship assistance agreement under OAR 413-070-0969.

(10) The Level of Care Manager or designee sends the CANS screening results to the following individuals:

(a) The child or young adult's caseworker and the certified family, with whom the child or young adult is living, on behalf of the child or young adult; or

(b) The adoption assistance and guardianship assistance coordinator and child or young adult's pre-adoptive family, adoptive family, guardian or the potential guardian identified by a participating tribe.

(11) When the caseworker receives a child or young adult's CANS screening results, the caseworker must:

(a) Contact the certified family to review the CANS screening results;

(b) When the CANS screening results indicated the child or young adult currently has suicidal ideation or intent, review the supervision plan developed during the CANS screening no later than one business day after the receipt of the CANS screening results to determine whether the plan continues to be appropriate;

(c) Incorporate the needs and strengths identified in the CANS screening into the case plan; and

(d) Determine whether a supervision plan must be developed, modified, or terminated under OAR 413-020-0233 and 413-020-0236.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96; CWP 3-2002, f. & cert. ef. 1-7-03; CWP 6-2007, f. & cert. ef. 5-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 9-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 29-2011, f. 12-27-11, cert. ef. 12-28-11

413-020-0233

When a Supervision Plan is Required

(1) The caseworker must develop a supervision plan with the certified family with whom the child or young adult lives within 30 days of:

(a) The receipt of the CANS screening results that indicates enhanced supervision is necessary to maintain the safety and support the well-being of the child or young adult and the child or young adult qualifies for a level of care payment; or

(b) When a child or young adult who has enhanced supervision needs and is receiving a level of care moves from one certified family to another certified family.

(2) A supervision plan is not required for a level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2007, f. & cert. ef. 5-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 9-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 29-2011, f. 12-27-11, cert. ef. 12-28-11

413-020-0236

Development, Documentation, and Termination of a Supervision Plan

(1) After the caseworker has reviewed the CANS screening results for a child or young adult living with a certified family that indicates the child or young adult has enhanced supervision needs and qualifies for a level of care payment, the caseworker must:

(a) Contact the certified family to explain the supervision needs identified in the CANS screening results; and

(b) During a meeting with the certified family, the child or young adult, as appropriate, and others who may participate in a supervision plan, explain the supervision requirements necessary to maintain the safety and support the well-being of the child or young adult and develop a supervision plan that meets the supervision needs of the child or young adult.

(A) If the child or young adult qualifies for Level 1 (moderate needs), the supervision plan must require the certified family to provide an environment with the additional support, direction, observation, and guidance from the certified family necessary to ensure a child or young adult's safety and well-being, beyond the level of supervision that typically is required for a child or young adult of the same age.

(B) If the child or young adult qualifies for Level 2 (intermediate needs), the supervision plan must require the certified family to provide a structured environment, additional support, direction, observation, and guidance necessary to ensure a child or young adult's safety and well-being, beyond the level of supervision that typically is required for a child or young adult of the same age.

(C) If the child or young adult qualifies for Level 3 (advanced needs), the supervision plan must require the certified family to provide a highly structured environment, additional support, direction, observation, and guidance necessary to ensure a child or young adult's safety and well-being, beyond the level of supervision that typically is required for a child or young adult of the same age.

(2) The supervision plan must include:

(a) The supervision actions or activities that are to be provided by the certified family and other individuals to meet the child or young adult's identified needs. Examples of appropriate supervision

actions or activities may include, but are not limited to: proactive use of space, use of routine, structure of the environment, positive reinforcement, and de-escalation techniques;

(b) The actions and assistance the Department will provide to support the certified family in addressing the supervision needs of the child or young adult and to maintain the child or young adult in the home;

(c) The actions the child or young adult will take to support the supervision plan;

(d) The persons responsible for monitoring the child or young adult's supervision needs and the supervision actions and activities;

(e) How the persons responsible for monitoring the child or young adult's supervision needs and the supervision actions and activities are to communicate with each other; and

(f) A requirement that the supervision plan be reviewed during the first monthly face-to-face contact described in OAR 413-080-0054 after the date the supervision plan is signed by the individuals identified in section (3) of this rule.

(3) The supervision plan must be signed by:

(a) The caseworker;

(b) The certified family;

(c) The child or young adult, if able; and

(d) Any other individuals who are to provide specific actions or activities in the supervision plan.

(4) The supervision plan must be approved by the caseworker's supervisor.

(5) A supervision plan may include physical restraint as a supervision action or activity only if the certified family has completed the physical restraint training requirements described in OAR 413-020-0240.

(6) A supervision plan that authorizes a certified family to use physical restraint must:

(a) Focus on intervention strategies that are designed to modify a child or young adult's behavior without the need for physical restraint;

(b) Explain that a physical restraint is to be used only when the child or young adult's behavior poses an imminent danger to self or others, and when no alternate actions are sufficient to stop a child or young adult's behavior;

(c) Be approved by the Child Welfare program manager; and

(d) Require the certified family:

(A) To document and report the circumstances of each use of physical restraint in writing as soon as reasonably possible after the use of physical restraint on a form approved by the Department, which explains:

(i) The behavior that required the use of physical restraint;

(ii) The specific attempts to stop the child or young adult's behavior without the use of physical restraint;

(iii) The time the physical restraint started; and

(iv) The time the physical restraint ended.

(B) To orally report to the child or young adult's caseworker or the caseworker's supervisor within one business day of the physical restraint; and

(C) To submit the documentation required in paragraph (A) of this subsection to the child or young adult's caseworker within two business days after the use of physical restraint.

(7) The caseworker must provide a copy of the signed supervision plan to the certified family and the certified family's certifier, and file a copy in the Department's information system.

(8) When a child or young adult has a supervision plan and the CANS screening results indicate that the child or young adult no longer has enhanced supervision needs and no longer qualifies for a level of care payment, the caseworker must:

(a) Terminate the supervision plan;

(b) Document in the Department's information system the date the supervision plan terminated and the reason the plan terminated; and

(c) Notify the certified family and the certified family's certifier that the supervision plan terminated and the reason the plan terminated.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2007, f. & cert. ef. 5-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 9-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 29-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2013, f. & cert. ef. 1-15-13

413-020-0240

Use of Physical Restraint

(1) A physical restraint may be used by a certified family when the behavior of a child or young adult places the child or young adult or others in imminent risk of harm and only when:

(a) Good judgment indicates that a physical restraint may safely be implemented; and

(b) The certified family has received the individual Behavior and Crisis Management Training in physical restraint specific to the supervision needs of the child or young adult by Department trained staff.

(2) Physical restraint must be implemented with the least force necessary to prevent the risk of harm to self or others and should end as soon as the risk of harm no longer exists.

(3) If the behavior of a child or young adult places the child or young adult or others in imminent risk of harm, and good judgment indicates that a physical restraint cannot be implemented safely, the certified family must call the local law enforcement agency to request intervention. The certified family must:

(a) Orally report the incident to the caseworker and the caseworker's supervisor as soon as reasonably possible;

(b) Document the incident in writing on a form approved by the Department; and

(c) Submit the completed form to the caseworker within two business days.

(4) If the child or young adult is injured during the incident, whether or not a physical restraint is used, the certified family immediately must notify the Department's emergency 24-hour contact.

(5) A certified family may not use mechanical restraint or seclusion of a child or young adult in an emergency or at any other time as a supervision action or activity.

(6) Notwithstanding the training required in OAR 413-020-0255, when a situation arises and the behavior of a child or young adult places the child or young adult or another individual in imminent risk of harm and if good judgment indicates that a physical restraint may safely be implemented, the certified family may use a physical restraint even when:

(a) The certified family has not attended Behavior and Crisis Management Training; or

(b) The child or young adult does not have a supervision plan.

(c) If physical restraint is used under this section, the certified family must document and report the incident in accordance with the requirements of OAR 413-020-0236(6)(c).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96; SOSCF 8-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 3-2002, f. & cert. ef. 1-7-03; CWP 6-2007, f. & cert. ef. 5-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 9-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 29-2011, f. 12-27-11, cert. ef. 12-28-11

413-020-0245

Responsibilities in Monitoring a Child or Young Adult's Supervision in a Certified Family

(1) During each monthly face-to-face contact described in OAR 413-080-0054, in addition to assessing the safety of the child or young adult, Department staff must determine:

(a) Whether the certified family is meeting the supervision needs of the child or young adult.

(b) Whether the supervision needs of the child or young adult have changed.

(c) If there is a current supervision plan, whether the supervision actions and activities described in the supervision plan are effective in meeting the child or young adult's supervision needs.

(2) If, after assessing the safety of the child or young adult as described in OAR 413-080-0054, the caseworker determines that the child or young adult currently is safe in the home but his or her supervision needs are not being met, the caseworker must:

(a) Consult with the certified family's certifier or the certifier's supervisor to determine if available resources or training are able to provide the additional support the certified family may need to meet the child or young adult's supervision needs;

(b) If there is a current supervision plan for the child or young adult, determine whether the supervision plan should be revised, and if so, meet with the certified family to revise the plan; and

(c) Determine whether there has been an observed, ongoing change in a child or young adult's behavior or functioning such that the observed changes must be documented and submitted with a CANS screening under referral OAR 413-020-0230(2).

(3) The caseworker documents the monitoring activities described in this rule in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2007, f. & cert. ef. 5-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 9-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 29-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2013, f. & cert. ef. 1-15-13

413-020-0255

Training and the Planned Use of Physical Restraint

(1) The Department has approved and schedules Behavior and Crisis Management Training as the standard training curriculum for any certified family who requires training on crisis management. The training curriculum focuses on strengthening a certified family's supervision skills.

(2) Before implementing a supervision plan that authorizes a certified family to use physical restraint, the caseworker must:

(a) Consult with the certifier to confirm that the certified family has completed Behavior and Crisis Management Training; and

(b) Contact the Level of Care Manager to schedule the certified family to receive Behavior and Crisis Management Training, by Department-trained staff, in physical restraint specific to the supervision needs of the child or young adult.

(3) A foster care coordinator or designee may approve comparable behavior and crisis management training obtained by a certified family for a specific child or young adult in place of Behavior and Crisis Management Training if:

(a) The training was selected by a school district and used in the school; or

(b) The training was approved by the Department of Human Services, Addictions and Mental Health Division and used in a Children's Intensive Mental Health Treatment Services program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2007, f. & cert. ef. 5-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 9-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 29-2011, f. 12-27-11, cert. ef. 12-28-11

Investigation of Suspected Medical Neglect

413-020-0600

Purpose

(1) The purpose of these rules is to comply with Public Law 98-457, which requires that procedures be established within Oregon's Child Protective Services (hereafter referred to as CPS) program to respond to reports of suspected medical neglect, including reports of withholding medically indicated treatment for disabled infants with life-threatening conditions. The regulations indicate that the focus of the Department CPS work will be, "as it is in responding to other reports of child abuse and neglect, to protect the child and assist the family." Hospitals are encouraged to form review committees to assist with medical and ethical dilemmas arising in the care of disabled infants with life-threatening conditions. Due to the sensitive nature of these cases and the specialized skills required to complete the investigations, the Depart-

ment will designate a Child Welfare staff person in each of the three cities having tertiary care centers (Portland, Eugene, and Medford) to be a specialist in Medical Neglect investigations. These Medical Neglect Investigators, along with the CPS program manager, will be available to provide telephone consultation and investigations of reports alleging medical neglect of handicapped infants with life-threatening conditions. The Medical Neglect Investigators will form a special investigation “team” with a Designated Consultant Neonatologist and a local CPS caseworker.

(2) The federal regulations emphasize that parents are the decision makers concerning treatment for their disabled infant based on advice and reasonable medical judgment of their physician(s) with advice from the Hospital Review Committee, if one exists. It is not the Department nor the HRC, nor any other committee, who makes decisions regarding the care and treatment for a child except in highly unusual circumstances where the course treatment is inconsistent with applicable standards established by law.

(3) The legislation requires that appropriate nutrition, hydration, and medication shall always be provided to the infant, and that the effectiveness of treatment shall not be based on subjective opinions about the future “quality of life” of an infant. In response to a report of medical neglect of a disabled infant with a life-threatening condition, Department’s investigative role is to determine if the decision made to withhold treatment was based on reasonable medical judgment consistent with the definition of “withholding of medically indicated treatment.” (see Definition section)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-020-0620

Policy

Intake. Any person may make a report that a handicapped infant in a medical facility is not receiving adequate and necessary medical care. Reports which indicate withholding of medical treatment from disabled newborns with life-threatening conditions will be considered an emergency and assigned for investigation within one hour. Each Child Welfare branch will develop local procedures to assure that such reports received after normal work hours will be promptly investigated. Anonymous reports will be accepted at Intake.

(1) Obtain from the reporting person as much of the following information as possible:

- (a) Name and address of the hospital;
- (b) Name and address of infant and infant’s parents;
- (c) The infant’s name and birth date;
- (d) The name of the infant’s attending physician;
- (e) The condition of the infant and in particular information regarding whether the infant may die or suffer harm within the immediate future if medically indicated treatment is withheld;

(f) The basis of the reporter’s suspicion or belief that medically indicated treatment or appropriate nutrition, hydration, or medication is being or will be withheld;

(g) Name of the person making the report, source of the information, position to have reliable information (i.e., nurse, friend, family member, etc.), address and telephone number.

(2) Criteria to determine if an investigation is indicated:

(a) Would the reported circumstances, if true, constitute “medical neglect”;

(b) Is there reasonable cause to believe that medically indicated treatment is being withheld? This must be based on the condition of the child, health care professional’s statements, information that the parents have refused to consent to treatment, and consultation with the worker’s supervisor;

(c) A Medical Neglect investigator will be contacted to help determine if assignment for a CPS investigation is indicated. (Consultation with a Designated Consultant Neonatologist from a hospital other than the one where the infant is receiving treatment may be utilized at this point.)

(3) Reporting the Alleged Neglect. When a report of suspected medical neglect is received, the local Law Enforcement Agency will be contacted per ORS 419B.020.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-020-0630

Preliminary Investigation

(1) When a report of suspected medical neglect of a disabled infant with life-threatening conditions is received and assigned for investigation, the CPS caseworker will immediately contact a Medical Neglect Investigator for consultation and assistance in initiating a preliminary investigation. The Medical Neglect Investigator will have the responsibility to determine the role/activities of the CPS caseworker and the Medical Neglect Investigator during preliminary investigation and “on site” investigation of a report. The Medical Neglect Investigator will conduct the investigations whenever possible.

(2) During the preliminary investigation, the CPS caseworker or Medical Neglect Investigator will contact the Designated Consultant Neonatologist from a hospital other than the one where the infant is receiving care, for consultation and assistance. (Names of consultant neonatologists are available from the CPS program manager.)

(a) The Medical Neglect Investigator (or Designated Consultant Neonatologist) shall contact the hospital liaison, advise that person of the nature of the reported suspected medical neglect, and request assistance to obtain the following information:

(A) Whether the infant is in the hospital;

(B) The name and location of the infant’s parents;

(C) The medical condition of the infant, i.e., does the infant have a life-threatening condition;

(D) The nature of the care and treatment being provided to the infant and what, if any, additional or alternative treatment could be provided;

(E) If the infant’s parents are in agreement with the care and treatment being provided or if they have refused to consent to recommended treatment;

(F) If there is a critical time pressure and thus a need for immediate court action;

(G) The analysis of the HRC or other review body;

(H) Whether the attending physician has consulted with other medical professionals concerning the care and treatment of the infant and whether the medical professionals are in agreement with the care and treatment being given.

(b) If treatment is indicated and recommended by the physician and the parents are refusing to consent to treatment, then court action should be immediately initiated or further counseling with the parents pursued. In addition to filing a petition in juvenile court, Child Welfare shall request that a guardian ad litem (GAL) or court appointed special advocate (CASA) be appointed for the child.

(c) Criteria for continuing or closing preliminary investigation:

(A) If the facts confirmed by the treatment team indicate any of the following circumstances, then the investigation shall be terminated and the case closed: (The facts should be documented in the case file.)

(i) The infant is chronically and irreversibly comatose;

(ii) The provision of treatment would merely prolong dying, not be effective in ameliorating or correcting all the infant’s life-threatening conditions, or otherwise be futile in terms of survival of the infant;

(iii) The provision of treatment would be virtually futile in terms of survival of the infant and the treatment itself under such circumstances would be inhumane.

(B) Where there remains doubt about the hospital’s compliance with state laws, parents refuse to authorize medically-indicated treatment, or there is a need for additional information to substantiate a conclusion, the investigation should be continued.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-020-0640

Investigation

When additional information is necessary to substantiate a conclusion to the medical neglect report, the Medical Neglect Investigator shall form a special investigative team with a consultant neonatologist from a hospital other than the one where the infant is receiving care, a local CPS caseworker and any other necessary professionals such as a nutritionist or the local district attorney. The on-site investigation shall be completed in the shortest possible time.

(1) The Medical Neglect Investigator, with the assistance of the special investigation team members and designated hospital liaison, will complete the following:

(a) Interview treating physicians and others involved in the treatment;

(b) Arrange as early as possible meeting with HRC or other hospital review boards or committees. Determine at minimum the following: Did the HRC verify the diagnosis? How were the parents involved in the process? What treatment alternatives exist?

(c) Review medical records. The parents shall be requested to sign a release of information to allow CPS investigation and/or medical consultant to review records. If determined necessary, court intervention may be used to give access to medical records;

(d) Interview parents (after first determining with hospital social worker appropriateness and context for interviewing parents) to determine the parent's understanding of the child's condition and treatment alternatives, the decisions they have made, and the basis for those decisions.

(2) When necessary, the Medical Neglect Investigator may take the following actions:

(a) Make an on-site visit to the medical facility to observe the care and treatment being provided to the infant;

(b) If an alternative diagnosis was not entertained, and no consultants brought in, or there was not a procedure for reviewing the diagnosis and treatment recommendation, then the investigator may wish to arrange for an independent medical consultant and/or exam. The Medical Neglect Investigator shall recommend to the parent(s) that an independent medical examination or evaluation be performed. If the parent(s) do not consent, the specialist will seek a court order to obtain an independent medical examination or evaluation.

(3) Concluding the Investigation:

(a) Following the investigation, the Medical Neglect Investigator will determine:

(A) Whether the report of suspected medical neglect of the handicapped infant with life-threatening conditions is valid. Information from the HRC or consulting physicians, including the Designated Consultant Neonatologist, shall be used to determine whether the treating physician exercised reasonable medical judgment. The reasonable medical judgment of the treating physician may differ from that of other physicians. Grounds for overriding the refusal of the parents of the infant to consent to medical care and treatment exist only if any reasonable medical judgment would be that treatment is medically indicated. The parents' refusal to consent shall be respected if the attending physician, the Review Committee, or a consulting physician finds that treatment is not medically indicated;

(B) Whether further action should be taken by the Department, and if there is a basis for juvenile court jurisdiction.

(b) If the parents of the infant refuse to consent to the medical care and treatment found to be necessary and adequate by the attending physician and the HRC, or by another consulting medical professional, or the attending physician refuses to provide treatment, Child Welfare shall initiate the filing of a petition in juvenile court on behalf of the infant requesting the court to take jurisdiction of the infant so that medically indicated treatment may be provided. Child Welfare will also request that a Guardian Ad Litem (GAL) or Court Appointed Special Advocate (CASA) be appointed for the

child. The caseworker will document these actions in the case record;

(c) If the infant's parents do not desire medical treatment beyond that being provided and if the reasonable medical judgment of the attending physician, HRC, or other consulting medical professional is that medically indicated treatment is being provided, the Medical Neglect Investigator will document this agreement in the case record. The CPS caseworker will close the case and take no further action;

(d) If the infant's parents desire medical care or treatment for the infant which is not being provided by the attending physician or the medical facility, the Medical Neglect Investigator will advise the parents of their option to seek another medical opinion or additional medical resources. The Medical Neglect Investigator shall document the advice given the parents in the case record, the caseworker will close the case and take no further action;

(e) The Child Welfare caseworker shall assist the parent(s) with referrals to support groups, community educational resources, and agencies which provide services for disabled infants and their families, and to agencies with financial resources for medical and rehabilitative services;

(f) Following completion of the investigation, the Medical Neglect Investigator shall notify the assistant administrator for the Program Operations by telephone of the report, the investigation and the actions taken. The telephone report is to be followed by a written report and documented in the case record.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-020-0650

Annual Information Update

Each local Child Welfare branch manager shall contact each hospital in their county and obtain the name, title, and telephone number of the designated hospital liaison who is responsible for coordination, consultation, and notification of the Child Welfare of cases of suspected medical neglect. The branch managers shall update this information annually.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

DIVISION 30

CASE MANAGEMENT — PROGRAM ELIGIBILITY

Preventive/Restorative Eligibility

413-030-0000

Definitions

The following definitions apply to OAR chapter 413, division 30:

(1) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child or young adult's life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interest of a child or young adult.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(2) "Case plan" means a written, goal-oriented, time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(3) "Chafee housing" means a payment to assist in covering the costs of room and board made to an eligible individual between 18 and 20 years of age who was discharged from the care and cus-

tody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(4) “Child” means a person under 18 years of age.

(5) “Department” means the Department of Human Services, Child Welfare.

(6) “Expert evaluation” means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual’s functioning in the area of the professional’s specialized knowledge and when the expert is evaluating a parent or guardian, whether the individual’s functioning impacts his or her protective capacity.

(7) “Family support services case plan” means a goal-oriented, time-limited, individualized plan for a child and the child’s family or a former foster child. The Department and the family or former foster child jointly develop a “family support services case plan” that addresses the service goals and the identified needs of the child and the child’s family or the former foster child.

(8) “Former foster child” 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.

(9) “GED” means a General Educational Development certificate issued pursuant to ORS 351.768.

(10) “Guardian” means an individual who has been granted guardianship of a child through a judgment of the court.

(11) “ILP” means the Independent Living Program services provided by the Department to an eligible foster child or former foster child.

(12) “Independent living housing subsidy” means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(13) “Legal custody” means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child’s legal custodian.

(14) “Parent” means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity 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), a legal father includes a man who is a father under applicable tribal law. “Parent” also includes a putative father 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.

(15) “Permanency plan” means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent resources with the parents, relatives, or other people who may assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(16) “Registered domestic partner” means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(17) “Service Agreement” means a written document between the Department and a parent, guardian, or former foster child that identifies one or more of the service goals in a family support services case plan, and the services and activities that are necessary for the parent, guardian, or former foster child to achieve the goal.

(18) “Service goal” means the observable, sustained change in behavior, condition, or circumstance that, when accomplished, achieves the desired effect.

(19) “Short term services” mean actions or activities that are limited in duration to a maximum of 180 days.

(20) “Sibling” means one of two or more children or young adults 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.

(21) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(22) “Substitute caregiver” means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(23) “Young adult” means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15

413-030-0003

Purpose

The purpose of OAR 413-030-0003 to 413-030-0030 is to describe the responsibilities of the Department in providing family support services, including:

(1) Eligibility criteria;

(2) Determination of service needs;

(3) Development of the family support services case plan;

(4) Development of Service Agreements;

(5) Caseworker contact and monitoring requirements; and

(6) Timelines for reviewing progress.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0006

Eligibility For Family Support Services

(1) A parent, guardian, or former foster child may be eligible for family support services if the requirements of one of the following subsections are met:

(a) A parent or guardian requests out-of-home placement of a child due solely to the emotional, behavioral, or mental disorder or developmental or physical disability of the child, as described in OAR 413-020-0060 to 413-020-0090.

(b) A parent or guardian requests that the Department take temporary custody of a child due to conditions described in OAR 413-020-0005 to 413-020-0050.

(c) A former foster child eligible to receive Independent Living Program (ILP) services requests those services.

(d) A parent or guardian requests post adoption or post legal guardianship services in connection with an adoption or legal guardianship that occurred through the Department.

(e) A parent or guardian requests assistance with a child in the home, and all of the following paragraphs apply:

(A) Other community resources have been utilized and determined to be ineffective.

(B) Members of the extended family and other responsible adults who are well known to the child have been explored or utilized and determined to be unsafe, unavailable, unwilling, or ineffective as support for the family.

(C) The parent or guardian is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical or mental health condition.

(D) The inability of the parent or guardian to fulfill parental responsibilities is temporary and immediate; and will be alleviated with short term services or short term services will transition the family to community services.

(E) A Child Welfare program manager approves the request for voluntary services.

(2) Service eligibility requires the full and ongoing cooperation of the parent, guardian, or former foster child in:

- (a) The determination of need;
 - (b) The preparation of the family support services case plan; and
 - (c) The monitoring of the family support services case plan.
- (3) If the Department determines that funds for family support services are unavailable, the Department will not provide services for those who are eligible for services under subsection (1)(e) of this rule.
- (4) The Department must provide family support services when a court has ordered the Department to provide services to a pre-adjudicated delinquent.
- Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-030-0020, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0009

Determination of the Service Needs

(1) Within 30 days of receiving the family support services screening information, the caseworker must determine the service needs by completing the following actions:

(a) Provide the parent, guardian, or former foster child with a Service Application.

(b) Initiate the process to determine the child's ICWA status and notify the Indian child's tribe if ICWA applies. To initiate this process, the caseworker must:

(A) Complete a form CF 1270, Verification of ICWA Eligibility, to assist in determining ICWA eligibility.

(B) Contact the child's tribe when an Indian child's family is requesting placement of the child per the requirements of OAR 413-070-0160(1).

(C) Consult with the local Child Welfare ICWA liaison or a supervisor if the caseworker has questions regarding the involvement of a tribe or the ICWA status of the child.

(c) Within five working days of receipt of the case, confirm there is no current reported safety threat to the child by reviewing the screening information and the child welfare case records for all family members living in the household.

(d) Within ten working days of receipt of the case, make initial face-to-face contact with the parent, guardian, or former foster child to assess current behaviors, conditions, and circumstances in the family and gather specific information on the needs of the parent, guardian, or former foster child.

(e) Within ten working days of receipt of the case, when the child is in the home of the parent or guardian, make initial face-to-face contact with the child to assess the identified needs of the child.

(f) When the child is in substitute care, make monthly face-to-face contact as required under OAR 413-080-0054.

(g) To determine service needs, the caseworker must, at a minimum, observe:

(A) The parent, guardian, or former foster child in the home environment;

(B) The child or former foster child in his or her home or substitute care placement; and

(C) The interactions between family members.

(h) Obtain from the parent, guardian, or former foster child the names of persons who can provide additional information on the needs of the child, former foster child, or the family, when appropriate.

(i) Ask the parent, guardian, or former foster child to sign an authorization to release information to enable the Department to obtain additional information from physicians, mental health providers, school employees, or other service and treatment providers, when appropriate.

(j) After obtaining the authorization to release information, contact service and treatment providers, when appropriate, to understand the past and current services and treatment of the family and the child or former foster child.

(k) Obtain expert evaluations when appropriate to determine specific service or treatment needs when a condition or behavior

requires additional professional information regarding a person's functioning.

(l) Analyze the behaviors, conditions, and circumstances of the family to determine service or treatment needs based upon information gathered from the activities in subsections (a) to (k) of this section.

(m) Document the findings of the activities in subsections (a) to (k) of this section in the Department's electronic information system.

(2) The caseworker must use the information and determination of service and treatment needs to develop an individualized family support services case plan that addresses the specific identified needs:

(a) The caseworker must also refer to OAR 413-070-0100 to 413-070-0260 if the child is an Indian child.

(b) When a family is eligible for out-of-home placement due to the child's special needs or placement is ordered through the court, the caseworker must also refer to OAR 413-070-0600 to 413-070-0645, 413-020-0060 to 413-020-0090, 413-070-0100 to 413-070-0260 if the child is an Indian child, and OAR 413-080-0040 to 413-080-0067.

(c) When a former foster child requests ILP services, the caseworker must also refer to OAR 413-030-0400 to 413-030-0460 and OAR 413-070-0100 to 413-070-0260 if the child is an Indian child.

(d) When a family requests that the Department take voluntary custody of the child, the caseworker must also refer to OAR 413-070-0600 to 413-070-0645, 413-020-0005 to 413-020-0050, 413-070-0100 to 413-070-0260 if the child is an Indian child, and 413-080-0040 to 413-080-0067.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0013

Requirements when Obtaining Medical, Psychological, or Psychiatric Evaluations

(1) The caseworker may secure an expert evaluation of the parent, guardian, or child, when appropriate, to determine treatment or service needs or to assist in assessing child safety when there is a specific condition or behavior that requires additional professional information regarding a person's functioning. Examples include, but are not limited to:

(a) The parent, guardian, or child is displaying unusual or bizarre behaviors that are indicative of emotional or behavioral problems;

(b) Physical illness, physical disability, or mental illness;

(c) Suicidal ideation; or

(d) Homicidal ideation.

(2) The caseworker must obtain the consent of the parent or guardian prior to arranging an expert evaluation of the parent or guardian.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13

413-030-0016

Requirements for the Family Support Services Case Plan

(1) The caseworker must analyze the information gathered during the determination of service needs to develop a family support services case plan. The family support services case plan must include all of the following information:

(a) Family composition, which includes identifying information for:

(A) Each parent or guardian, and the children of the parent or guardian; or

(B) The former foster child who is 18 years or older and his or her child, if the former foster child is parenting a child.

(b) Conditions identified in the screening or intake referral information.

(c) Determination of service need.

(d) Service goals and activities.

(e) Services, related to a child in substitute care, which include:

(A) Placement information;

(B) Routine and specialized medical, dental, and mental health services;

(C) Education services, including the child's school and any special educational needs; and

(D) A plan for visitation and contact with the parents or guardians.

(f) Services the Department will provide, including:

(A) Case oversight and routine contact with the parent or guardian and the child or the former foster child.

(B) When the court has ordered the Department to provide services to a pre-adjudicated delinquent, routine contact with juvenile department staff, parents or guardians, and the child.

(C) When the child is in substitute care, arranging visitation for the parents or guardians and the child.

(D) Timely referral, access to, and use of culturally appropriate services and service providers to address the identified needs, to the extent that resources are available.

(E) Timely preparation of reports to the court or other service providers that may be required.

(g) A statement of the conditions for which the Department will close the family support services case.

(h) Review date. The family support services case plan is reviewed with the parent, guardian, or former foster child every 90 days; however, the caseworker and the parent, guardian, or former foster child may agree on a review date at any time within the 90-day period.

(2) The persons involved with the Department in the development of the family support services case plan must include the former foster child or the parent or guardian; and may include the child, other relatives, substitute caregiver, and other professionals, as appropriate.

(3) The family support services case plan must include the signature of the caseworker and each parent, guardian, or former foster child.

(4) Approval and distribution of the family support services case plan.

(a) The Child Welfare supervisor must approve and sign the family support services case plan.

(b) The caseworker must give a copy of the family support services case plan to the parents, guardians, or former foster child as soon as possible but no later than seven days after the family support services case plan is approved by the supervisor.

(5) Timeline for family support services case plan development.

(a) Except as provided in subsection (b) of this section, the caseworker must develop the family support services case plan within 30 days of the completion of the determination of service needs.

(b) The supervisor may authorize an extension of the time for developing the family support services case plan when information essential to the development of the family support services case plan is not yet available due to circumstances beyond the control of the Department.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13

413-030-0019

Developing Service Agreements

(1) The caseworker may develop a Service Agreement with a parent, guardian, or former foster child with a family support services case plan. The Service Agreement is a time-limited agreement that documents the services and action steps that will occur under the agreement.

(2) When used, the Service Agreement must include all of the following:

(a) One of the service goals in the family support services case plan.

(b) Specific activities or services that will occur to achieve the service goal.

(c) Participants and responsibilities.

(d) Anticipated start and completion dates.

(e) Treatment services for the child or former foster child (if applicable).

(f) Method of measuring progress.

(g) Timeline for review.

(3) The caseworker must give a copy of the Service Agreement to the parents, guardians, or former foster child no later than seven days after the agreement is signed.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13

413-030-0023

Contact and Monitoring Requirements for a Family Support Services Case Plan

(1) The caseworker must monitor the family support services case plan and terminate Department involvement in a timely manner.

(2) The caseworker is responsible for all of the following actions:

(a) Monthly face-to-face contact and communication with each parent, guardian, or former foster child about progress toward achieving service goals unless an exception to parent or guardian contact as described in OAR 413-080-0054(3)(b) is approved.

(b) Monthly face-to-face contact with the child required under OAR 413-080-0054.

(c) Regular contact with service providers a minimum of once every 90 days, including monitoring the services provided through the family support services case plan.

(d) Monitoring the visitation and contact plan when the child is in substitute care.

(e) Monitoring progress toward achieving service goals.

(f) Ensuring completion of the actions and activities that are the responsibility of the Department.

(g) Timely response to issues that may impact the safety of the child that become known to the caseworker.

(3) The caseworker must document in the Department's electronic information system:

(a) Observations made by the caseworker during each visit, and behaviors, conditions, or circumstances of the family or former foster child that support the continuation of the family support services case plan; and

(b) Reports from each service provider on progress of the family, child, or former foster child in meeting the service goals of the family support services case plan.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13

413-030-0026

Family Support Services Case Plan Review

(1) The family support services case plan must be reviewed a minimum of every 90 days. This review must take place in a face-to-face meeting with the parents, guardians, or former foster child. The meeting may include the child, service providers, attorneys, family members, and the substitute caregiver when the child is in substitute care.

(2) During the case plan review, the caseworker assesses and determines the progress that has been made in achieving the service goals of the case plan.

(3) If a parent, guardian, or former foster child is not available for the review, the reason must be documented in the Department's electronic information system.

(4) Within 30 calendar days of receiving an expert evaluation requested by the Department, the caseworker must consider revising the family support services case plan to include the recommendations of the expert evaluation. If the caseworker does not implement the recommendations of the expert evaluation, the caseworker must document the reasons for not implementing the recommendations.

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(5) Subsequent to the face-to-face meeting, the caseworker documents all of the following in the Department's electronic information system:

(a) The services currently provided and the progress of the parents, guardians, or former foster child in achieving service goals.

(b) Observations of improved behaviors, conditions, or circumstances that have measurably changed.

(c) Written or verbal reports from the child, service providers, attorneys, family members, and the substitute caregiver when the child is in substitute care regarding services currently provided and the progress of the parent, guardian, or former foster child in achieving service goals.

(6) The Child Welfare supervisor approves and documents approval of the family support services case plan review.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13

413-030-0030

Closing a Family Support Services Case Plan

The caseworker closes a family support services case plan when:

(1) The parent, guardian, former foster child, or the Department indicates the service objectives have been achieved;

(2) The parent, guardian, or former foster child states that he or she is withdrawing the request for voluntary family support services;

(3) The caseworker has unsuccessfully attempted to contact the parent, guardian, or former foster child, after diligent efforts, as documented in the Department's electronic information system;

(4) The Department, the parent, guardian, or former foster child determines that the family support services case plan is no longer appropriate or effective;

(5) The child, who had been voluntarily placed in substitute care because a parent or guardian had requested voluntary placement of the child, has returned to the home;

(6) The court dismisses a pre-adjudicated delinquent child from Department custody; or

(7) Another community service resource accepts responsibility for providing services to the child, former foster child, or family.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13

Substitute Care Eligibility

413-030-0200

Purpose

(1) The purpose of OAR 413-030-0200 to 413-030-0220 is to emphasize that the child's safety is the paramount concern in determining substitute care eligibility.

(2) The Department is responsible for determining if a child in the legal custody of the Department will be placed or continued in substitute care placement in accordance with statutes, administrative rules, agency procedures, and placement practice guidelines. OAR 413-030-0200 to 413-030-0220 specify the minimum criteria for the substitute care classification and placement under any type of substitute care program licensed or certified by the Department. Additional criteria are outlined in rules for specific substitute care programs.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.015 – 418.315, 419B.331 419B.349

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; CWP 4-2003, f. & cert. ef. 1-7-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0210

Eligibility Criteria for Substitute Care Placement

For a child to be eligible for initial and continuing substitute care, the Department must meet the following criteria:

(1) Legal Basis. The Department must have a current legal basis for placement:

(a) Temporary custody under ORS 419B.165;

(b) Legal custody of the child through a juvenile court order;

(c) A voluntary custody agreement in accordance with OAR 413-020-0005 to 413-020-0005;

(d) A voluntary placement agreement in accordance with OAR 413-020-0060 413-020-0090;

(e) Permanent custody based on a permanent commitment or release and surrender agreement of a parent; or

(f) Verification that the child is an unaccompanied refugee minor.

(2) The child must be under 18 years of age at the time the child is placed in the legal custody of the Department and placement services are first initiated.

(3) Reasonable Efforts. Except in those cases with a Voluntary Custody Agreement or Voluntary Placement Agreement, the Department will make reasonable efforts to prevent or eliminate the need for removal of the child and to alleviate the barriers that keep the child from returning home. This includes an assessment of

appropriate treatment and supportive services and providing such services when available through the Department or by referral to other community resources. To aid the court or Citizen Review Board (CRB) in making the findings required by this section, the Department shall present documentation to the court or CRB showing its reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child and services provided to safely return the child to the home. The department shall seek a reasonable efforts judicial determination within 60 days of a child's removal from the home, or a determination that due to aggravated circumstances reasonable efforts were not required to prevent the child's removal from the home. If the court does not make the reasonable efforts determination within 60 days, the child is not be eligible for Title IV-E foster care maintenance payments program throughout the duration of that child's stay in substitute care. Refer to OAR 413-100-0240.

(4) The child requires substitute care placement because there is no parent or guardian available and able to provide safe care for the child even with the assistance of available supportive resources, and no relative is willing and appropriate to assume full responsibility for the child.

(5) Placement is needed for one of the following reasons:

(a) The parent or guardian is not available to care for the child due to death, abandonment, desertion, incarceration, institutionalization, or catastrophic illness;

(b) The child is at significant risk of abuse or neglect;

(c) The child is in the permanent custody of the Department for adoption planning;

(d) The child has a severe disabling condition requiring skilled care that the family cannot provide even with the assistance of community resources but the Department can provide the care the child requires in an available substitute care resource; or

(e) The child's behavior is a serious danger to the child, the child's family, or the community but the child can, without threat to self or others, be managed in an available and appropriate substitute care resource.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.015 – 418.315, 419B.331 – 419B.349

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; SOSCF 17-2000, f. & cert. ef. 7-25-00; SOSCF 10-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 4-2003, f. & cert. ef. 1-7-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0220

Eligibility After Age 18

(1) Eligibility for substitute care services ends at age 18 unless the person continues to meet both the eligibility criteria outlined in OAR 413 030 0210 and this rule. Under the following conditions the Department may continue to provide placement services up to the maximum age of 21 years if the person is:

(a) Actively striving to complete the requirements for high school graduation and achieving satisfactorily in a full time program of high school attendance, GED classes, or a combination of classes and employment;

(b) Enrolled in a special education program as called for in an Individual Educational Plan (IEP);

(c) An unaccompanied refugee minor; or

(d) The person's situation has been reviewed and approved in writing for an exception to these rules by the District Manager or designee.

(2) The Department may not provide substitute care services after the youth's 21st birthday.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.015 – 418.315, 419B.331 – 419B.349

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; SOSCF 17-2000, f. & cert. ef. 7-25-00; SOSCF 10-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 4-2003, f. & cert. ef. 1-7-03; CWP 19-2015, f. & cert. ef. 10-1-15

Adoption Program Eligibility

413-030-0300

Purpose

The purpose of OAR 413-030-0300 to 413-030-0320 is to describe the eligibility criteria for the program classification of adoption. The adoption program classification is used to describe the services provided to a child placed in an approved adoptive home for the purpose of adoption. This includes agency adoptive placements and courtesy placement supervision of a child placed in Oregon by an out of state adoption agency.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305 – 109.310, 418.005, 418.270 – 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0310

Eligibility for Adoption Program

To be eligible for the program classification of adoption, a child must be in a living situation that is officially considered an adoptive placement. The following are considered eligible for the program classification:

(1) Children fully free for adoption and placed in an approved adoptive home are classified as adoption from the time the placement is approved until the adoption is completed or disrupted.

(2) Children receiving courtesy supervision for an adoptive placement initiated in another state through the Interstate Compact.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305 – 109.310, 418.005, 418.270 – 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0320

Eligibility for the Adoption Program Classification Ends

Eligibility for the adoption program classification ends when:

(1) SOSCF gives consent for adoption of a child in SOSCF's permanent custody, and the adoption is legalized;

(2) The child is removed from an approved adoptive placement;

(3) The adoptive applicants or SOSCF decides an adoption will not be legalized even though the child is not removed from the home; and

(4) When supervision of an adoptive placement provided as a courtesy service for an adoption agency in another state is no longer needed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305-310 & 418.270 - 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-2001, f. 6-29-01, cert. ef. 7-1-01

Youth Transitions

413-030-0400

Purpose

The purpose of these rules, OAR 413-030-0400 to 413-030-0460, is to describe the responsibilities of the Department for comprehensive transition planning with and providing services to a child or young adult to:

(1) Obtain personal and emotional support and promote healthy relationships that can be maintained into adulthood;

(2) Develop the personal life management skills necessary to function independently;

(3) Receive education, training, and services necessary to lead to employment;

(4) Attain academic or vocational education and prepare for post-secondary education or training;

(5) Gain experience in taking responsibility and exercising decision-making control; and

(6) Transition to living independently.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.475, 419B.343, 419B.476(3)

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; CWP 16-2009, f. & cert. ef. 11-3-09

413-030-0410

Eligibility for Youth Transition Services

A child or young adult must meet the following eligibility criteria for youth transition services, however a child or young adult enrolled in an Oregon youth transition service prior to September 1, 2009 is eligible to continue to receive that service until the child or young adult has achieved independence, reaches 21 years of age, or otherwise is no longer eligible for the specific service.

(1) Life skills training.

(a) A child 14 years of age or older who is in substitute care through the Department or one of the nine federally recognized Oregon tribes; or

(b) A former foster child.

(2) Independent living housing subsidy.

(a) The child or young adult must meet all of the following requirements:

(A) Be 16 years of age or older.

(B) Be in the care and custody of the Department.

(C) Be engaged in 40 hours of productive time per week, including a combined total of 25 hours or more of work or education activities and up to 15 hours of flexible time. Examples include, but are not limited to, volunteer activity, school sports, clubs, or counseling.

(D) Have had at least one prior substitute care placement.

(E) Have the approval of the court to participate in the independent living housing subsidy service.

(b) If a high school diploma has not been achieved, the child or young adult must be working actively to achieve a high school diploma or GED.

(c) The child or young adult must be enrolled concurrently in skill building services.

(d) The child or young adult may not live with any of his or her parents.

(3) Chafee housing.

(a) To be eligible for Chafee housing an individual must meet all of the following requirements:

(A) Be 18 years of age or older but not yet 21 years of age.

(B) Have been discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(C) Be engaged in 40 hours of productive time per week, including a combined total of 25 hours or more of work and education activities.

(D) Have at least four hours of paid employment per week.

(b) If a high school diploma has not been achieved, the individual must be working actively to achieve a high school diploma or GED.

(c) The individual must be enrolled in skill building services.

(d) The individual may not live with any of his or her parents.

(e) The individual may not be eligible for Chafee housing when receiving an education and training grant.

(4) Education and training grant.

(a) To be eligible for an education and training grant the child or young adult must:

(A) Be 14 years of age or older and currently in substitute care through the Department or one of the federally recognized tribes; or

(B) Have been dismissed from substitute care after reaching 16 years of age and had 180 or more cumulative days of substitute care.

(b) The child or young adult initially must receive the grant prior to reaching 21 years of age.

(c) If the child or young adult is receiving the grant upon reaching 21 years of age, he or she may continue to receive the grant until he or she reaches 23 years of age.

(d) The child or young adult may not be eligible for an education and training grant when receiving Chafee housing.

(5) Youth Transition Discretionary Funds. A child or young adult must be eligible for and receiving skill building services as a prerequisite to eligibility for discretionary fund resources.

(6) Services that may be utilized in the transition to independent living, as appropriate and available, when the child or young adult meets all other eligibility requirements, include, but are not limited to:

(a) Flex funds as described in Child Welfare Policy I-E.5.4, "Flex Fund";

(b) Payments made for special or extraordinary needs as described in OAR 413-090-0300 to 413-090-0380;

(c) Housekeeping services as described in OAR 413-050-0000 to 413-050-0050;

(d) Supportive or remedial day care as described in OAR 413-050-0200 to 413-050-0280;

(e) Other resources provided through the Department of Human Services such as Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families program benefits, vocational rehabilitation, teen pregnancy prevention, Aging and People with Disabilities, or the Office of Developmental Disabilities Services; and

(f) Other state or community health care programs.

(7) The ILP Coordinator may approve an exception to the eligibility requirements of sections (2), (3), or (4) of this rule when there is a time-limited plan for meeting requirements for eligibility and written documentation why the exception is necessary for the child or young adult to achieve his or her comprehensive transition plan.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0430

Youth Transition Services Array

The range of services available through the Department to an eligible *child* or *young adult* transitioning to independent living includes:

(1) Skill building services, which may include the following:

(a) Instruction in basic living skills such as money management, home management, consumer skills, legal issues, parenting, health care, access to community resources, employment readiness, transportation, educational assistance, and housing options;

(b) Educational and vocational training support such as high school diploma or GED preparation, post-secondary education and academic support, job readiness, and job search assistance and placement programs;

(c) Training, workshops and conferences, individual and group skills building for improved self-esteem and self-confidence, and interpersonal and social skills training and development; and

(d) Development of community networks and supports to transition successfully to adulthood.

(2) The *independent living housing subsidy*.

(3) *Chafee housing*.

(4) Education and training grants to provide assistance with the costs of a post-secondary education or training program.

(5) Youth Transition discretionary funds to provide limited financial assistance in meeting the transition to adulthood.

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; CWP 16-2009, f. & cert. ef. 11-3-09

413-030-0445

Development of the Comprehensive Transition Plan

(1) Development of the comprehensive transition plan. The Department must initiate the development of the comprehensive transition plan for a:

(a) Child 14 years of age or older and in substitute care or a young adult; or

(b) Former foster child who requests services as described in OAR 413-030-0003 to 413-030-0030 and would benefit from a comprehensive transition plan.

(2) The Department must ensure the comprehensive transition plan includes:

(a) The completion of a life skills assessment, which includes:
 (A) Assessment of the skills and readiness of the child or young adult through interviews with substitute caregiver, parent or guardian, and any other significant adult; and
 (B) Completion of a written independent living assessment in the format required by the Department.
 (b) The written life skills assessment must include a description of:

(A) The strengths of the child or young adult; and
 (B) His or her need for ongoing skill development in the following ability areas:

(i) Interaction with and connection to adults who can assist in the transition to independent living;
 (ii) Transition successfully to independent living;
 (iii) Engagement in educational and vocational interests;
 (iv) Management of his or her physical and mental health; and
 (v) Achievement of residential stability.

(3) After completing the activities in section (2) of this rule, the Department must convene a planning meeting to develop the comprehensive transition plan. The Department must:

(a) Ensure the child or young adult plays a central role in planning for and participating in the meeting, when developmentally appropriate;

(b) Involve the child or young adult in determining who may participate in the planning meeting which may include a parent or guardian, substitute caregiver, service providers, a court appointed special advocate, representative of a tribe, the attorney for the child or young adult or other adults important to the child or young adult;

(c) At the option of the child or young adult, involve the two additional members of the case planning team chosen by the child or young adult as described in OAR 413-040-0010(3)(c); and

(d) If the child or young adult makes the request, include any additional members the child or young adult would like to add to his or her comprehensive youth transition planning meeting when it is determined to be in the best interest of the child or young adult.

(4) The comprehensive transition plan must identify goals and services in each of the following domains:

(a) Education;
 (b) Employment;
 (c) Health;
 (d) Housing;
 (e) Life skills;
 (f) Supportive relationships;
 (g) Community connections; and
 (h) Transportation.

(5) The child age 14 or older, young adult, or former foster child must agree to the comprehensive transition plan and the plan is signed by each person who participated in the planning meeting.

(6) A Department supervisor must review and acknowledge the completion of the comprehensive transition plan in the Department's information system.

(7) When a child is placed in another state through the Interstate Compact on the Placement of Children (ICPC), and the Department is unable to complete the comprehensive transition planning process as described in this rule, the Department remains responsible for working with the receiving state and with the child in developing a comprehensive transition plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; SOSCF 8-2002, f. & cert. ef. 5-6-02; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0449

Review of the Comprehensive Transition Plan

(1) The caseworker must monitor the implementation of the comprehensive transition plan and make reasonable efforts to ensure timely and appropriate services identified in the comprehensive transition plan are made available.

(2) The caseworker is responsible for regular review of the goals and services of the comprehensive transition plan during the following contacts:

(a) Monthly face-to-face contacts as required under OAR 413-080-0054; and

(b) The 90-day case plan review required under OAR 413-040-0016.

(3) Subsequent to the review of the comprehensive transition plan under subsection (2)(b) of this rule, the caseworker must document in the Department's information system:

(a) The progress in achieving the comprehensive transition plan goals;

(b) Any barriers and plans to address the barriers;

(c) Any changes in the comprehensive transition plan; and

(d) Notification to service providers of changes to the comprehensive transition plan.

(4) The supervisor must review and approve the documentation of the comprehensive transition plan review as a part of the required case plan review.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476

Hist.: CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0454

Benchmark Review of the Comprehensive Transition Plan

(1) For a child with a comprehensive transition plan the caseworker must convene a meeting for the purpose of a benchmark review of the comprehensive transition plan six months prior to the child reaching 18 years of age.

(a) The meeting must include the child, unless the child developmentally is unable to participate, and may include a parent or guardian of the child, substitute caregiver, court appointed special advocate, the attorney for the child, service providers, and others the child determines are important to the meeting including, at the option of the child, the two additional members of the case planning team chosen by the child as described in OAR 413-040-0010(3)(c).

(b) The child plays a central role in the meeting appropriate with his or her developmental ability.

(c) At the meeting, the following are determined:

(A) Agreement on the person with decision-making authority for education services for the child after the child reaches 18 years of age;

(B) Arrangement of sustainable housing, including periods of time the child or young adult may be on break from college or other residential academic or vocational program after the child reaches 18 years of age;

(C) Identification of persons who may provide supportive relationships to the child after the child reaches 18 years of age;

(D) Identification of community resources available for the special or unique needs of the child after the child reaches 18 years of age;

(E) A plan for the employment, continued academic or vocational education, or specialized training of the child after the child reaches 18 years of age;

(F) Agreement on the person with decision-making authority for health and mental health services for the child and identification of health, mental health, and dental providers for the child after the child reaches 18 years of age; and

(G) The plan to meet life skill development needs of the child by the time the child reaches 18 years of age.

(d) The caseworker must document the determinations made under subsection (c) of this section and the documentation must be signed by the child, when developmentally able to do so, and the caseworker, and may be signed by other persons attending the meeting.

(2) The caseworker's supervisor must review and acknowledge the completion of the benchmark review of the comprehensive transition plan in the Department's information system.

(3) The caseworker must provide a copy of the comprehensive transition plan, including the documentation of the determinations

made during the benchmark review of the comprehensive transition plan, to the court at the next scheduled permanency hearing.

(4) Within 90 days prior to the child's 18th birthday, the caseworker must review the determinations and plans made during the Benchmark Review with the child and, if identified, the two additional members of the case planning team chosen by the child as described in OAR 413-040-0010(3)(c). The caseworker reviews the progress made to date and makes any necessary adjustments to the plan.

(5) The caseworker's supervisor must review and acknowledge the completion of the Benchmark Review of the comprehensive transition plan in the Department's electronic information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.343 & 419B.476

Hist.: CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0456

Health Care Notifications, Credit Reports, and Data Tracking

(1) The Department must notify any young adult over 17 years, six months of age in the care or custody of the Department of the following information regarding health care treatment:

(a) The importance of designating another individual to make health care treatment decisions on his or her behalf if he or she becomes unable to participate in such decisions and does not have or does not want a relative who is otherwise authorized under state law to make such decision; and

(b) The option to execute a health care power of attorney, health care proxy, or other similar document recognized under state law.

(2) The Department must ensure any child 14 years of age or older and in the care or custody of the Department:

(a) Annually receives a copy of a consumer credit report when one exists; and

(b) Receives some assistance in interpreting the credit report and resolving any inaccuracies in that report.

(3) National Youth in Transition Database (NYTD) Requirements. Beginning October 2010, the Department must collect and track independent living type services and outcome data as follows:

(a) Served population: The Department will report all independent living type services paid for or provided by the Department during the six month reporting periods under the NYTD timelines.

(b) Baseline population: The Department will report outcome data by conducting a survey with every child 17 years of age in the care or custody of the Department; and

(c) Follow up populations: The Department will report outcome data by conducting follow up surveys of the young adults surveyed under subsection (b) of this section at ages 19 and 21.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476

Hist.: CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0460

Requirements at Independence

(1) At least 60 days prior to the date on which the Department is requesting relief of legal custody of a child or young adult reaching independence, the Department must inform the child or young adult of:

(a) The date, time, and location of the hearing;

(b) The right to attend the hearing, and the importance of attending; and

(c) The right to request assistance with transportation to and from the hearing.

(2) When the court relieves the Department of the custody of the child or young adult reaching independence, the Department must provide the child or young adult with the following written records:

(a) Unless the release is prohibited by law or the law requires the child or young adult to make a specific request for the records under ORS 432.250 and ORS 109.425 to 109.507, information concerning the case of the child or young adult, including family and placement history, location and status of each sibling, and

contact information the child or young adult may use to seek additional information about his or her case or family history.

(b) Health and education records, including:

(A) Health and immunization records;

(B) Educational summary and records; and

(C) Information on how to identify a Health Care Representative, complete an Oregon Advance Directive, and complete the Former Foster Care Youth Medical Referral Form.

(c) A copy of each of the following, and documentation that each has been provided to the child or young adult in official form:

(A) The birth certificate of the child or young adult.

(B) Official proof of the citizenship or residence status of the child or young adult in a form acceptable to an employer required to verify immigration status.

(C) The social security card, or a copy of the original, of the child or young adult.

(D) A driver's license or another form of state identification, or a copy of the original, of the child or young adult;

(E) Where applicable, a death certificate of a parent of the child or young adult.

(F) Written verification of placement in substitute care through the Department or one of the federally recognized tribes of the child or young adult when 14 years of age or older and 18 years of age and younger.

(G) The child or young adult's credit report.

(3) When the Department is unable to provide the documentation and information described in section (2) of this rule prior to the court order by which the Department is relieved of legal custody of the child or young adult, the Department must prepare the written records and either deliver them to the child or young adult or, when the whereabouts of the child or young adult are unknown, retain the records in the case file of the child or young adult until requested by the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2009, f. & cert. ef. 11-3-09; CWP 19-2015, f. & cert. ef. 10-1-15

DIVISION 40

CASE MANAGEMENT — SERVICE PLANS

Developing and Managing the Case Plan

413-040-0000

Definitions

(1) "AAICPC" means the Association of Administrators of the Interstate Compact on the Placement of Children, which is the national professional association of state administrators of the Interstate Compact on the Placement of Children, housed at the American Public Human Services Association (APHSA).

(2) "Action agreement" means a written document between the Department and a parent or guardian that identifies one or more of the services or activities provided by the Department or other community partners, in which the parent or guardian will participate to achieve an expected outcome.

(3) "Acquired Immune Deficiency Syndrome (AIDS)" is a disorder in which a person's immune system is severely suppressed. It is caused by the human immunodeficiency virus (HIV). In order for a person to be diagnosed as having AIDS, the virus, immune system suppression, and an opportunistic infection or other condition stipulated by the U.S. Centers for Disease Control must all be present. A laboratory diagnosis of a CD4 less than 200 also is an AIDS defined illness.

(4) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(5) “CANS screening” means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family.

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(6) “Case plan” means a written goal-oriented, time-limited individualized plan for the child and the child’s family, developed by the Department and the parents or guardians, to achieve the child’s safety, permanency, and well-being.

(7) “Child” means a person under 18 years of age.

(8) “Compact administrator” means the person for each party to the Compact responsible for carrying out the provisions of the Compact. In Oregon, it is the Assistant Director, Children, Adults and Families, Department of Human Services.

(9) “Complete judicial review” means a hearing that results in a written order that contains the findings required under ORS 419B.476 or includes substantially the same findings as are required under ORS 419A.116.

(10) “Concurrent permanent plan” means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The “concurrent permanent plan” is developed simultaneously with the plan to return the child to the parents or legal guardians.

(11) “Conditions for return” mean 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.

(12) “Counseling” means group and individual counseling, emotional support groups, one-on-one emotional support, AIDS education, and/or information services.

(13) “Date child entered substitute care” means the earlier of the following two dates:

(a) The date the court found the child within the jurisdiction of the court (under ORS 419B.100); or

(b) The date that is 60 days from the date of removal.

(14) “Department” means the Department of Human Services, Child Welfare.

(15) “Deputy compact administrator” means the person appointed by a compact administrator as the coordinator to assure compliance with the law.

(16) “Expected outcome” means an observable, sustained change in a parent or guardian’s behavior, condition, or circumstance that, when accomplished, will increase a parent or guardian’s protective capacity and reduce or eliminate an identified impending danger safety threat, and which, when accomplished, will no longer require Child Welfare intervention to manage a child’s safety. It is a desired end result and takes effort to achieve.

(17) “Expert evaluation” means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual’s functioning in the area of the professional’s specialized knowledge, and when the expert is evaluating a parent or guardian, whether the individual’s functioning impacts his or her protective capacity.

(18) “Family member” means any person related to the child or young adult by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sis-

ters, brothers, cousins, or great-grandparents. Family member also includes the registered domestic partner of a person related to the child, a child 12 years of age or older, and when appropriate, a child younger than 12 years of age. In a case involving an Indian child under the Indian Child Welfare Act (ICWA), a “family member” is defined by the law or custom of the child’s tribe.

(19) “Family plan” means a written document developed at the OFDM that includes family recommendations on planning for the child and may include a permanency plan, concurrent permanent plan, placement recommendations, or service recommendations. The “family plan” also includes expectations of the parents of the child and other family members; services the Department will provide; timelines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate. The “family plan” described in ORS 417.375(1) is incorporated into the case plan to the extent that it protects the child, builds on family strengths, and is focused on achieving permanency for the child within a reasonable time.

(20) “Guardian” means an individual who has been granted guardianship of a child through a judgment of the court.

(21) “High risk behaviors” means the following:

(a) Having shared a needle with an intravenous drug abuser since 1977;

(b) For a man, having had sex with another man or men since 1977;

(c) Having been sexually active in an area where heterosexual transmission is believed to be high;

(d) Persons with hemophilia;

(e) Having been the sexual partner of a person in one of the previous categories;

(f) Being born to a woman whose history has put her in one of these other categories.

(22) “HIV” is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.

(23) “HIV Infection”. People who have been tested and found to have the antibody are referred to as having HIV infection. These people are capable of transmitting the virus through risk behaviors, as described below.

(24) “HIV Positive” means that a blood test has indicated the presence of antibodies to HIV. This means that the person has been infected by the virus and the immune system has responded by producing antibodies. An exception is infants of HIV-infected mothers. They have been exposed to the mother’s antibodies and carry these antibodies in their blood for a number of months after birth. A series of tests is necessary to determine if these infants are themselves infected with HIV.

(25) “ICPC approved family” means a family approved by the Interstate Compact on the Placement of Children (ICPC) deputy compact administrator or designee after reviewing a home study.

(26) “Impending danger safety threat” means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that 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 function.

(27) “Local Citizen Review Board (CRB)” means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home placement (ORS 419A.090-419A.094).

(28) “OFDM” means the family decision-making meeting as defined in ORS 417.365, and is a family-focused intervention facilitated by professional staff that is designed to build and strengthen the natural care giving system for the child. These meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision-making meeting is to establish a plan that provides for the safety,

attachment, and permanency needs of the child. The role of the "OFDM" is described in ORS 417.365 to 417.375.

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

(30) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity 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), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father 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.

(31) "Permanency hearing" means the hearing that determines the permanency plan for the child. The "Permanency Hearing" is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.

(32) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child or young adult in adulthood.

(33) "Personal care services" means the provision of or assistance with those functional activities described in OAR 413-090-0120 consisting of mobility, transfers, repositioning, basic personal hygiene, toileting, bowel and bladder care, nutrition, medication management, and delegated nursing tasks that a child or young adult requires for his or her continued well-being.

(34) "Placement" means the arrangement for the care of a child in a foster home, relative foster home, non-paid relative home, or a child-caring agency or institution. It does not include the arrangement for care in an institute caring for the mentally ill, an institution primarily educational in character, or a hospital or other medical facility.

(35) "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.

(36) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(37) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by a public authority or a private person or agency, whether for placement with a state or local public authority or with a private agency or person.

(38) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(39) "Reunification" means placement with a parent or guardian.

(40) "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 to a child. The "safety threshold" criteria are

used to determine the presence of an impending danger safety threat.

(41) "SAIP" means Secure Adolescent Inpatient Program.

(42) "SCIP" means Secure Children's Inpatient Program.

(43) "Sending agency" means a party state or an officer or employee thereof; a subdivision of a party state or an officer or employee thereof; a court of a party state; or a person, corporation, association, charitable agency, or other entity that sends, brings, or causes to be sent or brought a child to another party state.

(44) "Sending state" means the state from which a proposed placement is made.

(45) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(46) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(47) "Termination of parental rights" means that a court of competent jurisdiction has entered an order terminating the rights of the parent or parents, pursuant to ORS 419B.500 through 419B.530 or the statutes of another state. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419A.200).

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0005

Purpose

The purpose of OAR 413-040-0000 to 413-040-0032 is to describe the activities required to:

- (1) Complete a protective capacity assessment;
- (2) Use the Family Decision-making Meeting;
- (3) Develop a case plan;
- (4) Develop an action agreement;
- (5) Monitor the case plan;
- (6) Review and revise the case plan;
- (7) Determine when conditions for return have been met; and
- (8) Close the ongoing safety plan and close the case.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0006

Requirements for the Conditions for Return and the Protective Capacity Assessment

(1) The caseworker must determine conditions for return during the development of the ongoing safety plan.

(2) The conditions for return are documented in the ongoing safety plan and the case plan, and must describe:

(a) The specific behaviors, conditions, or circumstances that must exist before the Department may develop an in-home ongoing safety plan that assures a child's safety, as described in OAR 413-015-0450(2)(b)(A)(i) - (iii); and

(b) The actions, services, and time requirements of all participants in the in-home ongoing safety plan.

(3) The Department uses the protective capacity assessment to engage the parents or guardians of the child or young adult in a collaborative process to:

(a) Examine and understand the behaviors, conditions, or circumstances that made the child unsafe and the strengths of the parent or guardian that build protective capacity;

(b) Examine and understand how the behavioral, cognitive and emotional characteristics of the parents or guardians impact their ability to care for and keep the child safe;

(c) Determine the expected outcomes related to the behaviors, conditions, or circumstances of the parents or guardians that will increase protective capacity and reduce or eliminate the identified impending danger safety threat; and

(d) Identify services or activities that are likely to achieve the expected outcomes.

(4) Whenever possible, the Department and the parents or guardians should come to agreement on expected outcomes and the actions, services, and activities to achieve the expected outcomes.

(5) The caseworker must:

(a) Complete the following activities within five days of receipt of the case from the CPS worker or after replacing or adding an impending danger safety threat during ongoing case management:

(A) Review the Child Welfare case history, case documentation, and the actions and decisions of the most recent CPS assessment;

(B) Review and update as necessary the ongoing safety plan by contacting all participants in the safety plan to determine whether the ongoing safety plan assures the safety of the child;

(C) Review and update as necessary the conditions for return; and

(D) Document the review of the ongoing safety plan and conditions for return in the Department's electronic information system.

(b) Complete the following activities:

(A) Conduct reasonable inquiries for the purpose of identifying individuals who may contribute to the caseworker's understanding of the protective capacity of the parents or guardians and the safety of the child. Such individuals may include parents or guardians, grandparents, extended family, an Indian child's tribe, and any other family members, persons with significant attachments to the child, other professionals, substitute caregivers, neighbors, and friends of the family. Reasonable inquiries mean, as defined in ORS 417.371(4)(b), efforts that include reviewing the case file for relevant information, contacting the parents or guardians, and contacting additional sources of information for the purpose of ascertaining the whereabouts of family members, if necessary.

(B) Gather information from these individuals through individual interviews or meetings for the purpose of identifying and understanding the needs, concerns, strengths, and limitations associated with the protective capacity of parents or guardians and assessing the impact on the child's safety.

(C) Evaluate the relationship between;

(i) The existing protective capacities of parents or guardians that contribute to child safety;

(ii) The diminished protective capacities of parents or guardians that must change for the parents or guardians to care for and keep the child safe; and

(iii) The parents' or guardians' readiness to change.

(D) Whenever possible, collaboratively identify with the parents or guardians:

(i) Other family members, persons with significant attachments to the child, community members, and members of an Indian child's tribe who will contribute to meeting the conditions for return and actively participate in an ongoing safety plan or enhancing the protective capacity of the parents or guardians; and

(ii) Actions and services that will reduce or eliminate identified safety threats or enhance the protective capacity of the parents or guardians.

(E) Inform the parents or guardians of the Department's actions and decisions regarding identified impending danger safety threats, conditions for return, protective capacity, and the ongoing safety plan.

(F) Enter the findings of the protective capacity assessment, the information obtained by conducting the activities required in paragraphs (A) to (D) of this subsection, and the conditions for return in the Department's information system.

(6) The caseworker must document the findings of the protective capacity assessment and the conditions for return in the case plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0008**Requirements for a Family Decision-making Meeting**

(1) When the child has been placed in substitute care for more than 30 days, the Department must consider scheduling an OFDM. When considered appropriate, the meeting is scheduled, whenever possible, between the 30th and 60th day of the out-of-home care placement.

(2) When a decision has been made by the Department and the family to use the OFDM, the Department will conduct and document reasonable inquiries to promptly locate and notify the parents, grandparents, an Indian child's tribe, and any other family member who has had significant, direct contact with the child in the year prior to the substitute care placement. Other participants in the meeting must include the child, if the child is 12 years of age or older, and for a child 14 years of age and older, at their option, up to two members of the case planning team who are chosen by the child. Other participants in the meeting may include a child younger than 12 when appropriate, other professionals, foster parents, neighbors, and family and friends of the family as appropriate.

(3) Family members or an Indian child's tribe who are located after reasonable inquiries will be notified by the Department of the OFDM in a timely manner to allow them the opportunity to prepare for and attend the meeting.

(4) Other participants will be jointly identified by the parents, guardians, Indian custodian of the child, and the Department, and the Department will notify identified participants in a timely manner to allow them the opportunity to prepare for and attend the meeting.

(5) To assist the family in developing the family's plan for the child, the Department must provide participants with information regarding the federal timeline for determining permanency for the child and the Oregon Administrative Rules that govern the sufficiency of a safety plan, conditions for return, and reunification.

(6) The located family members may attend the OFDM unless the other participants determine that a family member may threaten or place other participants at risk. The Department may exclude family members if determines are violent, unpredictable, or abusive or an alleged perpetrator of sexual abuse, domestic violence, or severe physical assault.

(7) Family members who are not invited or allowed to participate may submit written information and recommendations to the caseworker prior to the scheduled meeting concerning the subjects of the OFDM, including concerns regarding the placement of the child, permanency plan, concurrent permanent plan, and services.

(8) During the OFDM, family members will develop a family plan for the child.

(9) Any family member or tribal representative participating in an OFDM must sign a written acknowledgment of the content of the family plan developed at the meeting and of his or her attendance at the meeting.

(10) The Department will send a copy of the family plan developed at the OFDM within 21 days after the date of the meeting to family participants, including those who participated by submitting written information and recommendations.

(11) The Department will incorporate the family plan developed at the OFDM into the Department's case plan to the extent that the family plan protects the child, builds on family strengths, and focuses on achieving permanency for the child within a reasonable time. If the family's plan developed at the meeting cannot be incorporated into the Department's case plan, the reasons shall be documented in the Department's case plan.

(12) The Department is responsible for confirming that any family plan developed at an OFDM is sufficient to ensure the safety or permanency of the child before implementing a family plan developed at an OFDM.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 31-2003, f. & cert. ef. 10-1-03; Renumbered from 413-040-0031, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0010

Requirements for the Case Plan

(1) The caseworker must analyze the information gathered during the protective capacity assessment to develop a case plan. The case plan must include all of the following information:

(a) Family composition, which includes the information identifying each child, each young adult, and each parent or guardian.

(b) Original impending danger safety threats identified in the CPS assessment as described in OAR 413-015-0425.

(c) The ongoing safety plan including any additional impending danger safety threats identified since the CPS assessment, as described in OAR 413-015-0450 and recorded in the Department's information system.

(d) The findings of the protective capacity assessment.

(e) Expected outcomes and actions that each parent or guardian is taking to achieve them.

(f) Services (if applicable) to the child or young adult that include:

(A) The identified needs of and services provided to any child or young adult placed in substitute care, including the results of the CANS screening, the personal care services provided to an eligible child or young adult under OAR 413-090-0100 to 413-090-0210, and other current assessments or evaluations of the child or young adult, and the reasons the substitute care placement is the least restrictive placement to meet the child or young adult's identified needs;

(B) The health information of the child or young adult, which documents the child's routine and specialized medical, dental, and mental health services;

(C) The education services of the child or young adult, the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or a young adult, and any special educational needs; and

(D) Services to transition the child or young adult to independent living in all cases when the child is 14 years of age or older.

(g) Services the Department will provide including:

(A) Case oversight and routine contact with the parents or guardians and the child or young adult;

(B) Appropriate and timely referrals to services and service providers suitable to address identified impending danger safety threats or strengthen parental protective capacity;

(C) Appropriate and timely referrals to services and service providers suitable to address the needs of the child or young adult as identified through the CANS screening and other current assessments or evaluations of the child or young adult; and

(D) Timely preparation of reports to the court or other service providers.

(h) The date that the progress of the parents or guardians in achieving expected outcomes will be reviewed. The case plan must be reviewed with the parents or guardians every 90 days; however, the caseworker and parents or guardians may agree on a review date at any time within the 90-day period.

(i) When the child or young adult is in substitute care, the case plan must also include:

(A) Current placement information including:

(i) The location of the child or young adult and the substitute caregiver of the child or young adult, except when doing so would jeopardize the safety of the child, young adult, or the substitute caregiver, or the substitute caregiver will not authorize release of the address; and

(ii) Documentation that shows that the child or young adult is receiving safe and appropriate care in the least restrictive environment able to provide safety and well-being for the child or young adult.

(B) The child or young adult's record of visits with his or her parents and siblings.

(C) The permanency plan.

(D) The conditions for return.

(E) The concurrent permanent plan and the progress the Department has made in implementing the concurrent permanent plan.

(j) The case plan for any child or young adult in foster care who has attained 14 years of age must include:

(A) A document that describes:

(i) The rights of the child or young adult with respect to education, health, visitation, and court participation;

(ii) The right to be provided with a copy of the young adult's birth certificate, social security card, health insurance information, medical records, and a driver's license or equivalent state-issued identification card when the child leaves foster care having attained age 18 or greater; and

(iii) The right to stay safe and avoid exploitation.

(B) A signed acknowledgment by the child or young adult that the child or young adult has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(2) As applicable, the caseworker must also include in the case plan:

(a) The goals and activities required for an Indian child under OAR 413-010-0100 to 413-010-0260 or for a refugee child under OAR 413-070-0300 to 413-070-0380.

(b) Recommendations of expert evaluations requested by the Department whenever the recommendations may impact parental protective capacities or treatment services for the child or young adult. If the recommendations are not included in the case plan, the rationale must be documented in the Department's information system.

(c) Diligent efforts to place the child or young adult with relatives and with siblings who are also in substitute care, sibling connections, and the Department's efforts to keep siblings together.

(d) Orders of the court.

(3) The persons involved with the Department in the development of the case plan include:

(a) The parents or guardians, unless their participation threatens or places other participants at risk;

(b) The child who has obtained 14 years of age or the young adult; and

(c) At the option of the child or young adult, up to two members of the case planning team chosen by the child or young adult who are not:

(A) A foster parent;

(B) A caseworker for the child or young adult; or

(C) An individual the Department has good cause to believe would not act in the best interests of the child or young adult.

(d) One of the individuals in subsection (c) of this section may be designated to be the advisor of the child or young adult, and as needed, advocate for the child or young adult with respect to the application of the reasonable and prudent parent standard to the child or young adult.

(4) Additional persons involved with the Department in the development of the case plan may include the child regardless of age or young adult, adoptive parents, an Indian custodian when applicable, other relatives, persons with significant attachments to the child or young adult, the substitute caregiver, and other professionals when appropriate.

(5) The case plan must include the signature of the caseworker and each parent or guardian, unless subsections (7)(a) or (7)(b) of this rule apply.

(6) Approval and distribution of the case plan.

(a) The Child Welfare supervisor must approve and sign the case plan.

(b) The caseworker must give a copy of the case plan to the parents or guardians of the child or young adult, and the Indian child's tribe when applicable, as soon as possible but no later than seven working days after the case plan is approved by the supervisor, except when doing so would provide information that places another person at risk.

(7) Exceptions and exemptions to the required case plan.

(a) A court may authorize an exception to the involvement of the parents or guardians when it determines that reasonable efforts to return the child home are not required, as described in OAR 413-070-0515.

(b) When the Department has custody of a child or young adult in substitute care and is unable to obtain the signature of a parent or guardian, the caseworker must prepare and send a letter of expectations and a copy of the case plan to the parent or guardian within seven working days after the supervisor has approved and signed the case plan. A letter of expectations means an individualized written statement for the family of the child or young adult that identifies family behaviors, conditions, or circumstances that resulted in an unsafe child; the expected outcomes; and what the Department expects each parent or guardian will do to achieve safety, permanency, and well-being of the child or young adult in the parental home.

(c) A case plan as described in sections (1) to (5) of this rule is not required if a family, child, or young adult is eligible for Family Support Services as described in OAR 413-030-0000 to 413-030-0030.

(8) Timeline for case plan development. The caseworker must develop the case plan within 60 days of a child's removal from home or within 60 days of the completion of the CPS assessment, in cases where the child remains in the home of a parent or guardian.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; SOSCF 4-2000(Temp), f. & cert. ef. 1-31-00 thru 7-28-00; SOSCF 19-2000, f. & cert. ef. 8-8-00; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0011

Requirements of Action Agreements

(1) The Department develops a time-limited action agreement in conjunction with the case plan. If sufficient resources are available, the action agreement must use culturally appropriate services and service providers whose interventions are focused on the achievement by the parents or guardians of the expected outcomes identified in the case plan.

(2) The caseworker must ensure the action agreement includes all of the following:

(a) A minimum of one of the expected outcomes in the case plan.

(b) The specific activities or services required to achieve the expected outcome.

(c) Participants and the responsibilities of each participant.

(d) Anticipated start and completion dates.

(e) If appropriate, identification of an order of the court that relates to the expected outcome or specified activities or services.

(f) The method of measuring progress.

(g) A timeline for review.

(3) A caseworker may develop sequential action agreements with a parent or guardian, and each action agreement must include the information required in section (2) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13

413-040-0013

Requirements for Monitoring the Case Plan

(1) The caseworker must:

(a) Make reasonable efforts to:

(A) Reduce the stay of a child or young adult in substitute care;

(B) Reunify the child or young adult with the parents or guardians whenever possible; and

(C) Achieve a permanency plan when reunification is no longer possible.

(b) Monitor the case plan; and

(c) Terminate Department intervention services in a timely manner.

(2) The caseworker is responsible for all of the following actions:

(a) Contacting and communicating with each parent or guardian through monthly face-to-face contact about progress toward achieving the conditions for return and the expected outcomes.

(b) Contacting and communicating with the child or young adult during the monthly face-to-face contact required under OAR 413-080-0054.

(c) Monitoring the child's or young adult's opportunities to participate in age-appropriate or developmentally appropriate activities, which include extracurricular, enrichment, cultural, and social activities.

(d) Monitoring the services provided through the case plan through contact with each service provider a minimum of once every 90 days.

(e) Monitoring the ongoing safety plan.

(f) Monitoring action agreements.

(g) Monitoring the visitation and contact plan when a child or young adult is in substitute care.

(h) Monitoring the parent or guardian's progress toward meeting the conditions for return when a child or young adult is in substitute care.

(i) Monitoring the parent or guardian's progress toward meeting the expected outcomes of the case plan.

(j) Ensuring completion of the actions and activities that are the responsibility of the Department.

(k) Reviewing the progress the parent or guardian has made in reducing or eliminating identified impending danger safety threats and enhancing parental protective capacity during each monthly review of the ongoing safety plan.

(l) Arranging for supervision or other services to address the child or young adult's strengths and needs identified through the most recent CANS screening as required by OAR 413-020-0200 to 413-020-0255.

(m) Responding immediately to issues that may impact the safety of the child or young adult which become known to the caseworker.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0014

Replacing or Adding Impending Danger Safety Threats During Ongoing Case Management

(1) A caseworker may replace an identified impending danger safety threat or add a new impending danger safety threat to an ongoing safety plan during ongoing case management.

(a) A caseworker may replace an identified impending danger safety threat when:

(A) The Department determines the incorrect impending danger safety threat was identified during the CPS assessment in error; or

(B) After completing a protective capacity assessment, receiving evaluations, or based on other new information, the Department determines there is an impending danger safety threat that more accurately describes the family behaviors, conditions, or circumstances.

(b) A caseworker may add an impending danger safety threat to an ongoing safety plan during ongoing case management when a change occurs in the family behaviors, conditions, or circumstances that is not a new allegation of abuse or neglect, but indicates a new impending danger safety threat is present.

(2) Prior to adding a new impending danger safety threat, the caseworker must:

(a) Apply the safety threshold criteria as outlined in OAR 413-015-0425(2)(a) to (e), assure all five criteria are met and, if so, document in the Department's electronic information system the application of the safety threshold criteria and how the impending danger safety threat is occurring; and

(b) Review and update as necessary the ongoing safety plan, conditions for return, and protective capacities and complete the activities outlined in OAR 413-040-0006.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0016

Requirements for Review of the Case Plan

(1) The case plan is reviewed a minimum of every 90 days. This review must take place in a face-to-face meeting with the parents or guardians, unless excluded under section (3) of this rule. The meeting may include the child at any age if developmentally appropriate, service providers, safety plan participants, substitute caregivers, attorneys, a child or young adult's CASA, persons with significant attachments to the child or young adult, and family members. The meeting must include the child 14 years of age or older or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c).

(2) During the case plan review, the caseworker assesses and determines the progress that has been made in achieving the expected outcomes of the case plan, and, when the child or young adult is in substitute care, the progress toward meeting the conditions of return.

(3) Exceptions to the face-to-face case plan review. If a parent or guardian is not available for the review, the caseworker must document the reason the parent or guardian was unavailable and the efforts that were made to involve the parent or guardian in the review.

(4) During a case plan review, the caseworker must consider input received from the child or young adult, the service providers, safety plan participants, substitute caregivers, attorneys, a child or young adult's CASA, persons with significant attachments to the child or young adult, and family members.

(5) Subsequent to the face-to-face meeting, the caseworker documents all of the following in the Department's information system:

(a) The services provided and the progress of the parents or guardians in achieving expected outcomes or, when a child is in substitute care, meeting the conditions of return.

(b) Observations of improved parent or guardian protective capacity based on specific behaviors, conditions, or circumstances that have measurably changed.

(c) Input received from service providers, substitute caregivers, attorneys, the child or young adult's CASA, persons with significant attachments to the child or young adult, and family members.

(d) The addition, reduction, or elimination of the identified impending danger safety threats.

(e) The actions the Department has taken to develop and implement the concurrent permanent plan for the child or young adult in substitute care if a parent or guardian has not demonstrated progress in achieving the conditions for return in a timely manner including:

(A) A review of the child or young adult's education, health, and mental health services to ensure the needs of the child or young adult are being met;

(B) A review of other services provided to address the identified needs of the child or young adult, including those identified through the CANS screening;

(C) An assessment of the need of the child or young adult for a safe and permanent home; and

(D) An assessment of the capacity of the substitute caregiver to meet the identified needs of the child or young adult as described in OAR 413-070-0640.

(E) A review of the participation by, the child or young adult in age-appropriate or developmentally appropriate activities, and

any identified barriers to participation in extracurricular, enrichment, social, and cultural activities that are of interest to the child or young adult; and

(F) An assessment of the capacity of the substitute caregiver to apply the reasonable and prudent parent standard.

(6) Within 30 days of receiving an expert evaluation requested by the Department, the caseworker must consider revising the case plan to include recommendations that will improve parent or guardian protective capacity related to the identified impending danger safety threats. If the recommendations are not included in the case plan, the rationale must be documented in the Department's information system.

(7) The Child Welfare supervisor must review the caseworker's documentation of the case plan review, and document completion of the review in the Department's information system every 90 days. The supervisor must review, approve, and sign the six-month case plan review submitted for required administrative review.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98, Renumbered from 413-040-0030; CWP 31-2003, f. & cert. ef. 10-1-03, Renumbered from 413-040-0045; Renumbered from 413-040-0063, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0017

Requirements for Return and Reunification

(1) The caseworker recommends returning the child or young adult to a parent or guardian after the caseworker has reviewed the impending danger safety threats identified in the CPS assessment that required an out-of-home ongoing safety plan and verified that:

(a) The conditions for return in the case plan have been met;

(b) The identified impending danger safety threats can be managed with an ongoing safety plan;

(c) The parents or guardians are willing and able to accept responsibility for the care of the child or young adult with an ongoing safety plan;

(d) The parents or guardians are willing and able to continue participating in case plan services;

(e) Service providers who are currently working with the child, young adult, parents or guardians, and other involved persons including the child or young adult's CASA and attorneys have been informed, in writing, of the plan to return the child or young adult with an in-home ongoing safety plan; and

(f) No safety concerns for the child or young adult are raised in the caseworker's review of the criminal history records and child welfare protective service records of all persons currently residing in a parent or guardian's home.

(2) When the child or young adult is returning to a parent living in a residential treatment facility, an alcohol and drug free housing program, or a residential domestic violence program, the Department does not review the criminal history records and child welfare protective service records of persons living in the state funded facilities and programs.

(3) If the caseworker cannot confirm that identified impending danger safety threats can be managed if the child or young adult is returned to a parent or guardian with an in-home ongoing safety plan, the child or young adult must remain in substitute care.

(4) The caseworker's supervisor must review and concur that conditions for return have been met, and that any disagreement with the plan to return the child or young adult has been reviewed and considered in the development of the in-home ongoing safety plan prior to the caseworker recommending to the court that a child or young adult be returned to a parent or guardian.

(5) The in-home ongoing safety plan must specifically document the planned caseworker and safety service provider contacts with the child or young adult and the parent or guardian, when the child or young adult is returned to the parent or guardian.

(6) The caseworker must revise, as necessary, and confirm the sufficiency of an in-home ongoing safety plan that will manage impending danger safety threats as they are uniquely occurring

within a particular family prior to the child or young adult's physical return.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0024

Requirements for an In-home Ongoing Safety Plan Prior to Return and Next Day Contact

(1) When the caseworker determines the conditions for return have been achieved and identified impending danger safety threats can be managed when a child or young adult is returned to a parent or guardian, the caseworker must develop an in-home ongoing safety plan. The caseworker's supervisor must:

(a) Approve the proposed in-home ongoing safety plan during the five working days prior to the return of a child or young adult to the home of a parent or guardian of the child or young adult; and

(b) Document the approval in the Department's information system.

(2) After a proposed in-home ongoing safety plan returning a child or young adult to the parent or guardian's home is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:

(a) Visit the child or young adult, outside the presence of a parent or guardian, at least once during the five days prior to the return of the child or young adult to the home to confirm the readiness of and prepare the child or young adult for the return home.

(b) Visit the parent or guardian in the home of the parent or guardian, at least once during the five days prior to the return of the child or young adult to the home, to verify:

(A) The behaviors, conditions, and circumstances in the home are safe for the return of the child or young adult;

(B) Confirmation of all persons living in the household;

(C) The parent or guardian is ready for the return of the child or young adult;

(D) The parent or guardian is willing and able to participate in the ongoing safety plan; and

(E) The parent or guardian is willing and able to continue in case plan services.

(c) If necessary, revise the proposed in-home ongoing safety plan to ensure that it is able to manage impending danger safety threats as they are uniquely occurring within the family prior to the child or young adult's physical return.

(d) Confirm the in-home ongoing safety plan with the parent or guardian, and obtain the signature of the parent or guardian.

(e) Document the revised in-home ongoing safety plan in the Department's information system.

(3) After a proposed in-home ongoing safety plan returning a child or young adult to the parent or guardian's residential treatment facility, an alcohol and drug free housing program, or residential domestic violence program is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:

(a) Visit the child or young adult, outside the presence of a parent or guardian, at least once during the five days prior to the return of the child or young adult to the home to confirm the readiness of and prepare the child or young adult for the return.

(b) Contact the parent or guardian at least once during the five days prior to the return of the child or young adult to the home, to verify:

(A) The parent or guardian is ready for the return of the child or young adult;

(B) The parent or guardian is willing and able to participate in the ongoing safety plan;

(C) The parent or guardian is willing and able to continue to participate in case plan services.

(c) Verify that the residential treatment facility, an alcohol and drug free housing program, or residential domestic violence program is a safe environment for the child or young adult.

(d) If necessary, revise the proposed in-home ongoing safety plan to ensure that it is able to manage the impending danger safety

threats as they are uniquely occurring prior to the child or young adult's physical return.

(e) Confirm the in-home ongoing safety plan with the parent or guardian and obtain the signature of the parent or guardian.

(f) Document the revised ongoing safety plan in the Department's information system.

(4) In the event a court orders the return of a child or young adult to a parent or guardian of the child or young adult before an in-home ongoing safety plan can be developed and approved in accordance with the criteria in OAR 413-015-0450 and this rule:

(a) The caseworker must complete the activities described in this rule as soon as practicable, but not later than seven working days following the court order; and

(b) If the caseworker disagrees with the order of the court, the caseworker must immediately consult with his or her supervisor.

(5) The caseworker must visit the child or young adult in the residence of the parent or guardian the day following the return home of the child or young adult. The caseworker must:

(a) Monitor the safety of the child or young adult by completing the activities required by OAR 413-080-0055(2);

(b) Follow the requirements of OAR 413-080-0055(4)-(6), as appropriate; and

(c) Document observations and the conditions of the residence in the Department's information system within seven business days of the visit.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0032

Requirements for Closing the In-Home Ongoing Safety Plan and Closing the Case

(1) When a child or young adult is in the home of the parent or guardian and the parent or guardian can sustain the safety of the child or young adult, the caseworker must assess when the in-home ongoing safety plan should close.

(2) When assessing whether the in-home ongoing safety plan can be closed, the caseworker must determine whether:

(a) The parent or guardian has demonstrated capacity to sustain the safety of the child or young adult based upon:

(A) Observations of the child or young adult and the parent or guardian in the home;

(B) Expert evaluations and reports from service providers;

(C) Reports from participants in the in-home ongoing safety plan;

(D) The extent to which the achievement of expected outcomes supports the ability of the parent or guardian to sustain the safety of the child or young adult; and

(E) Consultation with other individuals participating with the parent or guardian to sustain the safety of the child or young adult.

(b) The child or young adult is safe in the home based upon:

(A) The elimination of the identified impending danger safety threats or the protective capacity of the parent or guardian is sufficient to manage identified impending danger safety threats;

(B) The willingness and ability of the parent or guardian to protect the child or young adult; and

(C) Caseworker confidence in the ability of the parent or guardian to sustain the safety of the child or young adult over time.

(3) The caseworker must document the determination that the in-home ongoing safety plan can be closed and the facts supporting the ability of the parent or guardian to provide safety for the child or young adult and to sustain the safety of the child or young adult.

(4) The caseworker's supervisor must review the caseworker's documentation to ensure the criteria in section (2) of this rule are met, and concur that the in-home ongoing safety plan can be closed prior to approving the closure of the safety plan.

(5) The caseworker closes the in-home ongoing safety plan and the case when the court dismisses the commitment of the child or young adult to the Department or the court's wardship over the child terminates.

Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005
 Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

Substitute Care Placement Reviews

413-040-0100

Purpose

An outline of the required review process to maintain a child or young adult who is in the legal custody of the Department and placed in substitute care. These rules emphasize that child safety, permanency and well-being are the paramount concerns guiding the review process for providing and maintaining services to children in Department custody.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0130

Administrative Reviews for Title IV and ORS 419A.090 et seq.

(1) Administrative reviews will be held on:

(a) All children in the legal or physical custody of the Department and placed in paid or unpaid substitute care, including court sanctioned permanent foster care, a non-finalized adoptive placement; subsidized independent living; or returned to a parental home on the basis of a trial home visit;

(b) All children placed in substitute care with a Voluntary Custody Agreement or Child Placement Agreement.

(2) Exceptions to the administrative review requirements are:

(a) Children placed directly from the hospital into a nursing home without a prior substitute care placement;

(b) Children hospitalized on a long-term acute basis; or

(c) Youth in detention.

(3) An administrative review shall be held within six months following the first day of placement in care and every six months thereafter from the date of the last review. The administrative review requirement may be met by:

(a) A local CRB review conducted in accordance with ORS 419A.090 through 419A.128;

(b) A Permanency Hearing or other court hearing meeting the definition of a complete judicial review, held no earlier than five months after placement when the court relieves the CRB of its responsibility to review the case pursuant to ORS 419A.106 (1)(b); or

(c) An Internal Review Committee. In exceptional and rare circumstances, in the absence of a review by a local CRB or court, an internal review committee may be convened to conduct an internal administrative review. An internal review will not relieve the Department of the requirements for CRB reviews in those counties where the local CRB boards operate, therefore, a review must be scheduled with the CRB or court within 30 days of the internal review. At least one member of the internal review committee must not be involved with day-to-day planning on the case. After concluding the internal review, the committee must complete and distribute a findings document to the participants and the CRB (contents should be similar to the findings issued by the CRB).

Stat. Auth.: ORS 418.005
 Stats. Implemented: Title IV, ORS 419A.090-122, 419B.440-476 & 419C.623-656
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0135

Responsibility for Administrative Reviews

(1) Responsibility for CRB Reviews when more than one Department office, cluster or state is involved with the case. Offices will meet the administrative review requirements for children in placements as follows:

(a) For Oregon children in substitute care placements inside and outside of Oregon, the local Department office in the county holding legal jurisdiction is responsible for the administrative review.

(A) Information about a child placed out-of state will be requested through Interstate Compact on the Placement of Children (ICPC) from the supervising state; and

(B) The Oregon caseworker will compile information for the review on family members residing in Oregon and receiving Department services.

(b) For non-finalized adoptive placements on fully free children, the supervising Department office is responsible for the administrative review.

(c) For children in the legal custody of the Department whose placement is being co-managed by the Department and mental health or developmental disability case managers:

(A) The Department office in the county holding legal jurisdiction is responsible for the administrative review. The mental health or development disability case managers will be invited and encouraged to participate in the review;

(B) The Department caseworker will gather information for the review from the Mental Health or Developmental Disabilities case manager; and

(C) The Department caseworker will compile information for the review on family members receiving Department services.

(2) Review Requirements for Hospitalized Children and Children on Runaway Status. Administrative Reviews must be held for the following children:

(a) Children returned to care from SAIP or SCIP. The review must be held within 30 days of the child's return to care if the review would have been due during the child's hospitalization, with the exception of children placed directly from the hospital into a nursing home, without a prior substitute care placement.

(b) Children placed in an accredited psychiatric facility or hospital shall continue to have regularly scheduled CRB reviews.

(c) Children on the run shall continue to have regularly scheduled CRB reviews.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.005, 419A.090-122, 419B.440-476, 419C.623-656
 Hist.: CWP 23-2003, f. & cert. ef. 5-22-03; CWP 2-2006, f. & cert. ef. 2-1-06

413-040-0140

Permanency Hearings by the Court

A Permanency Hearing must be held no later than 12 months after a child was found within the jurisdiction of the court under ORS 419B.100 or 14 months after the child was placed in substitute care, whichever is the earlier, and thereafter no less frequently than 12 months for as long as the child remains in substitute care. The Permanency Hearing will:

(1) Be held for all children in the legal or physical custody of the Department and placed in paid or unpaid substitute care including, but not limited to, children in foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities, SAIP, and SCIP. Children's permanency hearings continue regardless of whether the placement is licensed or certified or, the child is on runaway status, or the child is returned to a parental home on the basis of a trial home visit.

(2) Be conducted by a juvenile court, another court of competent jurisdiction, or by an authorized tribal court; and

(3) Determine the permanency plan for the child that includes whether, and if applicable, when the child will:

(a) Be returned to the parent;

(b) Be placed for adoption and the Department shall file a petition to terminate the parental rights of the parent(s) to a child in Department custody;

(c) Be referred to legal guardianship; or

(d) Be placed in another planned permanent living arrangement.

If the Department has determined that is not in the best interest of

the child to file a petition for termination of parental rights, the case plan must also contain documentation for review by the court that:

(A) The child is being cared for by a relative and that placement is intended to be permanent; or

(B) There is a compelling reason that filing such a petition would not be in the best interests of the child. Such compelling reasons include, but are not limited to:

(i) The parent is successfully participating in services that will make it possible for the child to safely return home within a reasonable time;

(ii) Another permanent plan is better suited to meet the health and safety needs of the child;

(iii) The court or local CRB in a prior hearing or review determined that while the case plan was to reunify the family the Department did not make reasonable efforts or, if the Indian Child Welfare Act applies, active effort to make it possible for the child to safely return home; or

(iv) The Department has not provided to the family of the child, consistent with the time period in the case plan, such services as the Department deems necessary for the child to safely return home, if reasonable efforts to make it possible for the child to safely return home are required to be made with respect to the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.090-419A.122, 419B.440-419B.476, 419C.623-419C.656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03; CWP 2-2006, f. & cert. ef. 2-1-06

413-040-0145

Additional Requirement for Children Disrupted from Permanent Foster Care

The Department will notify the court when a permanent foster care placement disrupts so the court can take appropriate action, including scheduling a permanency hearing. See OAR 413-070-0730).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 - 419A.122, SB 408, ORS 419B.440 - 419B.476 & 419C.623 - 419C.656

Hist.: SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0150

Participant Notification of Administrative Reviews and Permanency Hearings

(1) The local Department office shall provide correspondence information to the local CRB to assure that written notice of the review is provided to the Department, any other agency directly responsible for the care or placement of the child, the parents or their attorneys, foster parents, surrogate parents, persons granted intervenor status, mature children or their attorneys, court-appointed attorney or court appointed special advocate for any child, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(2) The local Department office shall provide foster parent, pre-adoptive parent, or relative who is actively providing care for a child, notice of any court hearing concerning the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 - 419A.122, 419B.440 -419B.476 & 419C.623 - 419C.656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; Administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0155

Participants in Administrative Reviews and Permanency Hearings

(1) All legal custodians and parents must be invited and encouraged to participate in Administrative Reviews and Permanency Hearings.

(2) Other individuals to invite are:

(a) Substitute care providers;

(b) Children, when it is determined that the child's attendance would be appropriate and the child wishes to attend;

(c) Attorneys and Court Appointed Special Advocates (CASA);

(d) Native American Tribe (if applicable).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, SB 419, ORS 419A.090 - 419A.122, 419B.440 - 419B.476 & 419C.623 - 419C.656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0157

Documentation Requirements for Administrative Reviews and Permanency Hearings

(1) Required documentation supporting the administrative review includes:

(a) The current Substitute Care Case Plan narrative (CF 147B) of case information; and

(b) A signed recommendation of the findings of the CRB or internal review committee (to be attached to the file copy of the CF 147B in the "Narrative" section of the case record); or

(c) A court order with language to the effect that a complete judicial review was held in place of an administrative review, and the court relieves the CRB of its responsibility to review the case pursuant to OR 419A.

(2) Written evidence of a Permanency Hearing having taken place will include:

(a) A written report filed by the worker in accordance with OR 419B.440 through 419B.452, and any additional information required by the court; (with court's approval, the CF 147B may be used to meet reporting requirements of OR 419B.400 through 419B.452); and

(b) A written court order.

(3) Citizen Review Board Recommendations. The Department will implement recommendations of a local CRB as the Department deems appropriate. The Department will give written notification to the local CRB of any recommendations which the Department does not intend to implement. This notification will be given within 17 days of receipt of the CRB recommendations.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, SB 419, ORS 419A.090 - 419A.122, 419B.440 - 419B.476 & 419C.623 - 419C.656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0159

Notification and Distribution Requirements for Administrative Reviews and Permanency Hearings

(1) Case records must contain documentation that written advance notice was provided to the persons cited in OAR 413-040-0150 inviting them to attend the Administrative Review or Permanency Hearing.

(2) The Department will provide copies of the Substitute Care Case Plan narrative (CF 147B) to:

(a) Legal custodial and non-custodial parents;

(b) Parents out-of-state;

(c) Parents who have not had their parental rights terminated or have not signed a release and surrender agreement for adoption;

(d) Native American tribes (if applicable);

(e) Parents' and child's attorneys; and

(f) Court Appointed Special Advocates (CASA).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090-122, 419B.440-476 & 419C.623 - 656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0170

Judicial Requirements for Voluntary Custody Agreement or Child Placement Agreement

(1) Children in out-of-home placement on the basis of a signed Voluntary Custody Agreement or Child Placement Agreement, and Title IV-E-FC eligible must, within 180 days of placement, have a judicial determination by court order to the effect that such placement is in the best interests of the child. A finding of reasonable efforts is not required. The judicial determi-

nation requirement may be met without a court hearing, e.g. letter to the court which results in an ex parte court order. However, if a court hearing does not occur, a CRB review must be held and Permanency Hearings must occur as scheduled.

(2) Children placed on the basis of a Voluntary Custody Agreement or Child Placement Agreement are subject to the same Administrative Review and Permanency Hearing requirements as children placed on the basis of a court order.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090-122, 419B.440-476 & 419C.623-656

Hist.: SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; Administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03

Interstate Compact on the Placement of Children

413-040-0200

The Interstate Compact on the Placement of Children (ICPC)

(1) The Interstate Compact on the Placement of Children (ICPC or Compact) was adopted into law by the 1975 Oregon Legislature and is codified at ORS 417.200 to 417.260. All states are parties to the Compact as are the District of Columbia and the Virgin Islands. The protections of the Indian Child Welfare Act also apply to children who are subject to the protections of the ICPC.

(2) Article I of the Interstate Compact on the Placement of Children and ORS 417.200 provide, in part, that it is the policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement receives the maximum opportunity to be placed in a suitable environment with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care;

(b) The appropriate authorities in the state where a child is to be placed have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child;

(c) The proper authorities of the state from which the placement is made are able to obtain the most complete information to evaluate a projected placement before it is made; and

(d) Appropriate jurisdictional arrangements for the care of children are promoted.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0205

Denial or Delay of Placement

(1) The Department will not delay or deny placement of a child for adoption when an ICPC approved family is available outside the jurisdiction of the State of Oregon.

(2) An approved (adoptive) family (defined in OAR 413-200-0306(7)) who alleges denial of adoption approval as a result of residing outside the jurisdiction of the State of Oregon has the right to a contested case hearing as provided in ORS 183.310 to 183.550.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 260

Hist.: CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0215

Required Forms

(1) Several Department forms are referred to by form number in these rules. The forms are available at the Department's web site except as noted. When use of a form is required by these rules, the current version of the form must be used.

(2) To be effective, a form required by these rules must be complete.

(3) The following forms are required to be used by these rules:

(a) Form CF 93, "ICPC Foster Care Statement"

(b) Form CF 100A, "Interstate Compact Placement Request"

(c) Form CF 100B, "Interstate Compact on the Placement of Children Report on Child's Placement Status"

(d) Form CF 246, "Genetic and Medical History of Child and Biological Family"

(e) Form CF 246A, "Non-State Department of Human Services Adoptions"

(f) Form CF 246B, "ICPC Interstate Compact Placement of Children Genetic and Medical History of Child's Biological Family"

(g) Form CF 307 (available from Department's FACIS system)

(h) Form CF 1044, "Interstate Compact Financial/Medical Plan If Child is Placed Out-of-State"

(i) Form CF 1297, "Department of Human Services Travel Expense Claim"

(j) Form CF 6723 Child Specific Case Plan

(k) Form CF 6788 Child Welfare Case Plan Expense Claim."

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 260

Hist.: CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 1-2013, f. & cert. ef. 1-15-13

413-040-0230

Who Must Use Interstate Compact

(1) Placements subject to the Compact. A sending agency that arranges the placement of a child that is covered by the ICPC must comply with the requirements of the ICPC. The ICPC and these rules apply when a child is sent to, brought to, or caused to be sent or brought to a compact state by a sending agency for placement. This includes, but is not limited to, the following placements:

(a) Placement with a parent or relative if a parent or relative is not making the placement.

(b) Placement in a foster home, adoptive home, group home, residential treatment facility, or institution.

(2) Placements not subject to the Compact. The ICPC and these rules do not apply to:

(a) A placement of a child into a receiving state by a parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or guardian and leaving the child with any such relative or guardian in the receiving state.

(b) A placement of a child into a receiving state pursuant to another interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to another agreement between the sending and receiving states.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0240

Financial and Medical Responsibility of Sending Agency

(1) The sending agency is responsible for the support and maintenance of the child during the period of the placement.

(2) The sending agency is responsible for arranging for medical coverage for the child before the child is placed with an ICPC approved family.

(3) When, subsequent to ICPC approval, the Department places a child out of state with a foster parent or relative caregiver, foster care payment is determined in accordance with Child Welfare Policy I-E.5.1, "Foster Care Payments for a Child or Young Adult Living with a Certified Family or Living Independently", OAR 413-090-0000 to 413-090-0050.

Stat. Auth.: ORS 409.050, 418.005, & 418.647

Stats. Implemented: ORS 409.010, 417.200-417.260, 418.005 & 418.647

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 3-2010(Temp), f. & cert. ef. 3-15-10 thru 9-10-10; CWP 18-2010, f. & cert. ef. 9-2-10; CWP 20-2010(Temp), f. & cert. ef. 11-3-10 thru 5-2-11; CWP 1-2011, f. & cert. ef. 1-4-11; CWP 1-2013, f. & cert. ef. 1-15-13

413-040-0260

Penalty for Violating ICPC

(1) A private child-caring agency that violates a provision of the ICPC or these rules may be subject to a civil penalty and its license may be subject to denial, suspension, or revocation in accordance with the Department's rules.

(2) A person who violates the terms of the ICPC may be prosecuted criminally under ORS 417.990.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0265

Action on Referral From Oregon

(1) Upon receipt of the referral from the Oregon ICPC office, the receiving state compact office will conduct a home study. The home study is completed by the receiving state's worker as required by the AAICPC. The home study includes a recommendation regarding placement.

(2) The local field office in the receiving state sends three copies of the home study to the receiving state's compact office after completion. For ICPC purposes, the home study is valid for one year from the date on the home study. However, the receiving state's compact office may request and obtain additional information on any home study it finds to be incomplete, inaccurate or not current. The receiving state's compact office reviews the home study and approves or denies the placement in writing by completing and signing a form CF 100A and sending it to the Oregon ICPC office.

(3) Upon receipt of the home study or licensing study and the signed, approved form CF 100A, the Oregon ICPC office forwards a copy of each to the sending agency in Oregon. However, the Oregon ICPC office may request and obtain additional information from the receiving state on any home study it finds to be incomplete, inaccurate or not current. Approval for placement is valid for six months from the date the receiving state compact administrator or designee signs the form CF 100A.

(4) After the interstate application is approved by the receiving state, the child may be placed. After the child is placed, the Oregon sending agency completes and mails three copies of the form CF 100B to the Oregon ICPC office indicating the date of placement.

(5) Upon receipt of the CF 100B, the receiving state begins supervision. Supervision will include a visit to the resource home or institution in accordance with the receiving state's laws and policy. The caseworker in the receiving state prepares a progress report, as requested on the form CF 100A, and forwards the report in triplicate to the receiving state's deputy compact administrator. The receiving state's deputy compact administrator sends the report, in duplicate, to the Oregon ICPC office which in turn sends the report to the sending agency.

(6) The receiving state supervises the case until it is closed as described in OAR 413-040-0250.

(7) The Oregon ICPC office conducts annual case reviews on open ICPC cases.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 260

Hist.: CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0270

Preparing Referral to Send a Child Out of Oregon

(1) A sending agency making an out-of-state placement of a child must comply with the ICPC and these rules (OAR 413-040-0200 to 413-040-0330).

(2) A sending agency, other than the Department, that refers a child for an out-of-state placement in a child-caring agency or institution, must submit the following to the Oregon ICPC office:

(a) Prior to the referral:

(A) A complete, signed form CF 100A; and

(B) An acceptance letter from the facility, child-caring agency, or institution.

(b) After the placement is made, a form CF 100B.

(3) When the Department refers a child for placement outside the State of Oregon, the following requirements must be met:

(a) Three copies of the following must be submitted by the Department's field office to the Oregon ICPC office:

(A) A complete, signed form CF 100A;

(B) A cover letter outlining the Department's request;

(C) Form CF 1044;

(D) The court order or commitment order establishing jurisdiction over the child;

(E) The social summary on the child (forms CF 307 and CF 6713), the most recent court report, and, if available, a psychological evaluation of the child and an evaluation identifying the child's current level of functioning and special needs;

(b) In addition to the requirements of subsection (a) of this section:

(A) If the case involves a request for an adoption home study, the Department's field office must submit to the Oregon ICPC office any available, current home study information that would assist with approval of the placement and the following:

(i) A termination-of-parental-rights order; or

(ii) A signed Release and Surrender and a Certificate of Irrevocability.

(B) Before a child in the Department's custody can be placed in an out-of-state residential treatment facility, a manager in the Department's Well Being Program authorizes the placement contract before the ICPC is initiated.

(C) If the Department is considering an out-of-state placement with a relative, the relative's home must meet the receiving state's certification criteria. If the receiving state does not require that relatives be licensed or certified, the Oregon ICPC office sends an ICPC Foster Care Statement (form CF 93) to the receiving state for completion.

(4) When an intact Department foster or adoptive family is moving to another state, the Oregon ICPC office will follow regulations adopted by the AAICPC and assist the Department's field office staff in complying with those regulations.

(5) The Oregon ICPC office reviews all referrals for compliance with the ICPC, the Department's administrative rules, and AAICPC regulations and guidelines; signs as the Oregon deputy compact administrator or designee; and forwards the material to the receiving state compact office in duplicate.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 1-2013, f. & cert. ef. 1-15-13

413-040-0280

Transportation Procedures

(1) The Department pays transportation costs related to the interstate placement of a child in the Department's custody based on need. Before the Oregon ICPC office pays for those costs, the Department's field office must evaluate all other financial resources, including those of the child and family.

(2) The Department's field office may contact the Oregon ICPC office for assistance in paying transportation costs only if the field office is unable to identify other resources to pay for transportation costs.

(3) The ICPC office may pay for:

(a) A one way ticket for the child.

(b) A round trip ticket for the escort. If more than one escort is needed, additional tickets may be purchased as approved by the Oregon ICPC office.

(c) If needed, car rental, meals, and shipment of reasonable belongings.

(d) Transportation per diem costs at the current contract rates.

(e) A one night stay if the travel requires more than 10 hours. Additional nights may be approved by the Oregon ICPC office based on the child's special needs.

(f) One pre-placement visit after adoption placement has been approved through ICPC. If the visit is to be made in-state, the Oregon ICPC office pays in-state rates only and pays one to five nights at the in-state rate. If the visit is out of state, current contract rates apply.

(g) Exceptions to the above travel standards may be approved by the ICPC manager.

(4) Travel arrangements for children in the Department's custody will be made only after the ICPC authorization number is received and must be made through the authorized carrier. Expenses will be reimbursed using the form CF 1297, Travel Expenses. Receipts must be submitted for expenses other than per diem.

(5) If a child in the Department's custody returns to Oregon, the Department's field office must contact the Oregon ICPC office prior to making travel arrangements.

(6) In custody cases where children are being returned to non-offending custodial parents, the field office returns the child to the non-offending custodial parent as long as jurisdiction, including temporary custody or shelter care order, has either been dismissed or has not been established in Oregon.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0290

Requests for Placement in Oregon

(1) A request for a home study and placement of a child in Oregon must be sent to the Oregon ICPC office for review. The Oregon ICPC office will forward the request to the appropriate Department's field office, tribe, court, private agency, or residential treatment center. The Department may contract with private agencies for certain relative adoptive home studies. If an out-of-state court asks a field office to complete a custody study, the field office will send the request to the Oregon ICPC office for review before taking action on the request.

(2) The Department's local branch office, or other agency where appropriate, will conduct a home study or certification study after receiving the request from the Oregon ICPC office. In addition to the suitability of the home, factors such as need for financial assistance, special education, and availability of medical or psychological services are considered. Each home study includes a review of Child Protective Services records, LEDS checks, and fingerprint checks. For a placement regulated by the ICPC, the home study is valid for two years from the date on the study. However, the Oregon ICPC office may request additional information on any home study it finds to be incomplete, inaccurate, or not current.

(3) A relative caregiver or foster-family must meet the requirements of OAR 413 200 0301 to 413-200-0396, "Standards for Certification of Foster Parents and Relative Caregivers and Approval of Potential Adoptive Resources" and a potential adoptive family must additionally meet the requirements of OAR 413-120-0190 to 413-120-0246, "Adoption Applications, Adoption Home Studies, and Standards for Adoption."

(4) After the study is completed, the local branch office or agency must provide it to the Oregon ICPC office and must not provide the study to the party or agency that requested it. If a criminal history exception was required, a copy of the completed criminal history exception must be forwarded to the Oregon ICPC office with the completed study. The study must include a recommendation regarding placement.

(5) The Oregon ICPC Deputy Administrator or designee will review the study and will either approve or not approve the placement based on information contained in the report and case record. The Oregon Deputy Compact Administrator or designee follows AAICPC regulations, opinions, positions and guidelines when making the determination.

(6) Two copies of the study, along with two copies of the interstate application (form CF 100A), are sent by the Oregon ICPC office to the sending state's Interstate Compact Office. One signed copy of the approved form CF 100A is sent to the Oregon field office.

(7) The Oregon ICPC office is notified of the child's placement into Oregon by the sending state by receipt of the form CF 100B. A copy of this form is sent to the supervising agency to inform it of the placement and to start the supervision.

(8) Following placement of the child, supervision by the Oregon local branch office includes a monthly contact with the child as described in OAR 413-080-0055.

(9) The supervising agency must submit progress reports (three copies) to the Oregon ICPC office as requested by the sending state on the form CF 100A.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 1-2013, f. & cert. ef. 1-15-13

413-040-0300

Requests That By-pass the Oregon ICPC Office

A request for a home study received by the field office directly from another sending agency, including a state, tribe, agency or court, must be sent to the Oregon ICPC office for review and handling. The local branch office will take no action on the request unless approval is given by the Oregon Deputy Compact Administrator or designee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 1-2013, f. & cert. ef. 1-15-13

413-040-0310

Independent and Private Agency Adoptions; Documentation Required for Placement in or from Oregon

(1) When a child is placed out of or into Oregon by a sending agency, including a parent or a private licensed agency, for purposes of adoption, the ICPC applies. Independent and private agency adoption referrals are processed as soon as practicable after receipt by the ICPC office of the complete compact placement referral.

(2) Referrals for placement covered by the Compact must be sent to the Oregon ICPC office, after the birth of the child, containing three copies of the following:

(a) Form CF 100A;

(b) Cover letter;

(c) Forms CF 246, 246A, and 246B;

(d) Medical information on the child;

(e) The consents and surrenders required by law. A mother must sign the consent and surrender after the birth of the child.

(f) An affidavit from the child's mother regarding the biological father and, if the legal father is not the biological father, regarding the legal father. The affidavit is not necessary unless the biological or the legal father has not signed a consent and surrender.

(g) A statement regarding the applicability of the Indian Child Welfare Act;

(h) If the birth parents have Native American heritage, Tribal releases that comply with the Indian Child Welfare Act;

(i) Documentation regarding all known facts about each legal or putative father. If the mother has stated that the identity or whereabouts of the father is unknown, documentation regarding what advice and information the mother was given and the reason why the father's identity or whereabouts are unknown to the mother;

(j) Affidavit regarding counseling;

(k) Affidavit regarding the Voluntary Adoption Registry;

(l) The completed home study;

(m) An update to the current home study if the completed home study is completed more than one year from the date the ICPC referral is made; and

(n) A legal risk statement signed by the adoptive family that acknowledges that the child is not legally free for adoption and that there is a risk of having the child removed from the home. This statement is required when one of the biological or legal parents has not signed a consent and surrender.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0320

Intercountry Adoptions; Applicability of ICPC

When a child is placed from a foreign country into a state other than Oregon by a private agency licensed in Oregon, the following requirements apply:

(1) If the child enters the United States under an IR4 visa, the entity facilitating the placement must comply with the ICPC before the child enters the United States. If the child enters the United States under an IR3 visa, the ICPC does not apply.

(2) If the Oregon agency takes custody of the child before placing the child outside the State of Oregon, the ICPC applies.

(3) If the Oregon private agency does not take custody of the child, the child has been fully adopted in the other country, and the U.S. Embassy has sanctioned the adoption, the ICPC does not apply.

(4) The Oregon private agency may be asked to assure that if the placement disrupts it will take custody of the child. This may be done through the ICPC process or by letter, depending upon the documentation requirements of the receiving state.

(5) Oregon licensed agencies must comply with the receiving state's laws and requirements regarding an intercountry adoption.

(6) If ICPC applies, the adoption agency submits the form CF 100B to the Oregon ICPC office to close the case after the adoption is finalized.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0325

Termination of Jurisdiction over Child

(1) The sending agency retains jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child that it would have had if the child had remained in the sending agency's state until the child:

(a) Is adopted;

(b) Reaches majority according to the law of the sending state;

(c) Becomes self supporting;

(d) Is discharged with the concurrence of the appropriate authority in the receiving state; or

(e) Is returned to the sending state.

(2) Interstate services are not terminated until the receiving state's compact office concurs with closure.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 260, Article V

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04, Renumbered from 413-040-0250

413-040-0330

Communications

In order to be effective, a communication required to be submitted to the Oregon ICPC office must be mailed or delivered to: The Deputy Compact Administrator, Oregon Interstate Compact on the Placement of Children, Department of Human Services, 500 Summer Street NE, E-70, Salem, OR 97301-1068; Telephone (503) 945-5671.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

HIV Testing of Children in Department Custody and HIV Confidentiality

413-040-0400

Policy

HIV testing is an intrusive medical procedure which can have serious social consequences. The Department will subject children in its custody to this procedure only if it is medically indicated. When a child in Department custody is tested for HIV, informed consent procedures shall be followed and the results of the test held in strictest confidence.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 5-2003, f. & cert. ef. 1-7-03

215413-040-0420

HIV Antibody Testing

(1) For children and youth in Department custody, the HIV antibody test is to be done only to facilitate the medical care of the child if clinically indicated after a thorough medical evaluation by a doctor knowledgeable about HIV infections. The test is not to be used to screen individuals with high risk behaviors or any other groups, nor to satisfy the curiosity of Department staff or contracted providers.

(2) Under the direction of a physician, infants born to mothers known to have engaged in high risk behaviors may be tested for HIV. The presence of HIV infection in an infant can be determined only after the mother's antibodies are gone from the child's bloodstream. Because maternal antibody crosses the placenta, the presence of HIV infection can only be determined after a series of tests.

(3) Victims of sexual abuse who have been exposed to blood or semen may be tested for HIV. If the child can understand, informed consent procedures shall be used (I-B.5.1, 413-040-0430). A physician knowledgeable in HIV care should be consulted immediately for consideration of HIV post-exposure prophylaxis.

(4) The Department shall not license any private child-caring agency whose admission criteria include a mandatory HIV test.

(5) The Department shall not contract with any service provider whose admission criteria include a mandatory HIV test.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 25-2000, f. & cert. ef. 9-7-00; CWP 5-2003, f. & cert. ef. 1-7-03

413-040-0430

Informed Consent

(1) No person shall submit the blood of an individual to an HIV test without first obtaining informed consent or ascertaining

that informed consent is obtained, consistent with subsection (7) of this rule.

(2) As legal custodian and guardian of the child, the Department may grant medical consent and authorize medical treatment. Children 13 years of age or older should be included in this planning and also consent. The Department must have a medical statement that the HIV test is necessary for care and treatment before ordering or arranging for a test. If the Department orders or arranges for an HIV test, informed consent procedures must be followed. A minor of any age may consent to a HIV test; and when the minor's consent is given, the consent of the minor's parents or guardians is not necessary for diagnosis, care or treatment. However, such consent must be informed consent.

(3) In all cases involving a child old enough to give informed consent, the worker shall try to obtain the consent of the child. However, if the physician and Department staff believe an HIV test is necessary to provide information necessary for the care of the child, and that child objects to the test and will not consent, the following options are available:

(a) SDA Manager or designee after consultation with the child's physician, may consent to the test for the child over the child's objection (413-020-0150(c)(A)(iii)); or

(b) The worker may petition the court to order the child to be tested.

(4) Department staff are responsible to assure that informed consent is obtained when children in Department custody are to be given an HIV test. If the medical provider does not obtain the informed consent, Department staff shall do so or arrange for it to be done prior to the test.

(5) If a child is placed pursuant to a Voluntary Custody Agreement or a Voluntary Placement Agreement, the parent and the child retain the authority to consent to the test. The Department does not have the authority to consent to the test on behalf of the parent unless such authority is included in the express terms of the Agreement.

(6) Providers are not authorized to consent to a child's HIV test.

(7) Informed consent shall be obtained in the following manner, giving consideration to the child's age and ability to understand:

(a) Provide the person for his/her retention a copy of the CF 990, HIV Test Informed Consent.

(b) Orally summarize for the person the substance of the statements in the CF 990 and specify alternatives to the HIV test in the particular instance, and if the test information will be disclosed to others, who those others will be.

(c) Explain the risks from having the HIV test. This shall include a description of Oregon law pertaining to the confidentiality of information about an individual having the test and that individual's test results; a statement that there may be circumstances under which disclosure might be permitted or required without consent; and a statement of the potential consequences in regards to insurability, employment, and social discrimination if the HIV test results become known to others.

(d) Inform the person that he or she has the right to request additional information from a knowledgeable person before giving consent.

(e) Ask the person to be tested whether he/she has any further questions, and if so, provide a full and complete opportunity to ask those questions and receive answers from a person who is sufficiently knowledgeable to give accurate and complete answers about AIDS, HIV tests and the consequences of being tested or not tested.

(f) Have the person sign the CF 990, HIV Test Informed Consent, after having had an opportunity to read it.

(g) Maintain the signed CF 990 for at least seven years in a locked file separate from the case file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 12-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 5-2003, f. & cert. ef. 1-7-03

413-040-0440**Counseling**

A child being referred for HIV antibody testing must be referred for pre-and post-test counseling.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 5-2003, f. & cert. ef. 1-7-03

413-040-0450**Confidentiality**

(1) Many Department records are exempt from disclosure and are strictly confidential under the public records exemptions or confidentiality status. All medical records are privileged information. AIDS and/or HIV test results are specifically designated highly confidential by statute (ORS 433.045) and Department Health Administrative Rule (333-012-0270(1)-(9)) and must be held in the most strictly observed confidence possible to avoid consequences of casual or inappropriate disclosure of information. Information regarding a client's HIV status is to be maintained in a locked file separate from the case.

(2) In order to provide services to the child and to administer Department's child welfare services, Department staff may inform only those directly involved in case planning and who have a need to know, that a child or an adult who has a significant role in the child's plan, has AIDS or is HIV positive. The identification of who has a need to know in order to adequately meet the needs of the child shall be determined through a staffing which includes the worker, supervisor and Department central office (Personal Care Coordinator) representative, and should include input from the physician, county Health Department who ordered the test, or the HIV Program of the Department's Health Policy cluster.

(3) For children receiving services under a Voluntary Custody Agreement (CF 1005) or a Voluntary Placement Agreement (CF 499), the responsible parent(s) shall always be involved in making medical decisions for the child, and have access to medical information.

(4) Each person who subsequently gains access to this information must keep it in strictest confidence (ORS 433.045(3)). The worker shall advise all persons who have access to the medical information of their duty to safeguard the confidential nature of the information.

(5) If the Department learns from any source that a child is HIV positive, the above procedures must be followed.

(6) Pursuant to Health cluster Rule 333-012-0270, if the Department possesses information that an adult client or other person associated with a case if HIV positive, this does not confer the right to disclose the information, except as permitted by Oregon law.

(7) If disclosure of HIV information is deemed necessary for planning in the context of a court hearing, the worker shall not disclose the status in open court without either the written consent of the infected persons or a court order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 12-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 5-2003, f. & cert. ef. 1-7-03

DIVISION 50**SUPPORTIVE SERVICES****Special Medical Services Provided by Child Welfare****413-050-0400****Purpose**

The purpose of these rules is to describe the special medical services provided by the Department of Human Services (DHS).

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

413-050-0405

Definitions

(1) “Administrative Exams”: DHS uses the DMAP definition for Administrative Medical Examinations and Reports found in OAR 410-120-0000 which is: “Examinations, evaluations, and reports, including copies of medical records, requested on the **DMAP 729** form through the local DHS office or requested and/or approved by DMAP to establish client eligibility for a medical assistance program or for casework planning.”

(2) “Other Medical Expenditure”: Any payment to a licensed medical provider for a service provided to a person in the household who is not eligible or potentially eligible for Title XIX or GA (General Assistance), or for a certain service provided to an eligible Title XIX or GA client which is not covered under Administrative Exams using the Medical Service Authorization and Invoice form, **CF 501A**.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

413-050-0410

Payment for Medical Services for Administrative Exams and Other Medical

(1) Medical expenditures can be authorized from “Administrative Exams” or from “Other Medical.” In addition, for cases designated permanent planning, the Adoption Services Unit may authorize payment of certain medical services. See OAR 413-050-0450 below.

(2) “Administrative Exams” and “Other Medical” expenditures must be authorized by the local DHS manager or designee prior to the medical service. (Emergency appointments excepted).

(3) Payment for “Administrative Exams” and “Other Medical” expenditures will be made only to medical service providers who are both licensed in their state and enrolled with the Division of Medical Assistance Programs (DMAP) for participation in the Medicaid Program (Title XIX). Such providers must have an assigned active provider number from DMAP to receive payment for their services. (See exception procedures for unlicensed or non-registered consultants or trainers in CAF Policy I-C.4.2.1 (6)).

(4) Payment for “Administrative Exams” and “Other Medical” expenditures will be at the current published DMAP rate for the procedure code billed.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

413-050-0420

Administrative Exams Payments

“Administrative Exams” are provided to children in DHS’s care and custody who are eligible or potentially eligible for Title XIX or GA (General Assistance). “Administrative Exams” are also provided to parents or other adults identified on the Face Sheet in the child’s case record. Parents or adults must be Medicaid or GA eligible and have medical coverage through the Oregon Health Plan on the date of service. Expenditures are federally matchable and will be paid through DMAP. An “Administrative Exam” expenditure includes any payment to a medical provider for a physical examination, psychological/psychiatric evaluation, or copies of medical records in connection with:

(1) Protective Service assessments when medical treatment or examination is necessary to evaluate and plan for child safety as per I-B.2.2(6)(a)–(f). “Administrative Exam” payments may be authorized regardless of whether placement is made; or

(2) Casework planning for Title XIX or GA eligible children in substitute care; or

(3) Evaluation and/or testing for children in their own home to determine if out-of-home placement is an appropriate case plan. “Administrative Exam” payments may be authorized regardless of whether placement is made;

(4) Copies of hospital or medical records.

(5) Psychiatric or psychological evaluations of parents or other adults identified in the child’s case record. Parents or adults must be Medicaid or GA eligible through the Oregon Health Plan.

(6) Urinalysis collection and screening for children and/or parents or other adults identified in the child’s case record. Parents or adults must be Medicaid or GA eligible through the Oregon Health Plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

413-050-0430

Other Medical Payments

“Other Medical” payments are not federally matchable and are paid out of General Fund dollars. “Other Medical” is to be used for required medical services for a child in Department care and custody by court order or Voluntary Placement or Custody Agreement either in or out of substitute care, or parents or other adults identified in the child’s case record. “Other Medical” is only to be used if the service is not available through Mental Health or DMAP as a Medicaid service. Payments from “Other Medical” may be made in the following situations:

(1) Drug and alcohol assessments for persons not eligible for Title XIX or the Oregon Health Plan.

(2) A one-time emergency medical need for children in the custody of the Department that have been returned home. This is limited to children of low-income families not eligible for medical services through the Department.

(3) Therapy for Children in Substitute Care, if recommended by a licensed psychiatrist or psychologist who evaluated the child, and the type of therapy and/or the therapist recommended is unavailable from the local mental health clinic or through the mental health plan (MHO) in which the child is enrolled. The therapist must be enrolled with DMAP or, failing that, there must be a signed contract in place prior to the therapy being provided. Funding availability will be determined by the SDA Manager or Designee (who may want to consult with the Assistant Field Administrator or the Medical Assistance Resource Coordinator to determine that there are no other resources available for funding).

(4) Consultation with a licensed or registered provider regarding the case or treatment planning for a specific child. Field staff’s consultation with licensed experts in human behavior offers an alternative to costly individual evaluations for families or children who are experiencing severe medical, behavioral or emotional problems. Frequently, the case record contains information accumulated over time which a consultant, trained to evaluate and interpret such data, can assess to assist the agency in developing or managing a timely and well-focused case plan.

(5) Medical care for children in detention. ORS 418.034 mandates payment of the cost of medical care for the child in detention, including emergency medical care, if the child is in custody of the Department. “Medical care” means emergency medical care or medical care for a medical condition that existed prior to the child’s being held in a juvenile detention facility or in a local correctional facility or lockup.

(6) Evaluations of parents when required by the Department for casework planning to determine the parents’ emotional stability, intellectual capacity, parenting capacity or maturity. These may include medical, psychiatric, psychological evaluations or drug and alcohol assessments. This does not include ongoing treatment or services. Payment from “Other Medical” for the above services will not be made for parents in permanent planning cases or for parents who are Medicaid eligible through the Oregon Health Plan.

(7) Parent/child and/or sibling interaction evaluation.

(8) Protective service physical examinations authorized for the purpose of the legal investigation only and when out-of-home care is not a consideration.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 13-2003, f. & cert. ef. 1-9-03

413-050-0440

Medical Services “Permanent Planning”

In cases designated permanent planning, the Department will

make payments for necessary evaluations of parents, stepparents

and/or live-in companions. This includes psychological, psychiatric

and neurological evaluations, drug and alcohol assessments and

parent-child interaction assessments. These services must be autho-

rized in writing by the Adoption Services Unit prior to the services

being provided.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-

01, cert. ef. 1-1-02; CWP 13-2003, f. & cert. ef. 1-9-03

413-050-0450

Medical Consultation and Training for Staff

(1) Consultation and training for DHS staff on health services problems will be paid upon approval of the Assistant Field Administrator or designee. The consultant or trainer is not required to be licensed or registered, nor to have an assigned provider number from DMAP.

(2) Payment will be made only where there is a contract which was written and signed prior to the performance of services. (See OAR 413-330-0010.)

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

Domestic Violence Fund

413-050-0500

Policy

These rules (OAR 413-050-0500 to 413-050-0590) provide procedures for the Department of Human Services (Department) to fund programs from the Domestic Violence Fund. The 1981 Oregon Legislature established this fund to provide intervention on behalf of and support for victims of domestic violence. The Department is authorized to enter into grant contracts with public agencies or private non-profit organizations to support operation by those organizations and agencies of programs designed to prevent, identify, and treat family violence

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0510

Definitions

(1) “Crisis line” is defined in ORS 108.610(2) and means an emergency telephone service staffed by persons who are trained to provide emergency peer counseling, information, referral, and advocacy to victims of domestic violence and their families.

(2) “Domestic and Sexual Violence Fund Advisory Committee” means the Domestic and Sexual Violence Fund Advisory Committee established in OAR 413-050-0530.

(3)(a) “Domestic violence,” defined by ORS 108.610, means the physical injury, sexual abuse or forced imprisonment, or threat thereof, of a person by another person who is related by blood, marriage or intimate cohabitation at the present or has been related at some time in the past, to the extent that the person’s health or welfare is harmed or threatened thereby.

(b) “Domestic violence” includes a pattern of assaultive or coercive behaviors including physical, sexual, psychological, and emotional abuses, as well as economic coercion that adults use against their intimate partners to gain power and control in that relationship.

(4) “Domestic Violence Fund” means the fund established by ORS 108.660.

(5) “Family Violence Prevention Program” means the program within the Department funded by the Domestic Violence Fund and other related funds as available to provide shelter and related services to victims of domestic violence.

(6) “Grantee” means a proposer that has been awarded a grant by the Department from the Domestic Violence Fund to support one or more of the projects and programs described in OAR 413-050-0515.

(7) “Proposer” means a public agency or private non-profit organization that meets the minimum criteria contained in OAR 413-050-0515 and that applies to the Department for funding from the Domestic Violence Fund to support one or more of the projects and programs described in 413-050-0570.

(8) “Safe house” means a place of temporary refuge, offered on an as needed basis to survivors of domestic violence and their families.

(9) “Shelter home” or “shelter facility” means a place of temporary refuge, offered on a 24 hours a day, seven days a week basis to survivors of domestic violence and their children.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 13-2004, f. & cert. ef. 7-1-04; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0515

Qualified Services

The Department uses the Domestic Violence Fund to make grants to nonprofit private organizations and public agencies to fund programs and projects designed to prevent, identify, and treat domestic violence. Grants from the Domestic Violence Fund may be made to:

- (1) Fund shelter homes for victims of domestic violence
- (2) Fund crisis lines providing services to victims of domestic violence and their families
- (3) Fund safe houses for victims of domestic violence and their families
- (4) Develop and establish programs for professional and paraprofessional personnel in the fields of social work, law enforcement, education, law, medicine, and other relevant fields who are engaged in the field of the prevention, identification, and treatment of domestic violence and training programs in methods of preventing domestic violence

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0530

Advisory Committee

(1) The Domestic and Sexual Violence Fund Advisory Committee (DSVFAC) established in OAR 413-050-0530 serves as the advisory committee to the Domestic Violence Fund Program. Members are elected and serve terms in accordance with the bylaws established by the advisory committee. Copies of DSVFAC bylaws and other open records are available by contacting the Department.

(2) The Department will consult with the advisory committee regarding the administration of the Family Violence Prevention Program and each proposed change that substantially affects the program's operation.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 16-1998, f. & cert. ef. 8-13-98; SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0535

Criminal History Checks

(1) A grantee must obtain a criminal history record check on each potential employee or volunteer who will work with victims of domestic violence.

(2) A grantee must develop a written policy or procedure that governs the review of the criminal history record of potential employees and volunteers and the determination of whether a potential employee or volunteer, if there is a criminal history, poses a risk to working safely with victims of domestic violence. The policy or procedure must provide that the review include an examination of:

- (a) The severity and nature of crime that appears in the criminal history;
- (b) The number of criminal offenses;
- (c) The time elapsed since commission of each crime;
- (d) The circumstances surrounding each crime;
- (e) The subject individual's participation in counseling, therapy, education, or employment evidencing rehabilitation or a change in behavior; and
- (f) The police or arrest report and whether that report confirms the employee's or volunteer's explanation of the crime.

(3) If the grantee determines that the potential employee or volunteer does not pose a risk to working safely with victims of domestic violence and chooses to hire the employee or volunteer, the grantee must explain in writing the reasons for hiring the individual. The written explanation must address how the potential employee or volunteer is presently suitable or able to work with victims of domestic violence in a safe and trustworthy manner, based on the policy or procedure described in section (2) of this rule. The grantee must place the written explanation in the personnel file of the employee or volunteer along with the employee's or volunteer's criminal history record.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0555

Shelter Standards

Grantees that provide shelter homes or shelter facilities must:

- (1) Comply with applicable zoning, fire, sanitary and safety regulations.
- (2) Post emergency instructions in English and other primary languages used in the geographic area where the shelter home is located.
- (3) Maintain an operating telephone.
- (4) Provide drinking water that meets Health Division standards.
- (5) Maintain medicines in locked cabinets or areas.
- (6) Have first aid supplies available.
- (7) Protect children from items of potential danger.
- (8) Have kitchen and emergency food supplies available reflective of the cultures present in the community.
- (9) Have emergency clothing available.
- (10) Maintain liability and fire insurance.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0560

Allocation of Funds

The Department uses an equitable distribution method for funding programs throughout the state. The distribution method must be reviewed by the Domestic and Sexual Violence Fund Advisory Committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0565

Department Selection Criteria and Rules

The Department will conduct periodically, at least once every five years, an application process for grant from the Domestic Violence Fund. The Department may conduct the application process jointly with other agencies of the State of Oregon that also award grants or provide financial assistance to nonprofit organizations that provide intervention and support services to victims of domestic violence. The application process includes but is not necessarily limited to:

- (1) Public notification of the availability of financial assistance from the Domestic Violence Fund;
- (2) Issuance of a request for grant proposals; and
- (3) Evaluation of the proposals and the award of grants from the Domestic Violence Fund in accordance with the process and criteria set forth in the request for grant proposals and this division of administrative rules.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0570

Applications for Funding

To be considered for funding, a proposer must include the following minimum information in its proposal:

- (1) Official business name of the proposer.
- (2) Business address of the proposer.
- (3) Name of the persons authorized to represent the proposer in any negotiations and to sign grant contract documents.
- (4) Geographic areas the proposer is proposing to serve.
- (5) A statement that no attempt has been made or will be made by the proposer to induce any other person or firm to submit or not submit a proposal, except through efforts to submit collaborative proposals.
- (6) A statement that the proposer accepts all of the terms and conditions contained in the request for grant proposals.
- (7) A written narrative describing how the proposer will provide services and meet the requirements of these rules.
- (8) All other information required by the request for grant proposals.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0575

Evaluation Process

(1) An evaluation committee of the Department reviews proposals in accordance with the process and criteria set forth in the request for grant proposals and this division of administrative rules. Because the State of Oregon wishes to fund programs to deal with victims of domestic violence offenses in all geographic areas of the state, the Department considers, as part of the evaluation process, the geographic area of the state that will be served by the proposer.

(2) The Department will approve, approve in part and reject in part, or reject each received proposal within 60 days after the submission deadline.

(3) The Department will provide written notification by mail to each proposer no later than five working days after the final action is taken on its proposal.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0585

Confidentiality

(1) If a grantee keeps the location of premises used to provide services under these rules confidential, the Department will not release that information.

(2) Grantees must keep all individual information relating to people served by programs operating under these rules confidential.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

Targeted Case Management

413-050-0600

Purpose

These rules provide guidelines on the Targeted Case Management Program and information about how individuals and organizations can become qualified targeted case management service providers for children receiving services from Child Welfare or Oregon Youth Authority (OYA).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0700

413-050-0610

Definitions

(1) **“Case Manager”**: An employee of a provider organization who has completed the Division of Medical Assistance Programs (DMAP) approved case manager training.

(2) **“Client”**: For purposes of this policy, a child receiving target case management services.

(3) **“In-Home Setting”**: the home of the child’s parent or legal guardian.

(4) **“MMIS”**: The Division of Medical Assistance Programs’ (DMAP) Medical Management Information System.

(5) **“DMAP-Approved Case Manager Training”**: Training provided to an employee of a provider organization by Department TCM program coordinators or their designees.

(6) **“Target Population”**: Children under 21 who are currently residing in an in-home setting, a shelter home, foster home, group home, residential care facility, independent living situation financially supported through Child Welfare or the Oregon Youth Authority (OYA).

EXCEPTION: Children placed outside the geographical boundaries of the State of Oregon or children in non-Child Welfare-paid relative placements are not eligible to receive Title XIX reimbursement for targeted case management services under the current state plan.

(7) **“Targeted Case Management”** (also referred to as TCM): Activities performed by the case manager to assist children in the Target Population to obtain necessary medical, social, educational, counseling, or other services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0710

413-050-0620

Targeted Case Management Services

Targeted Case management services include:

(1) **Assessment**. After a client is determined to be in need of targeted case management services, the case manager assesses the specific areas of concern, family strengths, and resources, community resources, and extended family resources available to resolve those identified issues. At assessment, the case manager makes preliminary decisions about needed medical, social, educational or other services and the level of agency intervention.

(2) **Case Planning**. The case manager develops a case plan, in conjunction with the client and family, to identify the goals and objectives which are designed to resolve the issues of concern identified through the assessment process. Case planning includes setting of activities to be completed by the case manager, the family, and the clients. This activity will include accessing medical, social, educational, and other services to meet the client’s needs.

(3) **Case Plan Implementation**. The case manager will link the client and the family with appropriate agencies and medical, social, educational, and other services through calling or visiting these resources. The case manager will facilitate implementation of services through assisting the client and family to access them and through assuring that clients and providers fully understand how these services support the case plan.

(4) **Case Plan Coordination**. After these linkages have been completed, the case manager will ascertain, on an ongoing basis, whether or not the medical, social, educational, or other services have been accessed as planned, and the level of involvement of the client and family. Coordination activities include, but are not limited to personal, mail and telephone contacts with providers, as well as meetings with the client and family to assure that the services are being provided and used as planned.

(5) **Case Plan Reassessment**. The case manager will determine whether or not medical, social, educational, or other services continue to be adequate to meet the goals and objectives identified in the case plan. Reassessment decisions include those to continue, change, or terminate services. This may include assisting clients to access different medical, social, educational, or other services beyond those already provided. Reassessment activities include, but are not limited to, staffings and mail, personal and telephone contacts with involved parties.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0720

413-050-0630

Targeted Case Management Providers

Targeted case management providers are organizations or individuals who are certified as meeting the following criteria:

(1) A minimum of three years experience of successful work with children and families, involving a demonstrated capacity to provide all core elements of case management including assessment, case planning, case plan implementation, case plan coordination and case plan reassessment.

(2) A minimum of three years case management experience in coordinating and linking community medical, social, educational and other resources as required by the target population.

(3) A minimum of three years experience working with the target population.

(4) Administrative capacity to ensure quality of services in accordance with state and federal requirements.

(5) Financial management system which provides documentation of services and costs.

(6) Capacity to document and maintain individual case records in accordance with state and federal requirements.

(7) Demonstrated commitment to assure referral consistent with section 1902a(23) of the Social Security Act, Freedom of Choice of Providers; and

(8) A minimum of three years experience demonstrating capacity to meet the case management service needs of the target population.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0730

413-050-0640

Case Manager Qualifications

(1) Completion of training in case management curriculum approved by the Division of Medical Assistance Programs (DMAP).

(2) Basic knowledge of behavior management techniques, family dynamics, child development, family counseling techniques, emotional and behavioral disorders.

(3) Skill in interviewing to gather data and complete needs assessments in preparation of narratives/reports, development of service plans, and in individual and group communications; and

(4) Ability to work in court systems, to learn state and federal rules, laws and guidelines relation to child welfare, and to gain knowledge about community resources.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0740

413-050-0650

Targeted Case Management Provider Designation

Renumbered to all potential targeted case management providers must comply with applicable licensing and/or regulatory requirements set forth by federal and state statutes and regulations. Additionally, potential providers must comply with the requirements set forth in the DMAP publication General Rules and General Information, "Conditions of Provider Participation" referencing OAR 410-120-1260, Provider Enrollment; The Provider Agreement; and Enrollment of Billing Providers.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0750

413-050-0660

TCM Case Manager

The TCM case manager:

(1) Is a private individual or works for a provider organization.

(2) Possesses case manager qualifications identified in 413-050-0640.

(3) Maintains case records which document the following information:

(a) Name of the recipient of the service (client);

(b) Date of service;

(c) Name of the provider agency and/or the person providing the service;

(d) Nature, extent or units of service; and

(e) Place of service delivery.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0760

413-050-0670

Targeted Case Management Billing

The targeted case management provider will:

(1) Verify that the client receiving the TCM service is in the target population.

(2) Bill third-party resources, including the child's trust account.

(3) Establish a rate (fee) in conjunction with the State Office for Services to Children and Families for services billed to Medicaid and/or the Children's Health Insurance Program (CHIP; Title XXI).

(4) Comply with all DMAP billing requirements, using either a Medicaid form 1500 or an electronic billing process through the MMIS system.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0770

DIVISION 55

SEXUAL ASSAULT VICTIMS FUND

413-055-0100

Policy

These rules (OAR 413-055-0100 to 413-055-0165) establish the policies of the Department of Human Services (Department) relating to the funding of sexual assault crisis centers and crisis lines authorized by ORS 409.279. This program was established to provide intervention on behalf of and support for victims of sexual offenses. The Department is authorized to enter into grant agreements with private, non-profit agencies to support the delivery by those agencies of intervention and support services to victims of sexual offenses and their families.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 409.270 - 409.285
Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0105

Definitions

As used in OAR 413-055-0100 to 413-055-0165:

(1) "Crisis Center" means a location in which there are paid personnel or crisis volunteers who are trained to provide crisis services, including but not limited to intervention, peer support, information and referral, advocacy, outreach, and community education to survivors of sexual assault and their families.

(2) A "grantee" is a proposer that has been awarded a grant by the Department from the Sexual Assault Victims Fund to support the delivery of services to victims of sexual assault and their families.

(3) A "proposer" is a private, non-profit agency that meets the minimum criteria contained in OAR 413-055-0120 and makes an application to the Department for a grant from the Sexual Assault Victims Fund to support the operation of qualified programs as described in OAR 413-055-0110.

(4) “Sexual Assault” means any touch or act for which

informed consent is not given that is sexual in content or used for

sexual gratification or stimulation of the perpetrator by either threat

of force, force, intimidation, trickery, coercion, or bribery where an

imbalance exists because of size, strength, authority, age, develop-

ment, or knowledge. It includes rape, oral and anal sodomy, exhibi-

tionism, voyeurism, obscene phone calls, sexual pictures, and pros-

titution.

(5) “Sexual Assault Victims Fund” means the fund created by

ORS 409.285.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef.

1-1-05; CWP 9-2005, f. & cert. ef. 8-1-05

413-055-0110

Qualified Services

(1) The Department uses the Sexual Assault Victims Fund to fund grants to private, non-profit agencies to support the delivery of intervention and support services to victims of sexual offenses and their families. The agencies receiving funds must be either crisis lines or sexual assault centers.

(2) The support and intervention services supported in whole or in part with grant funds from the Sexual Assault Victims Fund must be made accessible and available to all persons who reside in the area served by the agency who may need the services without regard to whether criminal charges were filed. If the grantee is unable to provide necessary services to a client, it must refer the client to alternative community resources.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0120

Criminal History Checks

(1) A grantee must obtain a criminal history record check on each potential employee or volunteer who will work with victims of sexual assault.

(2) A grantee must develop a written policy or procedure that governs the review of the criminal history record of potential employees and volunteers and the determination of whether a potential employee or volunteer, if there is a criminal history, poses a risk to working safely with victims of sexual assault. The policy or procedure must provide that the review include an examination of:

(a) The severity and nature of crime that appears in the criminal history;

(b) The number of criminal offenses;

(c) The time elapsed since commission of each crime;

(d) The circumstances surrounding each crime;

(e) The subject individual's participation in counseling, therapy, education, or employment evidencing rehabilitation or a change in behavior, and

(f) The police or arrest report and whether that report confirms the employee's or volunteer's explanation of the crime.

(3) If the grantee determines that the potential employee or volunteer does not pose a risk to working safely with victims of sexual assault and chooses to hire the employee or volunteer, the grantee must explain in writing the reasons for hiring the individual. The written explanation must address how the potential employee or volunteer is presently suitable or able to work with victims of sexual assault in a safe and trustworthy manner, based on the policy or procedure described in section (2) of this rule. The grantee must place the written explanation in the personnel file of the employee or volunteer along with the employee's or volunteer's criminal history record.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0140

Application Process

The Department will conduct periodically, at least once every five years, an application process for grants from the Sexual Assault Victims Fund. The Department may conduct the application process jointly with other agencies of the State of Oregon who also award grants or provide financial assistance to nonprofit organizations that provide intervention and support services to victims of sexual offenses and their families. The application process will include but not necessarily be limited to:

(1) Public notification of the availability of financial assistance from the Sexual Assault Victims Fund.

(2) Issuance of a request for grant proposals.

(3) Evaluation of the proposals and the award of grants from the Sexual Assault Victims Fund in accordance with the process

and criteria set forth in the request for grant proposals and this division of administrative rules.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0145**Proposals for Funding**

To be considered for funding, a proposer must include the following minimum information in its proposal:

(1) Official business name of the proposer.

(2) Business address of the proposer.

(3) Name of the persons authorized to represent the proposer in any negotiations and to sign grant agreement documents.

(4) Geographic areas the proposer is proposing to serve.

(5) A statement that no attempt has been made or will be made by the proposer to induce any other person or firm to submit or not submit a proposal, except through efforts to submit collaborative proposals.

(6) A statement that the proposer accepts all of the terms and conditions contained in the request for grant proposals.

(7) A statement that the proposer is a private, non-profit organization.

(8) A written narrative describing how the proposer will provide services and meet the requirements of these rules

(9) All other information required by the request for grant proposals.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0150**Proposal Evaluation Process**

Proposals are reviewed by an evaluation committee of the Department in accordance with the process and criteria set forth in the request for grant proposals and this division of administrative rules. The Department will approve, approve in part and reject in part, or reject each received proposal within 60 days after the submission deadline. Written notification is mailed to the proposer no later than five working days after the final actions are taken on the proposals. Because the State of Oregon wishes to fund programs to deal with victims of sexual offenses in all geographic areas of the state, the Department considers, as part of the evaluation process, the geographic area of the state that will be served by the proposer.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0160**Confidentiality**

(1) If a grantee keeps the location of premises used to provide services under these rules confidential, the Department will not release that information.

(2) Grantees must keep all individual information relating to people served by programs operating under these rules confidential.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0165**Advisory Committee**

The Advisory Committee on Domestic and Sexual Violence established in OAR 413-050-0530 advises the Department regarding its use of the Sexual Assault Victims Fund.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; ; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

DIVISION 60**COUNSELING AND TREATMENT SERVICES****Family Planning Services****413-060-0000****Purpose**

These rules define eligibility criteria for family planning services, describe the services to be provided, and the responsibilities SOSCF has to provide these services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 435.205 - 435.235

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0010**Eligibility**

The following persons or families are eligible to receive family planning services:

(1) Families who request family planning information.

(2) Children who are in the legal custody and care of the State Office for Services to Children and Families.

(3) Minor children who are 15 years of age and older who request family planning information.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 435.205 - 435.235

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0020**Family Planning Services**

Family planning services provided by the State Office for Services to Children and Families include:

(1) Referrals to appropriate family planning resource for consultation and treatment; or

(2) Counseling and information regarding avoiding unwanted pregnancy, termination of pregnancy, maintaining the desired family size and the spacing of children.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 435.205 - 435.235

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0030**Service Responsibility**

The State Office for Services to Children and Families will be responsible to:

(1) Explore the need for and interest in family planning services of children who are in the legal custody of the State Office for Services to Children and Families and provide appropriate family planning information or referral.

(2) Provide family planning information or a referral to an appropriate family planning resource to minors 15 years of age and older who request family planning information.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 435.205 - 435.235

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

Juvenile Sexual Offender Assessment and Treatment**413-060-0400****Purpose**

Child sexual offenders characteristically begin their offending behaviors in early adolescence or younger. The sooner intervention can occur in this cycle, the better the offender can be taught to control his/her deviant actions. Because the treatment methods may be of an intrusive nature, these guidelines are set forth to help determine the appropriate type of treatment. This policy applies only to those who have been adjudicated for sex offenses.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0410**Definitions**

(1) "A.T.S.A." means Association for the Treatment of Sex Abusers.

(2) "Aversion Therapy" means behavioral therapy procedure which pairs a noxious smell with deviant sexual stimuli.

(3) "Behavioral Therapy" means therapy that attempts to decrease deviant sexual arousal and gives the offender tools for self-control.

(4) "Boredom Tapes" means homework assignments designed to reduce deviant arousal by satiation.

(5) "Cognitive Therapy" means therapy which attempts to alter the manner in which clients think about life and change their cognitive distortions.

(6) "Covert Positive Reinforcement" means therapy which attempts to pair the chain of events leading to a sexual assault with a self-initiated interruption scene followed by a reward scene.

(7) "Covert Sensitization" means therapy that attempts to reduce deviant arousal by instantly pairing pre-assault behaviors with highly aversive fantasies.

(8) "Deviant Sexual Fantasies" means fantasizing and becoming sexually aroused to children or violent themes.

(9) "Plethysmograph" means a device for measuring the sexual response pattern of a male or female client. It is called a penile plethysmograph for males and photoplethysmograph for females.

(10) "Polygraph" means an instrument that simultaneously records changes in such physiological processes as heartbeat, blood pressure, and respiration, and is often used as a lie detector.

(11) "Risk" means the potential for reoffending and for resisting or failing in treatment.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0420

Eligibility for Services

Children under the age of 18 years, in the care, custody, and control of the State Office for Services to Children and Families, who have been adjudicated for sex offenses.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0430

Assessment

(1) Preliminary Assessment. Assessment for treatment planning of juveniles with sexually aggressive behaviors should proceed only after adjudication has occurred:

(a) The goals of sexual offender specific treatment are:

(A) To stop sexually offending behavior;

(B) To protect members of society from further sexual victimization;

(C) To prevent other aggressive or abusive behaviors which the offender may manifest; and

(D) To promote healthy sexual development.

(b) When juveniles have sexually assaulted family members within their own home, it is strongly recommended that the offending juvenile be placed outside the home in the least restrictive environment that allows for community safety, or where the assessment indicates. Offenders should not be placed in homes where other children may be endangered. They should be in settings where their behavior can be adequately monitored and controlled;

(c) For the purposes of treatment of sexually aggressive juveniles, it is essential to first evaluate and thoroughly assess each individual and determine the extent of the offending behavior. An assessment must include the following areas:

(A) Victim statements;

(B) History (family, educational, medical, psychosocial and psychosexual);

(C) Progression of sexually aggressive behavior development over time;

(D) Dynamics/process of victim selection;

(E) Intensity of sexual arousal prior to, during, and after offense;

(F) Use of force, violence, weapons;

(G) Spectrum of injury to victim, i.e., violation of trust, fear, physical injury;

(H) Sadism;

(I) Disassociative process;

(J) Fantasies: deviant or appropriate;

(K) Ritualistic/obsessive behaviors;

(L) History of assaultive behaviors;

(M) Chronic/situational factors;

(N) Sociopathy;

(O) Personality disorders; affective disorders;

(P) Attention deficit;

(Q) Post traumatic stress behaviors;

(R) Behavioral warning signs; identifiable triggers;

(S) Thinking errors;

(T) Locus of control, i.e. internal or external;

(U) Ability to accept responsibility;

(V) Denial or minimization;

(W) Victim empathy, capacity for empathetic thought;

(X) Family's denial, minimization, response;

(Y) Substance abuse; juvenile sex offender and family;

(Z) History of sexual victimization, physical, or psychological abuse;

(AA) Family dysfunction; family strengths;

(BB) Parental separation/loss;

(CC) Masturbatory patterns;

(DD) Impulse control;

(EE) Paraphilias;

(FF) Mental status/retardation/developmental disability;

(GG) Organicity/neuropsychological factors;

(HH) Number of victims.

(2) Assigning Risk Level. After an assessment has been completed, a determination should be made as to the risk level presented by the juvenile.

(a) Risk is defined as the potential for reoffending and for resisting or failing in treatment. Use Attachment 2, "Risk Assessment Profile," when determining the juvenile's risk level.

(b) The determination of risk for each adolescent offender should be a multidisciplinary decision involving the offender therapist, caseworker, SOSCF supervisor, juvenile department counselor and victim therapist.

(c) If the juvenile presents low risk according to the "Risk Assessment Profile," treatment should proceed focusing on cognitive restructuring.

(d) For juveniles who exhibit moderate to high risk according to the "Risk Assessment Profile," assessment of deviant arousal patterns may be conducted using the penile plethysmograph for males and the photoplethysmograph for females. In addition, the juvenile should receive a disclosure polygraph examination. These tools should be used in addition to assessment criteria listed in this rule to determine the treatment plan of choice. Under no circumstances should the results of these measurements be used in the courtroom setting or for any other reason except evaluation and monitoring of treatment. The plethysmograph should not be administered to prepubescent children.

(A) Use of the polygraph and plethysmograph should be made only with signed, informed consent of the offender and his/her parents/guardians using CF form 993, "Consent for Physiological Assessment of Sexual Interests." This informed consent is to be used regardless of whether a court order requiring its usage exists or not.

(B) The polygraph and plethysmograph exam should be administered only by persons licensed or certified by their respective disciplines. The plethysmograph should be administered in a laboratory setting and in accordance with the "Association for the Treatment of Sexual Abusers' Guidelines for Use of the Penile Plethysmograph."

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0440

Treatment

(1) Treatment in specialized offense-specific peer groups is the treatment of choice, and must address aggressive and exploitive behaviors. The family should be a key part of the treatment planning. The treatment is to be geared toward the chronological and developmental needs of the offender. Treatment issues to be addressed for all risk categories include the following:

- (a) Substance abuse intervention;
- (b) Sex education;
- (c) Educational assessment for remedial or special education referrals;
- (d) Social skills training;
- (e) Assertiveness training;
- (f) Anger management;
- (g) Victimization issues — (sexual, physical, and emotional) their own and their victims;
- (h) Family therapy;
- (i) Cognitive restructuring;
- (j) Values clarification;
- (k) Stress management;
- (l) Cycle recognition/self-intervention;
- (m) Relaxation/biofeedback.

(2) In addition to the above, if the offender in the medium to high risk category demonstrates assaultive, compulsive, or repetitive acts of sexual offending, then behavioral therapy can be introduced. Also, behavioral therapy can be introduced after cognitive methods have failed.

(3) The decision to utilize aversion therapy should be discussed with the juvenile offender and his/her parent or guardian after other therapies have failed, and if, according to polygraph and plethysmograph examinations, the arousal patterns have not altered. The rationale for this choice should be documented in the case record. The SOSCF director or designee must then provide written consent to proceed. Should the parent/guardian or client refuse to sign, a review hearing should be requested to determine the course of action.

(4) Ongoing polygraph and plethysmograph testing should accompany behavioral therapy on a periodic basis to assess treatment progress. In order to graduate from treatment, the client must successfully “pass” a polygraph test which determines that they are not now offending, have disclosed all of their victims and offenses, and are exercising steps to successfully intervene in their offending cycle. Furthermore, they must also demonstrate reduction in deviant arousal patterns.

(5) Relapse prevention is an essential component to the juvenile’s treatment plan. Whether he/she is placed in or out of the home, the primary parental figures, parole officer, or other significant figure in the juvenile’s life should know and understand his/her assault cycle so as to support the offender in learning to intervene in his/her own cycle.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

DIVISION 70

SUBSTITUTE CARE

Multiethnic Placements

413-070-0000

Definitions

The following definitions apply to OAR chapter 413, division 70.

(1) “Adoption” means a legal or administrative process that establishes a permanent legal parent-child relationship between a child and an adult who is not already the child’s legal parent and terminates the legal parent-child relationship between the adopted child and any former parent.

(2) “Adoptive resource” means an individual or individuals selected by the Department, another public child welfare agency, or

a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.

(3) “Affected family members” means biological and legal parents, extended family members, and any person within the fifth degree of consanguinity to the child.

(4) “Age-appropriate or developmentally appropriate activities” means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(5) “Antipsychotic medication” means a medication, specified in class 28:16:08 by the American Hospital Formulary Service, used to treat psychosis and other conditions.

(6) “APPLA” means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child’s life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interests of a child or young adult.

(a) “Planned” means the arrangement is intended, designed, and deliberate.

(b) “Permanent” means enduring and stable.

(7) “Assessment” means the determination of a child or young adult’s need for mental health services through interviewing the child or young adult and obtaining all pertinent medical and psychosocial history information from the individual, family, and collateral sources. The “assessment”:

(a) Addresses the current complaint or condition presented by the child or young adult;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(8) “Base rate payment” means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(9) “CANS screening” means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(10) “Caregiver relationship” means a relationship between a person and a child or young adult that meets all of the following requirements:

(a) The relationship has existed for the 12 months immediately preceding the initiation of a dependency proceeding, for at least six months during a dependency proceeding, or for half of the child’s life if the child is less than six months of age. A “caregiver relationship” does not include a relationship between a child or young adult and a person who is an unrelated foster parent of the child or young adult unless the relationship continued for a period of at least twelve consecutive months.

(b) The person had physical custody of the child or young adult or resided in the same household as the child or young adult and provided the child or young adult on a daily basis with the love, nurturing, and other necessities required to meet the psychological and physical needs of the child or young adult.

(c) The child or young adult depended on the relationship to meet the needs of the child or young adult.

(11) “CASA” means a court appointed special advocate: a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419B.112.

(12) “Certificate of Approval” means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(13) “Child” means a person under 18 years of age.

(14) “Child-family contact” means communication between the child or young adult and family and includes, but is not limited to, visitation with the child or young adult, participation in the child or young adult’s activities, and appointments, phone calls, e-mail, and written correspondence.

(15) “Child’s home” means the home from which the child is removed under the provisions of ORS 419B.150.

(16) “Committee facilitator” means a Department staff member appointed as a member of the committee to facilitate a permanency or adoption committee meeting.

(17) “Concurrent permanent plan” means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The “concurrent permanent plan” is developed simultaneously with the plan to return the child to the parents or legal guardians.

(18) “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.

(19) “Cultural heritage” means the language, customary beliefs, social norms, and material traits including, but not limited to, the dress, food, music, and dance of a racial, religious, or social group that are transmitted from one generation to another.

(20) “Current caretaker” means a foster parent who:

(a) Is currently caring for a child in the care and custody of the Department and who has a permanency plan or concurrent permanent plan of adoption; and

(b) Has cared for the child or at least one sibling of the child for at least the past 12 consecutive months or for one-half of the child’s or sibling’s life if the child or sibling is younger than two years of age.

(21) “Department” means the Department of Human Services, Child Welfare.

(22) “Designee” means a person who the designator directly and immediately supervises or a person with equal or greater management responsibility than the designator.

(23) “Diligent search” means that, at a minimum, there will be contact with the child’s tribal social service program, a search of all county or state listings of available Indian homes, and contact with

local, regional, and national Indian programs that have placement resources available for Indian children.

(24) “Enhanced supervision” means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of the child or young adult when the child or young adult qualifies for a level of care payment.

(25) “Entity” means any organization or agency including, but not limited to a private child placing agency, that is separate and independent of the Department, performs functions pursuant to a contract or subcontract with the Department, and receives federal funds.

(26) “Extended family” has the meaning given by the law or custom of the Indian child’s tribe. In the absence of law or custom, “extended family” means a person 18 or over who is the Indian child’s grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(27) “Extended family member” means a person ordinarily recognized as the refugee child’s parent by the custom of the child’s culture, or a person 18 years of age or older who is the child’s grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(28) “Family member” means any person related to the child or young adult by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, and great-grandparents. “Family member” also includes the registered domestic partner of a person related to the child, a child 12 years of age or older, and when appropriate, a child younger than 12 years of age. Under the Indian Child Welfare Act (ICWA), “family member” has the meaning given by the law or custom of the child’s tribe.

(29) “Fit and willing relative” means an individual who meets the eligibility criteria in OAR 413-070-1010.

(30) “Foster care agency” means a private child-caring agency that offers to place children by taking physical custody of and then placing the children in a home certified by the agency.

(31) “Foster care placement” means any action removing, or which could result in the removal of, a child from his or her parent or Indian custodian, such as court-ordered supervision in the home, for placement in foster care, with a guardian, or in an institution where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

(32) “Foster parent” means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(33) “General applicant” means an individual who:

(a) Is neither a relative or current caretaker; and

(b) Has submitted a completed application to adopt a child.

(34) “Grandparent” for purposes of visitation, contact, or communication ordered by the court under ORS 419B.876 means the legal parent of the child or young adult’s legal parent, as defined in ORS 109.119.

(35) “Guardian” means an individual who has been granted guardianship of a child through a judgment of the court.

(36) “Guardianship assistance” means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. “Guardianship assistance” may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(37) “Guardianship assistance agreement” means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(38) “Guardianship assistance agreement only” means a written agreement, binding on the parties to the agreement,

between the Department and the potential guardian or guardian of an eligible child or young adult, when the potential guardian or guardian is not receiving a guardianship assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(39) “Guardianship assistance base rate” means the portion of the guardianship assistance payment that is negotiated with the potential guardian or guardian and cannot exceed the amount of the Oregon foster care base rate payment for the child or young adult’s age.

(40) “Guardianship assistance payment” means a monthly payment made by the Department to the guardian on behalf of the eligible child or young adult.

(41) “Guardianship Assistance Review Committee” means a committee composed of local and central office Department staff with expertise in the area of guardianship.

(42) “ICWA” means the Indian Child Welfare Act.

(43) “Impending danger safety threat” means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that 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 function.

(44) “Incapacity” means a physical or mental illness, or impairment that reduces substantially or eliminates the individual’s ability to support, care for, or meet the needs of the child and is expected to be permanent.

(45) “Independent living housing subsidy” means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(46) “Indian” means any person who is a member of or eligible for membership in an Indian tribe or who is an Alaskan native and a member of a Regional Corporation as defined in 43 USC section 1606.

(47) “Indian child” means an unmarried person under 18 years of age who is either a member of a federally-recognized Indian tribe or is eligible for membership in a federally-recognized Indian tribe and who is the biological child of a member of an Indian tribe.

(48) “Indian Child Welfare Act Manager” (“ICWA Manager”) means staff who monitors Department policy and procedures towards compliance with the Indian Child Welfare Act; investigates complaints of non-compliance from tribes; provides consultation to caseworkers relating to law and administrative rules; and provides ICWA materials and training.

(49) “Indian child’s tribe” means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member or eligible for membership in more than one Indian tribe, it is the Indian tribe with which the Indian child has the most significant contacts.

(50) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child.

(51) “Indian organization” means any group, association, partnership, corporation, or legal entity owned or controlled by Indians or a majority of whose members are Indians, such as an Indian Child Welfare Committee.

(52) “Indian tribe” means any “Indian tribe”, band, nation, or organized group or community of Indians who are 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 USC section 1606, and any tribe whose federal relationship has been terminated by congressional action.

(53) “Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996” (“IEPA”) means section 1808 of the act which is entitled “Removal of Barriers to Interethnic Adoption”, and affirms and strengthens the prohibition against discrimination

in adoption or foster care placements, and is codified in 42 USC section 671(a)18.

(54) “Involuntary proceeding” means any action removing a child from a parent or Indian custodian and such parent or Indian custodian cannot have the child returned upon demand.

(55) “Judicial hours” means the number of hours a court is available to hold a hearing. Legal holidays and weekends do not count as “judicial hours”.

(56) “Legal assistance specialist” means an Adoption Program staff member who provides consultation on the technical and legal processes to achieve a permanency plan for a child in the legal custody of the Department.

(57) “Level of care payment” means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult determined by applying the CANS algorithm to the results of the CANS screening.

(58) “Licensed medical professional” means an individual who meets the criteria of both of the following subsections:

(a) The individual holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or

(C) Physician assistant licensed to practice in the State of Oregon.

(b) The individual’s training, experience, and competence demonstrate expertise in children’s mental health, the ability to conduct a mental health assessment, and the ability to provide psychotropic medication management for children and young adults.

(59) “Medically accepted indication,” defined in ORS 418.517, means any use for a covered outpatient drug that is approved under the Federal Food, Drug and Cosmetic Act, or recommended by the Pharmacy and Therapeutics Committee, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

(a) American Hospital Formulary Services drug information;

(b) United States Pharmacopoeia drug information or any successor publication;

(c) The DRUGDEX Information System; or

(d) Peer-reviewed medical literature.

(60) “Multiethnic Placement Act of 1994” means federal statutes which prohibit discrimination based on race, color, or national origin as considerations in adoption and foster placements.

(61) “Nonrecurring guardianship assistance agreement” means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian of an eligible child for a one-time payment to reimburse the guardian for the reasonable and necessary expenses incurred in legally finalizing the guardianship.

(62) “Nonrecurring guardianship expenses” means a one-time payment of up to \$2,000 per child that the Department will make to a guardian to assist with the reasonable and necessary expenses associated with obtaining legal guardianship of an eligible child.

(63) “Office of Developmental Disabilities Services” means the Department of Human Services, Office of Developmental Disabilities Services.

(64) “Parent” means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity 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), a legal father includes a man who is a father under applicable tribal law. “Parent” also includes a putative father 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.

(65) “Participating tribe” means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(66) “Permanency committee” means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.

(67) “Permanency plan” means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child or young adult in adulthood.

(68) “Permanent foster care” means the out of home placement of a child or young adult in which there is a long-term foster care agreement between each substitute caregiver and the Department approved by the juvenile court under which the substitute caregiver commits to raise a child in substitute care until the age of majority and be accessible to and supportive of the child into adulthood, until the court determines that APPLA - “permanent foster care” is no longer the appropriate permanency plan for the child or young adult.

(69) “Potential guardian” means an individual who:

(a) Has been approved by the Department or participating tribe to be the guardian of a child; and

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

(70) “Provider” means an individual approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(71) “Psychotropic medication,” defined in ORS 418.517, means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(72) “Qualified mental health professional” means an individual who meets the requirements of both of the following subsections:

(a) Holds at least one of the following educational degrees:

(A) Graduate degree in psychology;

(B) Bachelor’s degree in nursing and is licensed by the state of Oregon;

(C) Graduate degree in social work;

(D) Graduate degree in a behavioral science field;

(E) Graduate degree in recreational, art, or music therapy; or

(F) Bachelor’s degree in occupational therapy and is licensed by the State of Oregon.

(b) Whose education and experience demonstrates the competencies to --

(A) Identify precipitating events;

(B) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;

(C) Assess family, social, and work relationships;

(D) Conduct a mental status examination;

(E) Document a multiaxial DSM diagnosis;

(F) Develop and supervise a treatment plan;

(G) Conduct a mental health assessment; and

(H) Provide individual, family, or group therapy within the scope of his or her practice.

(73) “Race” means American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White.

(74) “RCWAC” means the Refugee Child Welfare Advisory Committee.

(75) “Reasonable and prudent parent standard” means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider

shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(76) “Refugee child” has the meaning given the term in ORS 418.925.

(77) “Registered domestic partner” means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(78) “Relative” means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a “relative” under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a “relative” in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of

the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a “relative” for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a “relative” for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(79) “Relative caregiver” means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(80) “Relative search” means the efforts of the Department to identify, locate, and document the contact with a child or young adult’s relatives.

(81) “Reservation” means Indian country as defined in 18 USC section 1151, and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(82) “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 a child’s safety.

(83) “Secretary” means the Secretary of the Interior.

(84) “Sibling” means one of two or more children or young adults 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.

(85) “Special immigrant juvenile status” means a legal process to obtain lawful permanent resident status for a child who does not have lawful permanent resident status because he or she entered the United States without inspection and who meets the other criteria required by federal law.

(86) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(87) “Substitute caregiver” means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(88) “Successor legal guardian” means an individual who has been named in the guardianship assistance agreement, including any amendments to the agreement, as a replacement legal guardian in the event of the death or incapacity of the guardian.

(89) “Supervised visit” means a child-family contact that includes a designated third party to protect the emotional and physical safety of a child or young adult.

(90) “Termination of parental rights” means an action which results in the termination of the parent-child relationship.

(91) “Title VI of Civil Rights Act of 1964” prohibits discrimination on the basis of race, color or national origin under programs receiving federal assistance through the United States Department of Health and Human Services.

(92) “Tribal court” means the court which holds jurisdiction over Indian child custody proceedings and is either a Court of

Indian Offenses, a court established and operated under code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

(93) “Urgent medical need” means the onset of psychiatric symptoms requiring professional attention within 48 hours to prevent a serious deterioration in a child or young adult’s mental or physical condition.

(94) “Visit” means planned, in-person contact between the child or young adult and one or more family members.

(95) “Voluntary proceeding” means any action in which a parent or Indian custodian has voluntarily given custody of his or her child to another and such voluntary action does not prohibit the parent or Indian custodian from regaining custody of the child at any time.

(96) “Young adult” means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15

413-070-0010

Purpose and Applicability

(1) OAR 413-070-0010 to 413-070-0030 implement the Multiethnic Placement Act of 1994, which applies to all activities of the Department and to all private child placement and adoption agencies who directly or indirectly receive federal funds.

(2) The purpose of OAR 413-070-0010 to 413-070-0030 is to:

(a) Decrease the length of time a child waits to be adopted;

(b) Prevent discrimination in foster care and adoption; and

(c) Promote the recruitment of ethnic and minority families that reflect the children in the child welfare system. These rules establish a policy of non-discrimination in the practice of foster and adoptive placement of children, and in the recruitment and selection of family resources.

(3) OAR 413-070-0010 to 413-070-0030 do not apply to the placement of children pursuant to the Indian Child Welfare Act. In the case of an Indian child, the Department and entity follow the Indian Child Welfare Act and OAR 413-070-0100 to 413-070-0260.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0015

Denials or Delays of Placement Based on Race, Color or National Origin Prohibited

(1) In making placement decisions, the Department and entity must be guided by the best interest of the child. Placements must be made in the context of an individualized assessment of the needs of the child, and an assessment of the ability of a potential foster or adoptive family to meet those needs.

(2) Except as provided in section (3) of this rule the Department and entity may not delay or deny the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved or consider the race, color, or national origin of a child or of a prospective adoptive or foster parent as factors in making adoptive or foster placement decisions.

(3) The Department and entity may only consider the race, color, or national origin when an individualized assessment of the child identifies compelling special circumstances, such as an older child’s statement of preference, and consideration of race, color, or national origin in the placement decision is the only way to achieve the best interest of that child.

(4) The Department and entity may consider the needs of a child related to cultural heritage, such as specific language needs, when making individualized placement decisions. However, the Department and entity may not use routine cultural heritage assessments as a substitute for considering race, color, or national origin or otherwise considering the cultural heritage needs of a child in a

manner that would circumvent the general prohibition against considering the race, color, or national origin of a child when making placement decisions.

(5) The Department and entity may not honor the request of birth parents to place their child who was either voluntarily or involuntarily removed, with adoptive or foster parents of a specific racial, ethnic, or cultural group, except as provided in section (2) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0020

Denial of Opportunity to Be an Adoptive or Foster Parent Based on Race, Color, or National Origin Prohibited

(1) Except as provided in section (2) of this rule, the Department and entity may not deny to any individual the opportunity to become an adoptive or foster parent on the basis of the race, color, or national origin of the individual or the child involved, nor may the Department and entity use race, color, or national origin to screen or assess prospective foster or adoptive applicants.

(2) The Department and entity may consider the willingness and ability of the prospective foster or adoptive parent to care for a child of a different race, color, or national origin as a factor when placing a child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0027

Denial of Opportunity to Be an Adoptive or Foster Parent Based on Race, Color, or National Origin Prohibited

This topic is addressed in OAR 413-070-0020.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0030

Recruitment and Staff Training

(1) The Department and entity must have an active recruitment program to recruit and retain foster and adoptive parents who reflect the ethnic and racial diversity of children for whom foster and adoptive homes are needed, and who can meet the needs of children awaiting placement.

(2) The Department must train staff to assure compliance with the Multiethnic Placement Act of 1994, and Title VI of the Civil Rights Act of 1964.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

Search for and Engagement of Relatives

413-070-0060

Purpose

OAR 413-070-0060 to 413-070-0087 describe the Department's responsibility to search for and engage a child or young adult's relatives and persons with a caregiver relationship for one or more of the following purposes:

- (1) To manage the safety of the child or young adult;
- (2) To provide a substitute care resource;
- (3) To provide a permanent placement resource;
- (4) To develop and maintain family relationships and cultural connections with the child or young adult in substitute care; and
- (5) To gather family information and family history to plan for meeting the needs of the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp), f. & cert. ef. 1-24-01 thru 7-

22-01; SOSCF 34-2001 f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0069

Identification of Relatives and Persons with a Caregiver Relationship

(1) The Department must begin the search for relatives or persons with a caregiver relationship:

(a) During a CPS assessment when the Department has determined that a child is unsafe and an individual other than the parent or guardian is required to manage a child's safety; or

(b) When a parent or guardian:

(A) Is requesting the voluntary placement of the child; or

(B) Is voluntarily giving custody of the child to the Department.

(2) The Department may use, but is not limited to using, the following resources to identify or locate a child or young adult's relatives, the parents of a sibling of a child where the parent has custody of the sibling, and persons with a caregiver relationship:

(a) An individual identified as a relative by the child or young adult or the family of the child or young adult;

(b) An individual thought or known by the Department to be a relative of the child or young adult;

(c) Oregon data information systems available to the Department;

(d) The Internet;

(e) Collateral contacts; and

(f) Other community resources available to search for the identity and contact information of relatives or persons with a caregiver relationship.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp), f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 5-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0072

Contact with Relatives or Persons with a Caregiver Relationship

(1) Unless a child welfare program manager or designee approves no contact, or a court orders no contact, with an identified individual because contact may compromise the safety of a child or young adult or another individual, the Department must make diligent efforts to contact the following individuals as soon as reasonably possible and no later than 30 calendar days after a child's initial removal from the custody of a parent or guardian, or placement in substitute care through a voluntary placement agreement or voluntary custody agreement:

(a) The child or young adult's parents or legal guardians, grandparents, parents of a sibling of a child where the parent has custody of the sibling, adult relatives, and persons with a caregiver relationship;

(b) When the child or young adult is a refugee, other individuals identified in OAR 413-070-0300 to 413-070-0380; and

(c) When the child or young adult is an Indian child, the tribe, pursuant to OAR 413-070-0100 to 413-070-0260.

(2) During the contact required under section (1) of this rule, the Department must:

(a) Provide notice in the individual's primary language that specifies:

(A) Whether the child or young adult has been removed from the custody of a parent or guardian to manage child safety or has been placed in substitute care through a voluntary placement agreement or voluntary custody agreement;

(B) Whether the child or young adult is currently residing with a relative;

(C) The opportunities and requirements associated with being assessed as a safety service provider;

(D) The opportunities and requirements associated with being assessed to become a relative caregiver; and

(E) The rights of relatives set forth in OAR 413-010-0300 to 413-010-0340, and the statutes governing intervention, limited participation, and post-adoption communication agreements.

(b) Request the names of other relatives not previously identified.

(3) The Department must document in the Department's information system:

(a) The approval not to contact an individual under section (1) of this rule;

(b) The name of each individual with whom the Department attempted or made contact;

(c) The individual's relationship to the child or young adult;

(d) The type of contact;

(e) Each individual's response to the notice required in subsection (2)(a) of this rule when a response is received; and

(f) The individual's contact information.

(4) The Department must respond to inquiries from a relative in person or by telephone as soon as reasonably possible and no later than within 15 business days. When a telephone number or opportunity to meet in person has not been provided, the Department must contact the individual by other means, including by mail or electronic mail.

(5) The caseworker may utilize any meeting or other contact with the family to identify and communicate with relatives for the purposes set forth in OAR 413-070-0060.

(6) Whenever the Department is provided the name of a relative or person with a caregiver relationship previously unknown to the Department, the Department must:

(a) Document the name and contact information in the Department's information system;

(b) Attempt to contact the individual as soon as reasonably possible and no later than within 15 business days; and

(c) Provide notice as required by sections (1) and (2) of this rule.

(7) When the Department is unable to locate contact information for an identified relative or person with a caregiver relationship, the Department must document the efforts to obtain contact information in the Department's information system.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 5-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0075

Assessment of a Relative or Person with a Caregiver Relationship for Involvement in Safety Management

(1) The Department must assess an individual identified as a child or young adult's relative or person with a caregiver relationship prior to engaging the individual to assist in safety management as a safety service provider under OAR 413-015-1200 to 413-015-1230.

(2) The Department must document each decision regarding the involvement of a relative or person with a caregiver relationship as a safety service provider in the Department's information system.

(3) The Department may make a decision to engage an individual as a safety service provider prior to contacting all known relatives.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0078

Consideration of a Relative or Person with a Caregiver Relationship as a Substitute Caregiver

(1) The Department is responsible for the selection of and placement with a substitute caregiver who best meets the safety, permanency, and well-being needs of the child or young adult.

(2) The Department considers as a substitute care resource an individual described in OAR 413-070-0000(78)(a)-(c) prior to considering an individual described in OAR 413-070-0000(78)(d).

(3) Whenever possible, the Department must seek the input of the child or young adult and the parents or guardians of the child or young adult regarding their preferences of which relatives to assess for the purposes of placement.

(4) When a relative or person with a caregiver relationship has been identified for consideration as a substitute caregiver, the Department must consider:

(a) The individual's ability to provide safety for the child or young adult, including the individual's willingness to cooperate with restrictions on contact between the child or young adult and others and to prevent anyone from influencing the child or young adult on the allegations of the case;

(b) The individual's ability to meet the child or young adult's physical, emotional, and educational needs, including the need to continue in the same school or educational placement;

(c) The individual's ability to support the Department's implementation of the permanent plan;

(d) When more than one individual requests to have the child or young adult placed with them, which individual has the closest existing relationship with the child or young adult; and

(e) When a child or young adult's siblings are also in need of substitute care or continuation in substitute care, the individual's ability to provide substitute care for the child or young adult's siblings.

(5) The Department must continue efforts to contact other individuals identified in the search efforts described in OAR 413-070-0069 for the purposes of assessment as a substitute caregiver when the initial efforts described in this rule did not result in the identification and certification of a relative caregiver for the child or young adult.

(6) The Department may place a child in substitute care with a relative prior to contacting all known relatives.

(7) When a child or young adult must be placed in substitute care and the Department is unable to place the child or young adult with a relative at the time of initial placement, the Department must determine the substitute care placement in the order of preference in OAR 413-070-0625.

(8) When the Department is considering placement with an individual who lives in a state other than Oregon, OAR 413-040-0200 to 413-040-0330 apply.

(9) At each court hearing, the Department must report to the court the diligent efforts the Department has made to place a child or young adult with relatives and to place siblings together.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0081

Review of a Child or Young Adult's Substitute Care Placement

(1) The Department must review the efforts to place a child or young adult with a relative or person with a caregiver relationship:

(a) No more than 30 calendar days from the date of the child or young adult's initial placement in substitute care;

(b) When the family of a child or young adult, through a family meeting, has recommended substitute care, permanency, or concurrent permanency with a relative who is not the current substitute care resource and has not yet been assessed;

(c) When it appears a child or young adult is likely to experience or experiences a change in substitute caregiver;

(d) When the child or young adult's substitute caregiver does not meet the safety, permanency, and well-being needs of the child or young adult;

(e) During every regular case review described in OAR 413-040-0000 to 413-040-0032; and

(f) No more than 30 calendar days prior to a court or administrative review hearing.

(2) As part of the review in section (1) of this rule, the Department must determine:

(a) Whether the child or young adult and his or her siblings, if the siblings are also in substitute care, have been placed with a relative or person with a caregiver relationship;

(b) If placement has not occurred, the current efforts to identify a relative or person with a caregiver relationship able and willing to provide substitute care;

(c) The additional contact with and assessment of identified relatives necessary to achieve placement with a relative; and

(d) When a child or young adult is placed with a relative or person with a caregiver relationship, whether the substitute caregiver is able to best meet the safety and well-being needs of the child or young adult as described in OAR 413-070-0600 to 413-070-0645.

(3) The caseworker must document in the Department's information system:

(a) The date of the review required under section (1) of this rule;

(b) The names of each individual who participated in the review;

(c) Whether and how the placement of a child or young adult with a relative or person with a caregiver relationship has been met and whether siblings have been placed together; and

(d) Recommended actions, including any additional actions the Department will take to place a child or young adult, and his or her siblings, if the siblings are also in substitute care, with a relative or person with a caregiver relationship in a placement resource that meets the safety, permanency, and well-being needs of the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0087

Opportunity for Ongoing Connection and Support

(1) The caseworker must assess a relative's interest and appropriateness in maintaining family relationships and cultural connections with a child or young adult when the relative is not a placement resource, based on the relative's ability to:

(a) Meet the safety, permanency, and well-being needs of the child or young adult; and

(b) Provide appropriate ongoing support.

(2) When a relative or person with a caregiver relationship meets the criteria described in section (1) of this rule, the caseworker must provide the child or young adult's relative, including a relative who resides outside the state of Oregon, with ongoing opportunities to develop and maintain family relationships and cultural connections with the child or young adult that support the safety and well-being needs of the child or young adult while the child or young adult remains in substitute care.

(3) The parameters of a relative's contact with and support of the child or young adult are documented in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

Placement of Indian Children

413-070-0100

Policy Statement and Purpose of Rules

(1) On November 8, 1978, under its power over Indian affairs and its "responsibility for the protection and preservation of Indian tribes and their resources," Congress enacted the **Indian Child Welfare Act** (the Act or ICWA) of 1978. The Act was passed because Congress found that "an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children" by courts and welfare departments and placed in non-Indian homes and institutions.

(2) The Act sets forth that it is the policy of this nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families. Further, placement of such children will be made in foster or adoptive homes which will reflect the unique values of Indian culture.

(3) This remedial aspect of the **Indian Child Welfare Act** establishes the manner in which the administrative rules will guide the Department of Human Services (DHS) in adhering to the letter and spirit of the Act.

Stat. Auth.: ORS 418.005

Stats. Implemented: 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0130

Applicability

(1) General:

(a) The Indian Child Welfare Act affects all placements of Indian children taking place after May 8, 1979, and also applies to changes or possible changes in placement of Indian children already under DHS authority as a result of a proceeding prior to May 8, 1979.

(b) The Act does not cover the full range of procedures involved in a juvenile court proceeding; where it is silent, the usual state court procedure should be followed. Under constitutional law, the federal Act takes precedence where it conflicts with state law. When the state law affords a higher standard of protection of the rights of the parents or Indian custodian, it applies.

(2) Exceptions. Child custody proceedings not covered by the Act are:

(a) An award of custody to one of the parents in a divorce proceeding; and

(b) A placement based upon an act which, if committed by an adult, would be a crime (unless the juvenile delinquency proceeding results in the termination of a parental relationship).

(3) Although initial placements of an Indian child based upon a law violation may not be covered by the Act, subsequent placements resulting from petitions alleging dependency, or status offenses that can only be committed by a minor, such as runaway or beyond control, are covered by the Act.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0140

Department Authority

Once it is found that an Indian child is involved, and the tribe or tribes who have an interest have been determined, the authority of the Department must be established. In some instances, the Department will have no authority to become involved in the case:

(1) Exclusive Tribal Jurisdiction. Indian tribes have exclusive jurisdiction over child custody proceedings involving children who reside or have a permanent home on an Indian reservation. The only exception is where Congress has transferred jurisdiction over family welfare matters to a state and the tribe in that state has not completed an administrative process to reassume exclusive jurisdiction.

(2) Tribal Court Ward. The Department has no authority in cases involving an Indian child who is a ward of a tribal court. Department staff must ask the child's parents or Indian custodian if the child is a ward of the tribal court. If there is reason to believe that the child has previously resided or been domiciled on the reservation, the caseworker must contact the tribal court to determine whether the child is a ward of that court. If so, except as follows, the Department has no authority over the child.

(3) Emergency Removal-Limited Authority. Notwithstanding sections (1) and (2) of this rule, if an Indian child who resides or has a permanent home on any Indian reservation is off the reservation and is in danger of suffering imminent physical damage or harm, the Department has authority to take custody regardless of whether the child is a ward of the tribal court or the tribe has exclusive jurisdiction. This authority is subject to the requirements set forth in OAR 413-070-0150.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0150

Emergency Removals

(1) The Department may take emergency protective custody of any Indian child who resides or is domiciled on a reservation, but who is temporarily located off the reservation, regardless of the jurisdictional status of his or her tribe as long as the following criteria are met:

(a) The child is not located on a reservation where the tribe has exclusive jurisdiction over child custody matters; and

(b) The child is in danger of imminent physical damage or harm.

(2) Whenever a child is taken into protective custody, Department staff must inquire as to the child's racial or ethnic background, unless circumstances do not permit such routine inquiry. In such cases, Department staff must determine racial or ethnic background as described in OAR 413-070-0170(1.)

(3) If there is reason to believe the child may be Indian, and in order to determine if the tribe has exclusive jurisdiction, Department staff must immediately inquire as to the child's residence or domicile (since the child may be a resident of or domiciled on a reservation but is temporarily off the reservation). If the child is believed to be an Indian child, efforts must be made to place the child during emergency custody in a setting which follows the placement priorities established by the Indian Child Welfare Act or the tribe and set forth in OAR 413-070-0220.

(4) Emergency custody must be terminated when:

(a) Emergency removal or placement is no longer necessary to prevent imminent physical damage or harm to the child; or

(b) The appropriate tribe exercises jurisdiction over the case.

(5) In order to terminate an emergency removal or placement, the Department must return the child to his or her parent, or the caseworker must initiate an expeditious transfer of jurisdiction to the appropriate Indian tribe. If termination of an emergency removal or placement is not possible, the Department must obtain a court order authorizing continued protective custody within 24 judicial hours of the removal or placement. The petition filed in such proceeding must contain the following, in addition to that information required by state law:

(a) The name, age, tribal affiliations and last known address of the Indian child;

(b) The name and address of the child's parents and Indian custodians, if any, and tribe. If unknown, the Department must provide a detailed explanation of efforts made to locate them;

(c) If known, whether the residence or domicile of the parents, Indian custodians, or child is on or near a reservation, and which reservation;

(d) A specific and detailed account of the circumstances which led the Department to conclude that the child would suffer imminent physical damage or harm;

(e) A specific plan of action the Department is following, including services provided, to restore the child to the child's

parent or Indian custodian, or to transfer the child to the jurisdiction of the appropriate Indian tribe.

(6) Where the danger to the Indian child persists and the child's tribe does not have exclusive jurisdiction and will not request transfer of the case to its court, the caseworker must, in consultation with the child's parents and tribe, if known, explore available placement resources which meet the placement requirements in OAR 413-070-0220.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0160

Remedial Services

(1) Subsequent to an investigation and prior to a determination of the need for out-of-home placement services, the caseworker must offer the provision of services of a remedial nature designed to rehabilitate and prevent the breakup of Indian families to the same extent that they are available to non-Indian families when eligible.

(2) To reduce the potential for cultural bias when evaluating home and family conditions and making decisions affecting Indian children and families, the Department must involve Indian tribes and organizations at the earliest possible point in intervention. Services in the community specifically designed for Indian families are to be used where available, including resources of the extended family, the tribe, urban Indian organizations, tribal family service programs and individual Indian caregivers. Individual Indian caregivers may include medicine men and other individual tribal members who may have developed special skills that can be used to help the child's family succeed.

(3) Prior to initiating a petition before a state court for foster care placement or termination of parental rights, the caseworker must undertake active efforts to provide remedial services and rehabilitative programs to the family designed to prevent its breakup.

(4) In order to demonstrate that active efforts have been made, the caseworker must:

(a) Assure that due consideration has been given to the cultural needs and values of the family and that resources have been diligently sought to provide family services. Such assurances may be demonstrated by the following:

(A) Making direct contacts with the family, including the parent or Indian custodian, the child and members of the extended family, if known or available;

(B) Making an evaluation of the circumstances of the family taking into account the prevailing social and cultural conditions and way of life of the child's tribe and the Indian community;

(C) Intervening in the parent-child or Indian custodian-child relationship only when intervention is supported by relevant prevailing Indian social and cultural standards regarding intervention into familial relationships by nonfamily members;

(D) Providing a plan formulated with direct collaboration of the parent or Indian custodian, taking into account prevailing social and cultural conditions, designed to effectively address and eliminate problems destructive to the family involving:

(i) Extended family members;

(ii) Tribal social service programs;

(iii) Tribal organization programs aimed at preventing family breakup;

(iv) Traditional tribal community therapy practices, administered by Indian practitioners, where available and applicable. This includes spiritual leaders, medicine men, and other individual tribal members who have developed special skills that can be used to help the child's family succeed.

(E) Providing time and resources in prevention of family breakup in equal measure to time and resources devoted by the Department to all families;

(F) Assuring that while efforts at prevention of family breakup are proceeding, the parent or Indian custodian and the child are encouraged to maintain an ongoing familial relationship in ways

that are socially and culturally compatible with the values of the child's Indian community;

(G) Having a plan that encourages maintenance of the Indian child in the familial residence of the Indian child except when to do so would result in serious physical or emotional harm; and

(H) Providing that where the Indian child is of sufficient age, the Indian child is involved in the design and implementation of the plan to prevent family breakup.

(b) Demonstrate to the court that such efforts were made prior to the filing of the petition, including an account of the efforts made and why they failed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0170

ICWA Procedures at Initial Contact

This section presents the initial steps to follow in providing services and taking legal action for child custody proceedings covered by the ICWA.

(1) Determination of Indian Status:

(a) Oral inquiry must be made in every case which involves or could involve changes in custody to determine whether the case involves an Indian child. Department staff must routinely request racial or ethnic data of parents or guardian by reading aloud from the intake form the racial and ethnic categories for the client's self-identification. If the child's parents are unavailable or unable to provide a reliable answer regarding the Indian heritage of their child, Department staff must consider:

(A) All documentation in the file, including contact with previous caseworkers, if any;

(B) Close observation of the physical characteristics of the child, parents, and other siblings or relatives accompanying the child;

(C) Consultation with relatives and collateral contacts providing information which suggests the child or parent may be Indian; and

(D) Examination of any other information bearing on the determination of the child's Indian heritage, such as communication from other sources including Indian tribes and organizations.

(b) If, in following the above steps, information obtained suggests the child may be of Indian heritage but the tribe cannot be determined, staff must contact the Department ICWA Manager to determine if:

(A) The birth place of the child or parent, or the current or former residence of the child or parent is known to be a common residence of Indian families; and

(B) The surname of the child or parent is one which is known to be common among members of Indian tribes.

(2) Determination of Indian Tribe. If it appears the child is of Indian heritage, the caseworker must determine the tribe in which the child is a member or eligible for membership. Department staff must ask the parent or custodian of the child about the tribe with which the child may be affiliated. If this inquiry does not provide the necessary information, Department staff must, at a minimum, contact the following:

(a) Relatives and extended family members.

(b) Indian tribes and organizations in Oregon, such as the Commission on Indian Services.

(c) The appropriate Bureau of Indian Affairs (BIA) Office.

(3) ICWA Eligibility. For a child to be considered an Indian under ICWA, the child must be:

(a) An unmarried person under the age of eighteen; and

(b) A person who is either a member of a federally-recognized Indian tribe or eligible for membership in a federally-recognized Indian tribe and the biological child of a member of an Indian tribe;

(c) In order for the worker to determine if the child is a tribal member or eligible for membership, the tribe or possible tribes identified must be contacted.

(4) Tribal Membership:

(a) A tribal determination of membership is conclusive because each tribe defines the criteria for membership in the tribe

and determines who meets those criteria. Inquiries to the tribe must be sent "Return Receipt Requested" to a membership committee, an enrollment clerk, or individual who is accustomed to responding to questions about tribal membership.

(A) If the tribe does not respond, Department staff must contact the tribe by telephone. If the tribe cannot be reached by phone, the caseworker must contact the local Bureau of Indian Affairs Area Office and the ICWA Manager for assistance.

(B) The caseworker must request that all information given be treated confidentially.

(b) If the child is a member of one tribe and eligible for membership in others, the tribe of actual membership is the child's tribe. If the child is not now a member of a tribe, the caseworker must ascertain whether the child is eligible for membership and is the biological child of a member of a federally-recognized Indian tribe. To do this, the caseworker asks:

(A) The child, when the child is old enough to respond;

(B) The parents or relatives, including in-laws, as appropriate; and

(C) The tribe.

(5) Out-of-State Tribes. When an Indian child is a member of or eligible for membership in a federally-recognized tribe located in another state, the Act applies and all applicable provisions, including provisions governing notification of the tribe, must be followed.

(6) Multi-Tribal Membership:

(a) The child may be eligible for membership in more than one tribe. In that case the Indian child's tribe is the tribe with which the child has the most significant contacts. In considering with which tribe the child has the most significant contacts, the caseworker shall investigate:

(A) The length of residence on or near the reservation of each tribe and the frequency of contacts with each tribe;

(B) The child's participation in activities of each tribe;

(C) The child's fluency in the language of each tribe;

(D) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes;

(E) Residence on or near one of the tribes' reservation of the child's relatives;

(F) Tribal membership of custodial parent or Indian custodian; and

(G) Interest asserted by each tribe in response to the notice specified in OAR 413-070-0210.

(b) Documentation of such investigation shall be submitted to the court so that it can consider the comparative interests of each tribe in the child's welfare in making its decision on the matter.

(7) Enrollment of Indian Clients. If the child is not a member of the child's tribe, but is applying to become a member, the caseworker must proceed as though the child is a member and follow the requirements of the Act. Department staff must assist the family in filling out and returning required paperwork to the appropriate tribe and, as necessary, counsel parents hesitant to enroll a child by emphasizing the positive benefits of tribal enrollment and membership.

(8) ICWA Not Applicable. Once determined, tribal status must be clearly documented in the case record, along with the date and source of documentation. An Indian child who is officially determined by the tribe not to be a member of nor eligible for membership is not subject to the requirements of the Indian Child Welfare Act. In such cases, Department staff must:

(a) Document in the case record steps taken to determine the child's Indian or tribal ancestry and the tribe's written statement declaring the child ineligible for membership; and

(b) Incorporate in any court hearing the tribe's written statement declaring the child ineligible for membership.

(9) Cultural Heritage Protection. In instances where the ICWA does not apply, but the child is biologically an Indian or considered an Indian by the Indian community, the Department must respect the child's right to participate in the culture of origin in case planning, particularly if the child is identifiably Indian by physical features or social relationship.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0180

Tribal-State Agreement

These rules may be superseded by an agreement signed between the state and a particular tribe. Such agreement must be available in the Assistant Director's Office of Child Welfare Programs.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0190

Documentation of Serious Emotional or Physical Damage to Child Prior to Removal

(1) Prior to removal of the child from a parent or Indian custodian and initiation of court proceedings, Department records must contain documentation demonstrating that:

(a) It is likely that the conduct or condition of the parents will result in serious physical or emotional harm to the child; and

(b) If it is likely that such harm will occur, efforts have been made to counsel and change the behavior of the parent or Indian custodian and have not worked.

(2) In making such a determination, Department staff must relate indications of the likelihood of serious emotional or physical damage to particular conditions in the home, showing a causal relationship between the conditions and the serious damage which is likely to result to the child. For example, it is not adequate to show that the parent abuses alcohol. It is necessary to show how, because of alcohol abuse, the parent may cause emotional or physical damage to the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0200

Element of Proof

(1) Foster Care Placement. In order to ask the court to authorize the placement of the child in foster care, the Department must demonstrate to the court by clear and convincing evidence, including the testimony of one or more qualified expert witnesses as defined in section (3) of this rule, that continued custody of the child with the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(2) Termination of Parental Rights. In order to ask the court to terminate parental rights, the Department as petitioner must show the court by evidence beyond a reasonable doubt, including the testimony of one or more qualified expert witnesses as defined in section (3) of this rule, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(3) Qualified Expert Witnesses. The following individuals are most likely to meet the requirements of a qualified expert witness for purposes of Indian child custody proceedings:

(a) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child rearing practices;

(b) A lay person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or

(c) A professional person having substantial education and experience in the area of his or her specialty along with substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community.

(d) This list is not meant to be exhaustive or limited in any fashion. The caseworker should enlist the assistance of the Indian child's tribe or the ICWA Manager in locating persons qualified to

serve as expert witnesses. The BIA is also required to provide this assistance.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0210

Involuntary Proceedings

(1) Notice. Except for emergency placements made pursuant to OAR 413-070-0150, Department staff must not request a court proceeding to authorize foster care placement of an Indian child until the following time frames have been met:

(a) Not less than ten days after receipt of notice by the parent or Indian custodian, or thirty days after receipt of notice by the parent or Indian custodian if an additional twenty days has been requested by the parent or Indian custodian to prepare for the proceeding;

(b) Not less than ten days after the Indian child's tribe has received notice, or thirty days after the Indian child's tribe has received notice if an additional twenty days has been requested to prepare for the proceeding; and

(c) Not less than fifteen days after the receipt of the notice by the Secretary of the Interior.

(2) The caseworker is responsible for providing notice to the parties listed below, notifying the court of Department requirements, and requesting a hearing not be scheduled until the time limits in section (1) of this rule have been met:

(a) Notice to Parent or Indian Custodian. The parent of an Indian child must always receive notice. An Indian custodian, if any is involved, should also receive notice;

(b) Notice to Tribe. When an Indian child's parent or Indian custodian are entitled to notice, the tribe is also entitled to notice. The tribe entitled to notice is the tribe in which the child is a member or eligible for membership. If the child is affiliated with or eligible for membership in more than one tribe, notice must be sent to all potential tribes since the court may permit intervention by more than one tribe; and

(c) Notice to BIA. If the identity or location of a potentially interested Indian party to the proceeding cannot be determined, Department staff must notify the local Bureau of Indian Affairs Office which has fifteen days to locate and notify that party.

(3) Service of Notice. Notice may be given by personal service by handing it directly to the person, if possible, but must always be given by registered mail, return receipt requested.

(4) Form of Notice:

(a) If a tribe has declined jurisdiction, it still retains the right to participate as an interested party or to intervene at any point in the proceeding. If the tribe intervenes, it is a party to the proceeding and has the same rights to notice of every proceeding affecting the tribe's member, including, but not limited to, hearings and motions the right to participate fully in such hearings and assert its interest, the right of access to court records, the right to retain counsel if it chooses, and the right to appeal. Therefore, even if a tribe has declined jurisdiction, notice to the tribe's designated agent or, if no agent has been designated, to the tribal court, of every proceeding affecting the tribe's member must be given. Notice must contain, at a minimum:

(A) The name of the Indian child and his or her tribal affiliation;

(B) A copy of the petition, complaint, or other document by which the proceeding was initiated;

(C) The name of the petitioner and the name and address of the petitioner's attorney, if any;

(D) A statement of the right of the biological parents or Indian custodians to participate and the Indian child's tribe right to intervene in the proceeding;

(E) A statement that if the parents or Indian custodians are unable to afford counsel, counsel may be appointed by the court to represent them;

(F) A statement of the right of the biological parent or Indian custodian and the Indian child's tribe to have, on request, twenty days to prepare for the proceedings;

(G) The location, mailing address, and telephone number of the court;

(H) A statement of the right of the parents or Indian custodians or the Indian child's tribe to petition the court to transfer the proceeding to the Indian child's tribal court;

(I) The potential legal consequences of an adjudication on future custodial rights of the parent or Indian custodian; and

(J) A statement that tribal officials must keep the information contained in the notice concerning the particular proceeding confidential and may only reveal it to individuals who need the information in order to exercise the tribe's rights under the Act.

(b) Department staff must file with the court a copy of each notice sent pursuant to this section together with any return receipts or other proofs of service.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0220

Placement of Indian Children

(1) General. Department staff must make a diligent attempt to find a suitable placement within priorities described in this rule before considering a non-preference placement. A diligent search for an appropriate placement includes, at a minimum, contact with the child's tribal social services department, a search of Oregon state and county listings of available Indian homes, and contact with other Indian tribes and Indian organizations with available placement resources.

(2) Tribal Placement Priorities. In determining the appropriate placement for an Indian child, the caseworker must contact the child's tribe to see if the tribe has established by resolution an order of placement preference or has placement resources different from those described in this rule.

(3) Foster or Pre-adoptive Placements:

(a) In any foster care or pre-adoptive placement of an Indian child, the child must be placed in the least restrictive setting which most approximates a family and in which the child's special needs, if any, can be met. The child shall also be placed in reasonable proximity to his or her home, except as provided in subsection (7)(b) of this rule;

(b) In considering foster placement for a child, Department staff must follow the placement priorities in this subsection unless the Indian child's tribe changes the order of preference by resolution; or, in absence of such tribal resolution, the court modifies the order of preference by a showing of good cause:

(A) A member of the Indian child's extended family.

(B) A foster home licensed, approved, or specified by the Indian child's tribe.

(C) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(D) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(4) Adoptive Placements. Where no different order of preference has been established by the child's tribe for adoptive placement, the Department must, in the absence of the court's determination that good cause to the contrary exists, give preference to placing the child with:

(a) A member of the child's extended family;

(b) Other members of the Indian child's tribe; or

(c) Other Indian families.

(5) Change of Placement. If an Indian child in a foster or pre-adoptive placement is to be moved from one placement setting to another; or, if the foster family moves and requires a change in placement, the placement preferences outlined in this rule must be followed, unless the child is returned to the parent or Indian custodian from whose custody the child was originally removed. The caseworker must notify the parent, Indian custodian, and the

child's tribe in writing prior to a change in placement or before the foster family moves.

(6) Disrupted Adoptive Placements. If a final decree of adoption is vacated or set aside or the adoptive parents voluntarily consent to the termination of parental rights, a biological parent or prior Indian custodian may petition for a return of custody. In voluntary relinquishments, the caseworker must notify the parent and Indian custodian by registered mail at their last known address of the disruption in the adoption and the right to petition for a return of custody. The notification to the parent or Indian custodian of the right to petition must include a statement that the petition will be granted unless it is established by a court of law that return of custody is not in the best interest of the child. In the event that custody is not returned to the parent or Indian custodian or prior to such return of custody, any subsequent placements follow the placement priorities outlined in sections (3) or (4) of this rule, as appropriate. In instances where parental rights have been terminated and the adoption has been disrupted, the Department may elect to notify the parent and Indian custodian of their right to petition the court for a return of custody.

(7) Records of Placement:

(a) The Department must maintain a written record of each placement of each Indian child and of efforts to comply with the preferences listed above. This record must be maintained on forms separate from the court report and must contain, at a minimum, the petition or complaint, all substantive orders entered during the proceeding, and the complete record of the placement determination; and

(b) Where the placement does not meet the preference priorities set out above, the efforts to find suitable placement within those priorities must be recorded and documented in detail. Documentation must also be provided showing that the placement chosen is in the least restrictive setting possible, meets the child's special needs, and as much as possible, in cases of foster care placement, is close to the child's own home.

(c) At any time, upon the request of the Indian child's tribe or the Department of the Interior, the Department must make available records of every foster care, pre-adoptive, and adoptive placement of each Indian child maintained by the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0230

Adult Adoptees

(1) An adopted Indian person who is age eighteen or older may apply to the court that entered the final adoption decree for information on the tribal affiliation of the biological parents of the person and any other information necessary to protect any rights flowing from the tribal relationship.

(2) An adopted Indian person may also request from the Secretary of the Department of Interior any information necessary for enrollment in the person's tribe or for information determining any rights or benefits associated with tribal membership. Where the Secretary has an affidavit requesting anonymity from the biological parents of the Indian person, the Secretary certifies whether the person is entitled to enrollment under criteria established by the tribe.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0240

Voluntary Proceedings

(1) Department May Accept Voluntary Placements. The Department may accept voluntary custody of any Indian child based upon consent of the Indian parent or Indian custodian, but may not accept such consent unless:

(a) The child is more than ten days old;

(b) The voluntary consent is given in writing and recorded before a judge in the appropriate jurisdiction;

(c) The consent is accompanied by a judge's certificate which meets the requirements listed in section (2) of this rule; and

(d) The Department files a petition with the juvenile court pursuant to ORS 419B.100.

(2) Court Hearing on Consent. The caseworker must request a hearing in circuit court to obtain a voluntary consent. The caseworker must assure before the proceeding occurs that the court hearing will be recorded and that the written consent of the parent or Indian custodian is accompanied by a certificate signed by the judge ensuring that the terms and consequences of the consent were:

(a) Fully explained in detail and fully understood by the parent or Indian custodian; and

(b) Fully explained in English, or interpreted into a language understood by the parent or Indian custodian.

(3) Content of Consent Form. The consent form signed by a parent or Indian custodian who voluntarily agrees to placement must, at a minimum, contain:

(a) The name and birthdate of the Indian child;

(b) The name of the child's tribe;

(c) The child's enrollment number or other indication of the child's membership in the tribe;

(d) The name and address of the consenting parent or Indian custodian;

(e) The name and address of the prospective parents, if known, for substitute care placements; and

(f) The name and address of the person or Department through which placement was arranged, if any, for adoptive placement.

(4) Request for Anonymity. If a parent who has voluntarily given custody of his or her child to the Department requests anonymity, the caseworker must discuss the situation with the parent and describe the advantages of working cooperatively with the tribe. If the parent still evidences a desire for anonymity, the caseworker must contact the ICWA Manager who must:

(a) Contact the tribe to determine if a tribal system exists for keeping child custody matters confidential;

(b) Meet with the parent and caseworker to document the parent's reasons for requesting anonymity and to explain the Act's requirement for contacting the tribe in order to learn if there are tribal placement preferences and resources; and

(c) If a parent still request anonymity, the ICWA Manager or caseworker must tell the parent that the Department may not be able to guarantee that the request will be followed, but that it will be taken into consideration. The caseworker must then document the parent's request for anonymity and advise the court that such request must be provided when the child's adoption records are mailed to the Secretary of the Interior.

(5) Voluntary Foster Care:

(a) Placement Preferences to Follow. Indian children who have voluntarily come into substitute care must be placed according to the preference priorities outlined in OAR 413-070-0220.

(b) Withdrawal of Consent. The parent or Indian custodian may withdraw consent either orally or in writing at any time. If consent is withdrawn no reason needs to be stated, no evidence needs to be produced, and no hearing needs to be conducted. The caseworker must:

(A) Except as provided in subsection (c) of this rule, immediately return the child to the parent or Indian custodian; and

(B) Notify the court that consent has been withdrawn and the child has been returned to parental custody.

(c) Initiation of Protective Service Custody. If the caseworker believes that returning custody of the child to the parent or Indian custodian would place the child in imminent danger or harm, the following must occur:

(A) The caseworker immediately initiates further proceedings before the juvenile court and secures an order from the court authorizing the Department to retain custody of the child;

(B) Where court proceedings for protective custody are initiated and the child is not returned to a parent or Indian custodian upon withdrawal of consent, the caseworker notifies the child's tribe of this decision; and

(C) All rules regarding involuntary proceedings are followed.

(d) Changes in Placement Must Follow ICWA. Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, pre-adoptive, or adoptive placement, such placement must be in accordance with the ICWA unless the child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

(6) Voluntary Adoptive Placement:

(a) Voluntary Termination of Parental Rights or Relinquishment. If the parent of an Indian child wants to consent to the termination of parental rights, and free the child for adoption, the caseworker must:

(A) Arrange to have relinquishment documents signed which meet the requirements of sections (1), (2), and (3) of this rule; and

(B) Ensure that the relinquishment is fully understood by the parent and that it is not taken when the parent is under duress since the relinquishment and the adoption may be set aside if the court finds the relinquishment was obtained through fraud or duress.

(b) Placement Preferences to Follow. Placement preferences outlined in OAR 413-070-0220 must be followed in the voluntary adoptive placement of an Indian child.

(c) Withdrawal of Consent. A voluntary consent to termination of parental rights or to the adoption of an Indian child may be withdrawn for any reason at any time prior to the entry of the final decree of termination or adoption, as the case may be. No reason or evidence is needed. The placing agency, when notified, must return the child to the parent or Indian custodian as soon as practicable. Where no placing agency is involved, the court is responsible for notifying the family with whom the child has been placed that consent was withdrawn and the child must be returned to the parent or Indian custodian.

(d) Protective Service Custody. If the parent voluntarily withdraws consent to termination of parental rights, and the Department believes the child should not be returned to parental custody, the caseworker may initiate a protective service custody proceeding with the court in order for the Department to retain custody of the child.

(e) Disruption of Foster Care Placement. When a foster care placement is changed prior to a termination or relinquishment, the Department must notify the parent or Indian custodian and the tribe.

(f) Adoption Vacated or Set Aside. When a final decree of adoption has been vacated or set aside, or the adoptive parent has voluntarily consented to the termination or relinquishment of parental rights, Department staff must send a registered letter to the parent or Indian custodian stating the parent or Indian custodian may petition the court for return of the child. The tribe shall also be notified of such changes or disruptions in adoptive placements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.100

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0250

Invalidation of State Court Action

Any Indian child who is the subject of any action for foster care placement or termination of parental rights under state law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated provisions of the Act.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-070-0260

Full Faith and Credit

The United States, every state, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to Indian tribes.

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Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

Placement of Refugee Children

413-070-0300

Purpose

The purpose of OAR 413-070-0300 to 413-070-0380 is to prescribe conditions that must be met for the Department to remove a refugee child from home. These rules also establish the Refugee Child Welfare Advisory Committee (RCWAC) and set the criteria for its operations and duties.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 - 418.945
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0320

Placement of Refugee Children

(1) When it appears that a child who may be taken into custody under ORS 419B.150 or ORS 419C.080 by the Department is a refugee child, the Department will make oral inquiry of the child or the parent concerning national origin and ethnic and cultural information relative to the child's status as a refugee child. For purposes of determining the child's status as a refugee child, the Department may consider information, including, but not limited to, information from the following sources:

- (a) Any extended family member;
- (b) Refugee community resources including, but not limited to, any group, association, partnership, corporation, or legal entity whose purpose is to represent the interests of a particular group or groups of refugees who have the same ethnic or minority heritage;
- (c) The RCWAC;
- (d) Federal immigration agencies;
- (e) Refugee agencies; and
- (f) Department records.

(2) As required by ORS 418.937, the Department may not remove a refugee child pursuant to ORS 419B.150, 419C.080, or 419C.088 unless:

(a) The Department has determined there is a safety threat and removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(b) The provision of remedial or preventive services cannot manage the child's safety in the home.

(3) The Department must follow ORS 418.937 in making placement decisions for refugee children:

(a) The Department will consider the child's culture and tradition.

(b) Unless shown to be inappropriate and inconsistent with the best interests of the child, the Department will place the child with one or more of the following persons, listed in order of preference:

(A) Biological and legal parents.

(B) Extended family members who are 18 years of age or older.

(C) Members of the same cultural heritage.

(D) Persons with knowledge and appreciation of the cultural heritage of the child.

(4) The determination that one of the preferred placements is inappropriate and inconsistent with the best interests of the child must be based on one or both of the following reasons:

(a) The informed request of the child's parent, if the request is consistent with the stability, security, and individual needs of the refugee child.

(b) The safety, medical, physical, or psychological needs of the child.

(5) When the Department has taken a refugee child into custody under ORS 419B.150, the Department will make diligent efforts to locate the child's affected family members for the purposes of placing the child, if possible, in one of the preferred placements.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0340

Petition

As required by ORS 418.930 and 418.933:

(1) Within one working day of the removal of a refugee child from the child's home, the Department must file a petition with the juvenile court.

(2) In addition to the material required under ORS 419B.809 or 419C.255, the Department must include the following items in its petition:

(a) A specific and detailed account of the circumstances which led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;

(b) Specific actions the Department is taking or has taken to alleviate the need for removal;

(c) Assurance that the Department has complied with the placement preferences of ORS 418.937; and

(d) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected family members and to the Refugee Child Welfare Advisory Committee of the pendency of the petition.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 - 418.945
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0345

Notice

(1) When a refugee child is removed from home, in addition to the notice provided by the court of a hearing, the Department must notify all affected family members and the Refugee Child Welfare Committee of the pendency of the petition described in OAR 413-070-0340.

(2) The notice will be written in language understandable to the recipient.

(3) The notice will contain the child's name; the reason a petition was filed; and the time and place that the juvenile court will be considering the petition.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 - 418.945
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-070-0330 by CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0350

Judicial Determination

As required by ORS 418.933(1), a refugee child may not remain out of the child's home for longer than five days unless there has been a judicial determination supported by clear and convincing evidence that:

(1) Preventive or remedial services provided by the Department have failed to alleviate the need for removal; and

(2) Return to the home will likely result in psychological or physical harm to the child.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 - 418.945
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0360

Record of Care

The Department must maintain a case record for each refugee child in its care containing:

(1) The name, age, residence from which the child was removed, legal status, sex, and race of the child, and the accumulated length of time the child has spent in substitute care;

(2) The child's health and education records;

(3) The name, former residence, and health history of each parent and other information relating to the ability of the parent to care for the child in the parent's home;

(4) The date of the child's intake and placement in substitute care and the name, race, occupation, and residence of the person with whom the child is placed;

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(5) If applicable, the date of the child's adoption and the name, race, occupation, and residence of each adoptive parent;

(6) The date of the removal of the child to another home and the reason for removal;

(7) The date of termination of guardianship, if applicable;

(8) The history of the child, based on information that is known to the Department, until the child reaches 18 years of age, is legally adopted, or is discharged from the legal custody of the Department according to law;

(9) Documentation of the reasonable efforts made by the Department to reunite the child with his or her family, to comply with the placement preferences of ORS 418.937, to place the child in the least restrictive setting possible, and to place the child close to the child's home and school;

(10) Documentation of the child's status as a refugee child, including the source of information concerning the child's refugee status and the date the information was received by the Department;

(11) Any required demographic information; and

(12) Other documentation as required by Child Welfare Policy I-I.2, "Narrative Recording".

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 to 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0370

Annual Report of Care

(1) As required by ORS 418.943, the Department will publish annually a report on refugee children in its care. The report must include statewide and county information on legal status, living arrangement, age, sex, race, accumulated length of time in foster care, and other demographic information deemed appropriate. The report will also state the extent to which the Department has complied with ORS 418.925 to 418.945 and descriptions of the methods of compliance.

(2) The annual report must be sent to all members of the RCWAC no later than March 1 of each year.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0380

Refugee Child Welfare Advisory Committee

(1) As required by ORS 418.941, the Department will establish an advisory committee known as the Refugee Child Welfare Advisory Committee (RCWAC). The RCWAC will perform the following tasks:

(a) Advise the Department on its implementation of ORS 418.925 to 418.945;

(b) Advise the Department in the identification, development, and certification of foster parents who meet requirements of ORS 418.925 to 418.945 for placement of refugee children, placing a special emphasis on locating homes maintained by refugees; and

(c) Advise the Department in developing training programs to insure the availability of culturally sensitive social work.

(2) Each person appointed to the RCWAC is subject to all confidentiality requirements and penalties as are employees of the Department.

(3) In addition to records of the juvenile court under ORS 418.941(3), members of the RCWAC have access to Department records that:

(a) Are pertinent to the care of an individual refugee child who is receiving care from the Department under the provisions of OAR 413-070-0300 to 413-070-0380; and

(b) The Department is authorized by law to provide to the RCWAC.

(4) The Department will work jointly with the RCWAC in the development and implementation of written bylaws or procedures that will specify all local procedures, duties, and tasks necessary for the RCWAC to fulfill the purpose described above.

(5) A maximum of 14 members will be appointed for a two-year renewable term and will serve at the pleasure of the Assistant Director for the Children, Adults and Families Division of the Department.

(6) The RCWAC will meet at least once every three months. Special meetings may be held to carry out required tasks.

(7) Members of the RCWAC receive no compensation for their services. Members of the RCWAC other than members in full-time public service may be reimbursed by the Department for their travel and necessary expenses incurred in the performance of their duties according to rates and procedures established by state management service cost reimbursement policy.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

Psychotropic Medication Management

413-070-0400

Purpose

The purpose of OAR 413-070-0400 to 413-070-0490 is to describe the responsibilities of the substitute caregiver and the Department when a child or young adult placed in substitute care by the Department is prescribed or administered psychotropic medication.

Stat. Auth.: ORS 418.005 & 418.517

Stats. Implemented: ORS 109.640, 109.675, 418.005, 418.517

Hist.: SCF 3-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0430

Department Records, Medication Review, and Consent and Authorization Requirements

(1) The Department must keep the medical and mental health records of any child or young adult in substitute care. As used in this section, "medical and mental health care records" includes a child or young adult's records of medical and mental health care, including, but not limited to, the names of former and current health providers, medical services and diagnoses, evaluations, immunizations, and prescribed medications.

(2) The caseworker must support timely exchange of medical and mental health care information for a child or young adult in substitute care unless:

(a) A child or young adult has the authority to consent to his or her own health and mental health care; or

(b) The parent or legal guardian of the child or young adult retains authority to consent to health care decisions through a Voluntary Custody Agreement or Voluntary Placement Agreement.

(3) The caseworker must:

(a) Provide records of previous mental health assessments and assessment updates, including multiaxial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services to the licensed medical professional prior to the medical appointment or no later than the time at which the licensed medical professional examines the child or young adult when a child or young adult may be receiving a prescription for a psychotropic medication.

(b) Document and timely inform the substitute caregiver of the child or young adult's known health information, including information regarding any prescribed and administered psychotropic medication:

(A) At the time of placement; and

(B) When new or updated health information becomes known to the Department.

(4) To keep accurate medical records and documentation for a child or young adult's medical and mental health history record, the caseworker must:

(a) Retain copies of all medical and mental health records received by the Department in the medical section of the case file of the child or young adult in substitute care.

(b) Document and update records of known health conditions, services, and supports of the child or young adult in substitute care when developing the case plan and at each case plan review.

(c) Receive and review monthly the medication log of the child or young adult in substitute care and retain a copy in the medical section of the case file of the child or young adult and the Department's electronic information system.

(d) Document the medical information of the child or young adult in the Department's electronic information system.

(5) The Department must inform the substitute caregiver of the child or young adult that written authorization, as set forth in subsections (a)-(e) of this section, is required prior to filling a prescription for a new psychotropic medication unless there is an urgent medical need, in which case prior written authorization is not required.

(a) Unless an exception in subsection (d) of this section applies, the Child Welfare Program Manager or designee must provide written authorization prior to the administration of any new prescription of psychotropic medication to a child or young adult in substitute care when the requirements of at least one of the following paragraphs applies:

(A) The Department is the legal guardian of the child or young adult;

(B) Parental rights have been terminated and the court has ordered permanent commitment of the child or young adult and placed the child or young adult in the legal custody and guardianship of the Department; or

(C) A child or young adult's parents have signed a Release or Surrender Agreement giving the Department guardianship and control over the child or young adult.

(b) When the authority to provide authorization for psychotropic medication is not given to the Department in the Voluntary Placement Agreement or Voluntary Custody Agreement, the Department must obtain the written consent of a child or young adult's parent or legal guardian for the administration of psychotropic medication.

(c) A child, 15 years of age or older, or a young adult may provide written consent for psychotropic medication under ORS 109.640.

(d) Written authorization of the Child Welfare Program Manager or designee is not required prior to the administration of any new prescription of psychotropic medication to a child or young adult in substitute care when the requirements of at least one of the following paragraphs applies:

(A) A change in the delivery system of a previously prescribed medication;

(B) A change in the dosage of a previously prescribed medication;

(C) A change in medication within the same drug classification;

(D) A one-time medication given prior to a medical procedure; or

(E) An anti-epileptic medication prescribed for a seizure disorder.

(6) After the caseworker has obtained the written authorization for psychotropic medication required under section (5) of this rule, the caseworker must do all of the following:

(a) Complete the notifications required under OAR 413-070-0480 and 413-070-0490.

(b) Ensure a report has been made to the prescribing licensed medical professional when the condition of the child or young adult in substitute care is not improving, is deteriorating, or when the child or young adult, caseworker, substitute caregiver, or other individual has observed suspected side effects of the medication.

(c) Request and receive updated health information about the child or young adult in substitute care and the effects of the prescribed psychotropic medication therapy from the substitute caregiver during the monthly contact with the substitute caregiver required under OAR 413-080-0054.

(7) Prior to authorization and administration of a new prescription for more than one psychotropic medication or any

antipsychotic medication, the Department must ensure a child or young adult in substitute care has received an assessment from a qualified mental health professional or licensed medical professional unless:

(a) A medication was prescribed for an urgent medical need; or

(b) The prescription is described in paragraphs (5)(d)(A) to (E) of this rule.

(8) The assessment required under section (7) of this rule either must:

(a) Have been completed within the three months prior to the prescription for psychotropic medication; or

(b) Be an update of a prior assessment, which focuses on a new or acute problem, and information from the assessment must be communicated to the licensed medical professional prior to the issuance of a prescription for psychotropic medication.

(9) The Department must ensure the requirements of both of the following subsections are met:

(a) An annual review of psychotropic medications, by an individual other than the prescriber when:

(A) A child or young adult has more than two prescriptions for psychotropic medications; or

(B) A child under six years of age has a prescription for psychotropic medication.

(b) The annual review required under subsection (a) of this section must be conducted by one of the following:

(A) A licensed medical professional;

(B) A qualified mental health professional with the authority to prescribe drugs; or

(C) A licensed pharmacist with the Drug Use Review Program under the Oregon Health Authority, Division of Medical Assistance Programs OAR 410-121-0100.

Stat. Auth.: ORS 418.005 & 418.517

Stats. Implemented: ORS 109.640, 109.675, 418.005 & 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 3-2015, f. & cert. ef. 1-1-15; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0450

Disclosure Requirements for a Child or Young Adult in Substitute Care

Pursuant to ORS 109.675, a child 14 years of age or older or young adult in substitute care may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder, or a chemical dependency, excluding methadone maintenance, by a licensed physician, licensed physician assistant, licensed psychologist, registered nurse practitioner, licensed clinical social worker, licensed professional counselor or marriage and family therapist, or a community mental health program established and operated pursuant to ORS 430.620. However, when a child 14 years of age or older or young adult is in substitute care, and the substitute caregiver or the Department has knowledge of any prescription, the notification requirements of OAR 413-070-0470, 413-070-0480, and 413-070-0490 apply.

Stat. Auth.: ORS 418.005 & 418.517

Stats. Implemented: ORS 109.640, 109.675, 418.005 & 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 3-2015, f. & cert. ef. 1-1-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0470

Substitute Caregiver Responsibilities

(1) The substitute caregiver must:

(a) Notify the Department within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for a child or young adult; and

(b) Obtain authorization from the Department prior to filling a prescription for and administering a new psychotropic medication.

(2) The substitute caregiver must provide written or verbal notification to the caseworker or caseworker's supervisor within one business day when a licensed medical professional prescribes a change in dosage, suspension, or discontinuation of the current psychotropic medication.

(3) The substitute caregiver must keep current medical and mental health care records and medication logs of a child or young adult in the care or custody of the Department. The records must include all of the following:

(a) Medical and mental health appointments for the child or young adult in substitute care.

(b) Medical and mental health appointment follow-up reports provided to the substitute caregiver.

(c) Any record of any immunization obtained while in the care of the substitute caregiver.

(d) A record of all prescribed medications administered to the child or young adult in substitute care.

(4) A substitute caregiver certified by the Department must keep a current medication log on a form approved by the Department. A provider must keep a current medication log either on the form approved by the Department or on a form provided by the private child-caring agency. The medication log record must include all medications administered to the child or young adult in substitute care and must include all of the following:

(a) The name of the child or young adult in substitute care.

(b) The brand or generic name of the medication, including the prescribed dosage and prescribed dosage administration schedule.

(c) Times and dates of administration or monitored self-administration of the medication.

(d) The name or initials of the substitute caregiver administering the medication or monitoring the self-administration.

(5) The substitute caregiver must provide completed medication logs and any medication records obtained during medical visits and records of appointments to the Department at the end of each month. This must include logs of all medication administered to the child or young adult at school or in settings other than the home of the substitute caregiver.

(6) The substitute caregiver must keep all psychotropic medications properly stored and must:

(a) Ensure the psychotropic medication specifies the dosage and prescribed dosage administration schedule of the licensed medical professional for the psychotropic medication; and

(b) Ensure the psychotropic medication is stored in a safe manner and as prescribed. Psychotropic medication requiring refrigeration must be safely stored under refrigeration.

(7) The substitute caregiver may not discontinue, change, or otherwise alter the prescribed administration of a psychotropic medication for a child or young adult in substitute care without direction from the licensed medical professional.

(8) The substitute caregiver may not use alternative medications intended to alter or affect mood or behavior, such as herbal supplements, nutritional supplements, or homeopathic remedies, without direction and supervision of a licensed medical professional, and must notify the Department when any such alternative medication is directed.

Stat. Auth.: ORS 418.005 & 418.517

Stats. Implemented: ORS 109.640, 109.675, 418.005 & 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 3-2015, f. & cert. ef. 1-1-15

413-070-0480

Notification Timelines for Psychotropic Medication Therapy

(1) The Department must provide written notification to the parties identified in section (2) of this rule within a timely manner, not to exceed ten business days after:

(a) The Department receives notice that a psychotropic medication has been prescribed for a child or young adult in substitute care; or

(b) Either of the following changes occur in the treatment of a child or young adult in substitute care:

(A) The prescribed dosage of a psychotropic medication; or

(B) Discontinuation of existing psychotropic medication therapy.

(2) When a child or young adult is in substitute care, written notification is provided to:

(a) The parent or legal guardian, unless a parent has relinquished parental rights or had parental rights terminated;

(b) The attorney of the parent or legal guardian;

(c) The attorney of the child or young adult;

(d) The court appointed special advocate of the child or young adult, if one has been appointed;

(e) Any other legal parties to the case; and

(f) The substitute caregiver.

Stat. Auth.: ORS 418.005 & 418.517

Stats. Implemented: ORS 109.640, 109.675, 418.005 & 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 3-2015, f. & cert. ef. 1-1-15

413-070-0490

Notification Content for Psychotropic Medication Therapy

The notification described in OAR 413-070-0480 must contain all of the following:

(1) The name and contact information of the prescribing licensed medical professional.

(2) The diagnosed condition of the child or young adult for which the medication was prescribed.

(3) The name of the prescribed psychotropic medication.

(4) The prescribed dosage.

(5) The dosage recommended pursuant to a medically accepted indication.

(6) The reason the medication was prescribed.

(7) The expected benefit of the medication.

(8) The side effects of the medication.

(9) Notice of the right to petition the juvenile court for a hearing if there is an objection to the use of the prescribed medication or prescribed dosage.

Stat. Auth.: ORS 418.005 & 418.517

Stats. Implemented: ORS 109.640, 109.675, 418.005 & 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 3-2015, f. & cert. ef. 1-1-15

Legal Permanency, Concurrent Planning, and Use of Permanency Committee

413-070-0500

Purpose

The purpose of OAR 413-070-0500 to 413-070-0519 is to describe the Department's responsibility to seek legal permanency for a child or young adult in the legal custody of the Department and the use of a permanency committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 27-2010, f. & cert. ef. 12-29-10; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0510

Obligation to Seek Legal Permanency

(1) Except when a parent has subjected a child or young adult to aggravated circumstances as defined in ORS 419B.340, the Department must make reasonable efforts to preserve and reunify families by:

(a) Establishing conditions for return described in OAR 413-040-0006 when a child or young adult is removed; and

(b) Implementing a permanency plan to make it possible for the child or young adult to safely return home.

(2) The Department must also make reasonable efforts to achieve the concurrent permanent plan for permanency through adoption, guardianship, placement with a fit and willing relative, or APPLA.

(3) The Department must seek approval of the court prior to changing the permanency plan of a child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 27-2010, f. & cert. ef. 12-29-10; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0512

Development and Review of the Permanency Plan and Concurrent Permanent Plan

(1) When developing the permanency plan and concurrent permanent plan, the caseworker must complete all of the following actions:

(a) Develop a permanency plan and a concurrent permanent plan for each child or young adult in the Department's custody within 60 days of the placement of the child or young adult into substitute care.

(b) Review the plan every 90 days, pursuant to OAR 413-040-0005 to 413-040-0032.

(c) Involve a team of individuals knowledgeable about the needs of the child or young adult in the development and ongoing assessment of the most appropriate permanency plan and concurrent permanent plan for the child or young adult. The team must include all of the following:

(A) The parents, unless a supervisor approves not including a specified parent because the contact may compromise the safety of a child or young adult or another individual; parental rights have been terminated; or the parent has signed a release and surrender agreement.

(B) The attorney of the parents, unless parental rights have been terminated or the parents have signed a release and surrender agreement.

(C) The child who has attained 14 years of age or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c).

(D) The CASA.

(E) The attorney of the child or young adult.

(F) A tribal representative if the child or young adult is an Indian child.

(G) A member of the RCWAC, if the child is a refugee child.

(H) The team may include any of the following:

(i) The child at any age, whenever developmentally appropriate.

(ii) The substitute caregiver of the child or young adult.

(iii) The substitute caregiver's certifier.

(iv) The relatives of the child or young adult.

(v) Persons with a caregiver relationship.

(vi) Other individuals with involvement in the life of the child or young adult.

(vii) Individuals with expertise in permanency.

(d) Use ongoing contacts with the individuals in subsection (c) of this section to:

(A) Monitor the progress toward achieving the permanency plan.

(B) Provide the child or young adult, and the parents of the child or young adult, the opportunity to identify available permanency resources should reunification not be achievable.

(C) Review the efforts to identify and place the child or young adult with a relative and to place siblings together.

(D) Consider the parents' acceptance of a plan other than reunification and their preference for continued contact with the child or young adult.

(E) Identify and consider which concurrent permanent plan best meets the current and lifelong safety, permanency, and well-being needs of the child or young adult in the following preferential order:

(i) Adoption.

(ii) Guardianship, which may be considered only when there are compelling reasons why adoption cannot be achieved.

(iii) Placement with a fit and willing relative, which may be considered only when there are compelling reasons why adoption or guardianship cannot be achieved.

(iv) If the child has reached the age of 16, Another Planned Permanency Living Arrangement, which may be considered only when there are compelling reasons why adoption, guardianship or placement with a fit and willing relative cannot be achieved.

(e) Determine the Department has taken action on the potential permanency resources identified by the child or young adult, the family of child or young adult, a member of the team of the child or young adult, or the Department.

(f) Determine which permanency plan best meets the safety, permanency, and well-being needs of the child or young adult and provides the child or young adult with support and connection in adulthood, and document the basis for the determination.

(g) Submit a recommendation to the permanency committee as required in OAR 413-070-0516.

(h) Obtain the approval of a legal assistance specialist before recommending a change of permanency plan to adoption.

(2) Participants in the development and review process must be informed of all of the following:

(a) The purpose of permanency and concurrent planning.

(b) The timelines under which the Department pursues permanency pursuant to federal and state law.

(c) The resources which may be available to relatives when adoption or guardianship is a permanency plan.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04; Renumbered from 413-070-0515 by CWP 27-2010, f. & cert. ef. 12-29-10; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0514

Use of Permanency Committee

A permanency committee must be scheduled when any of the following applies:

(1) A caseworker recommends a change in permanency plan to guardianship, fit and willing relative, or APPLA.

(2) A caseworker is considering a separation of siblings in adoption under OAR 413-110-0132.

(3) A caseworker requests a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption under OAR 413-120-0750.

(4) A current caretaker or relative caregiver requests consideration as a potential adoptive resource and the adoption home study regarding the child or sibling group has not been completed.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0516

Composition, Scheduling, Responsibilities, and Recommendations of the Permanency Committee

(1) A permanency committee is composed of the following individuals:

(a) Two individuals who have been appointed by a Child Welfare Program Manager to attend a permanency committee.

(A) A committee facilitator, who must be a Department staff member and who must ensure all of the following:

(i) The meeting is held according to the requirements of OAR chapter 413.

(ii) Individuals are informed of the responsibilities of the committee and the confidentiality of information presented during the meeting.

(iii) Committee recommendations are thoroughly and accurately documented.

(B) A second individual who may be either a community partner or another Department staff member.

(C) The individuals in this subsection must meet the following requirements:

(i) Be knowledgeable about permanency issues.

(ii) Be knowledgeable of the importance of lifelong family attachment and cultural connections.

(iii) Have no current personal or professional relationship to the child or a potential placement resource or potential adoptive resource being considered.

(b) The following members of the child's team:

- (A) The caseworker of the child or young adult;
- (B) The attorney of the child or young adult;
- (C) The CASA of the child or young adult;
- (D) A tribal representative, if the child or young adult is an Indian child; and
- (E) A member of the RCWAC, if the child or young adult is a refugee child.

(2) The substitute caregiver of the child or young adult, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to come and present information to the permanency committee, but is excused after presenting information and responding to questions.

(3) The Child Welfare Program Manager or designee responsible for making the decision on behalf of the Department attends the permanency committee and may ask clarifying questions, but does not participate in the deliberation and recommendation.

(4) The Department is responsible for scheduling and notifying the following individuals of the date, time, and location of the permanency committee:

- (a) Appointed permanency committee members;
- (b) The Child Welfare Program Manager or designee making a recommendation or decision on the issue before the permanency committee;
- (c) Each member of the child's or young adult's team identified in subsection (1)(b) of this rule; and
- (d) Any other individual invited to present specific information to the permanency committee.

(5) Each individual attending a permanency committee is bound by Oregon statutes regarding confidentiality and OAR 413-010-0010 to 413-010-0075.

(6) Consideration, review, and recommendation.

(a) The permanency committee must consider and review the information presented by any individual invited to the permanency committee, whether the information is presented in person, by phone, through other electronic communication, or in writing.

(b) The permanency committee may seek clarification of information presented, and may request additional information during the presentations.

(c) The permanency committee must consider the safety, permanency, and well-being needs of the child or young adult and, when there are siblings, the safety, permanency, and well-being needs of each sibling and make a recommendation regarding the issue brought before the committee to the Child Welfare Program Manager or designee as follows:

(A) When the caseworker recommends a change in permanency plan to guardianship, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-0660 and OAR 413-070-0665.

(B) When the caseworker recommends a change in permanency plan to placement with a fit and willing relative, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-1020.

(C) When a caseworker recommends a change in permanency plan to APPLA, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-0550(1).

(D) When a caseworker considers the separation of siblings in adoption under OAR 413-110-0132, the permanency committee provides a recommendation based upon the considerations in OAR 413-110-0132(2).

(E) When the caseworker requests that a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption, the permanency committee provides a recommendation based upon the considerations in OAR 413-120-0750(6)(b).

(d) When members of the permanency committee have not come to consensus on a recommendation, the committee facilitator must document all recommendations and the basis provided by the permanency committee member for that recommendation.

(e) The committee facilitator must provide the written documentation of the permanency committee's recommendation or rec-

ommendations to the Child Welfare Program Manager or designee within three business days of the date on which the permanency committee was held.

(7) For the purpose of OAR 413-070-0514(4), a current caretaker or relative caregiver request for consideration as an adoptive resource, the following also apply:

(a) The permanency committee is composed of the individuals in sections (1) and (3) of this rule, and:

(A) The assigned certifier for the current caretaker or relative caregiver.

(B) The assigned adoption worker for the current caretaker or relative caregiver.

(b) The current caretaker or relative caregiver of the child or sibling group under consideration for adoption, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to present information to the permanency committee, but is excused after presenting information and responding to questions.

(c) The permanency committee must review the following:

(A) The safety, attachment, and well-being needs of the child or sibling group under consideration for adoption together and how the current caretaker or relative caregiver has met those needs to date;

(B) The current caretaker's or relative caregiver's history of meeting the standards of certification pursuant to OAR 413-200-0301 to 413-200-0396;

(C) Any child abuse and neglect reports made to the Department that were assigned for assessment, closed at screening, or documented in the Department's paper or electronic information system;

(D) Recommendations for continued contact with birth parents, birth family, or other significant persons for the child or sibling group under consideration for adoption; and

(E) Any other information pertinent to the evaluation of the ability of the current caretaker or relative caregiver to meet the life-long safety, attachment, and well-being needs of the child or sibling group under consideration.

(d) The permanency committee must document and provide to the assigned adoption worker any specific information they determine must be explored in the adoption home study for the current caretaker or relative caregiver.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0518

Exceptions to Scheduling a Permanency Committee

(1) An exception to scheduling a permanency committee exists when:

(a) The permanency plan for a child under the age of 16 is being changed from APPLA to an approved permanency plan of guardianship or placement with a fit and willing relative for the purpose of complying with federal and state law but before a resource has been identified; or

(b) The court changes a permanency plan for a child or young adult before the Department makes a recommendation pursuant to OAR 413-070-0512 to 413-070-0516.

(2) When an exception to scheduling a permanency committee applies, the caseworker does the following:

(a) If the new permanency plan for the child or young adult is guardianship:

(A) Change the permanency plan to guardianship;

(B) Diligently recruit and identify a potential guardian resource for the child or young adult; and

(C) Approve the guardian for the child or young adult as outlined in OAR 413-070-0665 and 413-070-0670.

(b) If the new permanency plan for a child or young adult is placement with a fit and willing relative:

(A) Change the permanency plan to placement with a fit and willing relative;

(B) Diligently recruit and identify a potential relative resource for the child or young adult; and

(C) Approve the relative for placement with a fit and willing relative as outlined in OAR 413-070-1020.

(3) After complying with OAR 413-070-0512 to 413-070-0516, if the Department recommendation is something other than the court-approved permanency plan, the Department must schedule a judicial review of the permanency plan of the child or young adult.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0519

Decision and Notice

(1) Except when a permanency committee is scheduled for the purpose of a current caretaker or relative caregiver request to be considered as a potential adoptive resource, the Child Welfare Program Manager or designee must:

(a) Consider the recommendations of the permanency committee;

(b) Make a decision within one business day following the receipt of the written recommendations of the permanency committee; and

(c) Provide written notification of the decision and the basis of the decision to the caseworker on a form approved by the Department.

(2) The caseworker must notify the following individuals of the decision under section (1) of this rule:

(a) Each child or young adult, when required by law and developmentally appropriate;

(b) The attorney of each child or young adult, if one has been appointed;

(c) The CASA of each child or young adult, if one has been appointed;

(d) The tribal representative of each child or young adult, when a child or young adult is an Indian child;

(e) The member of the RCWAC when a child or young adult is a refugee child; and

(f) The substitute caregiver of each child or young adult.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

Another Planned Permanent Living Arrangement

413-070-0520

Purpose

The purpose of OAR 413-070-0520 to 413-070-0565 is to describe the responsibilities of the Department in case planning and the appropriate use of APPLA as a permanency plan for a child or young adult.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0532

APPLA

The caseworker considers one of the following types of APPLA when considering APPLA as a permanency plan for a child who has reached the age of 16 or young adult:

(1) APPLA — permanent foster care. APPLA — permanent foster care is a plan in which the child or young adult remains in a substitute care placement with a substitute caregiver who has:

(a) Committed to the care and well-being of the child or young adult; and

(b) Entered into a permanent foster care agreement.

(2) APPLA — permanent connections and support. An APPLA — permanent connections and support plan is a plan in which:

(a) A child or young adult is in substitute care living with a substitute caregiver or living independently and receiving an independent living housing subsidy and the plan focus is not only on the educational, vocational, health, and treatment needs of the child or young adult, but also on the needs of the child or young adult to develop or maintain relationships with adults, including relatives and persons with a caregiver relationship, who can play a significant role in the life of the child or young adult after the child or young adult leaves substitute care; or

(b) A child or young adult is in a psychiatric residential facility, developmental disabilities placement, or residential treatment facility and is not going to be discharged from the facility while the Department maintains legal custody of the child or young adult.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005, 419A.004

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0536

Consideration of APPLA as a Permanency Plan

(1) Department consideration of APPLA as a permanency plan must be based on the individual safety, permanency, and well-being needs of a child who has reached the age of 16 or young adult. The age or disability of a child or young adult is never a disqualifier for a more preferred permanency plan.

(2) The Department may only consider APPLA as a permanency plan for a child who has reached the age of 16 or young adult only if the Department has determined it is not in the best interests of the child or young adult to implement one of the following preferred permanency plans:

(a) Placement with a parent;

(b) Placement in an adoptive home;

(c) Placement with a legal guardian; or

(d) Placement with a fit and willing relative.

(3) Prior to consideration of a foster parent as the APPLA resource, the caseworker and his or her supervisor must:

(a) Review the diligent efforts of the Department to place a child or young adult with relatives and to place siblings together as required under OAR 413-070-0060 to 413-070-0087.

(b) Confirm there are no current Department actions to identify or assess a relative of a child or young adult who has expressed an interest in being a permanency resource.

Stat. Auth.: ORS 109.328, 418.005

Stats Implemented: ORS 109.328, 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0540

Determination of APPLA as a Permanency Plan

(1) When the Department is considering a change in the permanency plan of a child or young adult, the Department makes the determination pursuant to OAR 413-070-0500 to 413-070-0519.

(2) Prior to the permanency committee, when APPLA - permanent foster care is being considered as the most appropriate permanency plan for a child or young adult, the caseworker must:

(a) Meet with the substitute caregiver to:

(A) Assess interest in and commitment to a permanent foster care agreement with each substitute caregiver as long as APPLA - permanent foster care is the permanency plan for the child or young adult; and

(B) Review the requirements, responsibilities, and approval process for the permanent foster care agreement with each substitute caregiver.

(b) Meet with the child or young adult, as developmentally appropriate and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult to assess interest in APPLA — permanent foster care as the permanency plan.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005, 418.937, 418.941, 419A.004

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0550

Approval and Implementation of an APPLA Permanency Plan

(1) The permanency committee must consider the best interests of the child who has reached the age of 16 or young adult and each of the following factors when developing a recommendation regarding APPLA to the Child Welfare Program Manager or designee:

(a) The safety, permanency, and well-being needs of the child or young adult.

(b) The opportunities the Department has provided the child or young adult and the parents of the child or young adult to identify permanency resources.

(c) The parents' acceptance of APPLA as a permanency plan and their preference for continued contact with the child or young adult.

(d) The ability of the substitute caregiver to meet the needs of the child or young adult pursuant to OAR 413-070-0640.

(e) The compelling reasons reunification, adoption, guardianship, or placement with a fit and willing relative cannot be achieved.

(f) The sufficiency of the plan for continued contact with siblings.

(2) The Child Welfare Program Manager or designee must consider all of the following when making the decision regarding APPLA:

(a) The considerations in section (1) of this rule.

(b) The information presented to the permanency committee.

(c) The recommendation of the permanency committee.

(3) Within 30 days of the Department's decision to approve an APPLA permanency plan under OAR 413-070-0519, the caseworker must request a permanency hearing before the court.

(4) The caseworker must encourage the child or young adult to attend the APPLA permanency hearing, offer to provide transportation, and request the court inquire with the child or young adult about his or her desired permanency outcome.

(5) At the hearing, the caseworker must provide the court:

(a) The intensive, ongoing efforts by the Department to achieve reunification, adoption, guardianship, or placement with a fit and willing relative;

(b) The compelling reasons reunification, adoption, guardianship, and placement with a fit and willing relative would not be in the best interests of the child or young adult;

(c) A recommendation that the court issue an order approving the APPLA plan;

(d) The steps the Department has taken to ensure the foster parent applies the reasonable and prudent parent standard and provides opportunities for the child or young adult to engage in age-appropriate or developmentally appropriate activities;

(e) A timetable for placement of the child or young adult in another planned permanent living arrangement;

(f) The reasonable services the Department may offer each parent to meet the best interests of the child or young adult until a more preferred permanency plan is achieved, the child reaches the age of majority, reaches independence, or the juvenile court

relieves the Department of legal custody of the child or young adult; and

(g) The type and amount of contact and involvement between the parent and child or young adult and between the sibling and child or young adult until a more preferred permanency plan is achieved, the child reaches age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult.

(6) When the Department recommends contact be limited or prohibited between a parent and child or young adult or between a sibling and child or young adult, the caseworker must make the request to the court, and include the reasons contact should be limited or prohibited.

(7) Within 30 days of the Department or court decision not to approve the APPLA plan the caseworker must:

(a) Inform the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), the substitute caregivers, parents, attorney, and court appointed special advocate of the child or young adult, and other persons with significant involvement in the life of the child or young adult; and

(b) Consult with the team to reconsider other permanency options for the child or young adult.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005, 419A.004

Hist.: CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 2-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 22-2011, f. & cert. ef. 9-19-11; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0551

Contents of an APPLA Case Plan

(1) When APPLA is the permanency plan for a child or young adult, the caseworker must address each of the following in the case plan of the child or young adult:

(a) Family composition, which includes the identifying information of each parent, except when parental rights have been terminated, guardian, and sibling.

(b) Except when parental rights have been terminated, the identified impending danger safety threats.

(c) Except when parental rights have been terminated, the ongoing safety plan as described in OAR 413-015-0400 to 413-015-0485 and recorded in the electronic information system of the Department.

(d) A description of how the Department determined the APPLA is the most appropriate permanency plan for the child or young adult, and each compelling reason why the more preferred permanency plan options were not selected for the child or young adult.

(e) The steps the Department has taken to ensure the substitute caregiver is applying the reasonable and prudent parent standard and the child or young adult has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities.

(f) A description of how the attachments and relationships of the child or young adult with each parent, sibling, other family member, advocate, substitute caregiver, and other person who provides continuity, belonging, stability, support, nurturing, and caring relationships and cultural connections for the child or young adult may be developed while the child or young adult is in substitute care and maintained when the child or young adult reaches the age of majority or the juvenile court relieves the Department of legal custody of the child or young adult. When appropriate, the description may include the following:

(A) A description of how each parent and sibling of the child or young adult may participate actively in the life of the child or young adult.

(B) For each existing relationship the child or young adult has with a permanent adult caregiver or adult parental figure who is capable of sustaining a significant relationship with the child or

young adult, a description of how the relationship may be maintained.

(C) A description of how relationships with relatives and other persons involved in the child or young adult's life may be developed and maintained.

(D) Current placement information including the location of the child or young adult when the substitute caregiver authorizes release of the address, except when doing so would jeopardize the safety of the child.

(E) The record of visits between the child or young adult and his or her parents or siblings.

(g) When applicable, a description of the plan to transition a child or young adult with intellectual or developmental disabilities to an appropriate program for adults with intellectual or developmental disabilities.

(h) The comprehensive transition plan described in OAR 413-030-0400 to 413-030-0460 for any child 14 years of age or older or young adult and services that prepare the child or young adult to transition to adulthood.

(i) A description of the reasonable efforts made by the Department to put the services and structures described in this rule in place to meet the needs of the child or young adult and to enhance the stability of the living arrangement of the child or young adult when the child or young adult is not living with a specified adult.

(j) A description of the services the Department must provide to ensure the emotional, medical, educational, cultural, and physical needs of the child or young adult are being met, including:

(A) The health information of the child or young adult, which documents the specialized medical, dental, and mental health services of the child or young adult; and

(B) The education services of the child or young adult, including the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or young adult, and any special educational needs.

(k) The services required to prepare the child or young adult to live in the least restrictive setting possible at the most appropriate time.

(l) The services that may make it possible to achieve a more preferred permanency plan listed in OAR 413-070-0536(2) for the child or young adult.

(m) The services the Department may continue to make available to the parents of the child or young adult, upon request, that continue to be in the best interests of the child or young adult.

(n) For any child who has attained 14 years of age or young adult, the documents described in OAR 413-040-0010(1)(j)(A) and (B).

(2) Except when parental rights have been terminated or the Department is unable to obtain the signature of the parent or guardian, the case plan must include the signature of the caseworker, the supervisor, and each parent or guardian as described in OAR 413-040-0010.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 419A.004

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; Renumbered from 413-070-0548, CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0552

Ongoing Department Responsibilities When APPLA is the Permanency Plan

(1) When APPLA is the court-approved permanency plan for a child or young adult in the Department's legal custody, the caseworker must do all of the following:

(a) Discuss the needs of the child or young adult with the substitute caregiver and the child or young adult during face-to-face and other contacts, and routinely discuss needs, benefits, barriers, and solutions towards achieving a more preferred permanency option.

(b) Have contact with the child or young adult, with the substitute caregiver, and monitor child or young adult safety as described in OAR 413-080-0040 to 413-080-0067.

(c) Provide timely assessment and services for identified needs of the child or young adult and the substitute caregiver or the parents of the child or young adult.

(d) As soon as possible after the child reaches 14 years of age initiate comprehensive transition planning as described in OAR 413-030-0400 to 413-030-0460.

(e) Ensure an annual review of Department efforts to identify and contact relatives of a child or young adult and efforts to place with or develop and maintain a child or young adult's connection and support with relatives is completed.

(f) Monitor the case plan and complete the required case plan reviews.

(g) Submit to the court and to the citizen review board the case plan updates required in Child Welfare Policy I-I.2, "Narrative Recording" and, when the APPLA plan is APPLA - permanent foster care, submit a copy of the permanent foster care agreement.

(2) In addition to the requirements of section (1) of this rule, when the child or young adult has an approved APPLA - permanent foster care plan:

(a) The Department must continue to assess requirements for certification of a foster home pursuant to OAR 413-200-0270 to 413-200-0296; and

(b) The substitute caregiver must;

(A) Maintain a current Certificate of Approval and follow the requirements of the Department pursuant to OAR 413-200-0301 to 413-200-0396;

(B) Follow the requirements of the Department regarding education, medical care, mental health care, and other services requested by the Department to meet the needs of the child or young adult;

(C) Maintain residence in the state of Oregon unless the ICPC referral has been submitted to the receiving state and approval to move has been obtained from the Department and the court prior to the move outside of Oregon; and

(D) Maintain residence in the ICPC approved state if the substitute caregiver lives in another state.

Stat. Auth.: ORS 418.005 & 419A.004(17)

Stats Implemented: ORS 418.005 & 419A.004(17)

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0556

APPLA Permanency Plan Reviews

(1) The caseworker must review the APPLA case plan at least every six months and the review must occur prior to a review by the court or citizen review board as required by ORS 419B.470 and 419A.106(1) respectively.

(a) The review must take place in a face-to-face meeting with the child or young adult, and may include members of the team of the child or young adult.

(A) When appropriate, the meeting may include a parent or guardian, unless the parent or guardian is not available for the review. When a parent or guardian is unavailable, the caseworker must document the reason the parent or guardian was unavailable and the efforts made to involve the parent or guardian.

(B) During the meeting the caseworker must consider input received from the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), other participants in the meeting, and other information received from service providers, substitute caregivers, an attorney of the child or young adult, a court appointed special advocate of the child or young adult, the tribe if the child is an ICWA child, persons with significant attachments to the child or young adult, and relatives of the child or young adult.

(b) After the meeting described in subsection (a) of this section, the caseworker must document in the case record:

(A) Whether the current placement continues to be the least restrictive setting available to meet the safety and permanency needs of the child or young adult; or

(B) Whether a more permanent permanency plan, such as reunification, adoption, guardianship, or placement with a fit and willing relative is more appropriate for the child or young adult.

(2) When an APPLA has been approved by the court as the permanency plan for a child or young adult in the legal custody of the Department, the Department must notify the court and request a review or permanency hearing:

(a) No less frequently than once every 12 months while the child or young adult remains in substitute care in accordance with ORS 419B.470(2).

(b) Unless good cause is shown, at any time upon the request of the Department, a substitute caregiver directly responsible for the care of the child or young adult, a parent of the child or young adult, an attorney for the child or young adult, a court appointed special advocate, a citizen review board, or a tribal court in accordance with ORS 419B.470(5).

(c) By the citizen review board no less frequently than every six months in accordance with ORS 419A.106(1)(a) unless the court has relieved the citizen review board of its responsibility to review a case in accordance with ORS 419A.106(1)(b).

(d) Within 90 days of a change of substitute care placement.

Stat. Auth.: ORS 418.005, 419A.004(17), 419B.470

Stats Implemented: ORS 418.005, 419A.004(17), 419B.470

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0565

Termination of APPLA

(1) The APPLA — permanent connections and support must be terminated when:

(a) Court wardship is terminated;

(b) The court relieves the Department of legal custody of the child or young adult; or

(c) The court determines that APPLA — Permanent Connections and Support is no longer the appropriate permanency plan for the child or young adult.

(2) The APPLA — permanent foster care plan and agreement must be terminated when:

(a) The child reaches the age of majority as provided in ORS 419A.004(17);

(b) Court wardship is terminated;

(c) The court determines that APPLA — permanent foster care is no longer the appropriate permanency plan for the child;

(d) One of the more preferred permanency plans described in OAR 413-070-0536(2) is achieved;

(e) The Department and the substitute caregiver mutually consent to termination;

(f) The foster parent or relative caregiver fails to maintain a current Certificate of Approval in accordance with OAR 413-200-0301 to 413-200-0396 and OAR 413-200-0270 to 413-200-0296, including when the certificate has been revoked or denied;

(g) The child or young adult is removed from the substitute caregiver by the Department; or

(h) The child or young adult requests, and a Child Welfare Program Manager approves, termination of the agreement because of serious or extraordinary circumstances.

(3) The Department must provide written notification to the court of any change in the placement of the child or young adult.

(4) If a child or young adult is removed from court-approved APPLA — permanent foster care, the caseworker must request a permanency hearing within 90 days after the date of the change in placement to review the permanency plan for the child or young adult under ORS 419B.470(3).

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 419A.004, 419B.470

Hist.: CWP 17-2009, f. & cert. ef. 11-3-09; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

Special Immigrant Juvenile Status

413-070-0570

Purpose

The purpose of OAR 413-070-0570 to 413-070-0574 is to describe when the Department will consider and pursue special immigrant juvenile status for a child or young adult who was brought to the United States by a parent or legal guardian not for the purpose of adoption, does not have lawful permanent resident status, cannot be returned safely to a parent or placed in the country of origin of the child or young adult, and should remain in the United States pending finalization of a permanent plan other than return to parent.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 22-2010, f. & cert. ef. 12-28-10; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0574

Special Immigrant Juvenile Status

(1) The Department may apply for special immigrant juvenile status for a child or young adult in the legal and physical custody and guardianship of the Department if all of the following requirements are met:

(a) The juvenile court has determined that:

(A) The child or young adult is a dependent ward;

(B) The child or young adult cannot be returned to a parent due to abuse, neglect, abandonment, or similar circumstance; and

(C) It is not in the best interests of the child or young adult to return to the child's, young adult's, or parent's country of nationality or country of last habitual residence.

(b) The permanency plan for the child or young adult has been changed by the court from return to parent to another permanent plan.

(c) The child or young adult is not a United States citizen and does not have lawful permanent resident status.

(d) The child or young adult is unmarried and under 21 years of age.

(2) Department staff must consult with and obtain approval from the Department of Human Services Diversity and International Affairs Program Manager or designee before applying for special immigrant juvenile status for a child or young adult in the legal and physical custody and guardianship of the Department.

(3) To apply for special immigrant juvenile status, before the 21st of the child or young adult the Department must:

(a) Obtain a court order from the juvenile court that makes the necessary findings to support an application for special immigrant juvenile status; and

(b) Complete and submit all necessary U.S. Citizenship and Immigration Service forms and applications for special immigrant juvenile status.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 22-2010, f. & cert. ef. 12-28-10; CWP 12-2015, f. & cert. ef. 7-17-15

Placement Matching

413-070-0600

Purpose

The purpose of OAR 413-070-0600 to 413-070-0645 is to:

(1) Describe the requirements for assessing the needs of the child or young adult when the Department places the child or young adult in substitute care to assure the child's safety;

(2) Identify the most appropriate available substitute caregiver who can meet the needs of the child or young adult; and

(3) Describe the requirements for assessing and matching a potential caregiver's ability to meet the current and lifelong needs of the child or young adult for safety, permanency, and well-being.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 & 419B.192

Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 26-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 8-

2008, f. 6-27-08, cert. ef. 6-28-08; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 29-2010, f. & cert. ef. 12-29-10; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0625

Identifying and Assessing the Child or Young Adult's Needs when Placement in Substitute Care is Required

(1) To select a substitute care placement that will meet the safety, permanency, and well-being needs of the child or young adult, the caseworker must:

(a) Involve the parent or guardian of the child or young adult and the child or young adult as developmentally appropriate in identifying substitute care placement resources whenever possible.

(b) Assess the ability of each potential substitute caregiver to provide safety for the child or young adult.

(c) Assess the potential substitute care placements in the order of preference under OAR 413-070-0220 and 413-070-0320, when the child or young adult is an Indian child or refugee child.

(d) Except as provided in subsection (c) of this section, assess the potential substitute care placements in the following order of preference:

(A) A relative of the child or young adult who can be certified by the Department.

(B) A person who has a caregiver relationship with the child or young adult and can be certified by the Department.

(C) A foster parent who is certified by the Department, or a provider who is approved through a licensed child-caring agency.

(e) Consider the use of a family meeting to seek the placement preferences of the family if more than one person requests to have the child or young adult placed with them; and

(f) Consider whether the potential substitute care placement;

(A) Has the ability to provide safety for the child or young adult and, when there are one or more siblings, each of the siblings;

(B) Is willing to cooperate with any restrictions placed on contact between the child or young adult and others;

(C) Has the ability to prevent anyone from influencing the child or young adult in regard to the allegations of the case;

(D) Has the ability to support the efforts of the Department to implement the permanent plan for the child or young adult;

(E) Has the ability to meet the physical, emotional, and educational needs of the child or young adult, including the need of the child or young adult to continue in the same school or educational placement; and

(F) Has the ability to support the interests of the child or young adult to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(g) Ensure that the substitute care placement is the most home-like, least restrictive available to meet the needs of the child or young adult.

(h) Assure that the race, color, or national origin of the child or young adult or substitute care placement is not a consideration when assessing a substitute care placement.

(2) When a child or young adult is placed in substitute care and has a sibling who is currently in or also needs substitute care, the caseworker must make diligent efforts to place siblings together unless placing the siblings together is not in the best interests of the child or young adult or the sibling of the child or young adult.

(3) Within one month of the placement of the child or young adult in a substitute care setting, the caseworker must reconsider whether the substitute caregiver is able to meet the requirements in subsection (1)(f) of this rule and assess whether the following placement considerations are met:

(a) The placement is in close proximity to the parents or guardians of the child or young adult;

(b) The placement is in close proximity to the community of the child or young adult;

(c) If in the best interests of the child and siblings as set forth in section (2) of this rule, the siblings are together in placement; and

(d) The culture and family identity of the child or young adult are supported by the placement.

(4) After consultation with the supervisor, when the caseworker determines the substitute care placement does not meet one or more of the placement considerations in subsection (1)(f) or section (3) of this rule, the caseworker must:

(a) Determine whether remaining in the substitute care placement is in the best interests of the child or young adult;

(b) Work with Department staff to secure another substitute care placement for the child or young adult when appropriate; and

(c) Document the basis for the determination and subsequent actions in the information system of the Department.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 419B.192

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 26-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 8-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 29-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0630

Monitoring the Ongoing Substitute Care Placement Needs of the Child or Young Adult

(1) The caseworker must monitor the substitute care placement of the child or young adult and determine whether the relative caregiver, foster parent, or provider:

(a) Meets the placement considerations of OAR 413-070-0625; and

(b) Manages the supervision needs of the child or young adult as identified in the CANS screening and other current assessments or evaluations of the child or young adult.

(2) The caseworker must assess the ongoing and permanency needs of the child or young adult:

(a) For physical and emotional safety;

(b) To promote and preserve existing attachments to family;

(c) For continuity and familiarity;

(d) For appropriate educational, developmental, emotional, and physical support;

(e) For stability and permanency;

(f) For maintaining his or her identity and cultural and religious heritage; and

(g) For opportunities to participate in age-appropriate or developmentally-appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(3) During the required face-to-face contacts with the child or young adult, the caseworker must:

(a) Confirm that the substitute caregiver can maintain the safety and well-being of the child or young adult;

(b) Develop and maintain a good working relationship with the child or young adult;

(c) Observe the child or young adult in an age-appropriate and comfortable setting;

(d) Gather updated information on the physical and mental health as well as educational, behavioral, and developmental progress of the child or young adult;

(e) Share updated information about the case plan and permanency plan for the child or young adult with the substitute caregiver and as permitted by state or federal law; and

(f) Document the date, time, and location of the contact, observations, and update information in the Department's information system.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 419B.192

Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 29-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0640

Placement Assessment and Matching

(1) The caseworker must assess the extent to which the ongoing needs of the child or young adult for safety, permanency, and well-being:

(a) Are currently met in substitute care at each 90 day case plan review; and

(b) Will be met with a potential adoptive resource or potential guardian during the permanency planning process.

(2) Physical and emotional safety. To determine the extent to which the placement, potential adoptive resource, or potential guardian meets the needs for physical and emotional safety of the child or young adult, the caseworker must determine whether the following conditions exist in the home.

(a) The substitute caregiver, potential adoptive resource, or potential guardian has the skill level or willingness to acquire the skills necessary to meet the physical, emotional, and supervisory needs for the child or young adult;

(b) The substitute caregiver, potential adoptive resource, or potential guardian has the skill level to care for this child or young adult given the age, number, and gender of all other children or young adults in the home;

(c) The behavioral characteristics of children or young adults currently in the placement are such that the substitute caregiver, potential adoptive resource, or potential guardian can protect the child or young adult from further victimization and from harming self or others;

(d) The substitute caregiver, potential adoptive resource, or potential guardian has the ability to protect the child or young adult from inappropriate contact with those who may harm the child or young adult; and

(e) The physical layout of the home permits the substitute caregiver, potential adoptive resource, or potential guardian to safely supervise the children or young adults in the home.

(3) Attachment to family. To determine the extent to which the placement, potential adoptive resource, or potential guardian meets the need of the child or young adult to promote and preserve attachment to his or her family, the caseworker must consider whether:

(a) The family of the child or young adult has expressed a preference in placement;

(b) The child or young adult has requested a particular placement;

(c) The relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian demonstrates the ability:

(A) To promote and support the attachment of the child or young adult through visitation and other types of contact with the family of the child or young adult;

(B) To accommodate the placement of the siblings of the child or young adult in the home;

(C) To accommodate regular contact between the child or young adult and his or her siblings when the child or young adult is not placed with his or her siblings and regular contact is in the best interests of the child or young adult; and

(D) To provide mutual care when both the child and parent require placement. As used in this rule, "mutual care" means the out-of-home placement of a parent and child together where one or both are in the legal custody of the Department.

(4) Continuity and familiarity. To determine the extent that the placement, potential adoptive resource, or potential guardian meets the need of the child or young adult for continuity and familiarity, the caseworker must consider:

(a) The extent of the pre-existing relationship of the child or young adult with the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian;

(b) The proximity of the placement to the neighborhood, school, or educational placement of the child or young adult, and parent or guardian; and

(c) Whether the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian can provide a permanent home or facilitate transition to a permanent home for the child or young adult.

(5) To determine the extent that a particular placement, potential adoptive resource, or potential guardian meets the need of the child or young adult for appropriate educational, developmental, emotional, and physical support, the caseworker must consider:

(a) Whether the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian demonstrates competency in meeting the specific and unique needs of the child or young adult or is acquiring the skills necessary to meet specific and unique needs of the child or young adult;

(b) Whether the ability of the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian to meet the specific and unique needs of the child or young adult is influenced by the number and type of children in the home; and

(c) Whether the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian is willing and able to assist with, participate in, and act as an advocate for the child or young adult in his or her education and treatment plan.

(6) Permanent family relationships. To determine the extent that a potential adoptive resource or potential guardian meets the need of the child or young adult for a current and lifelong family relationship, the caseworker must consider:

(a) Whether the potential adoptive resource or potential guardian can permanently integrate the child into the family during childhood.

(b) Whether potential adoptive resource or potential guardian will be accessible and supportive to the child in adulthood.

(7) Stability. To determine the extent to which the placement, potential adoptive resource, or potential guardian meets the need of the child or young adult for stability, the caseworker must consider:

(a) Whether the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian has expressed a desire to provide permanency for a particular child or young adult;

(b) Whether the ability of the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian to provide support and to nurture the child or young adult is influenced by the number of children or young adults in the home; and

(c) Whether the capacity of the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian to recognize the needs of the child or young adult, and build on the strengths of the child or young adult, is sufficient to meet the long-term or lifelong placement needs of the child or young adult.

(8) Identity, development, cultural, religious, and spiritual background and connections. To determine whether the placement, potential adoptive resource, or potential guardian can support the identity, development, and cultural and religious or spiritual background and connections of the child or young adult, the caseworker must consider:

(a) Whether the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian has the ability to appreciate, nurture, support, and reinforce the identity, development, cultural, religious and spiritual background and connections of the child or young adult;

(b) Whether the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian has the ability to support the development of the child or young adult, and help the child or young adult with problems that the child or young adult may encounter;

(c) Whether the relative caregiver, foster parent, provider, potential adoptive resource, or potential guardian has the ability to communicate effectively with the child or young adult; and

(d) Whether the child or young adult has adjusted to the placement or is able to adjust to a guardian's home or an adoptive home.

(9) After making the determinations in sections (2) to (8) of this rule, the caseworker must document the extent to which the need of the child or young adult for safety, permanency, and well-being are or can be met:

(a) In the documentation of the 90-day case plan review when the child is in substitute care; or

(b) In the documentation of the selection of a guardian or adoptive resource.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 & 419B.192

Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 26-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 8-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09

thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 29-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13

413-070-0645

Involving the Substitute Caregiver in the Concurrent Permanency Plan

The caseworker must:

(1) Determine whether the relative caregiver, foster parent, or provider is willing to continue as the placement resource, has the skills and abilities to meet the need of the child or young adult for safety and well-being, and is willing to work with the Department while the concurrent permanent plan for the child or young adult is implemented by the Department; and

(2) Provide the relative caregiver, foster parent, or provider with the opportunity to have input into a permanency plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 29-2010, f. & cert. ef. 12-29-10

Guardianship as a Permanency Plan

413-070-0655

Purpose

The purpose of OAR 413-070-0651 to 413-070-0670 is to describe the responsibilities of the Department to determine the appropriate use of guardianship, as established by the court under ORS chapter 419B, as a permanency plan for a child in the care or custody of the Department..

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 36-2010(Temp), f. & cert. ef. 12-29-10 thru 6-27-11; CWP 7-2011, f. & cert. ef. 6-28-11; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0660

Consideration of Guardianship as a Permanency Plan

(1) The Department may consider guardianship as a permanency plan for a child in the care or legal custody of the Department based on the individual safety, permanency, and well-being needs of the child, when the Department has determined:

(a) The child is unable to safely return to the home of a parent; and

(b) Adoption is not an appropriate plan based on the best interest of the child.

(2) When considering guardianship as the permanency plan, the caseworker must:

(a) Consult with the child 14 years of age or older;

(b) Seek input from the child as developmentally appropriate, regardless of the age of the child;

(c) Assess the parents' acceptance of guardianship as a permanency plan, their desire for continued contact with the child, and how this will impact the plan; and

(d) Document in the Department's information system how the requirements of subsections (a), (b), and (c) of this section were met.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 36-2010(Temp), f. & cert. ef. 12-29-10 thru 6-27-11; CWP 7-2011, f. & cert. ef. 6-28-11

413-070-0665

Consideration of a Substitute Caregiver as a Potential Guardian

(1) Prior to considering a substitute caregiver as a potential guardian, the caseworker and the caseworker's supervisor must comply with the requirements of both of the following subsections:

(a) Review the Department's diligent efforts to identify, contact, and place a child with relatives and to place siblings together as required under OAR 413-070-0060 to 413-070-0087.

(b) Confirm there are no current Department actions to:

(A) Identify a child's relative as defined in OAR 413-070-0000(78)(a)–(d);

(B) Assess an identified relative as defined in OAR 413-070-0000(78)(a)–(d) who has either expressed an interest in and needs to be or currently is being assessed as a permanency resource.

(2) In order to be considered as a potential guardian, the substitute caregiver must:

(a) Have a current Certificate of approval from one of the following entities:

(A) The Department under OAR 413-200-0301 to 413-200-0396.

(B) Aging and People with Disabilities, OAR 411-346-0100 to 411-346-0230.

(C) A foster care agency under OAR 413-215-0301 to 413-215-0396.

(D) A participating tribe when the potential guardian is currently certified as a foster home by the participating tribe as meeting the tribe's certification and licensing standards.

(E) Another state when the potential guardian is currently certified or otherwise approved by the state in which the potential guardian resides and approved as a placement for the child under the Interstate Compact on Placement of Children (ICPC).

(b) Agree with the Department that the child and any sibling under consideration, and the substitute caregiver can maintain a stable relationship and function effectively without Department supervision.

(c) Have an updated home study describing how the substitute caregiver's skills and abilities meet the best interests and needs for safety and permanency for the child and any sibling under consideration.

(d) Have adequate means of financial support and connections to community resources.

(e) Have a strong commitment to caring permanently for the child and any sibling under consideration for whom the substitute caregiver has provided care.

(3) The caseworker must complete all of the following requirements and present the results to a permanency committee, when scheduled:

(a) Assess the ability of the substitute caregiver to provide safety, permanency, and well-being for the child and any sibling under consideration.

(b) Assess with the certifier of the substitute caregiver the extent to which the ongoing needs for safety, permanency, and well-being of the child and any sibling under consideration are being met pursuant to OAR 413-070-0640.

(c) Assess the commitment of the substitute caregiver to raise the child and any sibling under consideration.

(d) Provide the substitute caregiver with information regarding the duties and responsibilities of a guardian.

(e) Agree that the child, any sibling under consideration, and the substitute caregiver can maintain a stable relationship and function effectively without Department supervision.

(f) Consult with the substitute caregiver regarding guardianship assistance under OAR 413-070-0900 to 413-070-0974.

(A) When guardianship assistance will be requested, inform the substitute caregiver of the eligibility, application, and ongoing requirements of guardianship assistance as described in OAR 413-070-0900 to 413-070-0974.

(B) When guardianship assistance will not be requested or may not be approved due to eligibility restrictions, ensure that the substitute caregiver has sufficient financial support and connections to community resources to meet the needs of the child and any sibling under consideration without this assistance.

Stat. Auth.: ORS 418.005 & 419B.369

Stats. Implemented: ORS 418.005, 419B.192 & 419B.369

Hist.: CWP 36-2010(Temp), f. & cert. ef. 12-29-10 thru 6-27-11; CWP 7-2011, f. & cert. ef. 6-28-11; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0670

Approval and Implementation of a Guardianship Permanency Plan

(1) When the Department is considering a change in a child's permanency plan, the Department makes the determination pursuant

to OAR 413-070-0500 to 413-070-0519, and the child's caseworker schedules a permanency committee.

(2) The permanency committee must review all of the information presented to the committee and make recommendations to the Child Welfare Program Manager or designee regarding:

(a) Whether guardianship is an appropriate permanency plan for the child; and

(b) Whether the substitute caregiver can meet the child's needs as described in subsection (3)(c) of this rule and should be considered as a potential guardian.

(3) The Child Welfare Program Manager or designee must decide whether guardianship is the appropriate permanency plan for the child based upon:

(a) How a permanency plan of guardianship meets the child's needs, and the requirements of OAR 413-070-0660(1) and (2) and OAR 413-070-0665(2) and (3);

(b) Whether the Department has provided the child and the child's parents an opportunity to identify available permanency;

(c) Whether the substitute caregiver being considered as the potential guardian is able to meet the child's needs pursuant to OAR 413-070-0640.

(4) Following the Child Welfare Program Manager or designee decision to approve guardianship as a permanency plan, the caseworker must:

(a) Request a permanency hearing before the court within 30 days of the decision.

(b) Prior to the court hearing, provide the court with supporting written documentation regarding the Department's position that:

(A) Guardianship is in the child's best interest; and

(B) Neither placement with parents nor adoption is an appropriate plan.

(5) At the court hearing, the caseworker must:

(a) Recommend that the court approve changing the child's permanency plan to guardianship;

(b) Inform the court whether or not the potential guardian is applying for guardianship assistance; and

(c) When guardianship assistance is being requested, inform the court that after the Department has negotiated the amount or type of guardianship assistance with the potential guardian, a subsequent court hearing will be requested to allow the order of guardianship to be entered.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 36-2010(Temp), f. & cert. ef. 12-29-10 thru 6-27-11; CWP 7-2011, f. & cert. ef. 6-28-11; CWP 12-2015, f. & cert. ef. 7-17-15

Visits and Other Types of Child and Family Contact

413-070-0800

Purpose

The purpose of OAR 413-070-0800 to 413-070-0880 is to describe the Department's responsibilities in arranging frequent contact between the child or young adult in substitute care and parents or guardians of the child or young adult, siblings, and other people with whom the child or young adult has a significant connection. In all cases, the contact is intended to;

(1) Be in the best interests of the child or young adult, develop or enhance attachment with the family of the child or young adult, including siblings, and continue relationships with significant others, including siblings;

(2) Reduce the trauma to the child or young adult associated with separation from primary attachment figures; and

(3) Assure that the safety and well-being of the child or young adult are the paramount concerns in developing a child-family contact plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0830

Visitation Rights

(1) The child or young adult, a parent or guardian, and each sibling have the right to visit each other while the child or young adult is in substitute care. The child or young adult, the parent or guardian, and each sibling have the right to visit as often as reasonably necessary to develop and enhance their attachment to each other.

(2) The Department will prohibit or cancel visits, unless otherwise ordered by the court, when:

(a) There is reason to believe acts or omissions of a parent or guardian would result in child abuse or neglect during the visit;

(b) The safety of the child or young adult cannot be managed by supervision;

(c) The visit does not meet the best interests of the child or young adult; or

(d) A court order prohibits visits.

(3) When Department resources alone cannot meet the family contact and visitation needs of the child or young adult, the caseworker must solicit help from family and community resources.

(4) If a parent or guardian objects to the contact and visit requirements and limitations that the Department imposes, the parent or guardian may seek juvenile court review of the requirements and limitations.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0840

Orientation Activities

Prior to the first contact and after each revision of the Visit and Contact Plan developed under OAR 413-070-0860, the Department must explain the following to the family, substitute caregiver, and, when appropriate, the child or young adult:

(1) The rights and expectations regarding child-family visitation and contact, including its importance to the child or young adult.

(2) The reason for supervised or unsupervised visits.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0855

Determining Priority in Visit and Contact Plans

(1) Unless the court has entered an order regarding visitation by the parents, guardians, siblings, or grandparents of the child or young adult, the caseworker determines a hierarchy of the attachments of the child or young adult and prioritizes visits with the parents or guardians and siblings. The caseworker may consider the preferences expressed by the child or young adult.

(2) When the permanency plan is reunification with a parent or guardian, the first priority of the caseworker is to provide visits with parents or guardians, siblings, and each intervenor granted visitation by the court.

(3) When the permanency plan is a plan other than reunification with the parents or guardians, the visitation priority of the caseworker is to preserve attachment to parents or guardians and siblings and promote attachment of the child or young adult to the permanent placement resource.

(4) When appropriate, the caseworker may establish visits between the child or young adult and family members.

(5) When appropriate, the caseworker may establish visits between the child or young adult and non-related persons with whom the child or young adult has a significant attachment.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.876

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0860

Types of Visit and Contact Plans

(1) The Temporary Visit and Contact Plan.

(a) The caseworker must jointly develop a written Temporary Visit and Contact Plan with the parents or guardians, and may involve the child, family members, safety service providers and the substitute caregiver to participate in facilitating visitation and supporting the ongoing safety plan when the child first enters substitute care or at the time of the first court hearing required by ORS 419B.183, whichever is first. The visits must be planned to manage child safety.

(b) The court may make an order regarding visitation between the child or young adult's parents, siblings, or grandparents.

(c) The caseworker must arrange a Temporary Visit and Contact Plan that assures child safety.

(d) The plan must include the following:

(A) The names of each person, including the child's siblings, with whom the child may have contact; and

(B) A description of the contact permitted with each person that includes:

(i) The type, time of day, frequency, length, and location of the visits; and

(ii) The reason for supervised visits when supervision is required.

(e) If the first visit with the parent or guardian does not occur within the first week of a child's placement in substitute care, the caseworker must document the reason the visit did not occur in case notes in the Department's electronic information system.

(f) The caseworker must provide a copy of the Temporary Visit and Contact Plan to the parents or guardians and to others participating in the Temporary Visit and Contact Plan.

(2) The Ongoing Visit and Contact Plan.

(a) The caseworker must develop an Ongoing Visit and Contact Plan with the parents or guardians within 30 days from the date that the child enters substitute care. The caseworker may involve the child, family members, safety service or treatment providers, and the substitute caregiver to participate in facilitating visitation in the development of the visit and contact plan. A copy of the written plan is given to each participant. The visits must be in the least restrictive manner in which the child or young adult's safety can be managed.

(b) The caseworker may involve grandparents and other relatives, as identified in OAR 413-070-0060 to 413-070-0087, in the development of the Ongoing Visit and Contact Plan.

(c) The caseworker must arrange an Ongoing Visit and Contact Plan that supports child safety, the ongoing safety plan, the best interests of the child, and any orders of the court regarding visitation with a child or young adult's parents, siblings, or grandparents.

(d) When an Ongoing Visit and Contact Plan is revised, the caseworker completes a revised Ongoing Visit and Contact Plan and provides a copy of the revised plan to each participant.

(e) A plan that prohibits a parent, guardian, or sibling's visit must include the reason for each prohibition and state, if applicable, the conditions under which the Department would begin or resume contact.

(f) The caseworker must document the implementation of the Ongoing Visit and Contact Plan in the case plan.

(g) The caseworker must develop the written Ongoing Visit and Contact Plan which must:

(A) Include the purpose and conditions of visits and contacts including type, time of day, frequency, length, and location;

(B) Describe the reason for supervision when supervision is required;

(C) Identify the individual who will supervise the visit or assist a parent or guardian in meeting the needs of the child or young adult during visitation;

(D) Support the ongoing safety plan; and

(E) Use language that parents or guardians can understand.

(h) In developing an Ongoing Visit and Contact Plan, the caseworker must:

(A) Arrange visits so that the type, time of day, frequency, length, and location of visits maximize contact between the parents or guardians and the child or young adult, support the ongoing safety plan and support the child or young adult's permanency plan as described in OAR 413-070-0855(2) and (3);

(B) Meet the unique needs of the child or young adult, especially the child or young adult's chronological or developmental age and sense of time as they affect the child or young adult's attachment to a parent or guardian and other family members;

(C) Arrange visits that do not disrupt the school schedule of the child or young adult whenever possible;

(D) Arrange additional contact such as telephone calls, e-mail, and letters, and other activities the family and child or young adult may do together that support the ongoing safety plan, such as attendance by parents or guardians at doctor appointments, school events, and church;

(E) Address barriers to visitation that must be overcome in order for the parent, guardian, child or young adult to participate in the visits, including transportation, adaptations for those traveling long distances, health care requirements, and arranging child care for a child's sibling;

(F) Work within each parent's or guardian's employment and treatment obligations;

(G) Ensure that the Ongoing Visit and Contact Plan considers the safety needs of any non-offending parent or guardian in cases involving domestic violence, including but not limited to different visiting schedules or arranging safe drop-off and pick-up locations;

(H) Explain to a parent or guardian the consequences of failure to attend a visit;

(I) Explain known or anticipated reasons for ending the visit (such as health or safety);

(J) Take the actions necessary to assure culturally relevant and language appropriate visitation services; and

(K) Discuss alternatives when visits are canceled due to circumstances of the parent or guardian, substitute caregiver, or the Department.

(3) The Ongoing Visit and Contact Plan may be reviewed or revised at any time and must be reviewed every 90 days.

(4) An Ongoing Visit and Contact Plan must comply with the Interstate Compact on the Placement of Children (see ORS 417.200 and OAR 413-040-0200 to 413-040-0330).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.337, 419B.440, 419B.449, 419B.876
Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 27-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0870

Supervision of Visits

(1) If supervision of visits is necessary to protect the child from harm, manage child safety, or provide therapeutic intervention, the Ongoing Visit and Contact Plan must state the reason for the supervision.

(2) When delegating supervision to a person who is not an employee of the Department, the Department will ensure that the person supervising the visit receives a copy of the Ongoing Visit and Contact Plan, understands the dynamics of the individual family, the purpose of supervision, the specific circumstances that require the supervision, the documentation requirements, and complies with the ongoing safety plan.

(3) When delegating supervision to other Department staff, the Department will ensure the Department employee who participates in the Ongoing Visit and Contact Plan receives a copy of the Ongoing Visit and Contact plan, understands the dynamics of the individual family, the purpose of supervision, the specific circumstances that require the supervision, and the documentation requirements of OAR 413-070-0880.

(4) The caseworker must inform the parents or guardians of the reason for the supervision of the visits or contact, and, as resources allow, all supervision should be culturally relevant and language appropriate.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14

413-070-0880

Documentation of Contact

(1) When Department staff supervise a visit, documentation of the visit must be included in the case file and must document:

- (a) The location of the visit, who attended, and the length of the visit;
- (b) Activities that occurred during the supervised visit;
- (c) The impact of the visit on the child or young adult;
- (d) Any missed visit and the reasons for the missed visit; and
- (e) Any interrupted or terminated visits and reasons for the interruption or termination.

(2) When the caseworker arranges supervision by a person other than Department staff, the caseworker must require that the person supervising the visit provides complete written documentation of the visit, as required by section (1) of this rule, to the caseworker within seven days of each visit.

(3) When the child or young adult is in the legal custody or guardianship of the Department, the caseworker must report to the court no less frequently than every six months, the place and date of the child's or young adult's visits with his or her parents or siblings since the child or young adult has been in the guardianship or legal custody of the Department, and whether the frequency is in the best interest of the child or young adult. Reports must be filed with the court more frequently if the court so orders.

(4) When other types of contact in addition to face-to-face visits are included in the Ongoing Visit and Contact Plan, the caseworker must request regular feedback from the participants regarding the impact of the contact on the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.337, 419B.440 & 419B.449

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 27-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14

Guardianship Assistance

413-070-0900

Purpose

(1) The purpose of OAR 413-070-0900 to 413-070-0974 is to describe Department criteria for eligibility and receipt of guardianship assistance for:

- (a) A child in the care or custody of the Department or a participating tribe;
 - (b) A young adult on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child of age 16 or 17; or
 - (c) A young adult who qualifies for disability services and on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child.
- (d) A subsequent legal guardianship of a child in the care of a successor legal guardian as described in OAR 413-070-0925.

(2) Guardianship assistance for a child or young adult placed for guardianship in Oregon by a public child welfare agency other than the Department is not the responsibility of the state of Oregon.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0905

Funding of Guardianship Assistance

(1) When grandparents or other approved relatives make a permanent commitment to and assume legal guardianship of a child for whom they have cared as a substitute caregiver, the Department provides guardianship assistance as described in OAR 413-070-0900 to 413-070-0974.

(2) Guardianship assistance for Title IV-E children and young adults is funded in part with Title IV-E funds as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

(3) A child who is ineligible for Title IV-E funded guardianship assistance may be eligible for state-funded guardianship assistance as described in OAR 413-070-0917(3).

(4) State-funded guardianship assistance is subject to the availability of funds. When all available state funds are obligated, the Department will continue to:

- (a) Accept new applications;
- (b) Accept requests to adjust a guardianship assistance payment; and
- (c) Establish a waiting list.

(5) When state funds are unavailable and a new guardianship assistance application is received, the guardian may sign a guardianship assistance agreement only to prevent delay in finalizing the guardianship, with the understanding that guardianship assistance may be available at a later date.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 411.141 & 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 7-2015(Temp), f. 1-30-15, cert. ef. 2-1-15 thru 7-19-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0917

Eligibility for Guardianship Assistance

(1) To be eligible for Title IV-E guardianship assistance, a child must meet all of the following:

- (a) Be a United States citizen or qualified non-citizen as described in OAR 413-100-0210 and in 8 USC section 1641(b) or
- (c).(b) Be placed in the United States or a possession thereof.
- (c) Have resided in the home of the potential guardian for a period of at least six consecutive months during which the potential guardian was fully licensed, certified, or approved by the state or a participating tribe as meeting the licensure or certification requirements for a foster family home in the state where the home is located.

(d) Be placed with the potential guardian who meets the relative definition as described in OAR 413-070-0000(78)(a) to (e).

- (e) Demonstrate a strong attachment to the potential guardian.
- (f) Be removed from his or her home pursuant to a voluntary placement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.

(g) Be eligible for Title IV-E foster care maintenance payments.

(h) Be in the care or custody of the Department or participating tribe.

(2) Each sibling of a child or young adult eligible for Title IV-E guardianship assistance is also eligible for Title IV-E guardianship assistance without meeting the eligibility requirements in subsections (c) to (g) of section (1) of this rule when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department or participating tribe agree that placing the child's sibling in the home of the potential guardian or guardian is appropriate.

(3) Effective August 12, 2015, to be eligible for state-funded guardianship assistance, a child must:

(a) Be ineligible for Title IV-E funded guardianship assistance;

(b) Meet the eligibility requirements in subsections (a) to (e) of section (1) of this rule; and

(c) Be in the care or custody of the Department.

(4) Each sibling of a child or young adult eligible for state-funded guardianship assistance as described in section (3) of this rule is also eligible for state-funded guardianship assistance without meeting the eligibility requirements in subsections (b) to (f) of section (1) of this rule when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department agree that placing the child's sibling in the home of the potential guardian or guardian is appropriate.

(5) The child must be consulted regarding the guardianship arrangement when the child has attained 14 years of age.

(6) In the event of the death or incapacity of the guardian, a child eligible for Title IV-E or state-funded guardianship assistance remains eligible if a successor legal guardian is named in the guardianship assistance agreement, including any amendments to the agreement, prior to the death or incapacity of the guardian, and the requirements of OAR 413-070-0925(2) are met.

(7) All of the following must be documented in the child's case plan:

(a) How the child meets the eligibility requirements.

(b) The steps the Department or participating tribe has taken to determine that return to the home or adoption is not appropriate.

(c) The efforts the Department or participating tribe has made to discuss adoption with the child's relative caregiver and the reasons adoption is not an option.

(d) The efforts the Department or participating tribe has made to discuss kinship guardianship with the child's parent or parents or the reasons why efforts were not made.

(e) The reason a permanent placement with a potential relative guardian and receipt of a kinship guardian assistance payment is in the child's best interests.

(f) The reasons for any separation of siblings during placement. If the child's placement with the potential relative guardian does not include siblings, the case plan must also include a description of the reasons the child is separated from siblings during placement.

(8) A guardianship assistance agreement must be signed by the potential guardian and a Department representative before guardianship has been legally established by a state or participating tribal court.

Stat. Auth.: ORS 409.050, 418.005, OL 2015, ch 840

Stats. Implemented: ORS 409.010, 411.141, 418.005, OL 2015, ch 840

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 14-2015(Temp), f. & cert. ef. 8-19-15 thru 2-14-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0918

Extension of Guardianship Assistance for a Young Adult

The Department may approve an extension of a guardianship assistance agreement for an individual under the age of 21 when the individual meets the following criteria:

(1) An initial guardianship assistance agreement was entered into on behalf of the child and at the time of the child's 18th birthday, the child:

(a) Qualifies as an individual with a developmental disability as determined by the local County Community Developmental Disabilities Program in Oregon;

(b) Qualifies as an individual with a developmental disability as determined by the equivalent developmental disability program if living in a state other than Oregon; or

(c) Qualifies for Supplemental Security Income (SSI) as determined by the Social Security Administration.

(2) An initial guardianship assistance agreement was entered into on behalf of the child who is age 16 or 17, and upon reaching the age of 18, the child is:

(a) Completing secondary school (or equivalent);

(b) Enrolled in post-secondary or vocational school;

(c) Participating in a program or activity that promotes or removes barriers to employment;

(d) Employed for at least 80 hours a month; or

(e) Determined incapable of any of the above due to a documented medical condition, physical disability, or mental disability.

(3) In order for the extension of guardianship assistance under section (1) of this rule to be approved on behalf of a young adult, the guardian must submit to the Department documentation from the agency making the determination described in subsections (1)(a) to (c) of this rule.

(4) In order for the extension of guardianship assistance under section (2) of this rule to be approved on behalf of a young adult, the guardian must submit to the Department documentation verifying the circumstances described in subsections (2)(a) to (e) of this rule. Documentation of circumstances described in subsection (1)(e) of this rule must be from a medical or mental health professional.

(5) The Department must receive the request for extension of the guardianship assistance agreement and the documentation described in sections (3) and (4) of this rule:

(a) At least 30 calendar days before the individual's 18th birthday; or

(b) Before a date determined by the Department when the Department approves a request from the guardian to submit the documentation after the individual's 18th birthday. The Department must receive the request before the individual's 18th birthday.

(6) If the Department does not receive the documentation as required by sections (3) to (4) of this rule, the Department may not approve an extension of a guardianship assistance agreement.

(7) When an extension of guardianship assistance has been approved under section (1) of this rule, guardianship assistance will continue until the young adult turns 21 years old.

(8) When an extension of guardianship assistance has been approved under section (2) of this rule, the Department will review the eligibility of the young adult for continued guardianship assistance:

(a) At least annually; or

(b) When information is received that indicates the young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount.

(9) The guardian must notify the Department, orally or in writing, of any changes in circumstances that may make the young adult:

(a) Ineligible for guardianship assistance; or

(b) Eligible for guardianship assistance in a different amount.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0919

Eligibility for a Child or Young Adult in the Care or Custody of a Participating Tribe

(1) In addition to guardianship assistance program criteria in OAR 413-070-0900 to 413-070-0974, the following requirements apply to a child in the care or custody of a participating tribe:

(a) The child must be placed in a foster home approved by the participating tribe that meets the certification and licensing standards of the participating tribe; and

(b) The participating tribe must document how continued placement with the potential guardian is in the best interests of the child and meets the safety and permanency needs of the child.

(2) The participating tribe must:

(a) Conduct and prepare a written home study of the guardian;

(b) Have a current Title IV-E agreement with the Department which includes participation in the guardianship assistance program;

(c) Notify the Adoption Assistance and Guardianship Assistance Unit within 30 calendar days after reestablishing custody of a child or young adult in a guardianship placement established under OAR 413-070-0900 to 413-070-0974; and

(d) Provide the Adoption Assistance and Guardianship Assistance Unit with a copy of the court order terminating the guardianship within 30 calendar days of the termination, when applicable.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0925

Guardianship Assistance Eligibility for Potential Guardian and Successor Legal Guardian

(1) The Department may approve a potential guardian for guardianship assistance when the potential guardian:

(a) Meets the requirements of OAR 413-070-0665(2); and

(b) Agrees to ensure that, if the child has attained the minimum age for compulsory attendance under the law of the state of residence but has not completed secondary school, the child is:

(A) Enrolled in an elementary or secondary school as determined by the law of the state of residence;

(B) Home schooled in accordance with the law of the state of residence;

(C) Enrolled in an independent study program in accordance with the law of the state of residence; or

(D) Incapable of attending school due to a documented medical condition.

(2) In the event of the death or incapacity of the guardian, before the successor legal guardian may receive a guardianship assistance payment, all of the following requirements must be met:

(a) The successor legal guardian must be named in the guardianship assistance agreement, prior to the death or incapacity of the guardian. A successor legal guardian may be added, removed, or replaced by amending the guardianship assistance agreement any time prior to the death or incapacity of the guardian.

(b) The successor legal guardian and the Department must negotiate and enter into a written guardianship assistance agreement as described in OAR 413-070-0949.

(c) The successor legal guardian and all adults living in the home of the successor legal guardian must have a Department-approved, fingerprint-based criminal records check of the National Crime Information Databases (NCID) and a Child Abuse and Neglect (CAN) registry check.

(d) The successor legal guardian must be granted guardianship of the child or young adult through a judgment of the court.

(3) A guardianship assistance payment to a successor legal guardian begins on the date all requirements in section (2) of this rule are met.

Stat. Auth.: ORS 411.141, 418.005

Stats. Implemented: ORS 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef.

6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0934

Application Requirements

(1) Except as described in subsections (a) and (b) of this section, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the guardianship assistance agreement no later than 60 calendar days after receipt of the completed guardianship assistance application.

(a) The Adoption Assistance and Guardianship Assistance Unit may delay negotiation of the guardianship assistance base rate when the child is due for an updated CANS screening, a new CANS screening is warranted, or a CANS screening is in process or completed but a decision is pending regarding the level of care payment under OAR 413-020-0230. The unit must begin negotiation no later than 30 calendar days from receipt of the final decision regarding the level of care payment.

(b) The Adoption Assistance and Guardianship Assistance Unit may delay negotiation following a request by the caseworker, guardian, or potential guardian when there are extenuating circumstances regarding the child or family. The unit must begin negotiation no later than 30 calendar days from notification that the extenuating circumstance causing the delay has been resolved.

(c) The Adoption Assistance and Guardianship Assistance Unit will begin negotiation with the successor legal guardian no later than 30 days after receipt of the Department approved fingerprint-based criminal records check of the National Crime Information Databases (NCID) and a Child Abuse and Neglect (CAN) registry check of the successor legal guardian and all adults living in the successor legal guardian's home.

(2) A guardianship assistance application is considered complete when the Adoption Assistance and Guardianship Assistance Unit has received a signed application and all supporting documentation.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0965, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0939

Guardianship Assistance Payments, Medical Assistance, and Nonrecurring Guardianship Expenses

(1) When a guardianship assistance payment or medical assistance is not being provided, a potential guardian, guardian or successor legal guardian may enter into a guardianship assistance agreement only.

(2) The monthly guardianship assistance payment may not exceed the total of:

(a) The guardianship assistance base rate; and

(b) When applicable, the level of care payment determined by the CANS screening conducted under OAR 413-020-0230.

(3) The monthly guardianship assistance base rate:

(a) Is determined through discussion and negotiation between the Department and the potential guardian, guardian or successor legal guardian.

(b) May not exceed the current foster care base rate payment the child or young adult would be eligible to receive in foster care as determined under OAR 413-090-0010(1)(b).

(c) Is negotiated between the potential guardian, guardian or successor legal guardian of a child or young adult and the Department, taking into consideration relevant factors which include, but are not limited to:

(A) The ordinary and special needs of the child or young adult.

(B) The services and goods required to meet the needs of the child or young adult.

(C) The cost of the services and goods required to meet the needs of the child or young adult.

(D) The circumstances of the potential guardian, guardian or successor legal guardian and their ability to provide the required services and goods for the child or young adult.

(E) The resources available to the potential guardian, guardian or successor legal guardian such as medical coverage, private health insurance, public education, other income sources, and community resources.

(F) A guardianship assistance payment may be reduced when other sources of income are received by the potential guardian, guardian or successor legal guardian or the child or young adult.

(d) Is intended to combine with the resources of the potential guardian or guardian to provide for the needs of the child or young adult.

(4) When, during negotiation of the guardianship assistance base rate payment, the Adoption Assistance and Guardianship Assistance Coordinator and the potential guardian, guardian, or the successor legal guardian are unable to reach agreement, the Adoption Assistance and Guardianship Assistance Coordinator, the potential guardian, guardian, or the successor legal guardian may request a review by the Guardianship Assistance Review Committee. When a review is requested:

(a) An Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Prepare documentation for the scheduled Guardianship Assistance Review Committee;

(B) Notify the potential guardian, guardian, or successor legal guardian of the date of the committee;

(C) Notify the assigned caseworkers of the date of the committee; and

(D) Attend and participate in the Guardianship Assistance Review Committee.

(b) The potential guardian, guardian, or successor legal guardian may provide written documentation to the Adoption Assistance and Guardianship Assistance Coordinator for review and consideration by the Guardianship Assistance Review Committee.

(c) The certification worker for the potential guardian and the caseworker for the child may participate in a Guardianship Assistance Review Committee meeting and may present information and respond to questions. The workers may not participate in the deliberations of the Guardianship Assistance Review Committee.

(d) The Guardianship Assistance Review Committee members must:

(A) Consider written documentation provided by the potential guardian, guardian, or successor legal guardian, caseworkers, and the Adoption Assistance and Guardianship Assistance Coordinator.

(B) Review materials submitted to the Guardianship Assistance Review Committee, deliberate, and make one or more recommendations regarding the guardianship assistance base rate.

(e) At the conclusion of the Guardianship Assistance Review Committee, the Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Document the recommendations of the Guardianship Assistance Review Committee; and

(B) Submit the documentation to the Post Adoption Services Manager or designee within one business day of the Guardianship Assistance Review Committee meeting.

(f) The Post Adoption Services Manager or designee must complete each of the following actions:

(A) Attend the Guardianship Assistance Review Committee and ask any clarifying questions, but not participate in the deliberation or recommendation of the Guardianship Assistance Review Committee;

(B) Review and consider:

(i) The materials submitted to the Guardianship Assistance Review Committee;

(ii) The recommendations of the committee; and

(iii) The information presented by the potential guardian, guardian, or successor legal guardian under subsection (4)(b) of this rule.

(C) Make a decision within 30 calendar days of the date of the request for review; and

(D) Provide written notification to the potential guardian, guardian, or successor legal guardian and the Adoption Assistance and Guardianship Assistance Coordinator within ten business days of the decision.

(5) The monthly level of care payment:

(a) Is determined based on the results of a CANS screening conducted under OAR 413-020-0230.

(b) Cannot exceed the amount of the level of care payment set forth in OAR 413-090-0010(2)(g).

(c) Is included in the guardianship assistance payment when the child or young adult qualifies for a level of care payment and when requested by the potential guardian, guardian, or successor legal guardian.

(6) When a potential guardian, guardian, or successor legal guardian is not satisfied with the final guardianship assistance offer from the Department, consisting of the guardianship assistance base rate and, when applicable, a level of care payment, the potential guardian, guardian, or successor legal guardian has the right to a contested case hearing under OAR 413-010-0500 to 413-010-0535.

(7) An initial guardianship assistance payment begins on the date the state or tribal court legally establishes the guardianship provided there is a written guardianship assistance agreement signed by the Department and the potential guardian.

(8) A guardianship assistance payment to a guardian for the child or young adult is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a guardianship assistance payment and is kept separate from other money in the guardian's possession.

(9) The guardian may apply to be the designated payee for any benefit the child or young adult receives if the benefit program allows such application.

(10) Medical assistance and social services.

(a) A child or young adult who is the subject of a guardianship assistance agreement funded by Title IV-E funds as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) is categorically eligible for medical assistance through Title XIX and social services under Title XX when;

(A) The guardianship is in effect; and

(B) A guardianship assistance payment is being made to the guardian.

(b) A child or young adult who is not eligible for Title XIX medical assistance is eligible for medical assistance under OAR 413-100-0400 to 413-100-0530, when:

(A) The child or young adult resides in Oregon; or

(B) The child or young adult resides outside of Oregon but in the United States or possession thereof and is not able to obtain medical assistance in his or her place of residence.

(c) Medical assistance is not provided for a child or young adult who resides outside of the United States or possession thereof.

(11) Nonrecurring guardianship expenses.

(a) The Department will reimburse a guardian up to \$2,000 per eligible child for approved nonrecurring guardianship expenses, including but not limited to:

(A) The cost of a home study;

(B) Court costs;

(C) Attorney fees;

(D) Physical and psychological examinations required for the guardianship; and

(E) Travel to visit with the child prior to placement.

(b) Payment for nonrecurring guardianship expenses may not duplicate expenses covered by ORS 417.200 — 417.260 or another resource available to the potential guardian or successor legal guardian.

(c) Documentation of nonrecurring guardianship expenses is required and must be submitted prior to execution of the nonrecurring guardianship assistance agreement. The nonrecurring guardianship assistance agreement, indicating the nature and amount of the nonrecurring guardianship expenses, must be signed by the potential guardian and a Department representative prior to the establishment of the guardianship.

(d) Payment for nonrecurring guardianship expenses is made when the Department receives the court order establishing the guardianship.

(12) Overpayment.

(a) If the Department issues a guardianship assistance payment on behalf of a child or young adult after the date the guardianship assistance agreement automatically expires, the Department may seek reimbursement of the overpayment and the guardian must repay the Department.

(b) If the guardian fails to comply with any provisions of the guardianship assistance agreement, including failing to notify the Department of any of the events or circumstances described in OAR 413-070-0964 and 413-070-0974(6) and (8), the Department may collect any guardianship assistance payment or medical assistance which the Department would not have provided had the guardian complied with the provisions of the guardianship assistance agreement.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0930, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0944

Legal Expenses of a Guardian

The Department may not authorize payment for legal services provided:

(1) For the potential guardian, guardian, or successor legal guardian in connection with a contested case hearing; or

(2) To defend or retain a guardianship upon challenge by another party once a guardianship is established.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 411.141 & 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0960, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0949

Guardianship Assistance Agreement Requirements

(1) Before a guardian may receive guardianship assistance, there must be a negotiated written guardianship assistance agreement between the Department and the potential guardian or guardian signed by all parties prior to the court order establishing the legal guardianship.

(2) The guardianship assistance agreement must include each of the following:

(a) A statement indicating that a guardianship assistance agreement remains in effect without regard to the state of residency of the guardian.

(b) The effective date of the guardianship assistance agreement.

(c) That the Department will pay the nonrecurring guardianship expenses associated with obtaining legal guardianship of the child, to the extent the nonrecurring guardianship expenses do not exceed \$2,000 per child.

(d) That the child or young adult for whom the Department is providing a guardianship assistance payment remains eligible for medical assistance provided:

(A) The guardianship remains in effect;

(B) A payment is being made; and

(C) The child or young adult is placed in the United States or possession thereof.

(e) Information regarding garnishment of guardianship assistance payments as set forth in OAR 413-070-0939(8).

(f) That the guardian agrees to comply with the reporting requirements under OAR 413-070-0964.

(g) That the guardian understands that a guardianship assistance agreement may be reviewed and the guardianship assistance may be adjusted, suspended, or terminated under OAR 413-070-0974.

(h) A statement indicating that the guardian understands that the provisions of ORS 192.558 allow the Oregon Health Plan (OHP) and the OHP managed care plans without the authorization of the guardian or child or young adult to exchange the following protected health information for the purpose of treatment activities related to the behavioral or physical health of the child or young adult when the child or young adult is the recipient of OHP services:

(A) The name and Medicaid recipient number of the child or young adult;

(B) The name of the hospital or medical provider of the child or young adult;

(C) The Medicaid number of the hospital or medical provider;

(D) Each diagnosis for the child or young adult;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

(i) The amount of the guardianship assistance and the manner in which it is to be provided.

(j) The basis and requirements for periodic changes in the guardianship assistance payment, in consultation with the guardian, based on the circumstances of the guardian and the needs of the child or young adult.

(k) The additional services and assistance for which the child or young adult and guardian are eligible under the agreement and the procedure by which the guardian may apply for such services.

(L) When the Department has agreed to include such language, that the Department may continue to provide guardianship assistance for a child or young adult when the child or young adult moves out of the home of the guardian to attend college or live independently.

(3) The potential guardian or guardian may name a successor legal guardian in the guardianship assistance agreement, to replace the guardian in the event of the death or incapacity of the guardian.

(4) The Department must provide the guardian with a copy of the guardianship assistance agreement.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0935, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0959

Court Order of Guardianship

(1) Guardianship assistance may only be provided for a legal guardianship established under ORS 419B.365 or 419B.366, as provided under ORS 419B.367 to 419B.369, or as provided by the statutory code or laws of a participating tribe.

(2) The Department or participating tribe may not pursue a court order establishing an assisted guardianship until a guardianship assistance agreement between the Department and the potential guardian has been signed by all parties.

(3) The Department or participating tribe, through counsel if the child is in the care or custody of the Department, must move the court for an order establishing the guardianship and, when the child is in the care or custody of the Department or participating tribe, directing one of the following:

(a) Termination of Department or participating tribe's care or custody and dismissal of the Department or participating tribe as a party to the case; or

(b) If the child has been committed permanently to the Department, an order setting aside the order of permanent commitment and relieving the Department of responsibility for the care, placement, and supervision of the child.

(4) The Department may not provide guardianship assistance if the court establishes guardianship but orders the Department or participating tribe to continue supervision of the child or guardian.

(5) The guardian is not eligible for payments provided under OAR 413-090-0000 to 413-090-0050 and 413-090-0100 to 413-090-0210 once the guardianship is effective and the Department's or participating tribe's custody of the child is dismissed by court order.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0937, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0964

Required Reports and Communication

(1) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child or young adult or guardian that makes the child or young adult ineligible for guardianship assistance including when:

(a) The child or young adult:

(A) Is emancipated;

(B) Dies;

(C) Marries; or

(D) Is adopted.

(b) The court:

(A) Vacates the guardianship; or

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law.

(2) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Department's Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child or young adult or guardian that may make the child or young adult ineligible for guardianship assistance including when;

(a) The child or young adult:

(A) Is out of the home of a guardian for more than a thirty-day period or, if more than one guardian, is out of the home of both guardians for more than a thirty-day period;

(B) Has a change in needs including but not limited to eligibility for a change in the level of care payment based on a new CANS screening;

(C) Is placed in substitute care;

(D) Is no longer receiving financial support from a guardian or, if there is more than one guardian, both guardians;

(E) Is incarcerated for more than three consecutive months; or

(F) Has a change in any benefit received other than tribal dividend payments.

(b) A guardian is, or if more than one guardian, both guardians are:

(A) No longer legally responsible for the financial support of the child or young adult;

(B) No longer responsible for the child or young adult; or

(C) No longer providing support to the child or young adult.

(c) A guardian seeks to terminate or modify the guardianship.

(d) The court:

(A) Modifies the guardianship, or

(B) Awards child custody or guardianship to another individual.

(3) A guardian receiving a guardianship assistance payment must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit the following:

(a) When there are two guardians and one guardian dies, the surviving guardian must notify the Department.

(b) When there is a change in address.

(c) When a guardian, child, or young adult is planning to move from his or her state of residency.

(4) Guardians appointed under ORS 419B.367 are required to submit an annual report to the court within 30 calendar days after each annual anniversary of the court appointment of guardianship. Guardianships established under a tribal court may also have a requirement to send written reports to the court.

(5) The Department may:

(a) Send notification to a guardian of any court reports required under section (4) of this rule;

(b) Request a guardian to submit a copy of the court report to the Department;

(c) Notify the court or participating tribe of circumstances that may affect a child's eligibility for guardianship assistance; and

(d) Send inquiries to a guardian to ensure the child continues to be eligible for guardianship assistance.

(6) Guardians must respond to inquiries from the Adoption Assistance and Guardianship Assistance Unit within 30 calendar days or as required by the unit.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0945 & 413-070-0955, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0969

Renegotiation of a Guardianship Assistance Agreement

(1) A potential guardian or guardian may request that the Department consider renegotiation of the guardianship assistance agreement. The request for renegotiation must:

(a) Be in writing in a format provided by the Department to the potential guardian or guardian;

(b) Document changes in the circumstances of the potential guardian or guardian, when applicable;

(c) Document the needs of the child or young adult;

(d) Provide information about the financial expenses of the potential guardian or guardian in meeting the needs of the child or young adult;

(e) Provide information about the expenses required to meet the needs of the child or young adult; and

(f) Provide additional documentation of the child or young adult's current behaviors when the child or young adult meets the eligibility requirements for consideration of a level of care payment

under OAR 413-020-0230, and the potential guardian or guardian is requesting a level of care payment.

(2) Renegotiation of the guardianship assistance base rate will be conducted as described in OAR 413-070-0939.

(3) Referrals for CANS screenings are described in OAR 413-020-0230.

(4) The Department may require a renegotiation of the guardianship assistance agreement when the Department determines that the child or young adult is eligible for guardianship assistance in a different amount, as described in OAR 413-070-0974.

(5) A new guardianship assistance agreement must be signed by all parties each time a new guardianship assistance payment is agreed upon by the potential guardian or guardian and the Department.

(6) Unless section (7) of this rule applies, the Department may authorize a renegotiated guardianship assistance payment increase or decrease beginning on a date no earlier than the first day of the month in which the Department receives the written request for renegotiation.

(7) The Department may approve up to twelve months of retroactive payments unless a contested case hearing was requested and a subsequent decision necessitates a payment of more than twelve months. The decision includes any decision by the Department including:

- (a) A final order;
- (b) A stipulated final order;
- (c) A settlement agreement; or
- (d) Any other agreement resulting in withdrawal of the contested case.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0970

Guardianship Social Support Services

The guardian or child in an assisted guardianship may request family support services from the Department as described in OAR 413-030-0000 to 413-030-0030.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 411.141 & 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 12-2015, f. & cert. ef. 7-17-15

413-070-0974

Review, Adjustment, Suspension, Expiration, and Termination of Guardianship Assistance

(1) The Department may review a guardianship assistance agreement when the Department:

(a) Receives information indicating that the child or young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount, including when the Department receives information regarding any of the circumstances described in OAR 413-070-0964;

(b) Determines, when the child or young adult is not residing in the home of the guardian, that a periodic review of the guardianship assistance agreement is required;

(c) Receives information that indicates a review is necessary based on a change in the needs of the child or young adult or circumstances of the family;

(d) Receives information that the young adult no longer meets the requirements for continued assistance, if the Department has agreed to extend guardianship assistance under OAR 413-070-0918; or

(e) Determines that the guardian has not complied with the requirements of the guardianship assistance agreement.

(2) Department review of a guardianship assistance agreement may result in a renegotiation, suspension, adjustment, or termination of the guardianship assistance agreement or guardianship assistance payments.

(3) Guardianship assistance may be adjusted at any time by mutual agreement between the guardian and the Department.

(4) When there is an across-the-board reduction or increase in the base rate payment or level of care payment that the child or young adult would be eligible to receive if the child or young adult were in foster care, the Department may, after a case-by-case review and without concurrence of the guardian, adjust the monthly guardianship assistance payment to an amount that does not exceed the new foster care payment the child or young adult would be eligible to receive if currently in foster care, as follows:

(a) In the case of a reduction, only those payments that exceed the amount the child or young adult would be eligible for if currently in foster care would be reduced, and the reduction would only be to the amount that the child or young adult would be eligible to receive if currently in foster care.

(b) In the case of an increase, the Department, considering the needs of the child or young adult and the circumstances of the guardian, may increase the guardianship assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care.

(5) If, upon review under section (1) of this rule or an adjustment under section (4) of this rule, the Department intends to adjust guardianship assistance without the concurrence of the guardian, the Department will provide the guardian and the child or young adult with written notice as described in OAR 413-010-0500 to 413-010-0535.

(6) Unless terminated under sections (7) or (8) of this rule, the guardianship assistance agreement and the Department's obligation to provide guardianship assistance expires automatically on the date any of the following events occur:

(a) When the child:

(A) Reaches the age of 18 or, when an extension has been granted under OAR 413-070-0918, no later than the date identified in the guardianship assistance agreement;

(B) Is emancipated;

(C) Dies;

(D) Marries;

(E) Is adopted; or

(F) No longer meets the requirements for continued guardianship assistance if the Department has agreed to continue guardianship assistance under OAR 413-070-0918.

(b) A guardian dies, or if more than one guardian, both die.

(c) The court:

(A) Vacates the guardianship order or otherwise terminates the guardianship;

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law; or

(C) Appoints another individual as guardian of the child or young adult.

(7) Guardianship assistance may be suspended at any time by mutual agreement between the Department and the guardian.

(8) After a review and on a case-by-case basis, the Department may terminate a guardianship assistance agreement upon ten calendar days written notice to the guardian when the Department determines that:

(a) The guardian is no longer responsible for the child or young adult;

(b) The guardian is no longer providing support to the child or young adult; or

(c) The child or young adult is no longer eligible for guardianship assistance or is eligible for guardianship assistance in a different amount.

(9) If a child receiving guardianship assistance is subsequently adopted by the guardian, the child may be eligible for adoption assistance under OAR 413-130-0000 to 413-130-0130.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0940, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0990

Purpose

The purpose of OAR 413-070-0990 to 413-070-1060 is to describe the responsibilities of the Department to determine the appropriate use of placement with a fit and willing relative as a permanency plan for a child or young adult in the care or custody of the Department.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1000

Placement with a Fit and Willing Relative as a Permanency Plan

(1) Placement with a fit and willing relative is a permanency plan for a child or young adult in the care and custody of the Department.

(2) The Department may consider placement with a fit and willing relative as a permanency plan for a child or young adult in the care or legal custody of the Department based on the individual safety, permanency, and well-being needs of the child or young adult, when:

(a) A person who meets the requirements of OAR 413-070-1010 requests to be considered a fit and willing relative; and

(b) The Department has determined;

(A) The child or young adult is unable to safely return to the home of a parent;

(B) There are no current Department actions to identify or assess a relative of the child or young adult who has expressed an interest in being an adoptive resource, or adoption is not in the best interests of the child or young adult; and

(C) There are no current Department actions to identify or assess a relative of the child or young adult who has expressed an interest in being a guardian, or guardianship is not in the best interests of the child or young adult.

(3) When considering placement with a fit and willing relative as the permanency plan, the caseworker must:

(a) Consult with and seek input from the child or young adult 14 years of age or older and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c);

(b) Consult with and seek input from the child or young adult as developmentally appropriate, regardless of the age of the child or young adult;

(c) Assess the parents' acceptance of the fit and willing relative permanency plan, and their preference for continued contact with the child or young adult; and

(d) Document in the electronic information system of the Department how the requirements of subsections (a) to (c) of this section were met.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1010

Eligibility Requirements for a Fit and Willing Relative

To be eligible for consideration as a fit and willing relative, a person must:

(1) Meet the definition of relative; or

(2) Meet the definition of a person with a caregiver relationship under ORS 419B.116(1) for a child or young adult in the care and custody of the Department and be placed in foster care through the Office of Developmental Disabilities Services; and

(3) Be approved by the Department as a long term resource for the child or young adult until a higher level of permanency can be achieved;

(4) Have a current Certificate of Approval from the Department, a licensed foster care agency, a participating tribe, or another state when the relative is currently certified or otherwise approved by the state in which the relative resides and approved as a placement for the child or young adult under the Interstate Compact on Placement of Children;

(5) Have a strong commitment to caring permanently for the child or young adult and any sibling under consideration; and

(6) Agree to the requirements, responsibilities, and approval process for the Placement with a Fit and Willing Relative Agreement.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1020

Approval and Implementation of a Fit and Willing Relative Permanency Plan

(1) When the Department is considering a change in the permanency plan of a child or young adult, the Department makes the determination pursuant to OAR 413-070-0500 to 413-070-0519.

(2) The permanency committee must consider the best interests of the child or young adult and each of the following factors when developing a recommendation regarding placement with fit and willing relative to the Child Welfare Program Manager or designee:

(a) The safety, permanency, and well-being needs of the child or young adult.

(b) The opportunities the Department has provided the child or young adult and his or her parents to identify permanency resources.

(c) The parents' acceptance of fit and willing relative as a permanency plan and their preference for continued contact with the child or young adult.

(d) The ability of the fit and willing relative to meet the needs of the child or young adult pursuant to OAR 413-070-0640.

(e) The compelling reasons placement with a parent, adoption, or guardianship cannot be achieved.

(f) The sufficiency of the plan for continued contact with siblings.

(3) The Child Welfare program manager or designee must consider all of the following when deciding whether placement with a fit and willing relative is the appropriate permanency plan for the child or young adult:

(a) The considerations in section (2) of this rule.

(b) The information presented to the permanency committee.

(c) The recommendation of the permanency committee.

(4) Within 30 days of a Department decision to approve a fit and willing relative permanency plan under OAR 413-070-0519, the caseworker must request a permanency hearing before the court.

(5) At the hearing, the caseworker must provide all of the following to the court:

(a) The intensive, ongoing efforts by the Department to return the child or young adult home, or secure a placement with an adoptive parent or guardian.

(b) The compelling reasons it would not be in the best interests of the child or young adult to return home, be placed for adoption, or be placed with a guardian.

(c) The type and amount of parent-child and child-sibling contact and involvement until a more preferred permanency plan is achieved, the child reaches age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult.

(d) The reasonable services the Department may offer each parent to meet the best interests of the child or young adult until a more preferred permanency plan is achieved, the child reaches the age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult.

(e) The steps the Department has taken to ensure the foster parent is following the reasonable and prudent parent standard, and opportunities the child has had to engage in age-appropriate or developmentally appropriate activities.

(f) A recommendation that the court issue an order approving the placement with a fit and willing relative permanency plan.

(g) A timetable for placement of the child or young adult with a fit and willing relative.

(6) When the Department recommends that contact be limited or prohibited between a parent and child or young adult, or between a sibling and child or young adult, the caseworker must make the request to the court and include the reasons contact should be limited or prohibited in the court report.

(7) The caseworker must ensure the Placement with a Fit and Willing Relative Agreement is signed by the fit and willing relative and the Child Welfare program manager within a reasonable time after the court has approved the permanency plan and the relative resource has been identified and approved.

(8) Within 30 days of the Department or court decision not to approve the fit and willing relative permanency plan, the caseworker must:

(a) Inform the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), the child or young adult's relative caregivers, parents, attorney, court appointed special advocate, and other persons with significant involvement in the life of the child or young adult; and

(b) Consult with the child's or young adult's case planning team to reconsider other permanency options.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1030

Contents of a Placement with a Fit and Willing Relative Case Plan

(1) When a child or young adult's permanency plan is placement with a fit and willing relative, the caseworker must address each of the following in the child or young adult's case plan:

(a) Family composition, which includes the identifying information of each parent except when parental rights have been terminated, guardian, and sibling.

(b) Except when parental rights have been terminated, the identified impending danger safety threats.

(c) Except when parental rights have been terminated, the ongoing safety plan as described OAR 413-015-0400 to 413-015-0485 and recorded in the electronic information system of the Department.

(d) A description of how the Department determined placement with a fit and willing relative is the most appropriate permanency plan for the child or young adult, and each compelling reason why the more preferred permanency plan options were not selected for the child or young adult.

(e) The steps the Department has taken to ensure the relative caregiver is applying the reasonable and prudent parent standard, and to ensure the child or young adult has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities.

(f) A description of how the child or young adult's attachments and relationships with each parent, sibling, and other family

members will be developed while the child or young adult is in a permanent placement with a fit and willing relative.

(g) Current placement information including the location of the child or young adult when the relative caregiver authorizes release of the address, except when doing so would jeopardize the safety of the child or young adult.

(h) The record of visits the child or young adult has had with parents or siblings.

(i) When applicable, a description of the plan to transition a child or young adult with developmental or intellectual disabilities to an appropriate program for adults with developmental or intellectual disabilities.

(j) The comprehensive transition plan required by OAR 413-030-0400 to 413-030-0460 for any child 14 years of age or older or young adult and services that prepare the child or young adult to transition to adulthood.

(k) A description of the services the Department must provide to ensure the emotional, medical, educational, cultural, and physical needs of the child or young adult are being met, including:

(A) The health information of the child or young adult, which documents the specialized medical, dental, and mental health services of the child or young adult; and

(B) The education services of the child or young adult, including the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or young adult, and any special educational needs.

(L) The services required to prepare the child or young adult to live in the least restrictive setting possible at the most appropriate time.

(m) The services that may make it possible to achieve a more preferred permanency plan for the child or young adult.

(n) The services the Department may continue to make available to the parents of the child or young adult, upon request, that continue to be in the best interests of the child or young adult.

(o) For any child 14 years of age or older or young adult, the documents described in OAR 413-040-0010(1)(j)(A) and (B).

(2) Except when parental rights have been terminated or the Department is unable to obtain the signature of the parent or guardian, the case plan must include the signature of the caseworker, the supervisor, and each parent or guardian as described in OAR 413-040-0000 to 413-040-0032.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1040

Ongoing Department Responsibilities When Placement with a Fit and Willing Relative is the Permanency Plan

(1) When placement with a fit and willing relative is the court-approved permanency plan for a child or young adult in the legal custody of the Department, the caseworker must do all of the following:

(a) Have monthly contact with the child or young adult, with the relative caregiver, and monitor the safety of the child or young adult as described in OAR 413-080-0040 to 413-080-0067.

(b) Evaluate the appropriateness of ongoing contact between the child or young adult with parents, siblings, and other people as described in OAR 413-070-0800 to 413-080-0880.

(c) Provide timely assessment and services for identified needs of the child or young adult, the substitute caregiver, or the parents of the child or young adult.

(d) Monitor the case plan and complete the required case plan reviews

(e) Submit to the court and to the citizen review board the case plan updates required in Child Welfare Policy I-I.2, "Narrative Recording".

(f) Continue to assess requirements for certification of the permanent relative caregiver pursuant to OAR 413-200-0270 to 413-200-0296.

(g) Develop a comprehensive transition plan as required by OAR 413-030-0400 to 413-030-0460 for any child 14 years of age or older.

(2) In addition to the requirements of section (1) of this rule, when the child or young adult has an approved fit and willing relative permanency plan, the caseworker must:

(a) Routinely discuss with the child or young adult and the permanent relative caregiver during face-to-face and other contacts the needs, benefits, barriers, and solutions towards achieving a more preferred permanency option;

(b) Include in the case plan of the child or young adult a description of how relationships with other relatives and persons involved in the life of the child or young adult may be developed and maintained; and

(c) In the event a relative not previously identified as a potential adoptive or guardianship resource expresses an interest, determine whether it is in the best interests of the child or young adult to change the plan to a more preferred permanency plan and to assess the resource for placement.

(3) The permanent relative caregiver must:

(a) Maintain a current Certificate of Approval and follow the requirements of the Department pursuant to OAR 413-200-0301 to 413-200-0396; and

(b) Follow the requirements of the Department regarding the education, medical care, and mental health care of the child or young adult, and other services requested by the Department to meet the needs of the child or young adult.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1050

Placement with a Fit and Willing Relative Permanency Plan Reviews

(1) The caseworker must review the placement with a fit and willing relative case plan at least every six months and the review must occur prior to a review by the court or citizen review board as required by ORS 419B.470 and 419A.106(1) respectively.

(a) The review must take place in a face-to-face meeting with the child or young adult, and may include members of the team of the child or young adult.

(A) When appropriate, the meeting may include a parent or guardian, unless the parent or guardian is not available for the review. When a parent or guardian is unavailable, the caseworker must document the reason the parent or guardian was unavailable and the efforts made to involve the parent or guardian.

(B) During the meeting the caseworker must consider input received from the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), other participants in the meeting, and other information received from the child or young adult's service providers, substitute caregivers, attorney, court appointed special advocate, tribe if the child is an ICWA child, persons with significant attachments to the child or young adult, and relatives.

(b) After the meeting described in subsection (a) of this section, the caseworker must document in the case record:

(A) Whether the current placement continues to be the least restrictive setting available to meet the safety and permanency needs of the child or young adult; or

(B) Whether a more permanent permanency plan, such as reunification, adoption, or guardianship is more appropriate for the child or young adult.

(2) When a placement with a fit and willing relative plan has been approved by the court as the permanency plan for a child or young adult in the legal custody of the Department, the Department must notify the court and request a review or permanency hearing:

(a) Not less frequently than once every 12 months while the child or young adult remains in substitute care in accordance with ORS 419B.470(2).

(b) Unless good cause is shown, at any time upon the request of the Department, a relative caregiver directly responsible for the care of the child or young adult, a parent of the child or young adult, an attorney for the child or young adult, a court appointed

special advocate, a citizen review board, or a tribal court in accordance with ORS 419B.470(5).

(c) By the citizen review board no less frequently than every six months in accordance with ORS 419A.106(1)(a) unless the court has relieved the citizen review board of its responsibility to review a case in accordance with ORS 419A.106(1)(b).

(d) Within 90 days of a placement change that removes the child or young adult from the placement with the fit and willing relative.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1060

Termination of Placement with a Fit and Willing Relative Permanency Plan

(1) The placement with a fit and willing relative plan must be terminated when:

(a) Court wardship is terminated;

(b) The court relieves the Department of legal custody of the child or young adult;

(c) The court determines that placement with a fit and willing relative is no longer the appropriate permanency plan for the child or young adult;

(d) One of the more preferred permanency plans is achieved;

(e) The Department and the relative caregiver mutually consent to termination;

(f) The relative caregiver fails to maintain a current Certificate of Approval in accordance with OAR 413-200-0301 to 413-200-0396 and 413-200-0270 to 413-200-0296, including when the certificate has been revoked or denied; or

(g) The child or young adult is removed from the relative caregiver by the Department.

(2) The Department must provide written notification to the court of any change in the placement of the child or young adult.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

DIVISION 80

SUBSTITUTE CARE — TYPES OF SERVICES

Monthly Contact and Monitoring Child and Young Adult Safety

413-080-0040

Monthly Contact and Monitoring Child and Young Adult Safety

The purpose of these rules, OAR 413-080-0040 to 413-080-0067, is to describe the responsibilities of the Department regarding:

(1) Monthly contact;

(2) Monitoring the safety, permanency, and well-being needs of the child or young adult in child welfare cases; and

(3) Monitoring the ongoing safety plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13

413-080-0050

Definitions

The following definitions apply to OAR 413-080-0040 to 413-080-0067:

(1) "Certified family" 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 they reside, to a child or young adult in the care or custody of the Department.

(2) "Child" means a person under 18 years of age.

(3) “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 initial safety plan or in-home ongoing safety plan.

(4) “Contact” means any communication between Child Welfare staff and a child, parent or guardian, foster parent or relative caregiver, provider, or other individual involved in a Child Welfare safety plan or case. “Contact” includes, but is not limited to, communication in person, by telephone, by video-conferencing, or in writing. “Contact” may occur, for instance, during a face-to-face visit; a treatment review meeting for a child, young adult, parent, or guardian; a court or Citizen Review Board hearing; or a family meeting.

(5) “Department” means the Department of Human Services, Child Welfare.

(6) “Face-to-face” means an in-person interaction between individuals.

(7) “Foster parent” means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(8) “Guardian” means an individual who has been granted guardianship of a child through a judgment of the court.

(9) “ICPC” means the Interstate Compact for the Placement of Children (see ORS 417.200).

(10) “Impending danger safety threat” means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that 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.

(11) “Initial safety plan” means a documented set of actions or interventions sufficient to protect a child from an impending danger safety threat in order to allow for completion of the CPS assessment.

(12) “Monthly face-to-face contact” means in person interaction between individuals at least once each and every full calendar month.

(13) “Ongoing safety plan” means a documented set of actions or interventions that manage a child’s safety after the Department has identified one or more impending danger safety threats at the conclusion of a CPS assessment or anytime during ongoing work with a family.

(14) “Parent” means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity 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), a legal father includes a man who is a father under applicable tribal law. “Parent” also includes a putative father 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.

(15) “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.

(16) “Protective action plan” means 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.

(17) “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.

(18) “Provider” means a person approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(19) “Relative caregiver” means a person who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

(20) “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 a child’s safety.

(21) “Safety services” means the actions, assistance, and supervision provided by safety service providers to manage the identified present danger safety threats or impending danger safety threats to a child.

(22) “Screener” means a Department employee with training required to provide screening services.

(23) “Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining 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.

(24) “Social service assistant” means a Department employee with training required to provide services to assist a caseworker on an open case.

(25) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(26) “Young adult” means a person aged 18 through 20 years.
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-080-0052

Addressing a Present Danger Safety Threat or New Impending Danger Safety Threat on an Open Case

(1) If Department staff determine a child is unsafe due to a present danger safety threat as described in OAR 413-015-0425 (1) on a case opened under 413-015-0445(2)(d), staff must immediately consult with a supervisor and establish a protective action plan as described in 413-015-0435. The ongoing safety plan remains in place to address the existing impending danger safety threats.

(2) If Department staff determine a child is unsafe due to a new impending danger safety threat as described in OAR 413-015-0425 (2) on a case opened under 413-015-0445(2)(d), staff must immediately consult with a supervisor and modify the ongoing safety plan; and

(3) Department staff must document the behaviors, conditions, or circumstances observed and any protective action plan taken, or modification made to the ongoing safety plan, in the Department’s electronic information system.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-080-0053

When a Child or Young Adult in Substitute Care Is Missing

(1) When a caseworker receives information that a child or young adult in substitute care is missing, the caseworker must:

(a) Make immediate efforts to locate the child or young adult; and

(b) As soon as practicable, ensure the court and legal parties to the case are notified, unless notification may jeopardize the safety of the child or young adult or interfere with an investigation.

(2) When a child or young adult missing from substitute care is located, the caseworker must:

(a) Determine and, to the extent possible, address the primary factors that contributed to the missing status of the child or young adult;

(b) Determine the child or young adult's experiences when missing;

(c) Determine if the child or young adult is a sex trafficking victim or at risk of being a sex trafficking victim; and

(d) Ensure the court and legal parties to the case are notified the child or young adult has been located.

(3) Documentation.

(a) When a child or young adult in substitute care is missing, the caseworker must document the following in the Department's electronic information system:

(A) Efforts made to locate the missing child or young adult; and

(B) The notifications in subsection (b) of section (1) of this rule.

(b) When a missing child or young adult is located, the caseworker must document the following in the Department's electronic information system:

(A) The determinations and notifications made in subsections (a) to (d) of section (2) of this rule; and

(B) Any actions taken to address the primary factors that contributed to the missing status of the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-080-0054

Monthly Face-to-Face Contact Requirements

(1) A child or young adult in a child welfare case.

(a) Except as provided in section (2) of this rule, monthly face-to-face contact with a child or young adult in a child welfare case must be made by one of the following Department staff to ensure the safety, permanency, and well-being of the child or young adult:

(A) The primary caseworker;

(B) The caseworker's supervisor; or

(C) When designated by the caseworker's supervisor as described in OAR 413-080-0067:

(i) Another caseworker or supervisor; or

(ii) A social service assistant.

(b) During the face-to-face contact required in section (1) of this rule, Department staff must:

(A) Ensure the safety, permanency, and well-being of the child or young adult;

(B) Address issues pertinent to case planning and service delivery during the contact;

(C) Notify a supervisor when he or she determines that the ongoing safety plan or the living environment is insufficient to ensure the safety of the child or young adult to determine if a protective action plan is necessary to ensure safety; and

(D) Notify a certifier when the well-being needs of a child or young adult are not being met by a certified family, or notify the Well Being Program when the well-being needs of a child or young adult are not being met by a provider.

(c) Department staff making face-to-face contact must document in the Department's electronic information system:

(A) The date, type, and location of each contact with the child, young adult, parent, or guardian; and

(B) The issues addressed during the contact.

(d) A face-to-face contact with a child or young adult made by a social service assistant:

(A) May be reported as the required face-to-face contact no more than one time in any three-month period and no more than a four times within a year; and

(B) May not be reported as the required face-to-face contact for consecutive months.

(e) Face-to-face contact with a child or young adult in substitute care must occur in the substitute care placement every other month.

(f) When face-to-face contact with a child or young adult in substitute care is not possible because the child or young adult is missing, the caseworker must comply with OAR 413-080-0053.

(2) A parent or guardian on a child welfare case.

(a) When there is an in-home ongoing safety plan, Department staff must have monthly face-to-face contact in the home with the parents or guardians living in the home with the child.

(b) A caseworker must have face-to-face contact with the child and the child's parent or guardians within five working days of learning any of the following:

(A) A condition of the ongoing safety plan has been violated.

(B) A change in the protective capacity, the family circumstances, or the composition of the household of a parent or guardian may negatively impact the ongoing safety plan.

(C) The caseworker is assigned a case that had been assigned to another caseworker (case transfer).

(c) Department staff must have monthly face-to-face contact with the parents or guardians, unless a supervisor approves an exception to contact with the non-custodial parent who has an in-home ongoing safety plan or, when there is an out-of-home ongoing safety plan, the parent or guardian is unavailable or the contact could compromise the caseworker's safety. The supervisor's exception must be documented in the Department's electronic information system and must document:

(A) The reason for the exception; and

(B) The length of time the exception is in effect, which is not longer than 90 days unless a longer period is approved by a Child Welfare Program Manager.

(3) The substitute caregiver.

(a) Department staff described in subsection (1)(a) of this rule must have monthly contact with the certified family or provider.

(b) The face-to-face contact with the child or young adult required in subsection (1)(e) of this rule must include at least one of the certified adults or providers who provide direct care for the child or young adult.

(4) A child or young adult placed through ICPC or placed internationally.

(a) When a child or young adult is placed in another state through the ICPC or placed internationally, the caseworker must request that officials from the receiving state or country have monthly face-to-face contact to monitor child safety, permanency, and well-being.

(b) When the receiving state or country's child welfare office is unwilling or unable to have monthly face-to-face contact with the child or young adult, a plan must be developed to meet this requirement.

(c) The caseworker must document in the case file the type and level of contact the receiving state or country will provide and how the contact is sufficient to confirm the safety and well-being of the child or young adult.

(d) The documentation received from the receiving state or country must be filed in the Department's electronic information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 1-2013, f. & cert. ef. 1-15-13; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-080-0055

Monitoring an In-home Ongoing Safety Plan

(1) To manage an in-home ongoing safety plan and monitor the child's safety when the child is in the home of the parent or guardian, Department staff must contact the following individuals, as described below:

(a) Face-to-face contact with the child, or review the documentation of the contact made by Department staff under OAR 413-080-0054;

(b) Face-to-face contact with the child's parents or guardians in the home of the parents or guardians;

(c) Contact with the child's non-custodial parent or guardian, except as provided in OAR 413-080-0054(2); and

(d) Contact with each participant in the ongoing safety plan.

(2) To monitor and assure the safety of the child, during the contact required under section (1) of this rule, the caseworker must complete each of the following:

(a) Contact each participant in the ongoing safety plan and assess the documented information regarding all contacts made in section (1) of this rule.

(b) Look for and assess any changes in the protective capacity of parents or guardians, including changes in the ability or willingness of a parent or guardian to keep the child safe.

(c) Assess whether the in-home ongoing safety plan keeps the child safe by determining:

(A) Whether the home environment is stable enough for safety service providers to be in the home and be safe; and

(B) Whether the parent or guardian is:

(i) Agreeable to the safety services in the ongoing safety plan;

(ii) Cooperating in safety services provided as prescribed by the ongoing safety plan;

(iii) Cooperating with all participants in the ongoing safety plan;

(iv) Participating in the actions and the time requirements of the ongoing safety plan; and

(v) Meeting the expectations detailed in the ongoing safety plan.

(d) Determine whether:

(A) The child is safe and the condition of the child is satisfactory; and

(B) Impending danger safety threats to the child are managed.

(3) Through contact with the participants in the ongoing safety plan, required under section (1) of this rule, the caseworker must determine whether:

(a) Participants in the ongoing safety plan are engaged and active in the safety activities;

(b) The parents or guardians are cooperating with the safety services prescribed by the ongoing safety plan;

(c) The safety service providers are engaged with the parents or guardians;

(d) The safety service providers have fulfilled their established responsibilities in the ongoing safety plan;

(e) The level of intervention assures the ongoing safety of the child; and

(f) The services are the least intrusive available to assure the child's safety.

(4) Whenever a participant in the ongoing safety plan or a safety service provider reports information indicating that there is a present danger safety threat or a new impending danger safety threat, the caseworker must comply with OAR 413-080-0052.

(5) The caseworker must determine whether:

(a) Behaviors, conditions, or circumstances within the family require an increase in the level of safety intervention;

(b) A less intrusive ongoing safety plan can assure the safety of the child; or

(c) The ongoing safety plan is keeping the child safe and provides the appropriate level of safety intervention.

(6) If the caseworker determines the level of intervention of the in-home ongoing safety plan must be revised, the caseworker must:

(a) End the in-home ongoing safety plan when there is no longer an impending danger safety threat to the child.

(b) Reduce the level of intervention whenever:

(A) The improved protective capacity of the parent or guardian is sufficient to impact his or her ability to cooperate with the ongoing safety plan to control impending danger safety threats as they are occurring within the family; and

(B) An impending danger safety threat can be managed with less intrusive actions or services.

(c) Increase the level of intervention whenever:

(A) A parent or guardian is unable or unwilling to cooperate with the ongoing safety plan to control the impending danger safety threats to the child as they are occurring within the family with the ongoing safety plan; or

(B) Any identified impending danger safety threat cannot be managed with the current ongoing safety plan.

(d) The revised ongoing safety plan must:

(A) Comply with the criteria of OAR 413-015-0450; and

(B) Be approved by the caseworker's supervisor.

(7) Department staff must document in the Department's electronic information system:

(a) The date, type, and location of each contact with the child, parents, or guardians;

(b) The date and type of each contact with each participant in the in-home ongoing safety plan;

(c) Observations and facts relevant to case planning and service delivery;

(d) How the ongoing safety plan continues to manage the impending danger safety threats as they are occurring within the family, or any revised ongoing safety plan and the facts supporting that revision; and

(e) Any protective action plan if required to assure the safety of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-080-0059

Monitoring the Out-of-Home Ongoing Safety Plan

(1) To manage an out-of-home ongoing safety plan, the caseworker must have monthly contact with the following individuals:

(a) Face-to-face contact with the child, or review the documentation of the contact made by Department staff under OAR 413-080-0054(1);

(b) Face-to-face contact with the child's parents or guardians, except as provided in OAR 413-080-0054(2); and

(c) Contact with each safety service provider.

(2) The caseworker must determine whether the child is safe.

(3) The caseworker must determine whether:

(a) Behaviors, conditions, or circumstances within the family require an increase in the level of safety intervention;

(b) Conditions for return have been achieved and an in-home ongoing safety plan can assure the safety of the child; and if so, must develop an in-home ongoing safety plan under the criteria set forth in OAR 413-015-0450; or

(c) The ongoing safety plan is keeping the child or young adult safe and provides the appropriate level of safety intervention.

(4) If the caseworker determines the out-of-home ongoing safety plan must still be in place but level of intervention of the out-of-home ongoing safety plan must be revised, the caseworker must:

(a) Reduce the level of intervention whenever:

(A) The improved protective capacity of the parent or guardian is sufficient to impact his or her ability to control the impending danger safety threats as they are occurring within the family; and

(B) An impending danger safety threat can be managed with less intrusive actions or services.

(b) Increase the level of intervention whenever an identified impending danger safety threat cannot be managed with the current ongoing safety plan.

(5) The revised ongoing safety plan must:

(a) Comply with the criteria of OAR 413-015-0450; and

(b) Be approved by the caseworker's supervisor.

(6) Department staff must document in the Department's information system:

(a) How the ongoing safety plan continues to manage the impending danger safety threats as they are occurring within the family, or any revised ongoing safety plan and the facts supporting that revision; and

(b) Any protective action plan if required to assure the safety of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 10-2007(Temp), f. 5-14-07, cert. ef. 5-15-07 thru 11-9-07; CWP 18-2007, f. & cert. ef. 11-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-

29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

413-080-0067

Contact Requirements and Exceptions; Required Face-to-Face Contact

(1) The Department may make scheduled or unscheduled face-to-face contacts with the child or young adult, parent, guardian, certified family, or provider.

(2) The caseworker's supervisor may approve Department staff as described in OAR 413-080-0054(1) to make the face-to-face contact required by these rules (OAR 413-080-0040 to 413-080-0067) when a caseworker's schedule or special circumstances prevent the caseworker from making the face-to-face contact.

(a) Prior to conducting the required face-to-face contact, Department staff must have information regarding the case plan, the ongoing safety plan, the parents or guardians, and the child or young adult, including any special needs of the child or young adult.

(b) The Department staff person making the face-to-face contact is responsible for monitoring the safety of the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; Renumbered from 413-080-0060, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2008, f. & cert. ef. 8-1-08; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13

DIVISION 90

SUBSTITUTE CARE — PAYMENTS

Definitions for Division 90

413-090-0000

Definitions

The following definitions apply to OAR 413-090-0000 to 413-090-0550:

(1) "Absent day" means a calendar day that:

(a) The BRS client (see OAR 410-170-0020) is enrolled in but not physically present in the program of the BRS provider (see OAR 410-170-0020);

(b) Does not meet the definition of a billable care day (see OAR 410-170-0020);

(c) The Department's placement plan is to return the BRS client to the BRS provider; and

(d) The BRS contractor (see OAR 410-170-0020) or BRS provider obtains authorization from the BRS client's caseworker (see OAR 410-170-0020) and the contract administrator to bill the calendar day as an "absent day".

(2) "Abuse check" means obtaining and reviewing abuse allegations and abuse investigation reports and associated exhibits and documents for the purpose of determining whether a subject individual has a history as a perpetrator of potentially disqualifying abuse (a potentially disqualifying condition) as described in OAR 407-007-0290(11).

(3) "Adoption assistance payment" means a monthly payment made by the Department to the pre-adoptive family or adoptive family on behalf of an eligible child or young adult.

(4) "Babysitting" means the provision of temporary, occasional care for a child or young adult that is:

(a) Ten consecutive hours or less; and

(b) Not overnight care.

(5) "Background Check Unit (BCU)" means the Department of Human Services Background Check Unit.

(6) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the chronological age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(7) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family; and

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(8) "Certified family" 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 or young adult in the care or custody of the Department.

(9) "Chafee housing payment" means a payment to assist in covering the costs of room and board made to an eligible individual between 18 and 20 years of age who was discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(10) "Child" means a person under 18 years of age.

(11) "Clothing replacement allowance" means an allowance included in the substitute care maintenance payments to a provider to cover the cost of maintaining adequate clothing for each child or young adult in the substitute care maintenance payments to the provider.

(12) "Contract administrator" means the employee or other individual designated in writing by the Department, by name or position description, to conduct the contract administration of a contract or class of contracts.

(13) "Contract registered nurse" means a licensed registered nurse under a contract with the Department who provides nursing assessment, consultation, teaching, delegation, or on-going nursing services to a child or young adult in the care or custody of the Department.

(14) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check in which criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). An Oregon criminal records check may also include a review of other criminal records information obtained from other sources.

(b) A national criminal records check in which records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. A national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information resources located in, or regarding, a state or jurisdiction outside Oregon.

(15) "Delegated nursing task" means a task, normally requiring the education and license of a registered nurse (RN) and within the RN scope of practice to perform, that an RN authorizes an unlicensed person to perform.

(16) "Department" means the Department of Human Services, Child Welfare.

Chapter 413 Department of Human Services, Child Welfare Programs

(17) “Dependent parent” means a child or young adult in the legal custody of the Department who is the parent of a child.

(18) “Enhanced shelter care payment” means a limited term payment provided to a certified family when a child or young adult in the care or custody of the Department moves to a certified family’s home from a placement with a BRS provider and there is no current level of care determination applicable to the child or young adult.

(19) “Enhanced supervision” means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(20) “Foster care payments” means one or more of the following payments to a certified family, authorized at rates established by the Department, for the board and care of a child or young adult for whom the Department has placement and care responsibility:

(a) The base rate payment;

(b) The level of care payment, if any;

(c) Shelter care payment or enhanced shelter care payment;

(d) Mileage reimbursement, paid at the current Department mileage reimbursement rate to child welfare staff, for transportation of a child or young adult remaining in the same school he or she was attending prior to placement in substitute care; and

(e) The board and care of the child of a dependent parent, unless the dependent parent receives cash benefits under a program administered by the Department of Human Services under chapter 461 of the Oregon Administrative Rules.

(21) “Foster parent” means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(22) “Guardian” means an individual who has been granted guardianship of the child through a judgment of the court.

(23) “Guardianship assistance agreement” means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(24) “Independent living housing subsidy” means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(25) “Legally responsible relative” means the parent or step-parent of a child or young adult or a person related to the child or young adult by blood or marriage who has legal custody or legal guardianship of the child or young adult.

(26) “Level of care payment” means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of the child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(27) “Level of personal care payment” means the payment to a qualified provider for performing the personal care services for an eligible child or young adult based on the child’s or young adult’s need for personal care services as determined by applying the personal care services algorithm to the results of the personal care services rating scale.

(28) “Other criminal records information” means information obtained and used in the criminal records check process that is not criminal offender information from OSP. “Other criminal records information” includes, but is not limited to, police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual,

and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(29) “Personal Care Nurse Coordinator” means a registered nurse (RN) who is a licensed registered nurse employed by the Department to provide oversight of contract registered nurses and personal care services authorized through the Department.

(30) “Personal care services” means the provision of or assistance with those functional activities described in OAR 413-090-0120 consisting of mobility, transfers, repositioning, basic personal hygiene, toileting, bowel and bladder care, nutrition, medication management, and delegated nursing tasks that a child or young adult requires for his or her continued well-being.

(31) “Personal care services assessment” means an evaluation by a registered nurse of a child or young adult’s ability to perform the functional activities required to meet the child or young adult’s daily needs.

(32) “Personal care services plan” means a written plan to provide personal care services for the child or young adult documenting:

(a) The determination that the individual is a qualified provider;

(b) The frequency or intensity of each personal care service to be provided; and

(c) The date personal care services begin.

(33) “Potential guardian” means an individual who:

(a) Has been approved by the Department or participating tribe to be the guardian of a child or young adult; and

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

(34) “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.

(35) “Qualified provider” means an individual who:

(a) Is authorized by the Department through the contract registered nurse or Personal Care Nurse Coordinator;

(b) Demonstrates by background, skills, and abilities the capability to safely and adequately provide the authorized personal care services;

(c) Maintains a drug-free household;

(d) Has been approved through the background check process described in OAR 413-120-0400 to 413-120-0475 or under OAR 407-007-0200 to 407-007-0370; and

(e) Is not the parent, step-parent, or legally responsible relative of the child or young adult eligible for personal care services.

(36) “Registered nurse” means an individual licensed and registered to practice nursing.

(37) “Relative caregiver” means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(38) “SAIP” means Secure Adolescent Inpatient Program.

(39) “SCIP” means Secure Adolescent Inpatient Program.

(40) “SDA” means Service Delivery Area (SDA)” means a geographic region of one or more counties served by the Department and managed by an SDA Manager.

(41) “Shelter care payment” means a payment provided to a certified family during the first 20 days of substitute care for a child or young adult in the care or custody of the Department.

(42) “Subject individual” means an individual described in OAR 407-007-0030(30)(a).

(a) For the purposes of these rules, a “subject individual” also includes:

(A) An individual who provides respite care (see OAR 410-170-0020) for an approved provider parent (see OAR 410-170-0020);

(B) An individual who volunteers with or is employed by an approved provider parent to assist with the care of a BRS client,

other than an individual who provides babysitting unless paragraph (D) of this subsection applies;

(C) An individual 18 years of age or older who is living in the home of an approved provider parent;

(D) An individual under 18 years of age who is living in the home of an approved provider parent if there is reason to believe the individual may pose a risk to a BRS client;

(E) An individual who provides babysitting or an individual who frequents the home of an approved provider parent if there is reason to believe the individual may pose a risk to a BRS client; and

(F) An individual who has access to a BRS client in the home of an approved provider parent if the contract administrator has requested a criminal records check on the individual.

(b) The following individuals are not subject individuals:

(A) A child or young adult in the care or custody of the Department who lives in the home of the approved provider parent; and

(B) A BRS client.

(43) "Transitional visit" means an overnight visit by the BRS client to another placement for the purpose of facilitating the BRS client's transition.

(44) "Vendor Attorneys" means qualified attorneys, including Legal Aide Programs who have signed a legal fees agreement with the Department to accept the Department's currently established standard payment, plus reimbursement of any personal costs incurred, for court fees and the filing of mandatory court papers, or for obtaining birth certificates when establishing guardianships for children in the care and custody of the Department, or to process adoptions.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

Foster Care Payments for a Child or Young Adult Living with a Certified Family or Living Independently

413-090-0005

Purpose

The purpose of OAR 413-090-0005 to 413-090-0050 is to describe the responsibilities of the Department for payment of the following costs on behalf of a child or young adult.

(1) A foster care maintenance payment to a certified family;

(2) An independent living housing subsidy to an eligible child or young adult who is in the legal custody of the Department, living independently; and

(3) A Chafee housing payment to an eligible individual.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0010

Authorized Payments

(1) Family Foster Care.

(a) Shelter care payment. The Department reimburses a certified family a shelter care payment on behalf of a child or young adult during the first twenty days of substitute care in a certified family home after the Department has obtained physical or legal custody of the child or young adult. The daily shelter care payment is:

(A) \$24.60 for a child five years or younger;

(B) \$28.00 for a child 6 through 12 years of age; and

(C) \$31.60 for a child or young adult 13 through 20 years of age.

(b) Base rate payment. The Department reimburses a certified family a base rate payment on behalf of a child or young adult in the Department's physical or legal custody when a child or young adult is placed in the certified family's home.

(A) Payment is made on a monthly basis, or prorated for a portion of a month, when the base rate payment is for less than all days in the month, and made after the month in which the care has been provided.

(B) The base rate payment starts the twenty-first day of a child's placement in substitute care and includes the day the child or young adult enters the home, but excludes the day the child or young adult leaves the home.

(C) The base rate payment amount.

(i) Prior to January 1, 2012, the base rate payment is \$639 per month for a child five years or younger. Starting January 1, 2012, the base rate payment is \$575 per month for a child five years or younger.

(ii) Prior to January 1, 2012, the base rate payment is \$728 per month for a child 6 through 12 years of age. Starting January 1, 2012, the base rate payment is \$655 per month for a child 6 through 12 years of age.

(iii) Prior to January 1, 2012, the base rate payment is \$823 per month for a child or young adult 13 through 20 years of age. Starting January 1, 2012, the base rate payment is \$741 for a child or young adult 13 through 20 years of age.

(D) The Department does not reimburse the base rate payment to a certified family when reimbursement for shelter care payment or enhanced shelter care payment applies.

(c) Enhanced shelter care payment. The Department reimburses a certified family an enhanced shelter care payment rate on behalf of a child or young adult during the first 20 days of substitute care with a certified family after a child or young adult has been in placement with a Behavior Rehabilitation Service provider and there is no current level of care payment determination applicable to the child or young adult. The daily enhanced shelter care payment is:

(A) \$29.40 for a child five years or younger;

(B) \$33.50 for a child 6 through 12 years of age; and

(C) \$37.90 for a child or young adult 13 through 20 years of age.

(d) Mileage reimbursement. The Department reimburses a certified family for mileage, paid at the current Department mileage reimbursement rate paid to child welfare staff, when the certified family must provide transportation for a child or young adult in order to remain in the same school the child or young adult was attending prior to placement in substitute care.

(2) Level of care payment.

(a) The Department reimburses a level of care payment to a certified family on behalf of a child or young adult when the CANS screening results indicate the child or young adult has enhanced supervision needs.

(b) The initial level of care payment to a certified family begins:

(A) No earlier than the twenty first day of substitute care; or

(B) Ninety days prior to the date an initial CANS screening was approved for a child or young adult in substitute care over 111 days.

(c) A level of care payment to a certified family may commence the first day following the end of enhanced shelter care payment.

(d) The Foster Care Program Manager may approve commencing the level of care payment beyond the timeframes in subsections (b) and (c) of this section when a delay in scheduling, completing, scoring or approving the CANS screening results in a potential loss or interruption of a level of care payment.

(e) When the CANS screening results indicate the child or young adult eligible for adoption assistance or guardianship assis-

tance needs enhanced supervision, the Department includes the level of care payment in:

(A) An adoption assistance agreement with a pre-adoptive family or an adoptive family pursuant to OAR 413-130-0000 to 413-130-0130; or

(B) A guardianship assistance agreement with a potential guardian or guardian pursuant to OAR 413-070-0900 to 413-070-0979.

(f) A CANS screener rates each element of a child or young adult's behavior and functioning through the CANS screening on a scale of zero to three and the ratings determine whether a child or young adult meets the criteria for one of three levels of care. These ratings are determined using the following exhibits, which by this reference are incorporated into this rule:

(A) DHS 9601 — Child and Adolescent Needs and Strengths Comprehensive Screening Tool Ages Birth through Five, adopted January 5, 2009 and revised in June 2011.

(B) DHS 9602 — Child and Adolescent Needs and Strengths Comprehensive Screening Tool Ages Six through Twenty, adopted January 5, 2009 and revised in June 2011.

(C) Child and Adolescent Needs and Strengths Algorithm, adopted February 9, 2009.

(D) The Department maintains these documents on the Department's website. Printed copies of all three exhibits may be obtained by contacting the Department of Human Services, Office of Child Welfare Programs, ATTN: Level of Care Manager, 500 Summer Street NE, E93, Salem, OR 97301.

(g) The level of care payment is:

(A) \$212 per month for Level 1 (moderate needs).

(B) \$414 per month for Level 2 (intermediate needs).

(C) \$850 per month for Level 3 (advanced needs).

(3) The Department reimburses a certified family an applicable base rate payment for a child of a dependent parent when both are living with the certified family unless the dependent parent receives a TANF grant under programs administered by the Department of Human Services under chapter 461 of the Oregon Administrative Rules or has other means of financial support.

(4) The Department reimburses a Chafee housing payment or an independent living housing subsidy to an eligible individual up to a maximum of \$600 per month of eligibility pursuant to OAR 413-030-0400 to 413-030-0460.

(5) Payments prohibited. The Department may not authorize payment for the care of a child or young adult to more than one certified family per day.

(6) A payment by the Department under this rule is inalienable by any assignment or transfer and exempt from execution, levy, attachment, and garnishment under the laws of the state of Oregon.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335, 418.340, 418.470, 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1999, f. & cert. ef. 3-5-99; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03; CWP 27-2003, f. & cert. ef. 7-31-03; CWP 34-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; CWP 7-2004, f. & cert. ef. 4-1-04; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 28-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 10-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0021

Periodic Review of Eligibility for Level of Care Payments

(1) When the Department conducts a CANS screening for a child or young adult in substitute care under subsection (1)(b) of OAR 413-020-0230 and the results indicate the child or young adult's level of care has changed, the Department adjusts the child or young adult's level of care payment as follows:

(a) When a level of care payment increases, change in payment begins the first day of the month in which the increased level of care payment was approved.

(b) When a level of care payment decreases, change in payment begins the first day of the month following the month in which the decreased level of care payment was approved unless continuing benefits have been requested through a request for a contested case hearing.

(2) When the Department determines, denies, adjusts, or terminates a level of care payment to a child or young adult living with a certified family, the Department follows OAR 413-010-0500 to 413-010-0535.

(3) A CANS screening may be conducted for a child or young adult living with a potential guardian, a guardian, a pre-adoptive family, or an adoptive family when a referral is received pursuant to OAR 413-020-0230(3).

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335, 418.340

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0030

Payment for Temporary Absences from Family Foster Care

(1) The Department may continue the base rate payment and any level of care payment to the certified family during a child or young adult's temporary absence from the home for 14 days or less, when:

(a) The plan is for the child or young adult to return to the care of the same certified family; and

(b) No other certified family is receiving a base rate payment or level of care payment for the child or young adult during the period of the absence.

(2) Hospitalization. The Department may continue the base rate payment and level of care payment to the certified family when the child or young adult requires hospitalization for medical treatment and the certified family continues to exercise caregiving responsibilities in anticipation of the return of the child or young adult. Hospitalization for medical treatment is not considered a substitute care placement with a duplicate payment.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11

413-090-0040

Payments During Adoptive Supervision

When a child is free for adoption and placed in an approved or certified family's home designated by the Department's Adoption Program Manager as the child's pre-adoptive family, the Department pays base rate payment and any level of care payment to the pre-adoptive family until the adoption assistance payment commences. See OAR 413-130-0000 to 413-130-0130 for the adoption assistance eligibility requirements of the Adoption Assistance Program.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335, 418.340

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0050

Out-of-State Payment to a Certified Family Moving to Another State

(1) A certified family who receives Department approval to move out-of-state with a child or young adult who the Department has placed in the home may continue to receive base rate and level of care for that child or young adult for up to 180 days or until licensed or certified in the receiving state, whichever is earlier.

(2) The Foster Care Program Manager or Foster Care Program Assistant Manager may extend the 180 day limit for continuing to receive current base rate payment and level of care payment when the licensure or certification process in the receiving state has not been completed due to circumstances beyond the control of the Department.

(3) Once the home is licensed or certified in the receiving state, the Department authorizes payment at Oregon's established base rate payment and level of care payment rates.

Stat. Auth.: ORS 418.005 & 418.340
 Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11

Behavior Rehabilitation Services Program

413-090-0055

Effective Date and Administration of the BRS Program

(1) OAR 413-090-0055 through 413-090-0090 are effective on January 1, 2014.

(2) BRS contractors (see OAR 410-170-0020) and BRS providers (see OAR 410-170-0020) that provide services (see 410-170-0020) to a child (see 410-170-0020) or young adult (see 410-170-0020) in the care or custody of the Department of Human Services or one of the federally recognized tribes in Oregon must comply with the requirements in the BRS program general rules (410-170-0000 through 410-170-0120) and these rules (413-090-0055 through 413-090-0090).

(3) All references to federal and state laws and regulations referenced in these rules are those in place on November 13, 2013, and the Agency-specific BRS program rules that are effective on January 1, 2014.

Stat. Auth.: ORS 183.355, 409.050, 418.005, 411.060, 411.070 & 411.116
 Stats. Implemented: ORS 418.005, 418.015, 418.027, 411.070, 411.116, 411.141, 418.285, 418.312, 418.315, 418.490 & 418.495
 Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14

413-090-0060

Purpose

The purpose of the Behavior Rehabilitation Services (BRS) Program (see OAR 410-170-0020) is to remediate the BRS client's debilitating psychosocial, emotional, and behavioral disorders by providing such services (see 410-170-0020) as behavioral intervention, counseling, and skills-training. These rules supplement the BRS program general rules with additional requirements for BRS programs provided through contract with the Department (see 410-170-0020).

Stat. Auth.: ORS 409.050, 418.005, 411.060, 411.170 & 411.116
 Stats. Implemented: ORS 418.005, 418.015, 418.027, 411.070, 411.116, 411.141, 418.285, 418.312, 418.315, 418.490 & 418.495
 Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14

413-090-0065

Definitions

Definitions for OAR 413-090-0055 to 413-090-0090 are in OAR 413-090-0000.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 411.060, 411.070, 411.116, 418.005
 Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.025, 409.027, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.016, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495
 Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0070

BRS Provider Requirements

In addition to the requirements in OAR 410-170-0030, the BRS contractor (see OAR 410-170-0020) and the BRS provider (see OAR 410-170-0020) providing services (see OAR 410-170-0020) and placement-related activities (see OAR 410-170-0020) to a BRS client (see OAR 410-170-0020) in the care or custody of the

Department or one of the federally-recognized tribes in Oregon must comply with all of the following requirements:

(1) Ensure completion of a background check, including a criminal records check and an abuse check, on each subject individual in compliance with OAR 407-007-0210 to 407-007-0380, any applicable background check requirements that apply to public child-caring agencies or private child-caring agencies, and this section.

(a) Each time a criminal records check is required by OAR 407-007-0220, 413-215-0321(3)(c)-(d), 413-215-0331(2)(b)-(d), or 413-215-0061(1) for personnel of public child-caring agencies or private child-caring agencies, a national criminal records check, described in OAR 407-007-0210(13)(b), must be completed, unless one of the following exceptions applies:

(A) The subject individual has previously had a national criminal records check, has not lived outside the state of Oregon for more than 60 consecutive days after the subject individual's most recent criminal records check, and has not been arrested since the subject individual's most recent criminal records check;

(B) The subject individual is a respite care (see OAR 410-170-0020) provider and has not lived outside the state of Oregon for more than 60 consecutive days in the last five years, does not disclose any history of arrests or convictions, and does not have a history of arrests or convictions, based on an Oregon criminal records check under OAR 407-007-0220(1) or information received from any other source;

(C) The subject individual is living in the home of an approved provider parent (see OAR 410-170-0020) and is under the age of 18, a babysitter (see OAR 410-170-0020), or an individual who frequents the home of an approved provider parent but is not an employee or volunteer who assists with the care of a BRS client; or

(D) The subject individual is unable to submit fingerprints due to a physical or mental condition that makes compliance impossible or presents an undue safety risk to the subject individual or Department staff and the contract administrator provides written approval to forego a fingerprint-based check.

(b) Even if one of the circumstances in paragraphs (1)(a)(A) to (1)(a)(D) of this rule applies, the contract administrator may require a national criminal records check on a subject individual if deemed necessary by the Department.

(c) Notwithstanding OAR 407-007-0280, 407-007-0300 and 407-007-0320(1), a subject individual may not be approved to be an approved provider parent or an individual described in 413-090-0000(42)(a) if the subject individual has a conviction described in 413-120-0450(3) or (4). The Department's Background Check Unit must provide written notice of the denial, as required by 407-007-0320(2)-(3).

(d) Notwithstanding OAR 407-007-0280, when a subject individual is seeking to be approved as an approved provider parent or an individual described in 413-090-0000(9)(a), any conviction described in 413-120-0450(5), (6) and (7) or any arrest described in 413-120-0455(1) is a potentially disqualifying condition that requires a weighing test under 407-007-0300.

(A) The Department's Background Check Unit shall make a final fitness determination in accordance with OAR 407-007-0320(1)(a) or (c).

(B) A subject individual subject to a weighing test may not be approved with restrictions under OAR 407-007-0320(1)(b).

(e) OAR 407-007-0330 applies to any decisions to deny a subject individual based on subsection (1)(b) or (1)(c) of this rule.

(f) A subject individual may be approved on a preliminary basis, consistent with OAR 413-120-0440(7), if the subject individual:

(A) Does not have a conviction described in subsection (1)(c) of this rule or OAR 413-120-0450(3) or (4);

(B) Preliminary approval of the subject individual is not prohibited by OAR 407-007-0315(7);

(C) The Department's Background Check Unit conducts a preliminary fitness determination with a weighing test if the

subject individual has any convictions or arrests described in subsection (1)(d) of this rule or potentially disqualifying abuse; and

(D) The Department's Background Check Unit determines that, more likely than not, the subject individual poses no potential threat to BRS clients.

(2) Ensure the following documents are contained in the individual, confidential file of each BRS client:

(a) A face sheet with frequently referenced information;

(b) The BRS client's medical insurance information;

(c) The BRS client's school enrollment, attendance, progress, and discipline information during the BRS client's stay in the program;

(d) Signed consent for the BRS client to participate in the BRS program;

(e) Documentation regarding the individuals authorized to consent to medical or mental health services for the BRS client;

(f) Documentation regarding home or other family visits;

(g) Documentation of recreational, social, and cultural activities;

(h) Documentation of legal custody or voluntary placement status;

(i) Referral information;

(j) All services documentation including, but not limited to the ISP, AER, MSP, MSP updates, Discharge Summary, and After-care Summary as required by BRS service planning in OAR 410-170-0070;

(k) Any restrictions on or special permissions for the BRS client's participation in activities or outings and the duration of any restrictions or special permissions; and

(l) All other case related information specific to the BRS client.

(3) The BRS contractor and the BRS provider must maintain in their program records:

(a) Staff schedules for BRS programs utilizing a residential care model (see OAR 410-170-0020);

(b) Certification status for approved provider parents for BRS programs utilizing a therapeutic foster care model (see OAR 410-170-0020); and

(c) Authorization for each absent day billed for a BRS client.
Stat. Auth.: ORS 181.534, 181.537, 409.050, 411.060, 411.070, 411.116, 418.005

Stat. Implemented: ORS 181.534, 181.537, 409.010, 409.025, 409.027, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.016, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0075

Prior Authorization for the BRS program; Appeal Rights

(1) BRS Program Eligibility.

(a) The Department may provide prior authorization for the BRS program to a child (see 410-170-0020) or young adult (see 410-170-0020) who:

(A) Meets the requirements in OAR 410-170-0040(2)(a)(A) through (C); and

(B) Is in the care or custody of the Department or one of the federally recognized tribes in Oregon.

(b) Notwithstanding subsection (1)(a) of this rule, the Department may provide prior authorization for the BRS program to a child or young adult who:

(A) Meets the requirements in OAR 410-170-0040(2)(a)(B) through (E);

(B) Is eligible for state-funded medical assistance under Title XIX and General Assistance Medical Eligibility, OAR 413-100-0400 through 413-100-0610; and

(C) Is in the care or custody of the Department or one of the federally recognized tribes in Oregon.

(2) Appeal Rights.

(a) When a child or young adult in the care or custody of the Department or a federally recognized tribe in Oregon is denied prior authorization for the BRS program under subsection (1)(a) of this rule, he or she is entitled to notice and contested case hearing rights under OAR 410-120-1860 to 410-120-1865. The contested

case hearing will be held by the Authority (see OAR 410-170-0020).

(b) When a child or young adult in the care or custody of the Department and who is enrolled in the Oregon Health Plan is denied prior authorization for the BRS program under subsection (1)(b) of this rule, he or she is entitled to notice and contested case hearing rights under OAR 413-010-0500 to 413-010-0535. The contested case hearing will be held by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116 & 418.005

Stat. Implemented: ORS 409.010, 411.060, 411.070, 411.095, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490 & 418.495

Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14

413-090-0080

BRS Placement Related Activities for a Department BRS Contractor and BRS Provider

(1) A BRS contractor (see OAR 410-170-0020) and BRS provider (see OAR 410-170-0020) must coordinate all placement-related activities (see OAR 410-170-0020) for the BRS client (see OAR 410-170-0020) with the BRS client's Department or tribal caseworker (see OAR 410-170-0020) to ensure these activities support the child welfare case plan and the child specific case plan.

(2) A BRS contractor and BRS provider must provide facilities, personnel, materials, equipment, supplies and services, and transportation related to placement-related activities.

(a) Clothing: The Department will place the BRS client with a BRS contractor and BRS provider with sufficient clothing at the time of placement. It is the responsibility of the BRS contractor and BRS provider to maintain the BRS client's clothing at an adequate and appropriate level. A caseworker may request approval from a child welfare supervisor or program manager for payment for additional clothing when necessary.

(b) Transportation: A BRS contractor and BRS provider are responsible to arrange or provide transportation for the BRS client for the following: school, to the extent not provided by the school district; medical, dental, and therapeutic appointments; recreational and community activities; employment; and shopping for incidental items. Notwithstanding this responsibility, the cost of transportation for the BRS client for the purposes of home visits or visits to foster homes or relatives will be equally shared by the Department, the BRS contractor and BRS provider and, in as much as they are able as determined by the Department, the BRS client's parents. The BRS contractor, BRS provider, and the caseworker must jointly plan the transportation method and payment procedures as much in advance as possible.

(3) Non BRS-Related Medical and Mental Health Care.

(a) If there is no record that the BRS client has received a physical examination within the six months immediately prior to the BRS client's placement with the BRS contractor and BRS provider, the BRS contractor and BRS provider must schedule a medical exam with the BRS client's caseworker, consistent with health insurance allowances, within 30 days of the BRS client's placement. The BRS contractor and BRS provider must keep documentation of the medical exam in the BRS client's file, and must send a copy to the BRS client's caseworker.

(b) The BRS contractor and BRS provider must coordinate with each BRS client's caseworker to ensure the BRS client's mental health, physical health (including alcohol and drug treatment services), dental, and vision needs are met. This does not include paying the cost of services or medications which are covered by the Oregon Health Plan (OHP) or by the BRS client's third party private insurance coverage. The BRS contractor and BRS provider must work with the BRS client's Department or Tribal caseworker to secure payment for services or medications not covered by OHP or the BRS client's third party private insurance coverage.

(c) The BRS contractor and BRS provider must administer and monitor medications consistent with all applicable Department rules in OAR 413-070-0400 through 413-070-0490, and the BRS provider's medication management policy must comply with Department rules.

(d) The BRS contractor and BRS provider must facilitate the BRS client's access to other medical and mental health providers

whenever identified needs cannot be met within the scope of services offered by the BRS provider.

(4) Educational and vocational activities: A BRS contractor and BRS provider must have a system in place for a BRS client to attend school in order to meet the educational needs of a BRS client in its program either on-site or at an off-site location that complies with OAR 413-100-0900 through 413-100-0940.

(5) Language and culture: The BRS contractor and BRS provider must allow a BRS client to speak his or her primary language and must honor his or her culture.

(6) Other placement-related activities (see OAR 410-170-0020):

(a) Recreational, social, and cultural activities:

(A) A BRS contractor and BRS provider must provide recreation time for the BRS client on a daily basis. A BRS contractor and BRS provider must offer activities that are varied in type to allow the BRS client to obtain new experiences.

(B) A BRS contractor and BRS provider must provide each BRS client a minimum of one opportunity per week to participate in recreational activities in the community, unless the BRS client is clearly unable to participate in offsite activities due to safety issues.

(C) The BRS contractor and BRS provider must provide access to or make available social and cultural activities for the BRS client. These activities are to promote the BRS client's normal development and help broaden the BRS client's understanding and appreciation of the community, arts, environment, and other cultural groups.

(D) The BRS contractor and BRS provider must not permit a BRS client to participate in recreational activities that present a higher level of risk to a BRS client without the approval of the Department. This applies to activities that require a moderate to high level of technical expertise to perform safely, present environmental hazards, or where special certification or training is recommended or required such as: whitewater rafting, rock climbing, ropes courses, activities on or in any body of water where a certified lifeguard is not present and on duty, camping, backpacking, mountain climbing, using motorized yard equipment, and horseback riding.

(b) Academic Assistance: If needed, the BRS contractor and BRS provider must provide adequate opportunities for the BRS client to complete homework assignments with assistance from staff, or an approved provider parent (see OAR 410-170-0020), if applicable.

(7) The BRS contractor and BRS provider must comply with OAR 413-010-0170 through 413-010-0185.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005
 Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495
 Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0085

Billing and Payment for Services and Placement-Related Activities

(1) Billable care day (see OAR 410-170-0020):

(a) The BRS contractor (see OAR 410-170-0020) is compensated for a billable care day services (see OAR 410-170-0020) and placement-related activities (see OAR 410-170-0020) rates on a fee-for-service basis in accordance with OAR 410-170-0110.

(b) The BRS contractor may include an overnight transitional visit by the BRS client (see OAR 410-170-0020) to another placement in its billable care days. The BRS contractor must:

(A) Receive prior approval for the transitional visit from the Department;

(B) Ensure that the transitional visit is in support of the MSP (see OAR 410-170-0020) goals related to transition;

(C) Pay the hosting placement at the established absent day rate for the sending BRS provider (see OAR 410-170-0020); and

(D) Ensure the hosting placement will not seek any reimbursement from the Department for the care of the visiting BRS client.

(2) Absent Days:

(a) The BRS contractor is compensated for an absent day at the absent day rate in order to hold a BRS program placement for a BRS client with the prior approval of the BRS client's caseworker (see OAR 410-170-0020).

(b) Notwithstanding OAR 410-170-0110(4), the BRS contractor may request prior approval from the BRS client's caseworker to be reimbursed for more than 8 but no more than 14 calendar days of home visits in a month for a BRS client. However, any additional days of home visits approved under this rule will be paid at the absent day rate.

(3) The BRS contractor may only be reimbursed for the BRS type of care (see OAR 410-170-0020) authorized in the contract with the Department.

(4) Invoice Form:

(a) The BRS contractor must submit to the Department a monthly invoice in a format acceptable to the Department, on or after the first day of the month following the month in which services and placement-related activities were provided to the BRS client. The monthly invoice must specify the number of billable care days and absent days for each BRS client in that month.

(b) The BRS contractor must provide upon request, in a format approved by the Department, written documentation of each BRS client's location for each day claimed as a billable care day and an absent day.

(5) Billable care day and absent day rates for BRS services provided on or after July 1, 2015, are in the "BRS Rates Table", dated July 1, 2015, which is adopted as Exhibit 1 and incorporated by reference into this rule. A printed copy may be obtained from the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005
 Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495
 Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 15-2015(Temp), f. & cert. ef. 8-26-15 thru 2-21-16

413-090-0087

When a Child or Young Adult Placed with a BRS Program Is Missing

(1) When a child or young adult placed with a BRS program (see OAR 410-170-0020) is missing, the BRS contractor (see OAR 410-170-0020) must ensure its BRS providers immediately report information about the missing child or young adult to the Department.

(2) Documentation of the report required in section (1) of this rule is required as outlined in OAR 410-170-0030(12)(b)(B).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005
 Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.490, 418.495
 Hist.: CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-090-0090

Compliance Reviews and Remedies

(1) The BRS contractor (see OAR 410-170-0020) must cooperate, and ensure its BRS providers cooperate, with program compliance reviews or audits conducted by any federal, state or local governmental agency or entity related to the BRS program, including but not limited to the Department's provider rules 407-120-0170, 407-120-0180, 407-120-0310, and 407-120-1505.

(2) The Department or its designee will conduct compliance reviews periodically, including but not limited to review of documentation and onsite inspections.

(3) The Department may pursue any combination of contract remedies, including but not limited to recovery of overpayments; licensing actions; and other remedies authorized under the contract, at law or in equity against a BRS Contractor, a BRS Provider (see OAR 410-170-0020), or both, for non-compliance with applicable laws, regulations or contract provisions. In addition to or in lieu of any of the above, the Department may proceed under the applicable provisions of 410-170-0120.

Stat. Auth.: 409.050, 411.060, 411.070, 411.116 & 418.005
 Stat. Implemented: 409.010, 411.060, 411.070, 411.116, 418.005, 418.027 & 418.495
 Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14

Personal Care Services**413-090-0100****Purpose**

The purpose of these rules, OAR 413-090-0100 to 413-090-0210, is to describe the requirements for eligibility and receipt of personal care services when a child or young adult is placed with a foster parent or relative caregiver by the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09

413-090-0110**Definitions**

Definitions for OAR 413-090-0100 to 413-090-0210 are in 413-090-0000.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0120**Scope of Services**

(1) Personal care services are provided directly to the eligible child or young adult and do not include respite or other services, nor are they implemented for the purpose of benefiting others in the household or the household in general.

(2) Personal care services include:

(a) Mobility, transfers, repositioning — assisting a child or young adult with ambulation or transfers with or without an assistive device, turning the individual or adjusting padding for physical comfort or pressure relief, or encouraging or assisting with range-of-motion exercises;

(b) Basic personal hygiene — providing or assisting a child or young adult with needs such as bathing (tub, bed bath, shower), washing hair, grooming, shaving, nail care, foot care, dressing, skin care, mouth care, and oral hygiene;

(c) Toileting, bowel and bladder care — assisting a child or young adult to and from bathroom, on and off a toilet, commode, bedpan, urinal or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, cleansing the individual or adjusting clothing related to toileting, emptying catheter drainage bag or assistive device, ostomy care, or bowel care;

(d) Nutrition — preparing meals and special diets, assisting with adequate fluid intake or adequate nutrition, assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with special utensils, cutting food, and placing food, dishes, and utensils within reach for eating;

(e) Medication management — assisting with ordering, organizing, and administering prescribed medications (including pills, drops, ointments, creams, injections, inhalers, and suppositories), monitoring for choking while taking medications; and

(f) A delegated nursing task.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005 & 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15

413-090-0130**Personal Care Services Eligibility**

To receive personal care services while living with a certified family, a child or young adult in the care or custody of the Department must:

(1) Be eligible to receive medical services funded through either Title XIX of the Social Security Act or the state general fund;

(2) Have no available resources from the natural support system of friends, neighbors, or other community resources to provide personal care services; and

(3) Have a documented diagnosed physical or mental impairment and require personal care services as determined by a personal care services assessment.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09

413-090-0133**Conducting a Personal Care Services Assessment**

(1) When a child or young adult with a diagnosed physical or mental impairment appears to require personal care services and the caseworker becomes aware of the apparent need for personal care services, the caseworker must refer the child or young adult to the contract registered nurse or the Personal Care Nurse Coordinator for an assessment.

(2) When a child or young adult with an approved personal care services assessment or an existing personal care services plan moves to a new foster parent or relative caregiver, the caseworker must refer the child or young adult to the contract registered nurse or the Personal Care Nurse Coordinator for an assessment.

(3) Upon receipt of a referral, the contract registered nurse or the Personal Care Nurse Coordinator must conduct a personal care services assessment.

(4) To conduct the personal care services assessment, the contract registered nurse or the Personal Care Nurse Coordinator must:

(a) Review available medical records of the child or young adult;

(b) Meet with the child or young adult and the foster parent or relative caregiver;

(c) Gather information about the child or young adult's condition and functioning;

(d) Assess the child or young adult's ability to perform functional activities necessary to meet his or her daily needs at a level appropriate for the child or young adult's chronological age;

(e) Document the findings of the personal care services assessment using the Department's Personal Care Services Assessment form that is applicable to the age of the child or young adult; and

(f) Submit the completed personal care services assessment to the Personal Care Nurse Coordinator.

(5) The Personal Care Nurse Coordinator must:

(a) Review the findings of the personal care services assessment;

(b) Apply the rating scale in Exhibit 1 to the personal care services assessment;

(c) Determine whether the child or young adult meets the threshold for a level of personal care payment;

(d) Determine the level of personal care payment; and

(e) When the personal care services assessment scores a child or young adult's level of personal care needs at Level 4 based on the rating scale in Exhibit 1, determine the additional payment and the intensive personal care services required to meet the child or young adult's identified needs, which may involve consulting with the foster parent, relative caregiver, or others involved in the child or young adult's care.

(6) The responsibilities set forth in section (5) of this rule may be conducted by another medical professional employed by or

under contract with the Department when the Personal Care Nurse Coordinator is unavailable.

[ED. NOTE: Exhibits & forms referenced are available from the Agency.]

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.015

Hist.: CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15; CWP 8-2015(Temp), f. & cert. ef. 2-5-15 thru 8-3-15; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0135

Provider Eligibility

(1) Personal care services may be provided only by a qualified provider.

(2) The contract registered nurse or the Personal Care Nurse Coordinator may authorize a qualified provider to provide personal care services to a child or young adult in the care or custody of the Department if the contract registered nurse or Personal Care Nurse Coordinator determines that the provider meets the definition of a qualified provider in OAR 413-090-0000.

(3) The qualified provider must sign the personal care services plan with the Department and agree to provide the personal care services to the child or young adult described in the personal care services plan.

(4) The qualified provider may be authorized to provide personal care services when the personal care services assessment has been completed and the contract registered nurse or Personal Care Nurse Coordinator has verified that the provider is a qualified provider.

Stat. Auth. ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005 & 418.015

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15

413-090-0136

Developing the Personal Care Services Plan

(1) After conducting the personal care services assessment when it has been determined that a child or young adult is eligible for personal care services, the contract registered nurse or Personal Care Nurse Coordinator must develop a personal care services plan using the Department's Personal Care Services Plan form.

(2) The personal care services plan must:

(a) Specify the frequency or intensity of each personal care service;

(b) Identify the qualified provider to provide the personal care service;

(c) If the plan includes a delegated nursing task, the personal care services plan must include:

(A) The written authorization of the registered nurse permitting the qualified provider to perform the delegated nursing task;

(B) The written instructions on how to perform the delegated nursing task;

(C) How frequently the child or young adult is to be reassessed with respect to the delegated nursing task;

(D) How the qualified provider is to be supervised; and

(E) How frequently the qualified provider is to be reevaluated.

(d) Identify the date that the personal care services are to begin and the date that the personal care services plan ends; and

(e) Be signed by the contract registered nurse or Personal Care Nurse Coordinator and each qualified provider providing services under the personal care services plan.

(3) If the contract registered nurse or Personal Care Nurse Coordinator determines that the child or young adult requires a delegated nursing task, the contract registered nurse or Personal Care Nurse Coordinator must follow the requirements in Oregon State Board of Nursing rules, OAR 851-047-0000 to 851-047-0040.

(a) An authorization permitting a qualified provider to perform a nursing task does not permit the qualified provider to perform the task for a different child or young adult, and the authorization may not be transferred.

(b) The skill of the qualified provider and the condition of the child or young adult must be reevaluated as appropriate.

(c) The registered nurse may rescind the delegation, as provided in OAR 851-047-0030(7), and revise the personal care services plan accordingly.

[Ed. Note: The form referenced is available from the Department.]

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005 & 418.015

Hist.: CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15

413-090-0140

Periodic Review of Personal Care Services Eligibility

(1) A child or young adult's eligibility for personal care services must be reviewed annually from the initial date of the personal care services plan, unless an earlier date for reassessment has been approved in the personal care services plan.

(2) The child or young adult's caseworker may refer the child or young adult for a personal care services reassessment earlier than the date approved in the personal care services plan if the child or young adult's need for personal care services has changed. The Personal Care Nurse Coordinator must approve the referral.

(3) The Department must send a notice to the foster parent or relative caregiver, on behalf of the child or young adult, at least 14 days prior to conducting a personal care services reassessment. The notice must include:

(a) A description and explanation of the personal care services assessment process;

(b) An explanation of the process for appealing the results of the personal care services assessment; and

(c) A description of the foster parent or relative caregiver's right, on behalf of the eligible child or young adult, to set the date, time, and place of the personal care services assessment at a location that is convenient for him or her and to invite other persons to participate in the personal care services assessment.

(4) The contract registered nurse or Personal Care Nurse Coordinator must follow the process set forth in OAR 413-090-0133 when conducting a personal care services reassessment.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005 & 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15

413-090-0150

Payment Determination

(1) Payment for the personal care services identified in the personal care services plan is based on the eligible child or young adult's personal care services at a level of personal care payment that corresponds to the needs identified in the personal care services assessment and is determined by the Department. The levels of personal care are set forth in Exhibit 1.

(a) If the eligible child or young adult qualifies as Level 1 (moderate care), the payment is a maximum of \$207 per month based on the days within the month the child or young adult is eligible for and receives personal care services.

(b) If the eligible child or young adult qualifies as Level 2 (intermediate care), the payment is a maximum of \$413 per month based on the days within the month the child or young adult is eligible for and receives personal care services.

(c) If the eligible child or young adult qualifies as Level 3 (advanced care), the payment is a maximum of \$620 per month based on the days within the month the child or young adult is eligible for and receives personal care services.

(d) If the eligible child or young adult qualifies as Level 4 (intensive care), the payment is an amount authorized by the Department, based on the days within the month the child or young adult is eligible for and receives personal care services and on the intensity and frequency of the personal care services in conjunction with all other medical services provided for the child or young adult.

(2) Payment for personal care services is calculated based on the number of days personal care services were provided to the eligible child or young adult.

(3) Except as provided in section (4) of this rule, payment for personal care services is authorized by the Department when the personal care services assessment is completed and the contract registered nurse or Personal Care Nurse Coordinator has verified that the provider is a qualified provider.

(4) If the referral for a personal care services assessment was delayed, the Personal Care Nurse Coordinator may authorize payment before the assessment is completed when personal care services were provided by a qualified provider and there is documentation of the child's or young adult's personal care needs.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15; CWP 8-2015(Temp), f. & cert. ef. 2-5-15 thru 8-3-15; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0210

Termination of Personal Care Services and Payments

(1) Personal care services provided to a child or young adult are terminated when the child or young adult no longer meets the eligibility requirements under OAR 413-090-0130 or the child or young adult moves.

(2) Personal care services payments are made to the qualified provider as described in OAR 413-190-0150 until a personal care services plan is terminated or the date the child or young adult is no longer in the care of the foster parent or relative caregiver, whichever is earlier.

Stat. Auth. ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005 & 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15

Payments for Special and/or Extraordinary Needs

413-090-0300

Purpose

The purpose of OAR 413-090-0300 to 413-090-0380 is to describe how payments for special and/or extraordinary needs may be used to benefit a child or young adult in the custody of the Department in foster care, family and professional shelter care, residential group care, or non-reimbursed placement such as SAIP and SCIP.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 2-2006, f. & cert. ef. 2-1-06; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0310

Definition

Definitions for OAR 413-090-0300 to 413-090-0380 are in OAR 413-090-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 2-2006, f. & cert. ef. 2-1-06; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0320

Policy

(1) Payments for Special and/or Extraordinary Needs shall be limited to the amounts stated in the I-E.5.2 Information letter. Requests shall state a specific amount.

(2) Exceptions to these rules may be made with the SDA Manager's or designee's approval in individual situations. Exceptions must be made prior to purchase and authorized in writing in the case file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0330

Clothing

(1) The agency will make certain that clothing needs of children going into or placed in substitute care, such as a residential facility and paid/unpaid foster or relative care are met. Both staff and contracted providers shall use reasonable judgment in making clothing purchases. It is expected that a child in the custody of the Department will be dressed similar to other children living in the community, but purchases are dependent upon funds available to the Department.

(2) Unless the SDA Manager or designee makes an individual exception, clothing purchases may be authorized after:

(a) Clothing available and belonging to the child is obtained from the parent(s), guardian, relative caregiver or provider at the time of placement or change of placement. If release of clothing is refused and it is in the best interest of the child, a court order for the release of such clothing is to be requested from the juvenile court;

(b) Clothing resources such as foster parent organizations or agency volunteer programs, etc., are to be used prior to any Department purchase of clothing;

(c) **Shelter Care:** The Department will make payment for emergency clothing after searching the available resources and determining that sufficient clothing is not available.

(d) Ongoing Substitute Care:

(A) The payment to substitute care providers includes a clothing replacement allowance. It is the provider's responsibility to maintain the child's clothing with the clothing replacement allowance. The agency will not purchase replacement clothing except in extraordinary situations;

(B) When a child moves from one caregiver to another caregiver, all of the child's clothing, including clothing purchase for the child while in substitute care, shall go with the child. The child is not eligible for another emergency or standard clothing voucher;

(C) New clothing for a child in an adoptive placement will not be purchased except to make certain that the child is properly clothed for presentation to the adoptive parents at the time of placement;

(D) Children who are in shelter care or ongoing care generally will not receive a supplemental clothing voucher when they leave care temporarily and later return to out-of-home care. Exceptions for a supplemental clothing voucher may be made with the SDA Manager's or designee's approval.

(e) **Maximum Clothing Allowances:** The maximum rates the Department pays are outlined in the Information Letter, I-E.5.2. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0340

Transportation

The agency may pay for non medical transportation not to exceed current Department mileage rates paid to Department staff. Reasonable travel to the child's home for visitation is a Title IV E allowable expense. All other transportation expenses are billed to General Fund:

(1) Visitation: When family visitation is part of the service plan, the foster parent may be reimbursed for providing transportation to and from visits. When the child or young adult is in a residential care and treatment facility and the written treatment plan includes visitation with parents or relatives, the cost of the visits are expected to be shared by the Department, service provider, and child's family. Negotiations with the provider and the child's family to determine Department cost are made in advance of the visits.

(2) School: When the child or young adult is in family foster care and the school district does not provide transportation, the

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foster parents may be reimbursed for providing transportation or for city bus passes when appropriate.

(3) In state transportation by airline for children is approved only if the cost of the air fare does not exceed all the actual costs of transportation by car.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0355

Payments Eligible for Title IV-E

(1) Title IV-E allowable clothing expenses are based upon a consideration of what is necessary or required. For example, Title IV-E can be claimed if a child is required to have certain supplies for a specific school class project. Title IV-E should not be utilized for supplies needed for an after school enrichment program.

(2) Title IV-E allowable costs include, but are not limited to, locker and towel fees, art supplies, pencils, paper, necessary school clothing.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0365

Education Costs Not Eligible for Title IV-E

(1) Basic school costs are to be paid by local school districts.

(2) The Department's maximum payments for educational cost are outlined in I-E.5.2 Information Letter.

(3) The educational costs on the list below are not Title IV-E eligible. The Department may authorize the following allowable school costs if sufficient funds are available: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0370

Payment Method

(1) A CF 598 (Authorization and Vendor Invoice) must be completed in accordance with instruction and presented to the vendor.

(2) The CF 598 will authorize a maximum amount; however, the vendor may only bill the Department for the actual amount of purchase.

(3) A business will be reimbursed after submitting a CF 598 which certifies goods and/or services were rendered by the business in accordance with the CF 598.

(4) A person or party who has purchased goods or services will be reimbursed upon submitting the completed CF 598 along with original receipt(s) for each item purchased.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0380

Children in Non-Reimbursed Placement at Oregon State Hospital and Other Non-Reimbursed Providers

(1) The Department has established a procedure to provide personal allowances for children who are in custody of the Department and are placed in a non-reimbursed placement at SAIP, SCIP, and other non-reimbursed providers.

(2) Procedure:

(a) Determine if the children have benefits or resource coming in to their trust account. The Department staff can use the IFDF screen to see if the child has a balance in his/her trust account. If there is money in the trust account, the worker can initiate a CF 198 (Trust Action) monthly to receive payment for the child. Maximum monthly amount is not to exceed \$30.00;

(b) If the child does not have any benefits or resources coming in, then the allowance payment may be made from "Payments for

Special and/or Extraordinary Needs" using the individual the Department location cost center and an object code of 980.092, Personal Allowance. (This is an EAS object code). Department staff would initiate payment by completing a CF 294 (Administrative Expense Voucher) monthly, including the child's case number and person letter. Maximum monthly amount would be \$30.00.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 2-2006, f. & cert. ef. 2-1-06

Funeral and Burial Expense

413-090-0400

Purpose

The purpose of OAR 413-090-0400 to 413-090-0430 is to describe when the Department will pay for funeral and burial or cremation expenses for a child or young adult who dies while in the legal custody of the Department.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0405

Definitions

Definitions for OAR 413-090-0400 to 413-090-0430 are in OAR 413-090-0000.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 11-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0410

Eligibility for Payment

Funeral and burial or cremation expenses are only authorized for a child or young adult who is in the legal custody of the Department at the time of death and all other resources for payment of expenses, including parents, relatives, and guardians, have been explored.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0420

Payment Method

Payment by the Department will be by CF 294 (Administrative Expense Voucher). This expenditure will be charged to the branch Services and Supply allocation. Vendors must submit itemized billings on their letterhead.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 11-2003, f. & cert. ef. 1-7-03

413-090-0430

Allowable Costs

Funeral, burial or cremation expenses are to be borne by parents, relatives and guardians if at all possible. In the event the agency must cover costs, payment for funeral, burial or cremation expenses are not to exceed \$1,500. Exceptions can be made up to \$2,500 total with SDA Manager or designee approval. The following list specifies allowable expenses:

(1) Funeral Service:

(a) Transportation in excess of 25 miles for:

(A) First call;

(B) Funeral coach.

(2) Burial or Cremation:

(a) Cemetery burial:

(A) Endowment care, if provided by cemetery;

(B) Grave space;

(C) Outer case, opening and closing of grave.

(b) Indoor or Outdoor Mausoleum Burial:

(A) To be provided within total burial allowance;

(B) Opening, closing and lettering when crypt is already owned.

(c) Cremation Services:

(A) Cremation;

(B) Unpolished urn;

(C) Niche;

(D) Grave space for cremated remains;

(E) Interment of cremated remains;

(F) Endowment care when provided;

(G) Finished urn when an open-front niche is already owned;

(H) Transportation of cremated remains may be authorized by branch office in exceptional case.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99,

cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03

Payments for Providing Direct Client Legal Services

413-090-0500

Purpose

The purpose of OAR 413-090-0500 to 413-090-0550 is to establish the conditions under which the Department may issue a standard legal fees payment for the cost of providing direct client services in the establishment of court appointed guardianship of children in the care and custody of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; CWP 13-2015, f. & cert. ef. 8-4-

15

413-090-0510

Definitions

Definitions for OAR 413-090-0500 to 413-090-0550 are in OAR 413-090-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; CWP 13-2015, f. & cert. ef.

8-4-15

413-090-0520

Eligibility for Payment of Direct Client Legal Services

(1) DHS may consider making payments for direct client legal services for the establishment of uncontested guardianships for children in DHS's care and custody when it is documented that:

(a) The family is unable to pay for the services of a private attorney;

(b) No free legal resource is available to the client.

(c) When thoughtful and thorough decision-making has established guardianship as a permanency plan and it has been determined that the plan:

(A) Is in the best interests of the child;

(B) Offers a long-term commitment by the prospective guardian for stable and continuous care of the child until adulthood;

(C) Meets the prospective guardian and the child's wishes;

(D) Meets the child's need for stability and continuity of relationships;

(E) Assures the mental and physical health of all involved;

(F) Assures the guardian's ability to protect and support the child without the agency's help;

(G) Has the parent's consent, or the agency can show good cause such as the parent's incarceration, incapacity, or abandonment of the child;

(H) Assures the prospective guardian can appropriately manage the parent's involvement with the child.

(2) Payment may be considered even though the court's establishment of guardianship does not result in termination of all branch services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; SOSCF 5-2002, f. 3-28-02, cert. ef. 4-1-02

413-090-0530

Selecting an Attorney

Prospective guardians eligible for client legal services may choose a Department vendor attorney from the branch list or hire a private attorney.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; CWP 13-2015, f. & cert. ef. 8-4-15

413-090-0540

Rate of Payment for Legal Services

(1) The Department will pay the costs of establishing uncontested guardianships at the Department's currently established standard payment rate, plus reimbursement of personal costs incurred for court fees and the filing of mandatory court papers. Payments are made from the foster care prevention budget.

(2) Payment will be made after the guardianship is legally established and the branch receives a copy of the court order. Payment will be made after the guardianship is established to either the:

(a) Vendor attorney; or

(b) Family for reimbursement of the services of a private attorney. Payment to the family is limited to the amount of the contracted vendor payment standard plus reimbursement of mandatory court fees and filing costs.

(3) The family is responsible for all charges billed in excess of the Department's established standard payment rate when they choose to hire a private attorney.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; SOSCF 5-2002, f. 3-28-02, cert. ef. 4-1-02

413-090-0550

Court Order Content

Ideally, court orders resulting from these legal actions should:

(1) Specifically set forth the permanency plan;

(2) Terminate the Department's involvement/responsibility;

(3) Designate the responsibility of the parent(s) and the guardian. For example, court orders may state that the guardian has the duty to protect, feed, educate, shelter, and care for the child, as well as make decisions about the child's legal residence, the responsibility to enroll the child in school and get the child medical treatment, as well as having authority over the child's estate and assets.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98

DIVISION 100

SUBSTITUTE CARE — FUNDING ELIGIBILITY

Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility

413-100-0000

Purpose

The purpose of these rules, OAR 413-100-0000 to 413-100-0345, is to describe the Department's responsibilities and criteria for making Title IV-E eligibility determinations for children in substitute care for whom the Department has placement and care responsibility and Adoption Assistance and Guardianship Assistance Title IV-E eligibility determinations. These determinations are used to ensure proper federal reimbursement.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0010

Eligibility Requirements

(1) The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, took effect on June 17, 1980. It amended Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance and adoption assistance payments made on behalf of certain eligible children. The Adoption and Safe Families Act (ASFA) took effect on November 18, 1997, and enacted further federal requirements for claiming these funds and enhancing permanency for children. The Deficit Reduction Act of 2005 took effect on February 8, 2006, and further clarified the federal requirements for Title IV-E foster care maintenance, adoption assistance, medical coverage, and administrative funds.

(2) The Administration for Children and Families is the federal agency that adopts regulations and monitors the States' Title IV-E foster care and adoption assistance programs. Oregon's Title IV-E program is administered by the Department of Human Services. The Department of Human Services acts as the applicant for the child and provides Title IV-E foster care payments to foster parents on behalf of eligible children, consistent with:

(a) The standards established by state and federal legislation and regulations, federal policy, and the State plan for the Title IV-E program; and

(b) The established financial and parental deprivation standards for the Aid to Families with Dependent Children (AFDC) program, which was in effect on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

(3) The Fostering Connections to Success and Increasing Adoptions Act of 2008 (122 Stat. 3949-3981) was signed into law on October 7, 2008 enacting further federal requirements to help youth in foster care by promoting permanent families for children and young adults through relative guardianship and adoption and improving education and health care. Additionally:

(a) Effective April 1, 2010, the Act delinks Title IV-E eligibility redeterminations from AFDC eligibility; and

(b) Effective October 1, 2010, the Act extends federal support for young adults in foster care, guardianship, and adoption through 20 years of age.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0020

Definitions

The following definitions apply to OAR 413-100-0000 to 413-100-0345:

(1) "AFDC" means the Aid to Families with Dependent Children Program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

(2) "Assistance unit" means a group of individuals whose needs, income, and resources are considered together to determine their public assistance eligibility and the grant amount.

(3) "Child" means a person under 18 years of age.

(4) "Child care institution" means a private child care institution, or a public child care institution which accommodates no more than 25 children, licensed by the state or tribe in which it is situated or approved by the agency of the state or tribal licensing authority (with respect to child care institutions on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing or approval. "Child care institution" does not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(5) "Child support" means any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.

(6) "Constructive removal" means the non-physical, paper, or legal removal of a child who is not living with a specified relative when the voluntary custody or voluntary placement agreement is signed or the judicial order is entered. Constructive removal is described further in OAR 413-100-0135(3)(b).

(7) "Countable income" means the amount of available income, including earned and unearned income not specifically excluded by OAR 461-140-0040, used to determine eligibility for public assistance.

(8) "Date the child is considered to have entered foster care" means the earlier of the following:

(a) The date that the court found the child to be within the jurisdiction of the court under ORS 419B.100; or

(b) 60 days from the date of removal.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "Earned income" means all legal reportable income resulting from an individual's employment or self-employment.

(11) "Eligibility month" means:

(a) The month in which the court was petitioned or court action was initiated that resulted in the child's "constructive" or "physical" removal from the home of his or her specified relative; or

(b) The month a voluntary custody or voluntary placement agreement is signed.

(12) "Family" means for purposes of determining Title IV-E foster care eligibility under these rules, the parent or parents, step-parent, or relative or relatives from whom the child is removed.

(13) "First cousin once-removed" means a child of a first cousin.

(14) "Foster care" means 24 hour substitute care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the child, whether

adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.

(15) "Foster home", as defined in ORS 418.625(3), means any home maintained by a person who has under the care of the person in such home any child under the age of 21 years unattended by the child's parent or guardian, for the purpose of providing such child with care, food, and lodging. This definition does not include any foster home under the direct supervision of a private child caring agency or institution certified by the Department, any home under the direct supervision of a custodial parent for the purpose of providing respite care, or any developmental disability child foster home as defined in ORS 443.830.

(16) "Incapacity" means a physical or mental defect, illness, or impairment that reduces substantially or eliminates the individual's ability to support or care for the child and may be expected to last a period of at least 30 days.

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

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

(18) "Need" means, using the Department AFDC standards, the monetary amount by which an individual or family's requirements exceeds all of the income and resources available to the individual or family.

(19) "Nunc pro tunc order" means, under Oregon law, a court order that restores to the record an action that actually occurred, but was inadvertently or mistakenly omitted from the record.

(20) "Parent" means, under the AFDC rules in effect on July 16, 1996, the biological or legal (step or adoptive) mother or father of a person.

(a) If the mother lives with a male, who either she or he claims is the father of the child, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) The Voluntary Acknowledgment Form (HS 45-21, available from Vital Statistics) jointly signed by the mother and putative father, is a legal document that establishes paternity and allows the father's name to be added to the birth certificate.

(c) A stepparent relationship exists if:

(A) The person is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(d) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent, who is the adoptive parent, has given up care, control, and supervision of the child.

(21) "Payment or need standard" means the amount set by the Department as the AFDC net income limit. It is used to determine the actual grant amount. This amount refers to the payment or need standard in effect on July 16, 1996.

(22) "Physical removal" means the removal of a child that occurs when a child is placed in substitute care, who was living with the specified relative when the voluntary custody or voluntary placement agreement was signed or court proceedings were initiated.

(23) "Removal home" means the home from which the child was removed as a result of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR 413-100-0135(3).

(24) "Resource" means any personal or real property that is or can be made available to meet the need of the assistance unit that the Department does not specifically exclude from consideration.

(25) "Specified relative" means:

(a) A parent as defined in this rule;

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological parent are half-blood relatives);

(c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed;

(d) A person who legally adopts a child or the child's parent, other legally adopted children of such persons, and any persons related to the child through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;

(e) A stepmother, stepfather, stepbrother, or stepsister; or

(f) A spouse of anyone listed in subsections (b) to (e) of this section, even if the marriage is terminated by death or divorce.

(26) "Unearned income" means all income that does not directly result from an individual's employment or self-employment.

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

Stat. Auth.: ORS 409.010, 409.050, 418.005 & 418.625

Stats. Implemented: ORS 409.010, 409.050, 418.005 & 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 11-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 21-2008, f. & cert. ef. 9-2-08; CWP 19-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0030

Certification Documentation Requirements for Title IV-E Foster Care

(1) Documentation of a certificate or license is required in the case file, certification file, or licensing file.

(2) The following documentation is required for an out-of-state foster home placement:

(a) Verification that the out-of-state foster home or child caring agency is certified, licensed, or approved by the agency in that state which is responsible for licensing or approval of such facilities; or

(b) In states where relative homes are not certified, a statement in writing that the home would meet the state's standards for certification or licensure, including a statement of the period of time for which a formal license or certificate would be issued for that home and a copy of the verification that a criminal history check was completed and approved.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0060

Title IV-E Reimbursable Placements and Payments

(1) To be Title IV-E eligible and reimbursable, a child or young adult must be placed in a Title IV-E reimbursable placement.

(2) Reimbursable Placements. There are four types of out-of-home placements that meet the Title IV-E foster care definition of a reimbursable placement. They are:

(a) The home of a certified non-relative foster parent;

(b) The home of a certified relative caregiver;

(c) A private, non-medical group home or crisis residential center licensed by the state; or

(d) A public non-medical group home or child caring agency with a licensed capacity of less than 26 beds.

(3) Foster care maintenance payments are made only on behalf of an eligible child or young adult who is:

(a) In the foster family home of an individual, whether the payments are made to such individual, a public or private child placement, or a child caring agency; or

(b) In a child care institution, whether the payments are made to such institution, a public or private child placement, or a child caring agency.

(4) Reimbursable Payments. Title IV-E foster care maintenance payments for a child or young adult in foster care may cover expenses listed in the following subsections:

(a) The cost for and the cost of providing food, clothing, shelter, daily supervision, school supplies, a child or young adult's personal incidentals, liability insurance with respect to the child or young adult, and reasonable travel to the child or young adult's home for visitation with family or other caretakers, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. Local travel associated with providing the items listed in this subsection also is an allowable expense.

(b) For a child care institution, the Title IV-E foster care maintenance payment must include reimbursement for the institution's reasonable administrative and operating expenses required to provide the items described in subsection (a) of this section.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0070

Application for Title IV-E Foster Care

(1) A child or young adult in substitute care for whom the Department has responsibility for placement and care must be referred for a Title IV-E eligibility determination.

(2) Under no circumstances may Title IV-E foster care eligibility or reimbursement be authorized on behalf of any child or young adult prior to the establishment of eligibility by the Department's Title IV-E Eligibility Specialist. A child or young adult may not be Title IV-E eligible based on presumed eligibility.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0080

Effective Eligibility Date

The effective date of a child or young adult's Title IV-E eligibility is the date when all of the other eligibility criteria prescribed in OAR 413-100-0020 to 413-100-0320 are met and one of the following applies:

(1) The date of the child or young adult's placement in substitute care, if the Department is responsible for the child or young adult's placement and care.

(2) The first of the month in which the Department obtains responsibility for the child or young adult's placement and care if the child or young adult enters substitute care prior to the Department obtaining placement and care responsibility.

(3) The first of the month in which the "reasonable efforts" finding is made when the court delays making the finding, as long as the Reasonable Efforts to Prevent the Removal finding is obtained within 60 days of placement.

(4) When the Department has retained responsibility for placement and care and the child or young adult is returning to foster care from a trial home visit, the placement date or the date that the child or young adult meets all Title IV-E eligibility criteria after a Title IV-E redetermination of eligibility under OAR 413-100-0270 is completed.

(5) When the Department has retained responsibility for placement and care and the court has retained wardship, and the child or young adult returning to foster care is not considered to have been on a trial home visit, the date the Department completes a new Title IV-E eligibility determination under these rules, OAR 413-100-0000 to 413-100-0345.

(6) The first of the month in which the voluntary placement agreement or voluntary custody agreement is signed by each party, if placement occurs prior to the signing of the agreement.

(7) The date of placement in a certified relative caregiver home when the relative has received a TANF non-needy (NNR) grant and repayment is authorized to the TANF agency.

(8) The effective certification date of the relative caregiver's home when a TANF non-needy (NNR) grant has not been received.

(9) The effective certification date when the Department of Human Services Financial Services unit has reimbursed the Department of Human Services Office of Self Sufficiency Programs for the relative caregiver's TANF non-needy (NNR) grant retroactive to the certification date.

(10) The first of the month in which a non-certified home becomes certified, if the child or young adult was placed in the home at that time.

(11) When applicable, the date the child or young adult is no longer receiving SSI benefits.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0090

Retroactive Eligibility

(1) Title IV-E eligibility may be opened and claimed retroactively for up to two years when the requirements of one of the following subsections are met:

(a) An otherwise eligible child's application was held while awaiting financial information.

(b) A *nunc pro tunc order* is issued that gives retroactive effect to the judicial finding or findings included in the order, but only if a court transcript of the court hearing is provided that documents that the judicial finding was made in the original court hearing.

(c) A referral for a Title IV-E *foster care* eligibility determination was not timely.

(d) Information becomes available which proves that the denial of the child's Title IV-E eligibility, the determination that the placement was not Title IV E reimbursable, or the determination that the cost of the child's care was temporarily non-reimbursable by the Title IV-E specialist was incorrect.

(2) The effective date of eligibility for cases pending for judicial finding requirements under subsections (1)(a) and (1)(b) of this rule is:

(a) The first of the month in which the judicial finding is made; or

(b) The first of the month in which an existing order is modified to reflect that a Reasonable Efforts to Prevent removal finding previously was made as long as the modification is made within 60 days of placement and a transcript of the court hearing is provided that documents the judicial finding was made in the original court hearing.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0110

Effective Closure Date

The effective closure date for cases no longer meeting Title IV-E eligibility criteria is the earliest of the following:

(1) The end of the month in which eligibility ceased to exist.

(2) Retroactive to the end of the month in which eligibility ceased to exist, even if the information that ended the child or young adult's eligibility became known to the Department after the fact.

(3) The date that the custodial or non-custodial parent or the parents establish residency in the home in which the child or young adult resides if one or both parents are providing caretaking responsibility for the child or young adult.

(4) The date the foster parent or relative caregiver's certificate of approval or a child caring agency's license expires or is revoked.

(5) The 181st day of placement for a voluntary placement if a court has not approved the continuation of the placement within 180 days of the date that the child or young adult was placed. The placement date, not the date that the agreement was signed, begins the 180-day count.

(6) The date of the child or young adult's placement in a facility that is considered to be outside the scope of foster care.

(7) The date that the Department ceases to have responsibility for the placement and care of the child or young adult.

(8) The date the child is emancipated.

(9) The date the young adult no longer meets the age requirements for Title IV-E eligibility under OAR 413-100-0230.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0120

Verification of Eligibility

(1) When the Department determines a child or young adult is ineligible for Title IV-E foster care, based on the information available at the time of the initial determination, the child or young adult is not eligible for Title IV-E foster care maintenance payments for the entire duration of that substitute care episode.

(2) To verify Title IV-E foster care eligibility, the Department must obtain acceptable documentary evidence to support certain eligibility factors. The Department determines which eligibility factors require verification and the types of acceptable documentary evidence. The Department may:

(a) Decide to require verification of additional eligibility factors; and

(b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.

(3) Verification is required for the following eligibility factors:

- (a) Residency;
- (b) U.S. Citizenship status;
- (c) Age;
- (d) Removal from the home of the specified relative;
- (e) Judicial language in Court Orders;
- (f) Countable family, child, or young adult income and benefits;

(g) Parental deprivation;

(h) Family, child, or young adult resources; and

(i) The child or young adult is placed in a certified foster or relative caregiver's home or a licensed child caring agency.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0130

Eligibility Determinations — AFDC Linkage

(1) For an initial Title IV-E eligibility determination, the Department reconstructs the facts of the removal home to determine if the child or young adult, in the eligibility month, received AFDC or would have been eligible to receive AFDC under rules in effect on July 16, 1996, had an application been made.

(2) AFDC Relatedness. The child or young adult meets the "AFDC relatedness" test if the requirements of one of the following subsections are met:

(a) The child:

(A) Lived with the specified relative within six months of removal;

(B) Received or would have been eligible to receive AFDC in the removal home under the rules in effect on July 16, 1996, in the eligibility month had an application been made; and

(C) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

(b) The young adult:

(A) Lived with the specified relative within six months of removal prior to age 18;

(B) Received or would have been eligible to receive AFDC in the removal home under the rules in effect on July 16, 1996, in the eligibility month, had an application been made; and

(C) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0135

Eligibility Determinations — Living with a "Specified Relative" and "Removal"

(1) Specified Relative Requirements. To meet Title IV-E eligibility requirements the child or young adult, at the time of the child's removal from his or her home, must have been living with and removed from the same specified relative, as defined in OAR 413-100-0020.

(2) Removal Requirements for a child age 17 or younger. To meet Title IV-E eligibility requirements, the child's removal from the home must occur pursuant to:

(a) A voluntary custody agreement or voluntary placement agreement, signed by a parent or specified relative, that results in the "physical" or "constructive" removal of the child from the home; or

(b) A judicial order that requires the child's "physical" or "constructive" removal from the parent or specified relative and gives the Department responsibility for the placement and care of the child.

(3) Removal Requirements for a young adult age 18, 19 or 20. To meet Title IV-E eligibility requirements, the young adult's removal from the home must occur pursuant to:

(a) Court ordered removal prior to age 18. A judicial order that requires the child's "physical" or "constructive" removal from the parent or specified relative and gives the Department responsibility for the placement and care of the child. No new court ordered removal is required at the age of 18 or older to remain eligible for Title IV-E foster care maintenance payments, as long as the young adult remains in continuous foster care.

(b) A voluntary placement agreement prior to age 18, signed by a parent or specified relative, that results in the "physical" or "constructive" removal of the child from the home. No new voluntary placement agreement is required after the young adult attains the age of 18 for Title IV-E purposes as long as the young adult remains in continuous foster care.

(4) Removal Home Requirements. Effective June 9, 2006, for Title IV-E eligibility purposes, the child's removal home must meet the requirements of one of the following subsections:

(a) Physical Removal. The Department considers a child's removal a physical removal when the judicial order or the signing of a voluntary custody or voluntary placement agreement results in the removal of the child from the physical custody of the parent or specified relative and gives the Department responsibility for the placement and care of the child.

(b) Constructive Removal. The Department considers a child's removal a constructive removal:

(A) When the child is living in the home of an interim caretaker (relative or non-relative) at the time of removal but the

child lived with a parent or specified relative within the six months prior to the judicial order, voluntary custody agreement, or voluntary placement agreement which resulted in the constructive removal of the child from the parent or specified relative and gave the Department responsibility for the placement and care of the child; or

(B) When the parent or specified relative and the child live in another relative's home, the Department considers the child's removal a constructive removal from the parent or specified relative if:

- (i) The parent or specified relative moves out of the home within the six months prior to the removal;
- (ii) The child remains in the relative's home; and
- (iii) Within six months of the date the parent or specified relative left the relative's home there is a judicial order or voluntary custody or placement agreement that results in the removal of the child from the parent or specified relative and gives the Department responsibility for the placement and care of the child.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 418.005 & 418.625

Hist.: SOSCF 20-2000(Temp), f. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 14-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 32-2011, f. 12-27-11, cert. ef. 12-28-11

413-100-0150

Parental Deprivation

(1) The continued absence of one or both birth or adoptive parents, or a stepparent from the home constitutes the basis for deprivation of parental support or care.

(2) Deprivation of parental support in relation to the home from which the child is removed exists when:

(a) Death of a parent. Either parent of a child is deceased.

(b) Continued absence of the parent from the home. There is a Continued Absence of one or both parents when:

(A) One or both parents are out of the home and the nature of this absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child;

(B) There is evidence of continued absence of over 30 days duration; or

(C) Predictable absence due to divorce, legal separation, incarceration, or other verified and documented circumstances.

(c) Physical or mental incapacity. Incapacity is documented as parental deprivation in a one-parent or two-parent household as follows:

(A) One or both parents' receipt of Supplemental Security Income (SSI) or being found eligible for Old-Age, Survivors, and Disability Insurance (OASDI) or SSI based on disability or blindness;

(B) One or both parents receive Social Security Benefits (SSB) based on disability or blindness; or

(C) One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the parent's ability to support or care for the child.

(d) Unemployment or underemployment may be documented as parental deprivation in a two-parent household if each parent meets one of the following criteria:

(A) Is working less than 100 hours per month; or

(B) Has a temporary one-month increase to over 100 hours, but:

(i) Worked less than 100 hours in each of the two previous months; and

(ii) Is expected to work less than 100 hours in the following month.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07;

CWP 6-2010, f. & cert. ef. 6-15-10; CWP 14-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 32-2011, f. 12-27-11, cert. ef. 12-28-11

413-100-0160

AFDC Eligibility — Financial Need

(1) A child removed from the home of a specified relative who was not receiving AFDC requires the Department to reconstruct the child's situation to determine whether under rules in effect on July 16, 1996 the child was AFDC eligible.

(2) If the child is physically removed from a parent's home:

(a) The Department:

(A) Considers the income and resources of the parent, parents, or stepparent from whom the child was removed in the eligibility month;

(B) Determines the countable gross earned income of all the family members in the assistance unit including the \$90 standard earned income deduction, when applicable;

(C) Determines the countable unearned income of all the family members in the assistance unit including the \$50 child support deduction, when applicable; and

(D) Excludes SSI or a combination of SSI and SSA benefits as countable income. The Department excludes the parent or child receiving SSI or a combination of SSI and other Social Security benefits and excludes them from the number in the household for AFDC calculations.

(b) An assistance unit is not eligible when all available countable earned and unearned income (in the eligibility month) exceeds the Adjusted Income payment or need standard under rules in effect on July 16, 1996.

(3) If a child is removed from a minor parent who resides in his or her parents' home, the minor parent's parents live together, and the minor parent is under age 18, has never married, and is not legally emancipated, the assets of the parents of the minor parent are deemed as follows:

(a) The resources of the parents of the minor parent are excluded.

(b) The income of the parents of the minor parent is deemed available to the minor parent if the minor parent and his or her child live with the parents of the minor parent.

(c) The amount of the deemed income of the parents of the minor parent is determined as follows:

(A) When applicable, a \$90 earned income deduction is allowed.

(B) The needs of the parents of the minor parent and their dependents, living in the same household and not included in the benefit group, are deducted at the AFDC Payment Standard.

(C) Amounts paid to the legal dependents of the parents of the minor parent not living in the household are deducted.

(D) Payments of alimony and child support are deducted.

(E) Any remaining income is countable deemed income to the minor parent.

(4) If a child is removed, physically or constructively, from the home of a specified relative who is not a parent of the child, the Department:

(a) Considers the child as a household of one;

(b) Determines the countable earned and unearned income and resources available to the child;

(c) Disregards the income and resources of each caretaker relative;

(d) Includes the child placed in substitute care in the household of one's assistance unit;

(e) Denies Title IV-E eligibility when all available countable income and unearned income (in the eligibility month) exceeds the No Adult payment or need standard for the ADC-BAS and Medically Needy programs under rules in effect on July 16, 1996.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0170

AFDC Eligibility — Resources

(1) An *assistance unit* is not eligible if in the *eligibility month* all available resources not excluded by Department rules in effect on July 16, 1996 exceed the *resource* limit.

(2) The *resource* limit is \$10,000.00. An *assistance unit* with resources in excess of \$10,000.00 is ineligible. The most common resources are motor vehicles and money, including cash, bank accounts, and federal and state income tax refunds.

(3) If an *assistance unit* has a licensed motor vehicle, only the first \$1,500 of equity value of the vehicle is exempt. Any equity over \$1,500 is counted toward the \$10,000.00 *resource* limit.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10

413-100-0180

AFDC Eligibility — Earned Income of Students

(1) A child or young adult with a GED or high school diploma and employed must have his or her earnings considered as income that reduces the maintenance payment, even if they are attending a secondary education program. Otherwise, the child or young adult is not eligible for Title IV-E foster care eligibility.

(2) Effective April 1, 2010, section (1) of this rule no longer applies to Title IV-E eligibility redeterminations.

(3) Earned income is not counted for:

(a) A child, 18 years old or younger, who is a full-time student in grade 12 or below (or the equivalent level of vocational training or GED courses); or

(b) A child, who is a full-time or part-time student (as defined by the institution) in grade 12 or below (or in the equivalent level of vocational training or GED courses), and not employed full-time.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0190

AFDC Eligibility — Unearned Income

(1) For Title IV-E foster care purposes, all unearned income and benefits potentially available to the child must be counted against his or her maintenance payment on a dollar-for-dollar basis.

(2) Benefits awarded to the child for which the Department is not yet payee and benefits not readily available to the child still must be counted.

(3) Effective April 1, 2010, sections (1) and (2) of this rule no longer apply to Title IV-E eligibility redeterminations.

(4) The following are examples of countable unearned income:

(a) All Social Security benefits;

(b) Veteran's benefits;

(c) Cash contributions from any source;

(d) State or private accident or disability payments;

(e) Personal injury settlements;

(f) Lump sum income (except SOIL and IRS recoveries and lump sum support payments applied in the month of receipt to offset prior months Title IV-E maintenance costs);

(g) Effective April 1, 2010, subsection (f) of this section no longer applies to Title IV-E eligibility redeterminations.

(h) Child support;

(i) Railroad Retirement and other pensions;

(j) Annuities, dividends, interest, royalties.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0200

AFDC Eligibility — Lump Sum Benefits

(1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid to the Department must be applied retroactively to reimburse the Department from the date paid placement was initiated. The Department must be the representative payee. This can be accomplished by contacting the Children's Benefit Unit of the Department.

(2) A Title IV-E eligible child receiving lump sum benefits exceeding the cost of care is ineligible for Title IV-E foster care during the months that the calculated lump sum exceeds the foster care maintenance payment.

(3) Effective April 1, 2010, sections (1) and (2) of this rule no longer apply to Title IV-E eligibility redeterminations.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0210

U.S. Citizenship and Qualified Aliens

A Title IV-E eligible child or young adult must be:

(1) A United States citizen; or

(2) A qualified alien is defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193. Under Section 431 of PRWORA a qualified alien's access to federal public benefits is restricted for five years beginning on the date of the alien's entry into the United States, unless subsection (b), (c), or (d) of this section applies. Under PRWORA a qualified alien is:

(a) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the "Act");

(b) An alien granted asylum under Section 208 of the Act;

(c) A refugee admitted to the United States under section 207 of the Act;

(d) An alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;

(e) An alien whose deportation is being withheld under Section 243(h) of the Act;

(f) An alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;

(g) If the child is a qualified alien who is placed with a qualified alien or United States citizen, the date the child entered the United States is irrelevant and the five-year restriction on federal public benefits does not apply; or

(h) If the child is a qualified alien who entered the United States on or after August 22, 1996, and is placed with an unqualified alien, the child would be subject to the five-year residency requirement for federal public benefits at section 403(a) of PRWORA unless the child is in one of the excepted groups identified at section 403(b).

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0220

Residency

There is no minimum time-of residency requirement for a child to be eligible for Title IV-E foster care. There need only be the intent that the child reside in the State of Oregon.

Stat. Auth.: ORS 409.010, 409.050 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0230

Age Requirements

To be Title IV-E eligible, at the time of removal an individual must be:

- (1) A child 17 years of age or younger.
- (2) At redetermination:
 - (a) A child, 17 years of age or younger;

(b) A young adult, 18 years of age, regularly attending school or training, and on track to obtain a high school diploma or equivalent.

(A) "Attending" means the student's full-time or half-time school attendance as defined by the school.

(B) A student is considered to be attending school for the full month in which the student completes or discontinues school or training.

(C) "Regularly attending school" means the student is enrolled in and attending any of the following:

- (i) A school in grade 12 or below;
- (ii) GED classes in lieu of high school; or
- (iii) A course of vocational or technical training in lieu of high school.

(D) A child is considered to be regularly attending school during a training program, vacation, illness, or family emergency.

(c) A young adult, 18 through 20 years of age, who is:

(A) Completing his or her secondary education or a program leading to an equivalent credential;

(B) Enrolled in an institution that provides post-secondary or vocational education;

(C) Participating in a program or activity designed to promote, or remove barriers to employment;

(D) Employed for at least 80 hours per month; or

(E) Determined unable to perform any of the activities in paragraphs (A) to (D) of this section due to a physical condition, mental disability or physical disability documented by medical evidence and regularly updated information in the case plan of the young adult.

Stat. Auth.: ORS 409.010, 409.050, 412.144 & 418.005

Stats. Implemented: ORS 409.010, 409.050, 412.144 & 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0240

Judicial Finding Requirements for Title IV-E Eligibility

(1) Contrary to the Welfare or Best Interest Findings Requirement. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement a child is not Title IV-E eligible for the duration of the substitute care episode, unless the first court ruling that addresses the removal includes a determination to the effect that continued residence in the home would be contrary to the welfare of the child or that placement would be in the best interest of the child.

(2) Reasonable Efforts Finding at Removal. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement a child is not Title IV-E eligible for the duration of the substitute care episode, unless a judicial finding is made, no later than 60 days from the date the child was removed, to the effect that reasonable efforts have been made to prevent or eliminate the need for removal or that reasonable efforts are not required to prevent a child's removal from the home or to reunify the child and family.

(3) When a court determines that reasonable efforts to return the child home are not required, a permanency hearing is held within 30 days of that determination, unless the requirements of the permanency hearing were fulfilled at the court hearing in which the court determined that reasonable efforts to reunify the child and family are not required. Reasonable efforts to prevent a child's removal from the home or to reunify the child and family are not required when the Department obtains a judicial finding that such efforts are not required because one or more of the following subsections applies:

(a) The court has determined that the parent has subjected the child to aggravated circumstances;

(b) As described in ORS 419B.340, the court has determined that the parent has been convicted of:

- (A) Murder of another child of the parent;
- (B) Voluntary manslaughter of another child of the parent;
- (C) Aiding or abetting, attempting, conspiring, or soliciting to commit an offense described in subparagraphs (A) or (B) of this subsection;

(D) A felony assault that results in serious bodily injury to the child or another child of the parent; or

(c) The parental rights of the parent with respect to a sibling have been terminated involuntarily.

(4) Annual Reasonable Efforts Finding.

(a) If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement unless a judicial finding is made, no later than 12 months from the date the child is considered to have entered foster care, to the effect that reasonable efforts have been made for reunification of the family or to achieve the permanency plan, the child is temporarily ineligible for Title IV-E foster care. The child remains temporarily ineligible for Title IV-E foster care until such a judicial finding is made.

(b) At least once every 12 months thereafter while the child or young adult is in foster care, unless a judicial determination of reasonable efforts to finalize a permanency plan is made, the child or young adult is temporarily ineligible for Title IV-E foster care. The date of the child or young adult's last judicial determination determines the date the next judicial determination is due. The child or young adult remains temporarily ineligible for Title IV-E foster care until such a judicial finding is made.

(5) Judicial orders concerning placements.

(a) If the court disagrees with the Department's placement recommendation, Title IV-E eligibility may continue if:

(A) The court heard the relevant testimony and will continue to work with all parties, including the Department, to make appropriate placement decisions; and

(B) The Department continues to have responsibility for the placement and care of the child or young adult.

(b) If the court recommends a placement or names the child or young adult's placement in the court order as an endorsement or approval of the Department's placement choice the child or young adult's Title IV-E foster care eligibility is not affected.

(6) Nunc Pro Tunc Orders. The Department considers a nunc pro tunc order to correct the omission of a "best interest" or "reasonable efforts" finding only if a court transcript accompanies the order and verifies that the judicial determination was made at the original removal hearing.

(7) A court order that references state or tribal law to substantiate judicial determinations is not acceptable, even if the law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal may be ordered only after reasonable efforts have been made.

Stat. Auth.: ORS 409.010, 409.050, 418.005 & 419B.340

Stats. Implemented: ORS 409.010, 409.050, 418.005 & 419B.340

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0250

Voluntary Custody and Voluntary Placement Agreements

(1) In accordance with ORS 412.084, when a child is in substitute care pursuant to a Voluntary Custody Agreement or Voluntary Placement Agreement, the Department must, within 180 days of the date of placement, obtain a judicial finding to the effect that continuation of the placement is in the best interest of the child. This best interest finding also is a requirement for continuation of the child's Title IV-E eligibility for more than 180 days. This judicial finding may be obtained in a court hearing or by a letter to the court that results in an ex parte court order containing the best

interest finding. Findings of reasonable efforts to prevent or eliminate the removal and to achieve the permanency plan are not required for Title IV-E eligibility.

(2) If the finding in section (1) of this rule is not made within the first 180 days after the placement, the child or young adult becomes ineligible for Title IV-E 181 days after the placement and is not Title IV-E eligible for the duration of the substitute care episode.

Stat. Auth.: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180 & 419B.185
 Stats. Implemented: ORS 409.010, 409.050, 412.084, 418.005, 419B.175, 419B.180 & 419B.185
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0260

Voluntary Relinquishments

(1) A child in placement based on a voluntary relinquishment is Title IV-E eligible if:

(a) Within 60 days of placement, or within six months of a voluntary relinquishment to a private adoption agency, the first court order issued has a judicial finding to the effect that remaining in the home would be “contrary to the welfare” of the child or “placement is in the child’s best interest”; and

(b) Within 60 days of placement, there is a judicial finding to the effect that “reasonable efforts” have been made to prevent or eliminate the need for removal from the home.

(2) When all other eligibility criteria are met, Title IV-E eligibility is effective the first of the month in which the judicial finding was made.

Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0270

Title IV-E Foster Care Eligibility Redetermination

(1) The Department must redetermine, for each month a child or young adult is in substitute care, whether the child or young adult continues to be Title IV-E eligible. This redetermination must be completed no later than 12 months from the date the child is considered to have entered foster care, and every 12 months thereafter for the duration of the child or young adult’s substitute care episode. Eligibility may resume the first of the month in which all eligibility criteria are met.

(2) A child or young adult may lose and regain eligibility. The loss of eligibility in any one month does not permanently end the child or young adult’s eligibility in future months.

(3) Title IV-E Specialists must redetermine the child or young adult’s circumstances to ensure the child or young adult continues to meet all of the following criteria for continued Title IV E eligibility:

(a) The child or young adult must continue to meet the age requirements under OAR 413-100-0230;

(b) The judicial finding requirements under OAR 413-100-0240 continue to be met; and

(c) The child or young adult was placed in a fully certified foster or relative caregiver home or with a licensed child caring agency during the redetermination period.

Stat. Auth.: ORS 409.010, 409.050 & 418.005
 Stats. Implemented: ORS 409.010, 409.050 & 418.005
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0280

Redetermination of Deprivation at Relinquishment or Termination of Parental Rights

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (122 Stat. 3949-3981) delinked Title IV-E eligi-

bility redeterminations from AFDC eligibility, effective April 1, 2010. A redetermination of deprivation at relinquishment or termination of parental rights is no longer required.

Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0300

Parental Referral to Division of Child Support

Unless an exception is granted pursuant to Child Welfare Policy I-E.7.1, “Child Support Referrals”, OAR 413-100-0800 to 413-100-0850, every case involving a Title IV-E eligible child must be referred to the Division of Child Support of the Oregon Department of Justice.

Stat. Auth.: ORS 409.010, 409.050 & 418.005
 Stats. Implemented: ORS 409.010, 409.050 & 418.005
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0310

Title XIX Medicaid Eligibility

A child found Title IV-E eligible is categorically eligible for Title XIX Medicaid benefits, as described in OAR 413-100-0430, except that a child found Title IV-E eligible who does not have a social security number is ineligible for Title XIX Medicaid benefits until a social security number application has been completed.

Stat. Auth.: ORS 409.010, 409.050 & 418.005
 Stats. Implemented: ORS 409.010, 409.050 & 418.005
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0320

Consolidated Omnibus Reconciliation Act (COBRA) and Title XIX Medicaid

(1) The COBRA of 1985, PL 99-272 enacted on April 7, 1986, permits a Title IV-E eligible child in paid substitute care or receiving adoption assistance to receive Title XIX Medicaid coverage from the state in which he or she resides.

(2) For a Title IV-E foster care eligible child being placed outside of Oregon, the Title IV-E Specialist must notify and provide the following documentation to the foster or adoptive parents:

(a) Confirmation of the child’s Title IV-E eligibility;

(b) Notification of the discontinuance of the child’s Oregon Medicaid coverage; and

(c) A letter stating the child’s eligibility under COBRA for applying for Title XIX Medicaid coverage in the child’s new state of residence.

Stat. Auth.: ORS 409.010, 409.050 & 418.005
 Stats. Implemented: 409.010, 409.050 & 418.005
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0335

Adoption Assistance Title IV-E Eligibility Determination

(1) To be eligible for Title IV-E adoption assistance through age 17, the child must:

(a) Meet the age and education requirements specified in OAR 413-100-0230; and

(b) Meet one of the applicable child eligibility criteria as specified in section (2) of this rule; or

(c) Meet one of the non-applicable child eligibility criteria specified in section (4) of this rule.

(d) Effective October 1, 2011, to be eligible for an extension of Title IV-E adoption assistance through age 20, the young adult must also be part of an adoption assistance agreement that was made effective after the child reached 16 years of age, but before the child attained 18 years of age.

(2) For the purposes of this rule, effective October 1, 2009, an “applicable child”, as defined in section 473(e) of the Social Security Act, is a child who meets the requirements of at least one of the following subsections:

(a) The child’s oldest age attained in the current federal fiscal year (October 1 through September 30) meets the applicable child age requirements;

(A) The applicable child age requirements are set forth in the following document, which by this reference, is incorporated into this rule; Applicable Child — Age Requirements.

(B) The Department maintains this document on the Department’s Child Welfare policy website at http://www.dhs.state.or.us/policy/childwelfare/cross_index.htm. A printed copy of this document may be obtained by contacting the Department of Human Services, Children, Adults and Families, Federal Compliance Unit, Attn: Title IV-E Federal Compliance Specialist, 500 Summer Street NE, Salem, Oregon 97301.

(b) The child has been in foster care under the responsibility of the Title IV-E agency for any 60 consecutive month period prior to finalization of the adoption; or

(c) The child is a sibling of another child the Department has determined is an applicable child and both children are placed in the same adoption arrangement.

(d) A child found to be an applicable child under subsections (2)(a) to (c) of this section must meet the applicable child eligibility requirements, inclusive of the special needs criteria, described in section 473(a)(2)(A)(ii) of the Social Security Act to be eligible for Title IV-E adoption assistance.

(3) An applicable child is not eligible for Title IV-E adoption assistance when:

(a) The child is not a citizen or resident of the United States; and

(b) The child was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

(c) A child that is not a citizen or resident of the United States, and was adopted outside of the U.S. or brought into the U.S. for the purpose of being adopted may be eligible for Title IV-E adoption assistance for any subsequent adoptions if the initial adoption fails and the child is placed into foster care. For the subsequent adoption, the child will have to meet the Title IV-E eligibility requirements under this rule.

(4) A child who does not meet the applicable child criteria in section (1) must qualify under one of the following subsections:

(a) The child’s eligibility for Title IV-E foster care was established at the time of removal.

(b) The child meets all eligibility requirements for Supplemental Security Income (SSI) benefits.

(c) The child’s payments in a certified family home or private child caring agency are covered by the foster care maintenance payment being made for his or her minor parent.

(d) The child’s eligibility for an adoption assistance payment was established for a prior adoption and the child is now available for adoption because of one of the following:

(A) The prior adoption has been dissolved and the parental rights of each adoptive parent have been terminated or relinquished; or

(B) Each adoptive parent of the child has died.

(5) Private Agency Adoptions: To be eligible for Title IV-E adoption assistance, a child voluntarily relinquished to a public or private nonprofit agency must meet all of the following criteria:

(a) The child meets the eligibility criteria for Supplemental Security Income (SSI);

(b) The child is in a subsequent adoption, if he or she received Title IV-E adoption assistance in a previous adoption;

(c) The child must meet the Title IV-E AFDC eligibility requirements (as described in OAR 413-100-0130 through 413-100-0230); and

(d) The child must meet Judicial Removal requirements, as described below:

(A) The child must be voluntarily relinquished either to the State agency (or another public agency [including Tribes] with

whom the State has a Title IV-E agreement), or to a private, nonprofit agency; and

(B) Within six months of the date the child last lived with a specified relative, a petition must be filed with the court to remove the child from the home; and

(C) The court must make a subsequent judicial determination to the effect that remaining in the home would be contrary to the child’s welfare.

(e) The child must meet the special needs criteria (as described in OAR 413-130-0020).

(f) Failure to meet any of the requirements listed above will result in a denial of Title IV-E adoption assistance eligibility.

(6) Independent Adoptions. To be eligible for Title IV-E adoption assistance, a child voluntarily relinquished to an individual must meet the following criteria:

(a) The child meets the eligibility criteria for Supplemental Security Income (SSI); or

(b) The child is in a subsequent adoption and he or she received Title IV-E adoption assistance in a previous adoption.

(c) The child must meet the special needs criteria (as described in OAR 413-130-0020).

(7) Eligibility after Removal from an Adoption Assistance Placement.

(a) Finalized Adoption: When a child in a finalized adoption is placed in substitute care:

(A) The local office must open a new case for the child; and

(B) The Title IV-E Specialist must perform an eligibility determination for Title IV-E foster care, based on the removal from the adoptive parents.

(b) Non-finalized Adoption: When a child in a non-finalized adoptive placement is placed in substitute care:

(A) The local office must open a substitute care service for the child; and

(B) The Title IV-E Specialist must perform an eligibility redetermination for Title IV-E foster care, based on the original removal of the child.

(8) Eligibility for Title IV-E adoption assistance may not be presumed for a child placed with a guardian, and receiving a guardianship assistance payment through the Department’s Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination (CF 969c) based on the original removal of the child.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 418.005 & 418.330 - 418.340

Stats. Implemented: ORS 418.005 & 418.330 - 418.340

Hist.: CWP 19-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

413-100-0345

Guardianship Assistance Eligibility

(1) To be eligible for Title IV-E guardianship assistance, the prospective guardian must meet the definition of a relative, as defined in Child Welfare Policy I-E.1.1, “Search for and Engagement of Relatives”, under OAR 413-070-0063(10).

(2) To be eligible for Title IV-E guardianship assistance through age 17, the child must:

(a) Meet the age and education requirements specified in OAR 413-100-0230; and

(b) Be a United States citizen or a qualified alien (see OAR 413-100-0210) and meet the requirements of at least one of the following subsections:

(A) The child must have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child and the child must be or have been eligible to receive a Title IV-E foster care maintenance payment while residing in the home of the prospective relative guardian who met all certification requirements for any six consecutive months;

(B) The child is in receipt of Supplemental Security Income (SSI) benefits and the child would be or would have been eligible to receive Title IV E foster care maintenance payments for six con-

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secutive months in the home of the prospective relative guardian; or

(C) The child is a sibling of another Title IV-E guardianship assistance eligible child who is or will be living with the same prospective relative guardian. The requirement for six consecutive months of eligibility for foster care maintenance payments under subsection (2)(a) of this section is waived for the sibling of the Title IV-E guardianship assistance eligible child.

(3) To be eligible for an extension of Title IV-E guardianship assistance through age 20, the young adult also must be part of a guardianship assistance agreement that was made effective after the child reached 16 years of age, but before the child attained 18 years of age.

(4) Eligibility for Title IV-E adoption assistance may not be presumed for a child placed with a guardian, and receiving a guardianship assistance payment through the Department's Guardianship Assistance program. The Title IV-E Specialist must complete an adoption assistance eligibility determination based on the original removal of the child.

(5) Removal from a guardianship placement (including guardianships established through or outside of the Guardianship Assistance program).

(a) Removal from a guardianship placement is considered a new removal for the Title IV-E Foster Care program, and an initial Title IV-E foster care eligibility determination is required when a child or young adult is removed from a guardianship placement:

(A) On the basis of a voluntary custody agreement or voluntary placement agreement, or

(B) As the result of a judicial determination that continuation in the home would be contrary to the welfare of the child.

(b) The Title IV-E foster care eligibility determination will be based on removal of the child or young adult from the guardian.

(c) If the child or young adult was removed from a guardianship assistance placement, the child or young adult's eligibility for Title IV-E guardianship assistance will resume if the child or young adult is later placed back with the same relative guardian.

(d) If the child or young adult is later placed with a different relative guardian, the Department must complete a new Title IV-E guardianship eligibility determination.

(6) Title IV-E Guardianship Assistance Eligibility Denial Notices and the Right to a Hearing

(a) Title IV-E Guardianship Assistance Denial Notices

(A) A "Denial of Title IV-E Guardianship Assistance Eligibility" form must be completed at the time of the child's Title IV-E eligibility denial for guardianship assistance.

(B) The "Denial of Title IV-E Guardianship Assistance Eligibility" form must be sent by certified mail (return receipt requested) to the prospective relative guardian when the child's eligibility for Title IV E guardianship assistance is denied.

(b) Rights for a Hearing

(A) When the "Denial of Title IV-E Guardianship Assistance Eligibility" form is mailed to the prospective relative guardian, information will be included about the prospective relative guardian's right to a hearing.

(B) If the prospective relative guardian does not agree with the Title IV-E eligibility decision that has been made, the prospective relative guardian has the right to request a contested case hearing under ORS 183, as described in Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 19-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 13-2011, f. & cert. ef. 6-30-11

Title XIX And General Assistance Medical Eligibility

413-100-0400

Purpose

The purpose of these rules (OAR 413-100-0400 to 413-100-0530) is to set forth policies and criteria the Department uses to determine eligibility for:

(1) Medical assistance under Title XIX of the Social Security Act for a child or young adult in substitute care and in the care and custody of the Department or another state;

(2) Medical assistance under Title XIX for a child or young adult under an adoption assistance agreement or guardianship assistance agreement through the Department or another state;

(3) General Assistance medical for a child or young adult who does not meet the eligibility criteria for Title XIX Medicaid;

(4) The Former Foster Care Youth Medical Program for individuals at least age 18 and under age 26; and

(5) Medical eligibility for children entering Oregon under an Interstate Compact for the Placement of Children (ICPC) or Interstate Compact on Adoption and Medical Assistance (ICAMA) agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04; CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0410

Definitions

As used in OAR 413-100-0400 to 413-100-0530:

(1) "Adjudication" means the legal process by which a child or young adult is under a court's jurisdiction as a result of having engaged in delinquent behavior and not having a legal guardian that could be responsible for the child or young adult.

(2) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the ongoing needs of the child or young adult. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

(3) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the pre-adoptive family or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(4) "Child" means a person under 18 years of age.

(5) "Children's Medical Unit" means the unit in Child Welfare Central Office where medical eligibility is completed for children in the ICPC, ICAMA and FFCY programs.

(6) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 which is a federal mandate that requires employers sponsoring group health plans for twenty (20) or more employees to offer continuation of coverage to employees, their spouses, and dependent children who become unemployed.

(7) "Custody" means legal custody described in ORS 419B.373.

(8) "Department" means the Department of Human Services, Child Welfare.

(9) "Former Foster Care Youth Medical Program" or "FFCY" means a medical program for individuals at least age 18 and under age 26 who were formerly in foster care and meet the program requirements in OAR 413-100-0457.

(10) "Foster care" means 24 hour substitute care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.

(11) "General Assistance" means services paid using the state General Fund.

(12) “Guardianship assistance” means assistance on behalf of an eligible child or young adult to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the child or young adult. “Guardianship assistance” may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(13) “Guardianship assistance agreement” means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(14) “ICAMA” means the Interstate Compact on Adoption and Medical Assistance, which was established in 1986 to safeguard and protect the interstate interests of children covered by an adoption assistance agreement when they move or are adopted across state lines.

(15) “ICPC” means the Interstate Compact for the Placement of Children. It is an agreement among states to coordinate the transfer and placement of children across state lines. (See ORS 417.200)

(16) “Independent Living Program” or “ILP” means the services provided by the Department to an eligible foster child or former foster child.

(17) “OCCS Medical” means Title XIX and Title XXI Medical provided through the Office of Client and Community Services under the Oregon Health Authority.

(18) “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.

(19) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(20) “Title IV-E” means Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance, adoption assistance, and guardianship assistance on behalf of certain eligible children and young adults.

(21) “Title XIX Medicaid” means federal and state funded medical assistance established by Title XIX of the Social Security Act.

(22) “Young adult” means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04; CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

Title XIX Policy

413-100-0420

Child Welfare Title XIX Medicaid Program Eligible Populations

Only the following children and young adults may be eligible for Child Welfare Title XIX Medicaid:

(1) A child or young adult in substitute care, which may include:

(a) A child or young adult in foster care.

(b) A child or young adult receiving Supplemental Security Income (SSI).

(c) A child or young adult held temporarily in a county or state juvenile detention facility.

(d) A child or young adult in a subsidized Independent Living Program.

(e) A child or young adult who returned home in a trial reunification for up to six months.

(f) A child or young adult in a pre-adoptive placement.

(g) A child or young adult on runaway status who would otherwise be in substitute care, as long as the Department retains custody of the child or young adult and the child or young adult would

continue to be in substitute care and Child Welfare Title XIX Medicaid eligible if not on runaway status.

(h) A child or young adult hospitalized while under the Department’s protective custody is eligible, if at the time of hospitalization, the Department’s intent was to place the child or young adult in substitute care.

(i) A child or young adult from Oregon placed in substitute care in another state through ICPC and the receiving state has denied the child or young adult medical coverage.

(j) A child or young adult admitted to the hospital prior to entering substitute care and a newborn released from the hospital into substitute care. Eligibility for a child or young adult is effective on the date the Department finds the child or young adult is eligible but not earlier than the date the Department obtains custody of the child or young adult.

(k) Newborns in the following situations:

(A) A baby born to a mother receiving medical benefits under Title XIX Medicaid from the Oregon Health Authority is eligible for Title XIX Medicaid due to the mother’s coverage.

(B) A baby born to a mother not receiving medical benefits under Title XIX Medicaid from the Oregon Health Authority, to ensure coverage of birth expenses if:

(i) The Department obtains custody of the baby during its hospitalization; and

(ii) Child Welfare Title XIX Medicaid coverage is entered in the Department’s electronic information system effective the date of birth.

(2) A child or young adult who is the subject of an effective adoption assistance agreement administered by the Department.

(3) A child or young adult who is the subject of an effective guardianship assistance agreement administered by the Department.

(4) Individuals at least age 18 and under age 26 who meet the eligibility criteria for the Former Foster Care Youth Medical Program (see OAR 413-100-0457).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04; CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

Eligibility Factors

413-100-0430

Eligibility Determination for a Child or Young Adult in Substitute Care

Except as provided in OAR 413-100-0435(7), the following policies apply to a child or young adult in substitute care:

(1) Before a child or young adult in substitute care may receive a medical card providing Child Welfare Title XIX Medicaid services, the Department must determine the eligibility of the child or young adult for Child Welfare Title XIX Medicaid.

(2) A child or young adult covered by OAR 413-100-0420 who meets one of the following criteria is categorically eligible for Child Welfare Title XIX Medicaid:

(a) Is eligible for Title IV-E foster care payments; or

(b) Is receiving Supplemental Security Income (SSI).

(3) As part of the eligibility determination for Child Welfare Title XIX Medicaid:

(a) The child or young adult must meet the citizenship and alien status requirements in OAR 413-100-0460.

(b) All income and resources will be disregarded except as described in (3)(d) of this section.

(c) The child or young adult must have a verified Social Security number (SSN) or verification that an application for an SSN has been made and is documented in the case file.

(d) The Department must determine if the child or young adult has other insurance.

(A) All known or potential health insurance benefits or resources and all other third-party medical benefits, including casualty insurance available to the child or young adult, must be assigned to the Department.

(B) The form MSC 415H, "Notification of Other Health Insurance", must be completed by a parent or the caseworker and sent to the Department for every child or young adult with health insurance coverage.

(4) Except when a child or young adult is determined eligible for Child Welfare Title XIX Medicaid under OAR 413-100-0435, coverage ends the day the child or young adult leaves state custody, or enrolls into OCCS Medical.

(5) General Assistance coverage will be provided when a child or young adult in substitute care does not meet the eligibility requirements for Child Welfare Title XIX Medicaid coverage. Eligibility redeterminations for a child or young adult receiving General Assistance must be completed every 12 months.

(6) Redetermination of the eligibility of each child or young adult for Child Welfare Title XIX Medicaid must be reviewed every 12 months.

(7) Retroactive Title XIX Medicaid or General Assistance eligibility.

(a) A child or young adult receiving medical assistance through General Assistance rather than through Child Welfare Title XIX Medicaid due solely to the lack of a Social Security number (SSN) is eligible for Child Welfare Title XIX Medicaid retroactive to the date of placement once the Department receives verification of an application for an SSN from the Social Security Administration.

(b) A child or young adult in substitute care may be enrolled into Title XIX Medicaid or General Assistance retroactively to the date of initial placement, if not done on date of placement.

(c) A child or young adult who has been found to have dual prime numbers in the Medicaid Management Information System (MMIS) may receive retroactive coverage to the earliest date of coverage for either prime number.

(8) Corrections to the record of the child or young adult in the Department's electronic information system may be made when it has been determined that the child or young adult was incorrectly shown as Child Welfare Title XIX Medicaid eligible for prior months.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04; CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0432

Payments for Services Provided in Emergency Situations When a Child or Young Adult is Not Enrolled in Title XIX Medicaid

Payment may be made for emergency medical services only for a child or young adult in the Department's care or custody. The payment is made from the local office's "Other Medical" budget.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0435

Title XIX Medicaid Eligibility for a Child or Young Adult Receiving Adoption Assistance or Guardianship Assistance

(1) The Child Welfare Post Adoption Program will determine and maintain Child Welfare Title XIX Medicaid eligibility for the following children and young adults:

(a) A child or young adult who has exited Department custody as the result of a finalized adoption, and the child or young adult is the subject of an effective adoption assistance agreement administered by the Department. Prior to the adoption finalization the child or young adult receives medical coverage as described in OAR 413-100-0430.

(b) A child or young adult who is determined eligible for guardianship assistance and is the subject of an effective guardianship assistance agreement administered by the Department.

(c) A child or young adult who is the subject of an adoption that does not require the Department's consent and is the subject of an effective adoption assistance agreement administered by the Department.

(2) Before a child or young adult described in section (1) of this rule may receive a medical card providing Child Welfare Title XIX Medicaid services, the Child Welfare Post Adoption Program must determine the eligibility of the child or young adult for Child Welfare Title XIX Medicaid.

(3) The requirements listed in OAR 413-100-0430(3) also apply to children and young adults described in section (1) of this rule.

(4) A child or young adult described in section (1) of this rule who is the subject of a guardianship assistance agreement where Title IV-E funded payments are being made to the guardian is eligible for Child Welfare Title XIX Medicaid.

(5) A child or young adult described in section (1) of this rule who is the subject of an adoption assistance agreement where the pre-adoptive parent or adoptive parent is eligible to receive a Title IV-E funded payment is eligible for Child Welfare Title XIX Medicaid.

(6) A child or young adult described in section (1) of this rule who is the subject of an adoption assistance agreement, where the child or young adult was eligible for Child Welfare Title XIX Medicaid while in substitute care but ineligible for Title IV-E foster care, will be determined eligible and provided Child Welfare Title XIX Medicaid.

(7) A child or young adult described in section (1) of this rule determined ineligible to receive Child Welfare Title XIX Medicaid will be provided General Assistance medical when:

(a) The child or young adult resides in Oregon; or

(b) The child or young adult resides outside of Oregon but in the United States or a territory or possession thereof and is not able to receive medical assistance through the state of residence.

(8) Annual redeterminations are not required for children and young adults under a finalized adoption assistance agreement or guardianship assistance agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0445

Youth in Detention

(1) Except as provided in section (2) of this rule, an individual held in a county or state juvenile detention facility is ineligible for Child Welfare Title XIX Medicaid or General Assistance medical coverage.

(2) An individual held in a county or state juvenile detention facility may be eligible for new or continuation of Child Welfare Title XIX Medicaid or General Assistance medical coverage under the following situations:

(a) If the child or young adult is in detention and going back to substitute care.

(b) When the child or young adult is in Child Welfare care or custody and will be in a detention facility temporarily.

(3) Child Welfare Title XIX Medicaid or General Assistance medical coverage will be closed after adjudication when the child or young adult is placed in the care and custody of the Oregon Youth Authority.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04; Renumbered from 413-100-0590 by CWP 11-2013, f. & cert. ef. 12-31-13; CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0451

Interstate Compact for the Placement of Children (ICPC) and Interstate Compact on Adoption and Medical Assistance (ICAMA)

(1) The Children's Medical Unit will determine and maintain Title XIX Medicaid eligibility for a child or young adult placed in Oregon from another state pursuant to an approved ICPC request or eligible for medical assistance in Oregon under ICAMA.

(2) A child or young adult placed in Oregon pursuant to an approved ICPC request is eligible for medical assistance in Oregon when at least one of the following criteria are met:

(a) The child or young adult is placed in substitute care in Oregon;

(b) The child or young adult is placed in a psychiatric or behavioral residential treatment facility in Oregon and intends to remain in Oregon permanently; or

(c) The child or young adult is placed in a psychiatric or behavioral residential treatment facility in Oregon and has been determined Title IV-E eligible.

(3) A child or young adult is eligible for medical assistance in Oregon under ICAMA when the child or young adult is the subject of an effective adoption assistance agreement or guardianship assistance agreement administered by an agency other than the Department and meets one of the following criteria:

(a) The agreement is Title IV-E funded and the child or young adult is residing in Oregon;

(b) The agreement is Title IV-E funded and the child or young adult is placed in a psychiatric or behavioral residential treatment facility or living in a residential or boarding school in Oregon; or

(c) The agreement is non-Title IV-E funded and the parent or legal guardian of the child or young adult is residing in Oregon.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0455

Out-of-State Placements

(1) The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provides for Child Welfare Title XIX Medicaid coverage in the state of residence for a child or young adult receiving Title IV-E foster care payments.

(2) A child or young adult who is Title IV-E eligible in Oregon and placed in substitute care in another state is eligible for Title XIX Medicaid in the state of residence.

(3) A non-Title IV-E child or young adult in DHS care or custody and placed in another state must contact the Child Welfare Title XIX Medicaid agency in that state for a Title XIX Medicaid determination. If that state determines the child or young adult is

not eligible for Title XIX Medicaid, the child or young adult may be eligible for Oregon's Child Welfare Title XIX Medicaid or General Assistance medical if the child or young adult meets the eligibility requirements. (See OAR 413-100-0430)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04; Renumbered from 413-100-0580 by CWP 11-2013, f. & cert. ef. 12-31-13; CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0457

Former Foster Care Youth Medical Program

(1) This rule applies to all individuals considered for enrollment in the Former Foster Care Youth Medical Program on or after January 1, 2014.

(2) Individuals may not be eligible for the Former Foster Care Youth Medical Program with an effective date prior to January 1, 2014.

(3) There is no income test for the Former Foster Care Youth Medical Program.

(4) An individual is eligible for the Former Foster Care Youth Medical Program if the individual meets the requirements of all of the following subsections:

(a) Is an adult at least age 18 and under age 26.

(b) Was in foster care under the responsibility of the Department or tribe, and enrolled in Child Welfare Title XIX Medicaid upon attaining:

(A) Age 18, or

(B) If over 18, the age at which Oregon Medicaid or Oregon tribal foster care assistance ended under Title IV-E.

(c) Is not receiving Supplemental Security Income (SSI).

(d) Is not receiving adoption assistance or foster care maintenance payments.

Stat. Auth.: ORS 409.050, 411.404, 418.005

Stats. Implemented: ORS 409.010, 411.404, 418.005

Hist.: CWP 4-2014(Temp), f. & cert. ef. 2-4-14 thru 8-3-14; CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0460

Citizenship and Alienage

(1) To be eligible for medical assistance under Child Welfare Title XIX Medicaid, the child or young adult must meet the requirements of one of the following subsections:

(a) Be a United States citizen.

(b) Be a qualified non-citizen under section (2) of this rule who meets the alien status requirements in section (3) of this rule.

(c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands.

(d) Be a national from American Samoa or Swains Islands.

(2) An individual is a qualified non-citizen if the individual is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 USC 1101 et seq.).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 USC 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 USC 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 USC 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 USC 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 USC 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 USC 1153(a)(7)) as in effect prior to April 1, 1980.

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(g) A non-citizen who is a “Cuban and Haitian entrant” (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA.

(i) A battered spouse or dependent child who meets the requirements of 8 USC 1641(C) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(3) A qualified non-citizen meets the alien status requirements if the individual satisfies one of the following requirements:

(a) The individual is under 19 years of age.

(b) The individual was a qualified non-citizen before August 22, 1996.

(c) The individual physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date qualified non-citizen status was obtained.

(d) The individual has been granted any of the following alien statuses:

(A) Refugee under section 207 of the INA.

(B) Asylum under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) Immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 USC 7101 to 7112).

(G) A family member of a “victim of a severe form of trafficking in persons” who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 USC 7101 to 7112).

(H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(e) The individual is an American Indian born in Canada to whom the provisions of section 289 of the INA (8 USC 1359) apply.

(f) The individual is a member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 USC 450(e)).

(g) The individual is a veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 USC 5303A(d).

(h) The individual is a member of the United States Armed Forces on active duty (other than active duty for training).

(i) The individual is a spouse or a dependent child of an individual described in subsections (g) or (h) of this section.

(4) A non-citizen meets the alien status requirements if the individual is under the age of 19 and is one of the following:

(a) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.

(b) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the U.S. Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

(A) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a).

(B) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b).

(C) A Cuban-Haitian entrant, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended.

(D) A Family Unity beneficiary pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended.

(E) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President of the United States;

(F) An alien currently in deferred action status pursuant to U.S. Department of Homeland Security Operating Instruction OI 242.1(a)(22).

(G) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.

(c) An individual in non-immigrant classification under the INA who is permitted to remain in the United States for an indefinite period, including individuals as specified in section 101(a)(15) of the INA (8 USC 1101).

(5) In order for the Department to authorize benefits, there must be proof that a child or young adult is a United States citizen or is in the country legally. Birth certificates, citizenship papers, alien registration cards, permanent visas, and Cuban and Refugee registration cards may be used as proof.

(6) An individual granted status under the Deferred Action for Childhood Arrivals (DACA) program is not eligible for medical assistance under Child Welfare Title XIX Medicaid unless the individual qualifies for an immigration status that provides medical eligibility under this rule apart from the individual’s DACA status.

(7) A non-citizen whose immigration status cannot be verified at intake, but who declares a non-citizen status that in the absence of any contradictory evidence would qualify the non-citizen for full benefits, may be provided full benefits pending verification. There are no overpayments should the approved applicant’s status, upon verification, prove to be at the Citizen Alien Waived Emergent Medical (CAWEM) level only.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04; CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

413-100-0530

Compliance

(1) The Department is responsible for compliance with the requirements of the Office of Management and Budget, OMB Circular A-133, available at: http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2011.

(2) All cases to be reviewed by state auditors, including internal audits, or federal auditors are requested through the Department’s Federal Compliance Unit. All case material (eligibility and service records) are made available for review upon request. The cases are randomly selected and must meet the criteria specific to the requirements of state and federal auditors.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04; CWP 16-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; CWP 12-2014, f. & cert. ef. 6-12-14

Child Support Referrals

413-100-0800

Purpose

These rules explain the mandatory referrals of children in substitute care to the Oregon Child Support Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0810

Definitions

(1) "Assistant Director" means: the director of Children, Adults and Families (CAF) policy and programs of the Oregon Department of Human Services (DHS).

(2) "The Child Support Program" means: the Department of Human Services Children, Adults and Families (CAF) program that administers Social Security Title IV-D (child support) for Oregon.

(3) "Department of Justice Division of Child Support (DCS)" means: the division of the Oregon Department of Justice that is contracted by the Child Support Program to provide child support services for children who are receiving or formerly received public assistance.

(4) "Support" means: cash payments or other benefits that each parent has been ordered by a court or by administrative process, or has voluntarily agreed to provide for the benefit and maintenance of a child:

(a) "Child Support" means: payments that a parent has been ordered (or has agreed) to pay for the benefit of a child.

(b) "Medical Support" means: health insurance benefits, or payments for actual health services, that a parent has been ordered (or has agreed) to provide for the benefit of a child.

(5) "Referral" means: the actual notification to the Child Support Program that a child is in care; initiating the application for child support services. A referral may occur electronically or manually.

(6) "Exemption" means: excusing a parent from providing child support.

(7) "Perpetrator" means: an individual identified by DHS as responsible for child abuse or neglect in a Child Protective Services (CPS) Founded Disposition.

(8) "CPS Disposition" means: a finding that completes a Child Protective Services (CPS) Assessment. Dispositions are defined in OAR 413-020-0430(15) and are summarized as follows:

(a) "Founded" means: there is reasonable cause to believe that the child abuse or neglect occurred;

(b) "Unfounded" means: no evidence of child abuse or neglect was identified or disclosed; or

(c) "Unable to determine" means: some indications of child abuse/neglect exist, but there is insufficient data to confirm whether or not child abuse/neglect occurred.

(9) Legal Parent means: a legal mother or a legal father.

(10) Legal Mother means: the woman who gave birth to the child or a woman who has legally adopted the child;

(11) Legal Father means: the man who has established his parental rights in one of the following ways:

(a) The man was married to and cohabiting with the child's mother at the time of the child's conception is conclusively presumed to be the child's legal father unless he was sterile or impotent at the time of conception;

(b) The child's biological father established legal paternity by marrying the child's mother either before or after the child's birth;

(c) The biological father, with the child's mother, has filed a joint declaration of paternity with the Oregon Health Division Center for Health Statistics;

(d) A biological father whose legal paternity has been established by filiation proceedings;

(e) A father whose legal paternity has been established by an order, including adoption of the child; or

(f) If the child was born in a state other than Oregon, legal paternity may have been established by other means according to the laws of that state (e.g., common-law marriage).

(10) "Subrogated" means the assumption by DHS of another's legal right to collect child support.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0820

Informing Parents of Financial Obligations

The DHS worker shall inform the legal parents of children placed in substitute care placement with the state, that they will be referred to the Child Support Program. DCS will contact the parent/s regarding the support they each will be required to provide and will enforce collection of the support obligation. Benefits from an existing child support order from one parent to the other parent or another person is subrogated by law to DHS while the child is in a paid substitute care placement and child support arrears will be assigned as prescribed by law. When there is no legal parent, a referral so stating will be sent to the Child Support Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370, 419B

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0830

Referrals to the Child Support Program

Unless exempt, the legal parents of children placed in a paid substitute care placement in the care and custody of the DHS will be referred to the Child Support Program. Referral information will be reported to the Child Support Program electronically when substitute care information is entered on the DHS Integrated Information System (IIS). When legal parents are exempt from child support the reason for the exemption must be documented in the case file. Legal parents are exempt when:

(1) The legal parent of the child(ren) is deceased. DHS will, however, make application for survivors benefits and pursue resources for the child from the parent's estate where appropriate.

(2) The parent's rights are terminated by the court and DHS has permanent custody, or parent has voluntarily relinquished his/her rights for the purpose of adoption of the child.

(3) The parent has an exemption for good cause as follows:

(a) Temporary exemption for good cause:

(A) With the approval of the Assistant Director or Assistant Director's designee a child's legal parent may be exempt if the child's parent is receiving counseling from a public or private licensed agency to determine whether to keep or relinquish the child for adoption. A written statement from the DHS caseworker/community office is required; and

(B) Exemption for good cause shall not be approved for more than three months unless after three months the exemption is reestablished and approved by the Assistant Director or Assistant Director's designee. A written statement from the DHS caseworker/community office is required.

(C) The above exemptions shall not apply if there is an existing order of support for one parent to pay the other parent or another person for the subject child.

(b) If a child adopted through Oregon's DHS Adoption Program subsequently requires substitute care placement and if the child is approved for an adoption subsidy agreement, the subsidy shall be suspended or modified while the child is in care with the approval of the Assistant Director or the Assistant Director's designee a permanent good cause exemption shall be granted except in the following circumstances;

(A) The child is in care because of a Founded CPS Disposition and the perpetrator is the legal parent; or

(B) The Assistant Director determines it is not in the best interest of the child to grant an exemption.

(C) The above exemptions shall not apply if there is an existing order of support for one parent to pay the other parent or another person for the subject child.

(c) Permanent exemption of legal parents may be approved for good cause in the following situations:

(A) When there is documented evidence that the child was conceived as the result of incest or rape or legal proceedings for adoption are pending and establishing paternity would be detrimental to the child, the Assistant Director or the Assistant Director's designee may approve an exemption for an alleged father. The mother will be referred unless she meets the criteria for an exemption.

(B) If a child adopted through Oregon's Adoption Program or some other state's adoption program subsequently requires substitute care placement, the case may be considered for a permanent exemption on a case-by-case basis. If it appears that the child's current need for placement can be attributed to the child's genetic, developmental or social history prior to adoption and it is in the child's best interest, a permanent exemption may be granted. Such an exemption requires the approval of the Service Delivery Area manager and the Assistant Director;

(C) When it is in the best interest of a child, the Assistant Director may approve an exemption.

(D) The above exemptions shall not apply if there is an existing order of support for one parent to pay the other parent or another person for the care of the subject child.

(4) When the child has been legally adopted, the natural parent will be exempt effective the date of the adoption decree.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0840

Existing Support Orders

Information may be obtained from a support case to be used for the administration of DHS programs. This information may be entered on the DHS Integrated Information System (IIS) when verified. Information from child support screens may not be used to locate relatives.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0850

Notification of Change

An electronic referral to the Child Support Program is made when relevant data is entered on IIS or FACIS and sent to CSEAS. Manual referral to the Child Support Program is made when relevant data is entered on the Child Support Enforcement Automated System (CSEAS) by authorized DHS staff or by any other means of communication between DHS and DOJ DCS.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL 93.647, ORS 25.010 - 25.120 & 180.320 - 180.370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

Educational Services for a Child or Young Adult in Substitute Care

413-100-0900

Purpose

The purpose of these rules, OAR 413-100-0900 to 413-100-0940, is to describe the activities required to:

(1) Ensure that regular education and special education services are provided to promote academic achievement of a *child* or young adult in the care and custody of the Department; and

(2) Ensure that public preschool education, early intervention education programs, and appropriate post-secondary education or training opportunities are explored for an eligible child or young adult in the care or custody of the Department.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.050, 418.005, 419B.192, 419B.220 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 33-2011, f. 12-27-11, cert. ef. 12-28-11

413-100-0905

Definitions

The following definitions apply to OAR 413-100-0900 to 413-100-0940:

(1) "CASA" means Court Appointed Special Advocate, a volunteer who is appointed by the court, is a party to the juvenile proceeding, and is an advocate for the child pursuant to ORS 419A.170.

(2) "Child" means a person under 18 years of age.

(3) "Department" means the Department of Human Services, Child Welfare.

(4) "GED" means a General Educational Development certificate issued pursuant to ORS 326.550.

(5) "Homeless individual" for the purposes of the McKinney-Vento Homeless Education Act means children and youth who have a right to public school enrollment and are awaiting foster care placement or are in temporary foster settings awaiting permanent placement under ORS 339.115(7).

(6) "IEP team" means the participants who determine whether the child is a child with a disability and who develop the individualized education program (IEP) for the child as described under OAR 581-015-2000(15) and 581-015-2210(1).

(7) "Parent", except as provided otherwise in OAR 413-100-0930, means the biological or adoptive mother or the biological, legal, or adoptive father of the child.

(8) "Special education," as defined in OAR 581-015-2000(33), means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction in the classroom, instruction in the home, and instruction in hospitals, institutions, special schools, and other settings. The term includes specially designed instruction in physical education, speech language services, vocational education, travel training, and orientation and mobility services.

(9) "Special education services" means assistance provided to a child with a disability to meet the child's unique needs and includes instruction in the classroom, in the home, and in hospitals, institutions, special schools, and other settings.

(10) "Substitute caregiver" means a relative caregiver, foster parent, or provider who is authorized to provide care to a child who is in the legal or physical custody of the Department.

(11) "Surrogate" means an individual who has been appointed to safeguard a child's rights in the special education decision-making process. The individual may be appointed pursuant to applicable Department of Education administrative rules and statutes or by the juvenile court.

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

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005, 419B.192, 419B.220 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 15-2011(Temp), f. 12-27-11, cert. ef. 12-28-11

413-100-0910

Role of the Department in the Education of a Child or Young Adult

The Department promotes the academic achievement of a child or young adult by participating as a member of the team that performs the academic assessment, planning, and goal setting for the child or young adult. The caseworker works collaboratively with the parent or legal guardian whenever appropriate; the local school district and school officials; the substitute caregiver; the surrogate, if one is appointed; the CASA and attorney of the child or young adult; local Department of Education District Homeless Liaison; and service providers involved in the case plan of the child or young adult, as appropriate, in order to ensure school enrollment and promote academic achievement.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.050, 418.005, 419B.192, 419B.220 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 33-2011, f. 12-27-11, cert. ef. 12-28-11

413-100-0915

Ensure a Child or Young Adult's Enrollment in School or Educational Setting

(1) When a child or young adult is in substitute care, the child's caseworker must arrange school enrollment and educational services under the following requirements.

(a) Preferred school or educational setting when a child first enters substitute care and at each placement move while the child or young adult remains in substitute care. The preferred school or educational setting when a child first enters substitute care is the

school or educational setting the child attended prior to entry into substitute care unless:

(A) Remaining in the same school or educational setting is not in the best interest of the child; and

(B) Continuing to attend the same school or educational setting is not consistent with the ongoing safety plan or jeopardizes the child's safety.

(b) Consideration of continuity of previous school placement when a child is in substitute care. A child who meets the definition of a homeless individual under the McKinney-Vento Homeless Education Act must be referred to the local Department of Education District Homeless Liaison, and may qualify for services available through the Act.

(2) Responsibility for ensuring school enrollment. The caseworker must ensure a child or young adult in the Department's care or custody is enrolled in a school or educational setting, through eligibility established under ORS 339.115.

(3) Responsibility for school or educational setting placement decisions. The juvenile court makes the finding whether it is in the child's or young adult's best interest to continue to attend the school that the child or young adult attended prior to placement in substitute care by the Department. The child or young adult shall be considered a resident of the school district the child or young adult attended prior to placement and may continue to attend the school the child or young adult attended prior to placement through the highest grade level of the school, in accordance with ORS 339.133.

(a) A caseworker must consider recommendations from the child's or young adult's parents or legal guardian, attorney, CASA, school, and surrogate, if one has been appointed, and substitute caregiver in making the decision on school enrollment.

(b) The child's or young adult's IEP team makes the decision regarding special education services provided to the child or young adult when the child or young adult is receiving or eligible to receive special education services.

(c) The young adult makes the decision regarding educational services and school placement when educational rights have been passed to the young adult.

(d) When a child is in the care or custody of the Department under a Voluntary Placement Agreement, the parent or legal guardian retains legal authority over the child and continues to be responsible to exercise and perform all parental duties and legal responsibilities except those that the parent or legal guardian specifically delegates to the Department by the signed agreement.

(4) Regardless of the authority to make school or educational placement setting decisions in section (3) of this rule, the caseworker must ensure the school or educational setting is consistent with the ongoing safety plan of the child or young adult.

(5) Additional responsibilities when a private school, charter school, alternative school, or international study program is considered.

(a) Private School. Except as provided in subsections (3)(c)-(d) of this rule, when considering the enrollment of the child or young adult in a private school, the caseworker must:

(A) Ensure that enrollment would be consistent with the child's or young adult's permanency plan;

(B) Determine whether the school is accredited in the state in which the school is located;

(C) Verify that an entity or person other than the Department will pay all costs except those approved under OAR 413-100-0935;

(D) Consider the religious affiliation of the child or young adult and the parent or legal guardian when considering enrollment in a religiously-affiliated private school;

(E) Consider recommendations from the child's or young adult's parents, attorney, CASA, and substitute caregiver; and

(F) Obtain approval from the Child Welfare program manager.

(b) Charter school or alternative school. Except as provided in subsections (3)(c)-(d) of this rule, when considering the enrollment of a child or young adult in a charter school or alternative school, the caseworker must:

(A) Ensure that enrollment would be consistent with the child's or young adult's permanency plan;

(B) Verify that the charter school is approved by the local school district board or the Oregon Department of Education;

(C) Consider recommendations from the child's or young adult's parents, attorney, CASA, and substitute caregiver; and

(D) Obtain approval from the Child Welfare program manager.

(c) International study program. Except as provided in subsections (3)(c)-(d) of this rule, when considering enrolling a child or young adult in an international study program, the caseworker must:

(A) Ensure that enrollment is consistent with the child's or young adult's permanency plan;

(B) Verify that the international study program is accredited;

(C) Consider recommendations from the child's or young adult's parents, attorney, CASA, and substitute caregiver;

(D) Obtain approval from the Child Welfare program manager, the District Manager, the Diversity and International Affairs Manager; and

(E) Obtain approval of the juvenile court.

(6) Additional responsibilities when considering a GED program. Except as provided in subsections (3)(c)-(d) of this rule, when considering a GED program for the child or young adult, whether the program is held at a public school or at a location other than a public school, the caseworker must:

(a) Determine, that obtaining a GED meets the child's or young adult's educational needs better than obtaining a high school diploma;

(b) Verify that a GED program is consistent with the child's or young adult's case plan;

(c) Consider recommendations from the child's or young adult's parents, attorney, CASA, and substitute caregiver; and

(d) Obtain approval from the Child Welfare program manager.

(7) Additional responsibilities when considering home schooling. Except as provided in subsections (3)(c)-(d) of this rule, when considering home schooling for the child or young adult in the substitute caregiver's home, the caseworker must:

(a) Determine that a home schooling environment would not interfere with the child's or young adult's social development;

(b) Determine that home schooling would promote inclusion in the substitute caregiver's home;

(c) Determine that a home school environment is consistent with the child's or young adult's permanency plan;

(d) Determine that the child's or young adult's enrollment in a home school program is permitted by state law in another state if the child or young adult is placed in another state through the Interstate Compact on the Placement of Children;

(e) Obtain the approval of the child's or young adult's parent, as defined in OAR 413-100-0905(7), or guardian for the substitute caregiver to act as a private teacher;

(f) Verify the substitute caregiver has provided written notification to the education service district of intent to provide home schooling;

(g) Obtain the approval of the Child Welfare program manager; and

(h) Obtain the approval of the juvenile court.

(8) Transportation to school. After the school or educational setting has been determined, the caseworker must assess the school district's available transportation options and, if school district transportation is unavailable, select and arrange the most reliable, safe, cost-effective transportation option to transport the child or young adult to and from the school or educational setting.

(9) Once a school or educational setting has been selected for a child or young adult, the caseworker must notify the school or educational setting that the child or young adult is in the legal custody of the Department and may provide information about the reason the child or young adult is in substitute care to the staff of the school or educational setting only when providing such information to a particular staff person is necessary for the child's or young adult's education planning or to ensure the safety of the child,

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young adult, or others in the school with whom the child or young adult has contact.

(10) Unless a child or young adult has achieved high school graduation or is incapable of attending school for a medical reason, the Department will ensure school enrollment under Chapter 581 of Oregon Administrative Rules for a child or young adult in the custody of the Department.

(11) The caseworker must document in the case plan of the child or young adult all of the following:

(a) Information about the current school or educational setting of the child or young adult.

(b) All schools or educational settings the child or young adult has attended since the date the child or young adult has been in the custody of the Department.

(c) The length of time the child or young adult has spent in each school or educational setting.

(d) The number of high school credits each child or young adult 14 years of age or older has earned.

(e) The child's surrogate, if one has been appointed.

(f) The reason for any change in the child's or young adult's school or educational setting.

(g) Information regarding the child's or young adult's educational records, which may include but is not limited to:

(A) Report cards;

(B) Transcripts;

(C) Individual Education Plan;

(D) A 504 plan, developed under the provisions of Section 504 of the Rehabilitation Act of 1973; and

(E) A transition plan.

(h) The basis the child or young adult is incapable of attending school under section (10) of this rule should that section apply.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005, 419B.192, 419B.220 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 15-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 33-2011, f. 12-27-11, cert. ef. 12-28-11

413-100-0920

Consent for School Activities

Once the Department has determined the child's or young adult's school or educational setting, the substitute caregiver may give permission for the child or young adult to attend school-related activities such as, but not limited to, school enrollment, field trips within the state of Oregon, routine social events, sporting events, and cultural events.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.050, 418.005, 419B.192, 419B.220 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 33-2011, f. 12-27-11, cert. ef. 12-28-11

413-100-0925

Consent for Special Education Services

(1) When a child or young adult is in the care and custody of the Department, and there is reason to believe the child has a disability under the Individuals with Disabilities Education Act, 20 USC §§ 1400 et seq., or the Oregon Department of Education administrative rules regarding special education (OAR 581, Division 15), the caseworker must identify who is the parent or surrogate making educational decisions for the child or young adult.

(2) If a surrogate has not been appointed, or if more than one person is qualified to make special education decisions for the child or young adult, the caseworker may ask the court to determine the education decision maker. Persons who qualify to make educational decisions include:

(a) The biological or adoptive parent of the child or young adult.

(b) A foster parent or relative caregiver of the child or young adult.

(c) A legal guardian.

(d) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child or young adult lives, or a person who is legally responsible for the welfare of the child or young adult.

(3) When a child or young adult with a disability is being con-

sidered for home schooling, in addition to the requirements of

OAR 413-100-0915, the caseworker must:

(a) Ensure the surrogate of the child or young adult has

approved home schooling; and

(b) Ensure the surrogate participates in the special education

planning for the child or young adult in the home school environ-

ment.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.050, 418.005, 419B.192, 419B.220 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-

2008, f. 6-27-08, cert. ef. 6-28-08; CWP 15-2011(Temp), f. & cert. ef. 6-30-11

thru 12-27-11; CWP 33-2011, f. 12-27-11, cert. ef. 12-28-11

413-100-0930

Rights to a Child's Education Records

(1) The Family Educational Rights and Privacy Act (FERPA), 20 USC § 1232g, protects the authority of parents to review their minor children's education records, limit the records' release without written consent by the parents, and correct errors in those records. 34 CFR 99.3, one of FERPA's implementing regulations, defines "parent" as "a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian." Under this definition, a Department employee may act as a "parent," for FERPA purposes, if the Department is the legal guardian of the child.

(2) A Department employee may demonstrate his or her authority to exercise the FERPA rights of a child's parent by providing the educational agency or institution with evidence that the Department is the legal guardian of the child, which may include a juvenile court order appointing the Department as the legal guardian of the child.

(3) This rule does not apply to the special education records for a student who is eligible for special education services or is suspected of being eligible for special education services under the Individuals with Disabilities Education Act, 20 USC §§ 1400 et seq., or the Oregon Department of Education administrative rules regarding special education (OAR 581, Division 015). To receive these records, a Department employee may:

(a) Receive information from the school of a child's personally identifiable information in connection with a child protective services (CPS) investigation under OAR 581-021-0380;

(b) Be advised by the school of a child's disabling conditions prior to an interview with the child during the course of a CPS assessment under ORS 419B.045;

(c) Seek a court order to obtain the special education records; or

(d) Seek a release of information to obtain the special education records from a child's or young adult's parent, guardian, surrogate, or from a young adult whose special education rights have been passed to the student.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 326.575, 336.187, 409.010, 418.005, 419B.045, 419B.192, 419B.220 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 15-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 33-2011, f. 12-27-11, cert. ef. 12-28-11

413-100-0935

Educational Expenses

(1) The Department may authorize payment for some allowable school costs other than transportation, if sufficient funds are available and the school district does not cover the expense. Authorization for these expenses is outlined in Child Welfare Policies I-E.5.2, "Payments for Special or Extraordinary Needs", OAR 413-090-0365 and I-E.5.4, "Flexible Fund".

(2) A school district board or public charter school may waive school fees for certain activities under ORS 339.147 and 339.155 when the student is a ward of the court.

Stat. Auth.: ORS 339.147, 339.155, 409.050 & 418.005

Stat. Implemented: ORS 339.133, 339.147, 339.155, 409.050, 418.005, 419B.192 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-2008, f. 6-27-08, cert. ef. 6-28-08

413-100-0940

Early Education and Post-Secondary Education

(1) The caseworker must ensure that an eligible child in the care or custody of the Department has the same access to public preschool education and early intervention education programs as eligible children not in the care or custody of the Department. In meeting this obligation, the caseworker must ensure a child victim under three years old has been referred to an early intervention education program.

(2) The caseworker must ensure that a child or young adult in the care or custody of the Department has access to the information and resources available to explore post-secondary education and

training opportunities. In meeting this obligation the caseworker must include education in any child's or young adult's plan for transition to independent living.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.050, 418.005, 419B.192, 419B.220 & 419B.343

Hist.: CWP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 13-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 33-2011, f. 12-27-11, cert. ef. 12-28-11

DIVISION 110

PRE-ADOPTION SERVICES

Legal Risk Placements

413-110-0000

Definitions

The following definitions apply to OAR chapter 413, division 110.

(1) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.

(2) "Appropriateness of adoption" means the determination that a child can be successfully freed, placed, and maintained in an adoptive placement and that adoption is in the best interest of the child.

(3) "Approved family" means a family that has been selected for a child in accordance with OAR 413-120-0010 to 413-120-0060.

(4) "Birth parent" means the woman or man who holds a legally recognized parental relationship to the child.

(5) "Child" means a person under 18 years of age.

(6) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency or adoption committee meeting.

(7) "Compelling reason" means a reason meeting specific criteria and documented in the case plan by the local Department staff for not to file a petition to terminate parental rights of the parents of a child where the Department would otherwise be required to do so under state and federal law.

(8) "Date child entered substitute care": Oregon statute and federal law use the date the child is found to be within the jurisdiction of the court under ORS 419B.100 or 60 days from date of removal, whichever is earlier. The Department uses the date of the child's initial substitute care placement for calculating Citizens Review Board reviews, court, or permanency hearings intervals.

(9) "Department" means the Department of Human Services, Child Welfare.

(10) "Legal risk placement" means a placement that occurs when the Department believes that an adoption is in the best interests of the child; that the child is placed in an approved adoptive home; and the agency intends to approve this placement for adoption if the child becomes legally free for adoption.

(11) "Local Office Permanency/Adoption Committee" means the branch committee responsible for certain permanency and adoptions decisions, as specified in these rules. Members are selected by the local office from among the staff of the Department's field offices. The members must not be involved in the case to be heard.

(12) "Permanency/Adoption Council" (Council) means a council consisting of field management staff, permanency and adoption staff, and community partners from several districts, except that the Council in District 2 consists only of representatives from Multnomah County. A Council makes decisions for children whose county of jurisdiction is within their geographic area about appropriateness of adoption as a permanency plan, sibling planning, recruitment, adoption disruptions, and adoption selections referred by the local office. It also may provide permanency staffings to decide whether to place a child with an out-of-state relative

resource prior to receipt by the Department of an approved adoption home study.

(13) “Permanency/Adoption Council Committee” (Committee) means a committee established by the Permanency/Adoption Council that is responsible for decisions regarding adoptive placement selections that are not the responsibility of the local office or the Department’s Adoption Services Unit. The district manager or designee responsible for the local office may delegate a decision to the Committee. Each Committee must include at least three members not involved in the case to be heard by the Committee. There are two types:

(a) An ad-hoc committee selected by the child’s worker. This committee consists of three people drawn from a pool of qualified permanency and adoption staff designated by the Council.

(b) The Standing Permanency/Adoption Committee. This committee is a standing committee of three persons appointed by the Council or the Council chair. Responsibilities of this committee include making decisions, such as those relating to sibling placement planning or current caretaker placement decisions, delegated by the Local Office Permanency/Adoption Committee to the Council.

(14) “Permanency committee” means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.

(15) “Permanency plan” means a written course of action for achieving safe and lasting family resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(16) “Relative” has the same meaning as in OAR 413-070-0000(78).

(17) “Sibling” means one of two or more children or young adults 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.

(18) “Substitute care” means an out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0010

Purpose

A child in the legal custody of the Department for whom the Department has determined that adoption is an appropriate permanency plan and who is in the process of being freed for adoption may be placed in an approved adoptive home with the understanding that if the child becomes legally free for adoption, the child will be adopted. In the past, such a placement was described as a “foster-adopt placement” or a “potential adoptive placement.” The term for such placements is now “legal risk placement” if the placement meets the requirements specified in these rules, OAR 413-110-0010 to 413-110-0060.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0015

Values

(1) Any child whose parent or parents are unable to provide a safe and healthy home for the child should be assured the

opportunity to become a valued and permanent member of another safe family that understands and responds to the child’s needs.

(2) Early identification and development of an alternative to placement with a parent increases the likelihood that the alternate permanency plan can be achieved in a timely manner.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01

Legal Risk Placement

413-110-0020

Eligibility Criteria for Legal Risk Placement

A child may be placed in a legal risk placement when all of the following conditions have been met:

(1) The child is a ward of the court and is in substitute care and the Department has determined that adoption is an appropriate permanency plan for the child according to the procedures outlined in OAR 413-110-0300 to 413-110-0360.

(2) In accordance with OAR 413-070-0060 to 413-070-0093, the Department has considered all parents and relatives and has either determined none of them is a suitable permanent placement for the child or has selected one relative who meets the requirements of OAR 413-070-0060 to 413-070-0093 as the resource for a legal risk placement.

(3) The Department’s legal assistance specialist has assessed the status of the child and has determined that a plan to free the child for adoption is in the best interests of the child.

(4) The Department has determined, in accordance with OAR 413-110-0300 to 413-110-0360, that adoption is an appropriate permanency plan for the child, and an approved adoptive home has been selected according to the process outlined in OAR 413-120-0010 to 413-120-0060.

(5) The Adoption Services Unit has reviewed and approved the plan.

(6) In the case of an out-of-state placement, prior to approval and designation of the child’s legal risk placement:

(a) The Department has notified the court and has obtained its approval of the plan to place the child out of state;

(b) If the out-of-state placement is made through a private agency, the Department has a signed contract with the placing agency in the receiving state; and

(c) The Department has obtained verification that the child will receive medical coverage by the receiving state.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0030

Legal Risk Placement; Effective Date of Designation

(1) The designation date of the child’s current caretaker home as a legal risk placement is the date the Department’s Adoption Services Unit accepts all required documents.

(2) The designation date of the child’s selected adoptive home (non-current caretaker) as a legal risk placement is the date the child is physically placed in the selected home or the date the Adoption Services Unit accepts all applicable documents (see section (1) of this rule), whichever date is later.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0040

Home Requirements

(1) The home in which the legal risk placement will be made must be studied and approved as an adoptive home in accordance with OAR 413-120-0190 to 413-120-0246 or, in the case of an out-of-state placement, with OAR 413-040-0200 to 413-040-0330. The home must also meet the requirements of OAR 413-200-0301 to 413-200-0396.

(2) Each adoptive parent considered for a legal risk placement is informed by the Department of the risk of having the child removed and must sign an agreement that provides that:

(a) The adoptive parent understands that the child is not legally free for adoption;

(b) The adoptive parent understands that the Department cannot guarantee that the child will be legally free for adoption in the future;

(c) The adoptive parent wants to adopt the child; and

(d) The adoptive parent understands that the adoptive family will continue to provide temporary care for the child if adoption is not possible.

(3) The potential adoptive parents must complete the Adoption Recruitment Management System (ARMS) form 3010, "Legal Risk Placement Agreement," acknowledging that they understand the uncertainty of the legal risk placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0050

Effect on a Release and Surrender

A Legal Risk Placement shall be considered a placement for the "purpose of adoption" in accordance with ORS 418.270, subsection (4), which specifies when a release and surrender given by a parent or guardian shall be considered irrevocable. These rules shall apply to any release and surrender accepted prior to, concurrent with or subsequent to the Legal Risk Placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-110-0060

Termination of Legal Risk Placement Status

When the child is legally free to be adopted, the Central Office Adoption Services Unit will change the child's placement status from Legal Risk Placement to Adoptive Placement.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01

Sibling Adoption Placement Planning

413-110-0100

Purpose

The purpose of OAR 413-110-0100 to 413-110-0150 is to describe the Department's case planning responsibility to maintain and support lifelong sibling relationships for a child in the legal custody of the Department whose permanency plan is adoption.

Stat. Auth.: ORS 418.005, 419B.192

Stats. Implemented: ORS 418.005, 419B.192

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 30-2010, f. & cert. ef. 12-29-10; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0130

Consideration of Sibling Placement

(1) The Department's first priorities for placement of a child in the legal custody of the Department are placement with relatives and placing siblings together.

(2) When any child in the legal custody of the Department is separated from one or more siblings in substitute care, the Department must make diligent efforts to place the siblings together in substitute care, so long as it is in the best interests of the child, regardless of each child's permanency plan.

(a) The caseworker must document the efforts to place siblings together in substitute care in the Department's information system.

(b) If siblings are placed separately in substitute care, the Department must ensure that the children have the opportunity for

regular, ongoing contact unless contact is not in the best interests of the child or one or more of the siblings.

(3) When the Department is considering the permanent separation of one or more siblings through adoption, the caseworker must schedule a permanency committee for a recommendation and decision pursuant to OAR 413-070-0500 to 413-070-0519.

Stat. Auth.: ORS 418.005, 419B.192

Stats. Implemented: ORS 418.005, 419B.192

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 29-2010, f. & cert. ef. 12-29-10; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0132

Consideration of Sibling Separation

(1) A permanency committee is used to consider the permanent separation of siblings in the legal custody of the Department through adoption, unless an adoptive resource has been selected for one or more siblings.

(2) The permanency committee must consider the best interests of each child in the sibling group under consideration, and each of the following factors when making a recommendation:

(a) The current and lifelong needs of each child and of each sibling in the sibling group under consideration;

(b) The existence of each child's significant emotional ties to each sibling in the sibling group under consideration;

(c) The needs of each child and each sibling in the sibling group under consideration for each of the following:

(A) Physical and emotional safety;

(B) Ability to develop and maintain current and lifelong connections with the child's family;

(C) Continuity and familiarity;

(D) Appropriate educational, developmental, emotional, and physical support;

(E) Stability and permanency; and

(F) Maintaining his or her identity, cultural, religious, and spiritual heritage.

(3) The permanency committee considers all of the information, deliberates, and, when committee members agree, makes a recommendation to the Child Welfare Program Manager or designee including one or more of the following options:

(a) Separation of a child from one or more siblings in the sibling group under consideration is not in the best interest of the child or the siblings, and the caseworker must continue to make efforts to place the siblings together for the purpose of adoption;

(b) Separation of a child from one or more siblings in the sibling group under consideration for the purpose of adoption is in the best interests of the child or the siblings; or

(c) When there are multiple siblings, recommendations with respect to which siblings in the sibling group under consideration should remain together for the purpose of adoption and how those matches are in the best interests of each sibling.

(4) When the permanency committee cannot reach agreement, each permanency committee member makes his or her respective recommendations known to the committee facilitator.

(5) The Child Welfare Program Manager or designee who makes the decision on behalf of the Department must consider all of the following when making the decision:

(a) The considerations in subsections (2)(a)–(c) of this rule;

(b) The information presented to the permanency committee; and

(c) The recommendations of the permanency committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

Hist.: CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 30-2010, f. & cert. ef. 12-29-10; CWP 6-2011(Temp), f. & cert. ef. 4-4-11 thru 10-1-11; CWP 21-2011, f. & cert. ef. 9-19-11

413-110-0150

Sibling Placement and Permanency Planning

(1) When separation of siblings has occurred as a result of a Department action or decision pursuant to OAR 413-070-0519, the Department's efforts to identify and recruit a potential adoptive

resource must include recruitment efforts to identify a potential adoptive resource who can initiate and maintain connections between the child and one or more siblings, unless such a connection is not in the best interests of the child or one or more siblings.

(2) The caseworker must make efforts to recruit and identify potential adoptive resources who appear to have the knowledge, skills, and abilities to be considered as the potential adoptive resource for other siblings when there are one or more siblings in substitute care who do not yet have a permanency plan of adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498-419B.530

Hist.: CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 30-2010, f. & cert. ef. 12-29-10; CWP 24-2015, f. & cert. ef. 10-26-15

Termination of Parental Rights

413-110-0200

Purpose

Pursuant to Oregon law related to the termination of parental rights the Child Abuse Prevention and Treatment Act (CAPTA) and the Adoption and Safe Families Act (ASFA) Department of Human Services (DHS) is mandated or authorized to seek termination of a parent's rights in certain cases where a child is in substitute care. These rules first outline under what circumstances DHS must seek the termination of parental rights of parents whose children are in DHS custody, and next under what circumstances it has the discretion to do so.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498-419B.530

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0210

Values

(1) Every child needs and deserves a safe, nurturing and permanent home. Termination of parental rights is one means by which DHS can achieve adoption of a child. Adoption is one of several possible permanent plans.

(2) No child shall be freed for adoption without the probability of being placed in a permanent home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498-419B.530

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0220

Policy

DHS shall only initiate a termination of parental rights action to free a child for adoption and where DHS has determined that adoption is in the child's best interest, and that other possible permanent plans such as guardianship would not be a more appropriate plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498-419B.530

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0230

Permanency Plan Review

DHS shall review the permanency plan for each child in its legal custody after the 6 month review conducted under ORS 419A.106 or any hearing conducted in lieu of such review; but prior to the permanency hearing required by ASFA to determine the appropriateness of the permanency plan. If the permanency hearing is scheduled before the above 6 month review, DHS shall review the permanency plan prior to the permanency hearing even if the review has not occurred. If the child cannot be safely placed with a parent, in determining if adoption is the appropriate concurrent permanent plan:

(1) The local designated review body shall consider whether the plan is in the best interest of the child and whether there is a potential adoptive resource for the child or a resource can be located; and

(2) The Legal Assistance Specialist shall provide consultation to the local staff on whether the plan is consistent with statewide practice and whether the plan complies with the requirements of the DHS Adoption Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498-419B.530

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0240

Decision to File a Petition to Terminate Parental Rights

(1) Unless one of the exceptions outlined in section (2) of this rule applies, and is so documented in the case plan, DHS shall file a petition to terminate the parental rights of the parents to a child in DHS custody. The local DHS staff, in consultation with the Legal Assistance Specialist, shall decide whether to file a petition to terminate the parental rights to a child who:

(a) Has been in foster care for 15 of the most recent 22 months as calculated from the date the child entered substitute care; or

(b) Has been determined by the court to be an abandoned child; or

(c) Has a parent who has been found by a court of competent jurisdiction to have:

(A) Committed murder, of another child of the parent;

(B) Committed manslaughter, of another child of the parent;

(C) Aided, abetted, attempted, conspired or solicited to commit murder or voluntary manslaughter of another child of the parent; or

(D) Committed felony assault that results in serious bodily injury to the child or another child of the parent.

(2) DHS however, is not required to file a petition to terminate the parental rights to children meeting the criteria of 413-110-0240(1)(a) through (c) if:

(a) The child is being cared for by a relative and the permanent plan is for the child to remain with that relative;

(b) DHS has not provided to the family of the child, consistent with the time period in the case plan, the services DHS deemed necessary for the safe return of the child to the child's home, if the plan required reasonable efforts (or active efforts in the case of an Indian child under the Indian Child Welfare Act) to do so; or

(c) Local DHS staff have documented in the case plan a compelling reason for determining that filing such a petition would not be in the best interests of the child. Compelling reasons may include, but are not limited to:

(A) A court or Citizens Review Board (CRB) has made a finding at a CRB review, permanency hearing or other hearing that DHS has made "no reasonable efforts" (or "active efforts" in the case of an Indian child under the Indian Child Welfare Act) to make it possible for the child to safely return home, as documented by CRB findings or a court order;

(B) A court or DHS has determined that:

(i) The parent has made significant measurable progress and continues to make diligent efforts to complete the requirements of the case plan and reunification is likely within a reasonable time, but the parent needs more than 15 months to complete the requirements of the plan as documented by narrative recording on the CF 147A, CF 147B, or Service Agreement;

(ii) DHS is working with the non-offending parent to establish a permanent placement as documented by the narrative recording on the CF 147A, CF 147B, or Service Agreement;

(iii) There is a viable alternative to termination of parental rights that would free the child for adoption within a reasonable time;

(iv) If the child is an Indian child under the Indian Child Welfare Act (ICWA), the Indian child's tribe opposes adoption and has another plan for permanency for the child, in accordance with the provisions of the ICWA.

(C) DHS has determined that adoption is not an appropriate plan for the child for reasons that may include, but are not limited to:

(i) A child age 12 years or over or a child less than 12 years of age who is capable of making this decision will not consent to be adopted, and another permanency plan has been identified;

(ii) The parent and child have a significant bond, but the parent is unable to care for the child because of a disability and another permanent plan has been identified;

(iii) The child has a demonstrated inability to be maintained in a family setting as documented by a professional assessment that may include, but is not limited to, a medical, psychiatric or psychological assessment.

(d) If the compelling reason that DHS applied in making the determination that it would not be in the best interest of the child to file a petition to terminate parental rights no longer exists, DHS shall review the decision not to file, to determine if there is another compelling reason not to file the petition, or if it would be in the best interest of the child to proceed with filing.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498-419B.530

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0250

Other Situations for Filing a Termination Petition

DHS may file a petition to terminate the rights of a parent whose child is in DHS custody but is not required to do so if:

(1) The parent has engaged in extreme conduct as specified in ORS 419B.502, which includes but is not limited to:

(a) Rape, sodomy or sex abuse of any child by the parent;

(b) Intentional starvation or torture of any child by the parent;

(c) Abuse or neglect by the parent of any child resulting in death or serious physical injury;

(d) Conduct by the parent to aid or abet another person who, by abuse or neglect, caused the death of any child;

(e) Conduct by the parent to attempt, solicit or conspire to cause the death of any child;

(f) Previous involuntary terminations of the parent's rights to another child if the conditions giving rise to the previous action have not been ameliorated; or

(g) Conduct by the parent that knowingly exposes any child of the parent to the manufacture of amphetamines.

(2) The parent is unfit due to conduct or condition that is seriously detrimental to the child as specified in ORS 419B.504, which includes but is not limited to:

(a) Emotional illness, mental illness or mental deficiency of the parent of such nature and duration as to render the parent incapable of providing proper care for the child for extended periods of time;

(b) Conduct toward any child of an abusive, cruel or sexual nature;

(c) Addictive or habitual use of intoxicating liquors or controlled substances to the extent that parental ability has been substantially impaired;

(d) Physical neglect of the child;

(e) Lack of effort of the parent to adjust the circumstances of the parent, conduct, or conditions to make the return of the child possible or failure of the parent to effect a lasting adjustment after reasonable efforts by available social agencies for such extended duration of time that it appears reasonable that no lasting adjustment can be effected; or

(f) Criminal conduct that impairs the parent's ability to provide adequate care for the child.

(3) The parent has failed or neglected without reasonable and lawful cause to provide for the basic physical and psychological needs of the child as specified in ORS 419B.506, which includes but is not limited to:

(a) Failure to provide care or pay a reasonable portion of substitute physical care and maintenance if custody is lodged with others.

(b) Failure to maintain regular visitation or other contact with the child which was designed and implemented in a plan to reunite the child with the parent;

(c) Failure to contact or communicate with the child or with the custodian of the child. In making this determination, the court may disregard incidental visitations, communications or contributions.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498-419B.530

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0252

Termination of Parental Rights

In some cases, DHS may decide to file a petition to terminate the parental rights of a parent whose child is in DHS custody without making reasonable efforts to make it possible for the child to be safely returned home and without seeking or having the juvenile court make a finding that DHS is not required to make such efforts.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498-419B.530

Hist.: SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

Consulting with Parents Considering Adoption

413-110-0280

Purpose

When birth parents are considering releasing a child for adoption, or when the Department has determined that adoption is an appropriate permanent plan for the child, the birth parents need services as an essential part of permanency planning. These rules specify the expectations of the Department staff who are consulting with parents considering adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0282

Values

(1) The provision of consultation to birth parents considering adoption is in the best interest of the child.

(2) In consulting with birth parents considering adoption, the agency should treat all persons with respect.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0286

Services for Birth Parents Considering Adoption

(1) To assist birth parents to fully explore the range of options available to them in developing a permanency plan for their child, the service worker shall:

(a) Assist birth parents to evaluate the supports they would need if they decide to rear their child;

(b) Make referrals for appropriate services, including but not limited to cooperative adoption mediation;

(c) Discuss the options within adoption and the consequences of each option;

(d) Assist birth parents to explore the various levels of openness that are possible in adoption and the extent to which they may desire openness, with the understanding that the degree of openness in adoption will be that which is in the best interest of the child and to which the adoptive parents can agree;

(e) Talk to birth parents about the grief and loss inherent in adoption;

(f) Advise the parents of the legal impact and permanence of releasing their child; and

(g) Assist birth parents who are in disagreement regarding the appropriate plan to come to agreement.

(2) The Department shall provide services to birth fathers who have legally recognized parental relationships as outlined in Policy I-A.4.3, Identifying Legally Recognized Parental Relationships.

(3) In addition to providing assistance in planning for their child, the Department shall provide birth parents with referrals to services that support them as individuals. The provision of services shall not be contingent upon their decision to select adoption as the plan for their child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0288**Referral to Licensed Adoption Agencies**

For birth parents who have not come to the attention of the Department through a child protective services referral, and whose child is not in the custody of the Department, the Department shall provide the birth parents with information and referral to licensed adoption agencies. In making such referrals, the Department shall consider any special needs of the child to be adopted and the ability of the licensed agencies to access services for special needs. The Department shall give the parents opportunity to consider all available resources before they decide which agency they prefer.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0290**Support for Birth Parents to Ensure Informed Decision Making in Voluntary Relinquishments**

(1) The Department shall accept the voluntary relinquishment of a child only under the following conditions:

(a) After providing the birth parents with full and accurate information about the consequences of a voluntary relinquishment;

(b) After providing birth parents with information to assist them to understand the changes in their legal rights, obligations and responsibilities;

(c) In the case of an Indian child, after informing the parents that if no different order of preference has been established by the child's tribe for adoptive placement, the agency, in the absence of the court's determination that good cause to the contrary exists, gives preference to placing the child with a member of the child's extended family, other members of the Indian child's tribe, or other Indian families;

(d) After informing the birth parents that under the Multiethnic Placement Act of 1994 and Small Business Job Protection Act of 1996, "Removal of Barriers to Interethnic Adoption", the Department may not honor any request of the birth parents to place the child with a family of preferred race, color, or national origin unless the child is an Indian child, in which case the Department follows OAR 413-070-0220(4);

(e) After the birth parents have reached an informed decision without pressure and with full consideration of alternative plans; and

(f) After supporting the birth parents in considering what their decision will mean to them.

(2) Once a birth parent decides that adoption through the Department is the best plan for the child, the Department shall assist the birth parent to complete the legal relinquishment of their parental rights, to consider the level of openness appropriate to their circumstances and in the best interests of the child, and to cope with their grief.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0291**Disclosure of Background Information Regarding the Adoptive Family to the Birth Parents**

In those cases in which the birth parents are not involved in selection of the adoptive family for their child, before the child's placement the Department may provide the birth parents with non identifying background information about the family who will adopt their child, if such disclosure is in the best interest of the child to be adopted.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0292**Disclosure of Birth Parent Identifying Information to Adopted Individuals**

(1) The Department shall tell birth parents who are making a plan for the adoption of their child that information related to their identity may be disclosed to the child at some point in the future.

(2) The Department shall inform birth parents of the Health Division Form 45-89 Contact Preference Form and of the Voluntary Adoption Registry.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0293**Supportive Services to Birth Parents Following the Placement Decision**

The Department shall provide referrals to supportive services to birth parents after their rights and responsibilities with regard to their child are relinquished or terminated.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0295**Permanency Planning Services for Children in Substitute Care and Their Parents**

(1) The Department shall provide services to birth parents consistent with the children's safety and well being that support the children's return to or placement with a parent, in accordance with the service agreement developed with the parents as discussed in Policy I-B.3.1, Service Plans: Service Agreement or Letter of Expectations and Family Decision Meetings.

(2) The Department and the parent(s) shall use the service planning process to identify the key issues facing the family, determine the objectives to be achieved and agree upon the action to be taken to promote timely and appropriate decision making.

(3) When placement with a parent is not appropriate for the child or is not feasible within a reasonable time frame, the Department shall help birth parents to plan for their children through permanency with relatives or with adoption.

(4) The Department shall promote timely decision making that takes a child's permanency needs into account and that acknowledge the role that birth parents should play in planning for their children.

(5) The Department shall work with birth parents in ways which support mutual decision making such as family decision meetings and pre-adoption consultation.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0297**Voluntary Relinquishment of Children in Substitute Care**

When placement with a parent is not feasible within a reasonable time frame, or is not appropriate for a child in substitute care, the Department may offer or make referrals to consulting with and supports to assist the birth parents in considering the option of voluntary relinquishment.

(1) The birth parents' decision to place a child for adoption shall be voluntary and based on complete and accurate information regarding the implications of that decision.

(2) The Department may use consultation, mediation and other services to assist birth parents in considering voluntary relinquishment.

(3) When appropriate and in the best interest of the child, the Department shall discuss with the birth parents the option of some level of contact between birth parents, other relatives, and the child after adoption. The Department shall not use openness after adoption as an incentive to obtain the birth parents' agreement to voluntarily relinquish the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0299

Involuntary Termination of Parental Rights

When placement with a parent is not feasible within a reasonable time frame, or is not appropriate for a child in substitute care, and the birth parents are unable or unwilling to voluntarily place the child for adoption, the Department follows OAR 413-110-0200 to 413-110-0252. To the extent possible the Department must assist the birth parents to understand the need to pursue this action to ensure permanency and stability for the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 24-2015, f. & cert. ef. 10-26-15

Determining the Appropriateness of

Adoption as a Permanency Plan

413-110-0300

Purpose

The purpose of OAR 413-110-0300 to 413-110-0360 is to establish the Department's policies for determining whether adoption is an appropriate plan for a child. In the case of an Indian child, the Department follows OAR 413-070-0100 to 413-070-0260.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0320

Values

(1) Adoption is a permanency option that should be considered as part of concurrent case planning for all children in substitute care.

(2) The assessment of the appropriateness of adoption as the permanency plan for a child begins at the time of the child's initial placement and continues until a permanent plan is achieved.

(3) If safe placement with a parent is not possible for a child, and the child can be legally freed for adoption and has an appropriate and available adoptive resource who wishes to adopt the child, it is concluded that adoption is an appropriate permanency plan for the child.

(4) Adoption is not the most appropriate plan for every child.

(5) The Department will not initiate proceedings to free a child for adoption unless there is a probability of being placed with an approved family.

(6) Decisions whether adoption is an appropriate permanency plan for the child must be made collaboratively.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0330

Procedure to Determine the Appropriateness of Adoption as a Permanency Plan

(1) Before proceeding to free a child for adoption, the Department must make a formal decision regarding whether adoption is an appropriate permanency plan for the child in accordance with these rules.

(2) The preliminary case-planning steps in the process of determining whether adoption is an appropriate permanency plan for the child are as follows:

(a) An adoption permanency goal must be considered concurrently with other permanency goals for a child in substitute care;

(b) When it appears that placement with a parent is not a viable goal, but not later than six months after the child enters substitute care, the local office must begin the process of obtaining information sufficient to make a formal decision whether adoption is an appropriate permanency plan for the child, for instance:

(A) The child's worker must obtain pertinent information such as psychological evaluations, therapist's assessments, an assessment by a mental health professional when appropriate that includes the attachment and other permanency needs of the child, medical records, personal care or special rate assessments, individual education plans, and early intervention assessments.

(B) The child's worker must address the following areas:

(i) The ability of the child to attach.

(ii) The needs of the child.

(iii) Prior or current caretaker or family relationships that could support or interfere with the ability of the child to build new family relationships.

(iv) Information about the siblings and half siblings of the child (see OAR 413-110-0100 to 413-110-0150).

(v) Prospective adoptive resources who have made it known to the agency that they want to be considered as an adoptive placement for this specific child.

(vi) The willingness of the child to consent to adoption, if the child is 12 years of age or older.

(3) Formal decision making at the local office.

(a) If the child's worker and supervisor believe adoption is an appropriate permanency plan for the child, and the legal assistance specialist concurs, the adoption plan may proceed without review by the Local Office Permanency/Adoption Committee.

(b) When the child's worker and supervisor review a case together and it is not clear that adoption is an appropriate permanency plan for the child, or if there are questions regarding available approved families, the determination whether adoption is an appropriate permanency plan for the child will be made by Local Office Permanency/Adoption Committee. The child's worker is responsible for scheduling a staffing with a Local Office Perma-

nency/Adoption Committee within 60 days of the staffing by the child's worker and supervisor.

(c) If the child's worker and supervisor believe that adoption is not an appropriate permanency plan for the child, they must submit their written recommendation to the district manager or designee. Their recommendation must include the compelling reasons for their assessment that it is not an appropriate permanency plan (see OAR 413-110-0240(2)(c)(D)). If the district manager or designee disagrees with the recommendation or wishes to seek consultation, they must direct the child's worker to refer the determination of appropriateness of adoption to a Permanency/Adoption Council Committee.

(d) Before the Department initiates the permanency plan for adoption, the legal assistance specialist and the local office must agree that the plan is in the best interests of the child and is achievable.

(4) When a Committee determines that adoption is an appropriate permanency plan for the child, the committee representative must record the decision regarding the appropriateness of adoption as a permanency plan and provide a copy of the documentation to the child's worker.

(5) The child's worker must send documentation of a Permanency/Adoption Committee decision to the Adoptions Services Unit to be included in the child's central office file.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0340

When Adoption is an Appropriate Permanency Plan

(1) When the Department determines that adoption is an appropriate permanency plan for the child, and in legal risk situations the legal assistance specialist has approved placement planning for the child, the child's worker must accomplish the following:

(a) The child's worker begins the process to locate an appropriate approved family while proceeding with efforts to free the child for adoption.

(b) The child's worker requests that either a Local Office Permanency/Adoption Committee or a Permanency/Adoption Council Committee review the decision that adoption is an appropriate permanency plan for the child if the child's worker has not been able to find an appropriate approved family for the child within four months of the initial staffing.

(c) If a child is placed for adoption and the adoption disrupts, the child's worker follows the procedures in OAR 413-120-0870. The child's worker requests that either a Local Office Permanency/Adoption Committee or a Permanency/Adoption Council Committee review the decision determining that adoption is an appropriate permanency plan for the child if the child's worker has not been able to find an appropriate approved family for the child within six months of the disruption date.

(d) If an adoptive placement disrupts and there is question as to whether adoption is currently an appropriate permanency plan for the child, the question is referred by the worker to either a Local Office Permanency/Adoption Committee or a Permanency/Adoption Council Committee within three months of the disruption.

(2) In the case of a child for whom the permanency plan is adoption, the worker must document in the permanency plan the child's specific needs and the steps the Department is taking to find an adoptive family for the child who can respond to those needs, to place the child with an adoptive family, and to finalize adoption. At a minimum, such documentation must include comment on the child-specific recruitment efforts employed by the Department such as the use of state, regional, or national adoption exchanges, including electronic exchange systems, as well as efforts to identify potential adoptive families from the neighborhood and community in which the child resides.

(3) Out-of-state adoptions. The Department will not delay or deny placement of a child for adoption when an approved family is available outside of Oregon. If the out-of-state placement is a legal risk placement, the worker must obtain approval from the legal assistance specialist as required by OAR 413-110-0010 to 413-110-0060. Once the legal risk placement is approved, the worker must notify the court and obtain approval of the plan prior to placing the child out of state. If the out-of-state adoption is supervised by a private agency, the Department will not make the placement of the child into the adoptive home until the Department has a signed contract with the placing agency. Out-of-state adoptions are further regulated by OAR 413-040-0200 to 413-040-0330.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15

413-110-0350

When Adoption Is Not an Appropriate Permanency Plan

(1) When it is determined that adoption is not the appropriate permanency plan for the child, and the compelling reason for this determination has been documented in the case file, the child's worker must develop and implement an alternate plan.

(2) If there are significant changes, the child's worker may refer the case to either the Local Office Permanency/Adoption Committee or the Permanency/Adoption Council Committee for a new determination whether adoption is an appropriate permanency plan for the child. The appropriateness of adoption as a permanency plan for the child can change as the child's circumstances change. When the legal assistance specialist has questions about the appropriateness of adoption as the permanency plan for the child, the legal assistance specialist may ask the local office to recruit for a potential adoptive placement prior to initiating the process to free the child for adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0360

Review Process

When the Local Office Permanency/Adoption Committee or the Permanency/Adoption Council Committee has staffed a case and reached a decision with which the child's worker disagrees, the child's worker will staff the case with the worker's supervisor and district manager or designee. If the district manager or designee agrees with the child's worker, he or she will request review of the decision by the Adoption Services Unit Manager who may review the committee's decision and make the final decision.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 24-2015, f. & cert. ef. 10-26-15

DIVISION 120

ADOPTION

Adoption Placement Selection

413-120-0000

Definitions

The following definitions apply to OAR chapter 413, division 120:

(1) "Adoption" means a legal or administrative process that establishes a permanent legal parent-child relationship between a child and an adult who is not already the child's legal parent and terminates the legal parent-child relationship between the adopted child and any former parent.

(2) "Adoption agency" means an organization providing the services under any one of the following subsections:

(a) Identifying a child for adoption and arranging an adoption.

(b) Securing the necessary consent to relinquishment of parental rights and to adoption.

(c) Performing a background study on a child or a home study on a prospective adoptive parent and reporting on such a study.

(d) Making determinations of the best interests of a child and the appropriateness of adoption placement for a child.

(e) Monitoring a case after placement until final adoption.

(f) When necessary because of disruption before final adoption, assuming custody and providing child care or other social services for a child pending an alternative placement.

(3) “Adoption committee” means a group of individuals convened by Department staff to make recommendations to an Adoption Decision Specialist (ADS) regarding adoptive resources for a child.

(4) “Adoption decree” means a decree which a court issues, pursuant to a petition for adoption, setting forth the facts of the case and ordering that from the date of the decree the child, to all legal intents and purpose, is the child of the petitioner.

(5) “Adoption home study” means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a life-long permanent commitment to a child or children.

(6) “Adoption placement selection” means a decision made by the Department that an individual or individuals have been identified as the adoptive resource for the child.

(7) “Adoptive resource” means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.

(8) “Adoption transition” means activities related to the placement of a child or sibling group under consideration in the home of the family selected as the adoptive resource.

(9) “ADS” means an Adoption Decision Specialist, who is a Department employee appointed by the Adoption Program Manager to attend an adoption committee and make an adoption placement selection for a child.

(10) “Authorized designee” means a Department employee who is designated and authorized by the Department to receive and process criminal records check request forms from subject individuals, receive criminal records information from the Background Check Unit, and make fitness determinations as described in these rules.

(11) “Battery” means the use of physical force to injure, damage, or abuse or to cause offensive physical contact.

(12) “Birth Relatives” means birth parents, grandparents, siblings and other members of the child’s birth family, pursuant to ORS 109.305.

(13) “Central authority” means the entity designated as such by a Convention country that is authorized to discharge the duties imposed on Convention countries.

(14) “Central authority functions” means any duty required to be carried out by a central authority or foreign authorized entity under the Convention.

(15) “Certified family” means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(16) “Child” means a person under 18 years of age.

(17) “Child welfare mediator” means a neutral third party who meets or exceeds Department qualifications to provide mediation services for mediation participants in the cooperative adoption mediation process, and has a legal assistance mediation contract with the Department.

(18) “Committee facilitator” means a Department staff member appointed as a member of the committee to facilitate a permanency committee or adoption committee meeting.

(19) “Concurrent permanent plan” means the alternate permanency plan whenever the child has been placed in substitute care

when the goal of the permanency plan is to return the child to the parents. The “concurrent permanent plan” is developed simultaneously with the plan to return the child to the parents or legal guardians.

(20) “Consent to the Adoption”: The “Consent to the Adoption” documents that the adoptive parents have been investigated and approved by the Department and gives permission for the adoption.

(21) “Contested case hearing” means a hearing conducted under ORS chapter 183 and applicable administrative rules.

(22) “Convention” means the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions, concluded at The Hague, the Netherlands, on May 29, 1993, which went into effect in the United States on April 1, 2008.

(23) “Convention adoption” means an adoption of a child who is a habitual resident in a Convention country by an individual in another Convention country when the child has been, is being, or will be moved between the two Convention countries for the purpose of adoption.

(24) “Convention country” means a country that is a party to the Convention.

(25) “Cooperative adoption mediation” or “Mediation” means a process in which a trained neutral third party assists parties in voluntarily reaching mutually acceptable resolution of issues, as well as assisting the parties in establishing relationships built on mutual trust and respect. Throughout these rules, “cooperative adoption mediation” will be referred to as “mediation”.

(26) “Current caretaker” means a foster parent who:

(a) Is currently caring for a child in the care and custody of the Department and has a permanency plan or concurrent permanent plan of adoption; and

(b) Has cared for the child or at least one sibling of the child for at least the past 12 consecutive months or for one-half of the child’s or sibling’s life if the child or sibling is younger than two years of age.

(27) “Criminal records check” means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information obtained from other sources.

(b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information sources located in, or regarding, a state or jurisdiction outside Oregon.

(28) “Department” means the Department of Human Services, Child Welfare.

(29) “Disruption” means an approval by the Child Permanency Program Manager to end an adoption process after adoption placement selection but before the adoption is legally finalized.

(30) “Fitness determination” means the decision made by an authorized designee, with regard to information obtained through a criminal records check, to either approve or deny a subject individual under these rules. A subject individual who is approved following a criminal records based “fitness determination” may still be denied approval to be a relative caregiver, foster parent, adoptive resource or an other person in the household if the subject individual does not meet other requirements contained in Department rules governing relative care, foster care, and adoption.

(31) “Foreign authorized entity” means a foreign central authority or an accredited entity authorized by the foreign country to perform central authority functions in Convention adoption cases.

(32) “Foster parent” means an individual who operates a home that has been approved by the Department to provide care for

an unrelated child or young adult placed in the home by the Department.

(33) “General applicant” means an individual who:

(a) Is neither a relative or current caretaker; and

(b) Has submitted a completed application to adopt a child.

(34) “Home Study” means a written evaluation of the prospective adoptive parent’s suitability to adopt and parent a child who may be placed for adoption. The “home study” is completed prior to the filing of a petition to adopt, in accordance with the Department’s reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes as set forth in OAR 413-0120-0190 to 413-120-0246.

(35) “Hague adoption certificate” means a certificate issued by the Secretary of State in an outgoing Convention adoption certifying that the child has been adopted in the United States in conformity with the Convention and IAA.

(36) “Hague custody declaration” means a declaration issued by the Secretary of State in an outgoing Convention adoption declaring that custody of the child for purposes of adoption has been granted in the United States in conformity with the Convention and IAA.

(37) “IAA” means the Intercountry Adoption Act of 2000, Public Law 106-279, 42 USC 14901 to 14954.

(38) “ICPC” means the Interstate Compact on the Placement of Children (see ORS 417.200).

(39) “Incoming Convention adoption” means a case in which a child who is a resident of another Convention country has been, is being, or will be moved to the United States for placement and adoption.

(40) “Indian child” means any unmarried person who is under 18 years of age and is either:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

(41) “Legal Assistance Mediation Program” means, for the purpose of these rules, services contracted through the Department Legal Assistance program to assist the birth family and the identified adoptive family to participate in a cooperative adoption process that may result in a Post Adoption Communication Agreement (PACA).

(42) “Legal Assistance Referral” means an attorney-client privileged document used to prepare the termination of parental rights petition and or trial preparation work.

(43) “Legal assistance specialist (LAS)” means a central office Department staff who provides a vital link in the execution of the technical and legal processes of the alternative permanent plans for children whose best interests are not served by returning to their families of origin.

(44) “Legalization” means the process of giving an adoptive placement legal validity.

(45) “Mediation communications” means, as defined in ORS 36.110(8):

(a) All communications that are made, in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and

(b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or by a mediator, a mediation program or a party to, or any other person present at, mediation proceedings.

(46) “Mediation participants” means persons who will be working directly with the mediator in the cooperative adoption mediation process and who will be responsible for the creation and implementation of any PACA that results.

(47) “OSP” means the Oregon State Police.

(48) “Other criminal records information” means information obtained and used in the criminal records check process that is not criminal offender information from OSP. “Other criminal records information” includes but is not limited to police investigations and

records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation’s Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(49) “Other person in the household” means any individual described in one or more of the following subsections:

(a) An individual 18 years of age or older, who is not in the care and custody of the Department pursuant to ORS 418.015, who is living in the home of;

(A) An applicant to adopt a child in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246; or

(B) An applicant to be a foster parent, relative caregiver, or adoptive resource as described in OAR 413-200-0301 to 413-200-0396.

(b) A respite care provider.

(c) A person who volunteers or is employed by a foster parent or relative caregiver to assist with the care of the children placed in the home.

(d) Any of the following individuals if there is reason to believe the individual may pose a risk to children placed in the home: A member of the household under 18 years of age, a babysitter, or a person who frequents the home.

(50) “Outgoing Convention adoption” means a case in which a child in the United States has been, is being, or will be moved to another Convention country for placement and adoption.

(51) “Parties” means those participants whose signatures are necessary for the PACA to be implemented and are subject to enforcement of ORS 109.305.

(52) “Permanency committee” means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.

(53) “Permanency plan” means a written course of action for achieving safe and lasting family resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other individuals who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(54) “Petition for Adoption” means a petition, filed in circuit court by any person, for leave to adopt another person.

(55) “Placement Report” means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department’s prescribed reporting format and includes information about the child’s background and placement; medical and genetic history; birth parents’ history; status and adjustment of the child in the adoptive home; and status and adjustment of the child’s prospective adoptive parents.

(56) “Post-adoption communication” means the manner and frequency of contact and communication between the birth family and the child and/or the birth family and the adoptive family.

(57) “Post Adoption Communication Agreement (PACA)” means a written agreement for post-adoptive communication, signed by birth parents and adoptive parents and is based on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.

(58) “Post-placement supervision” means the supervision of a child following placement with an adoptive resource.

(59) “Prospective adoptive parents” means the parents, family members, or other people who reside in the residence, or the physical home location of the family, who have been studied and approved by a foreign authorized entity to adopt a child in the legal

and physical custody of the Department and with whom the Department has made an official decision to place the child in the family home for the purpose of adoption.

(60) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(61) "Receiving Convention country" means a Convention country in which a child who is the subject of an outgoing adoption will be placed for the purpose of adoption.

(62) "Refugee child" has the meaning given that term under ORS 418.925.

(63) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(64) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

(65) "Respite care" means a formal planned arrangement to relieve a certified family's responsibilities by an individual temporarily assuming responsibility for the care and supervision of a child or young adult in the home of the respite provider or certified family. "Respite care" must be less than 14 consecutive days.

(66) "Secretary of State" means the Secretary of the United States Department of State, the central authority for the United States.

(67) "Sibling" means one of two or more children or young adults 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.

(68) "Subject individual" means an individual who:

(a) Applies to adopt a child in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246;

(b) Applies to be a foster parent, relative caregiver, or adoptive resource as described in OAR 413-200-0301 to 413-200-0396; or

(c) Is an other person in the household.

(69) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(70) "Substitute caregiver" means a relative caregiver, foster parent, or provider who is authorized to provide care to a child or young adult who is in the legal or physical custody of the Department.

(71) "U.S. State Department" means the United States Department of State.

(72) "Violence" means the use of physical force to injure, damage, or abuse.

(73) "Weighing test" means the process in which an authorized designee considers available information to make a fitness determination when a subject individual has potentially disqualifying convictions, arrests, or conditions.

(74) "Young adult" means an individual aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285

Chapter 413 Department of Human Services, Child Welfare Programs

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0010

Purpose

The purpose of OAR 413-120-0010 to 413-120-0060 is to describe the responsibilities of the Department when making an adoption placement selection for a child or sibling group who is in the custody of the Department

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285, 418.937, 419B.100 & 419B.192

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0016

Confidentiality

(1) To be considered as a potential adoptive resource, each applicant who is the subject of an adoption home study must provide a signed, valid release of information to release the adoption home study and associated documents to be considered in the adoption placement selection.

(2) When the Department considers written information in addition to the adoption home study concerning a potential adoptive resource during the adoption placement selection, the adoption worker must:

(a) Notify the potential adoptive resource of the additional written information; and

(b) Have the potential adoptive resource sign a release of information for the additional written information to be considered in the adoption placement selection.

(3) The Child Permanency Program Manager, at his or her discretion, may determine that any written information released under section (1) or (2) of this rule must be a summary or redacted copy when:

(a) An individual who is a subject of the adoption home study or additional information has requested that information be redacted or summarized; or

(b) There is a conflict of interest as described in OAR 413-120-0222.

(4) Any written information released under section (1), (2) or (3) of this rule must:

(a) Be kept confidential by the recipients;

(b) Be used only for the purpose of making the recommendation and selection of a child's adoptive resource;

(c) Not be redisclosed verbally or in writing;

(d) Not be copied; and

(e) Be returned to the Department when the adoption placement selection has been made.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.225, 418.005, 418.280, 418.285, 418.305, 419A.255

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; Renumbered from 413-120-0033, CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0020

Adoption Placement Selection Options

When a child or sibling group has a permanency plan of adoption, the Department uses one of the three options below to make an adoption placement selection:

(1) Selection by Caseworker. After considering the input from the child's team and following consultation with the supervisor, the

caseworker may make the adoption placement selection for a child or sibling group using the process in OAR 413-120-0021 when the requirements of at least one of the following is met:

(a) An Indian child is being considered for adoption alone or as part of a sibling group and there is a single potential adoptive resource who:

(A) Meets the ICWA order of placement preference;

(B) Has been identified as the placement preference through tribal resolution; or

(C) Has been identified as the placement preference by a good cause order as provided in ICWA and OAR 413-070-0100 to 413-070-0260.

(b) The child is identified as a refugee child and the adoption placement selection complies with OAR 413-070-0300 to 413-070-0380.

(c) A relative of the child or sibling group is being considered alone as the potential adoptive resource unless subsections (c), (d), or (e) of section (3) of this rule apply. Prior to making a selection, ensure the Department has conducted a diligent search and there is no other identified relative who has expressed an interest in, or who is being assessed as a potential adoptive resource and there is no current caretaker who has expressed an interest in, or who is being assessed, as a potential adoptive resource.

(d) A current caretaker of the child or sibling group is being considered alone as a potential adoptive resource unless subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no relative who has expressed an interest in, or who is being assessed as, a potential adoptive resource, and there is no other current caretaker who has expressed an interest, or who is being assessed, as a potential adoptive resource.

(e) The child is under six years of age with no extraordinary needs and each potential adoptive resource is a general applicant, unless subsection (d) of section (2) of this rule or subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no relative who has expressed an interest in, or who is being assessed as, a potential adoptive resource, and there is no current caretaker who has expressed an interest, or who is being assessed, as a potential adoptive resource.

(2) Local Adoption Committee and ADS. The local adoption committee recommends an adoptive resource and the ADS makes the adoption placement selection when section (3) of this rule does not apply and at least one of the following applies:

(a) The child is six years of age or older.

(b) The child has extraordinary needs.

(c) A sibling group is being placed together for the purpose of adoption and each potential adoptive resource is a general applicant.

(d) The identified potential adoptive resources include the child's current foster parent, who is not a current caretaker, being considered as a general applicant with other general applicants.

(3) Central Office Adoption Committee and ADS. The central office adoption committee recommends an adoptive resource, and the ADS makes the adoption placement selection when one of the following applies:

(a) The potential adoptive resources include:

(A) More than one relative as defined in OAR 413-120-0000(63)(a)-(c);

(B) A relative as defined in OAR 413-120-0000(63)(a)-(d) and a current caretaker; or

(C) A relative, as defined in OAR 413-120-0000(63)(d) for whom an exception to the order of preference has been granted under OAR 413-120-0760.

(b) The potential adoptive resources include more than one current caretaker being considered for siblings who will be placed together in adoption.

(c) A DHS staff member is a potential adoptive resource, and the requirements of the DHS-060-002, "Conflict of Interest Policy" and the "Conflict of Interest Policy Addendum for CAF Employees" apply.

(d) A non-DHS staff member with a potential conflict of interest with the Department is a potential adoptive resource.

(e) The potential adoptive resource is an individual living outside of the United States.

(4) The caseworker, following consultation with the supervisor, may request that the adoption placement selection be made by an ADS following an adoption committee recommendation based on the complexities or dynamics of a case. The request must be approved by:

(a) The Child Welfare Program Manager or designee for the use of a local adoption committee rather than a caseworker selection; or

(b) The Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for the use of a central office adoption committee rather than a local adoption committee.

[ED. NOTE: Policies referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07; Administrative correction 9-16-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0021

Adoption Placement Selection by Caseworker

(1) Before making an adoption placement selection, the child's caseworker must comply with the provisions of OAR 413-120-0700 to 413-120-0760.

(2) When the caseworker, after considering the input from the child's team and following consultation with the supervisor, has identified the potential adoptive resources to be considered for adoption placement selection, the caseworker must consult with the adoption worker for each of the identified families to:

(a) Provide the adoption worker with written information, redacted to remove identifying information, about the history and needs of each child under consideration for adoption; and

(b) Discuss the ability of the potential adoptive resource to meet the needs of each child under consideration for adoption.

(3) The adoption workers must complete all of the following:

(a) Provide the identified potential adoptive resources with the information described in subsection (2)(a) of this rule.

(b) Describe the adoption placement selection process to the potential adoptive resources to;

(A) Inform them of the individuals who will be reviewing their adoption home study or other information during the adoption placement selection process; and

(B) Assure all appropriate releases of information described in OAR 413-120-0016(1) and (2) have been obtained.

(c) Confirm with the caseworker for each child who is under consideration that the potential adoptive resource is willing and available to be considered for adoption.

(4) When the caseworker has been informed that the identified potential adoptive resources are available and appropriate to be considered, the caseworker must set a date for the adoption placement selection and notify the adoption worker for each of the identified potential adoptive resources.

(5) At least ten business days before the adoption placement selection, the caseworker must complete all of the following:

(a) Notify the following individuals of the potential adoptive resources to be considered and the date the adoption placement selection will occur:

(A) The CASA;

(B) The child's attorney;

(C) A tribal representative if the child is an Indian child; and

(D) A member of the RCWAC, if the child is a refugee child.

(b) Ensure that the individuals identified in subsection (a) of this section are sent copies of the adoption home study and any additional written information released under OAR 413-120-0016

for each potential adoptive resource, unless the individual has notified the caseworker that they do not want a copy of the materials.

(c) Notify the individuals identified in subsection (a) of this section that any input regarding the ability of a potential adoptive resource to meet the current and lifelong needs of the child or sibling group must be received at least two days before the date of the adoption placement selection to assure it will be considered.

(6) When the caseworker has provided the notifications in section (5) of this rule, an adoption selection date has been scheduled by the caseworker or committee, and a child's relative or current caretaker now expresses interest in being considered as a potential adoptive resource, the Child Welfare Program Manager must:

(a) If the newly expressed interest is from a relative, review the diligent efforts to identify a child's relatives required under OAR 413-070-0060 to 413-070-0063;

(b) If the newly expressed interest is from a current caretaker, review the efforts to determine if the current caretaker was given adequate and reasonable time to request consideration as the potential adoptive resource;

(c) Consider the impact of a delay in achieving permanency on the best interests of the child; and

(d) Make a determination whether it is in the best interest of the child for an adoption home study to be conducted with a relative or current caretaker despite the delay in achieving permanency.

(7) The Child Welfare Program Manager in consultation with the Child Permanency Program Manager makes the determination whether to consider a relative or current caretaker under section (6) of this rule.

(8) When a Child Welfare Program Manager informs the caseworker of the determination to consider a relative or current caretaker identified under section (6) of this rule, the caseworker must notify each individual in subsection (5)(a) of this rule and the adoption worker for each identified potential adoptive resource that the adoption selection process has been suspended.

(9) When the adoption selection process has been suspended, the adoption workers must notify each identified potential adoptive resource that the adoption selection process has been suspended.

(10) The timelines in this rule may be changed when the caseworker, the adoption worker for each of the identified potential adoptive resources, and each individual in section (5) of this rule agree on a new timeline.

(11) After considering the input from individuals in section (5) of this rule, the caseworker — following consultation with his or her supervisor — makes the adoption placement selection for a child or sibling group under consideration for adoption when OAR 413-120-0020(1) applies.

(12) On the day that the selection is made, the child's caseworker must notify the adoption workers for each of the identified potential adoptive resources who were considered for the adoption placement selection.

(13) By the end of the next business day following the adoption placement selection, the child's caseworker must send written notification of the adoption placement selection to each of the following individuals:

(a) The CASA;

(b) The child's attorney;

(c) A tribal representative if the child or young adult is an Indian child; and

(d) A member of the RCWAC, if the child is a refugee child.

(14) By the end of the next business day following the adoption placement selection, written notification on a form approved by the Department must be sent to each identified potential adoptive resource of whether they were selected as the adoptive resource by the following individuals:

(a) A Department adoption worker; or

(b) The child's caseworker when the adoption worker is a private agency employee.

(15) Notifications in sections (12) and (13) of this rule must contain information on the Department's review process as

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described in OAR 413-120-0060, unless the identified potential adoptive resources were all general applicants.

(16) Within three days of the adoption placement selection, the caseworker must assure that:

(a) The adoption placement selection and the basis for that selection are documented on a Department-approved form; and

(b) The central office Adoption Program is notified of the adoption placement selection.

(17) Any individual who received a copy of an adoption home study or other written documents during the adoption selection process must return the materials to the Department within seven business days of the notice of the adoption placement selection.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

Hist.: CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0025

Composition of an Adoption Committee

(1) An adoption committee must be composed of the following individuals:

(a) The caseworker of each child for whom adoption placement selection is being made;

(b) Three individuals appointed by the Child Welfare Program Manager or designee for a local adoption committee, and by the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for a central office adoption committee:

(A) The committee facilitator, who must be a Department staff person; and

(B) Two other individuals, who may be a community partner or a Department staff person.

(2) In addition to the committee members identified in section (1), the following individuals for each child for whom adoption placement selection is being made must be notified of the adoption committee and may be adoption committee members, if they so choose, under OAR 413-120-0053(1):

(a) The CASA;

(b) The child's attorney;

(c) A tribal representative if the child is an Indian child; and

(d) A member of the RCWAC, if the child is a refugee child.

(3) The adoption worker for each identified potential adoptive resource must attend the full adoption committee.

(4) With the approval of the committee facilitator, the following individuals may attend the adoption committee:

(a) The supervisor for an individual identified in section (1), (2), or (3) of this rule;

(b) Department staff who may have information about the child or sibling group under consideration for adoption or the potential adoptive resources being considered; and

(c) Department staff, for training or observation purposes.

(5) Committee members appointed under subsection (1)(b) of this rule must meet the following requirements:

(a) Be knowledgeable of adoption and permanency issues;

(b) Be knowledgeable of the importance of lifelong family and cultural connections; and

(c) Have no personal or current professional relationship to any of the children for whom adoption placement selection is being made or to the potential adoptive resources being considered.

(6) The committee facilitator appointed under paragraph (1)(b)(A) of this rule must comply with all of the following subsections:

(a) Hold the meeting in accordance with the requirements of Chapter 413 of the Oregon Administrative Rules;

(b) Inform each individual who is present of the responsibilities of the committee;

(c) Have each individual who is present sign a confidentiality agreement for the proceedings of the adoption committee meeting;

(d) Ensure the individuals who are invited to attend and present information to the committee as described in OAR 413-120-0035(5) are;

(A) Allowed to present information appropriate for consideration for each child for whom adoption placement selection is being made; and

(B) Excused in a timely manner.

(e) Give the committee recommendations to the ADS at the end of the adoption committee meeting.

(7) The ADS:

(a) Is appointed by the Child Permanency Program Manager or designee and must:

(A) Have significant expertise in the areas of adoption and permanency issues;

(B) Have experience with adoption placement planning;

(C) Be knowledgeable of the importance of lifelong family and cultural connections; and

(D) Have no personal or current professional relationship to the child, sibling group under consideration for adoption, or the potential adoptive resources being considered.

(b) Must attend the adoption committee and may ask clarifying questions, but does not participate in the deliberations or recommendations of the adoption committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

Hist.: CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0035

Invitation to and Notification of Adoption Committee

(1) In preparation for and prior to scheduling an adoption committee, the caseworker for each child and the adoption worker for each potential adoptive resource must comply with the provisions of OAR 413-120-0700 to 413-120-0760.

(2) No later than ten business days before the scheduled adoption committee, the Department must send the ADS and each individual identified in OAR 413-120-0025(1), (2), and (3) all of the following:

(a) Notification of the date, time, and location of the adoption committee.

(b) A copy of each of the adoption home studies and the written information released under OAR 413-120-0016(1) and (2).

(c) Written information about the needs of each child under consideration.

(d) A notice that confidential information may not be re-released, under OAR 413-120-0016(4).

(e) A request to thoroughly review all of the information provided before the date of the adoption committee when the individual will be serving as a committee member.

(3) Information in subsections (b) to (e) of section (2) of this rule need not be provided again to the caseworker for each child under consideration for adoption and the adoption worker for each potential adoptive resource.

(4) Individuals identified in OAR 413-120-0025(1), (2), and (3) may request that the Department invite individuals to the adoption committee to present information regarding a child's needs.

(5) The Department has the discretion to invite the following individuals to attend and present information regarding the child's current and lifelong needs to an adoption committee:

(a) The child, on a case by case basis, when the child's caseworker determines the child's attendance is appropriate;

(b) The child's current or previous substitute caregiver, unless the individual is being considered as a potential adoptive resource for the child; and

(c) Any other individual who has significant information about the current and lifelong needs of the child relevant to the selection of an adoptive resource.

(6) Any individual invited to provide information related to the child's needs may present information to the adoption committee in person, by telephone, through electronic communication, or in writing.

(7) A potential adoptive resource may provide supplemental information regarding his or her ability to meet the current and life-long needs of the child or sibling group under consideration for adoption through the adoption worker. An identified potential adoptive resource and his or her legal or personal advocate may not attend an adoption committee.

(8) When the notification in section (2) of this rule has been provided and a child's relative or current caretaker now expresses interest in being considered as a potential adoptive resource, the Child Welfare Program Manager must:

(a) If the newly expressed interest is from a relative, review the diligent efforts to identify a child's relatives under OAR 413-070-0060 to 413-070-0063;

(b) If the newly expressed interest is from a current caretaker, review the efforts to determine if the current caretaker was given adequate and reasonable time to request consideration as the potential adoptive resource;

(c) Consider the impact of a delay in achieving permanency on the best interests of the child; and

(d) Make a determination whether it is in the best interests of the child for an adoption home study to be conducted with the relative or current caretaker despite the delay in achieving permanency.

(9) The Child Welfare Program manager in consultation with the Child Permanency Program manager makes the determination whether to consider a relative or current caretaker under section (8) of this rule.

(10) When a Child Welfare Program Manager informs the caseworker of the determination to consider a relative or current caretaker identified under section (8) of this rule, the caseworker must notify each individual identified in OAR 413-120-0025(1), (2), and (3) that the adoption selection process has been suspended.

(11) When the adoption selection process has been suspended, the adoption workers must notify each identified potential adoptive resource that the adoption selection process has been suspended.

(12) The timelines in this rule may be changed by the committee facilitator when the individuals identified in OAR 413-120-0025(1), (2), and (3) agree on a new timeline.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0053

The Adoption Committee

(1) An individual described in OAR 413-120-0025(2) attending an adoption committee must inform the committee facilitator at the beginning of the adoption committee whether the individual intends to serve as an adoption committee member. These individuals may present written or oral information regarding the needs of the child during the adoption committee, whether or not they are serving as adoption committee members.

(2) An individual invited to attend the adoption committee under OAR 413-120-0035(5) to present information about the child must:

(a) Present written or oral information regarding the needs of the child during the adoption committee; and

(b) Respond to clarifying questions from adoption committee members and the ADS; and

(c) Leave when excused from the adoption committee, prior to the presentation of the potential adoptive resources.

(3) The adoption workers must present information on the knowledge, skills, and abilities of the potential adoptive resource in relation to meeting the current and lifelong needs of the child.

(4) After all presentations have been completed:

(a) The following individuals must remain at the adoption committee:

(A) The adoption committee members;

(B) Each adoption worker presenting information regarding a potential adoptive resource; and

(C) The ADS.

(b) The following individuals may remain at the adoption committee, if they so choose:

(A) Department staff or supervisors as described in OAR 413-120-0025(4).

(B) Individuals described in OAR 413-120-0025(2) attending an adoption committee who have elected not to serve as committee members.

(5) The adoption committee members must:

(a) Consider all of the information, deliberate, and make recommendations regarding the adoptive resource most likely to permanently and fully integrate the child into the family and meet the current and lifelong needs of each child for whom potential adoptive resources are being considered.

(A) When adoption committee members all agree, the adoption committee may make one or more of the following recommendations:

(i) A single potential adoptive resource is the most appropriate.

(ii) An order of preference of appropriate adoptive resources.

(iii) A potential adoptive resource is not appropriate and should not be considered.

(B) When the adoption committee cannot reach agreement, each adoption committee member makes his or her respective recommendations known to the committee facilitator.

(b) At the conclusion of the adoption committee, the committee facilitator must record the recommendations on a form approved by the Department and submit the form to the ADS.

(6) All confidential written information provided for the purpose of adoption placement selection to individuals who are not Department staff must be:

(a) Retained by the Department at the conclusion of the adoption committee when the individual attended the committee; and

(b) Returned to the Department within seven business days when the individual did not attend the committee.

Stat. Auth.: ORS 418.005, 418.280, 418.285

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10

413-120-0057

Adoption Placement Selection, Notification, and Documentation

(1) Adoption Placement Selection.

(a) The ADS must make a decision regarding the adoption placement selection no later than the end of the next business day following the scheduled adoption committee.

(b) The ADS may make one of the following adoption placement selection decisions from the identified potential adoptive resources presented at the adoption committee:

(A) Select one adoptive resource.

(B) Select an adoptive resource and identify a second adoptive resource as an alternate in the event that the selected adoptive resource is subsequently found to be unavailable or no longer deemed by the Department to meet the current and lifelong needs of the child under OAR 413-120-0800 to 413-120-0880.

(C) Select none of the potential adoptive resources.

(2) Notification of the Adoption Placement Selection.

(a) The ADS must send written notification to the child's caseworker, the adoption workers, and the committee facilitator of the adoption placement selection, and alternate if one was named, no later than the end of the next business day following the scheduled adoption committee.

(b) By the end of the next business day following the notice sent in subsection (a) of this section, written notification on a form approved by the Department must be sent as follows:

(A) Each potential adoptive resource who was presented at the adoption committee must be notified by the following individuals of whether they were selected:

(i) A Department adoption worker; or

(ii) The child's caseworker when the adoption worker is not a Department employee.

(B) The child's attorney, CASA, tribal representative, a member of the RCWAC, and the private adoption agency representing a potential adoptive resource, as applicable, must be notified of the adoption placement selection by the child's caseworker.

(C) Notices in paragraphs (A) and (B) of this subsection must contain information on the Department's review process as described in OAR 413-120-0060, except when the potential adoptive resources were all general applicants.

(3) The ADS must send written documentation on a form approved by the Department regarding the adoption placement selection, the alternate when one is named, and the basis for those decisions to the central office Adoption Program within two business days following the adoption committee.

Stat. Auth.: ORS 418.005, 418.280, 418.285

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0060

Review of the Adoption Placement Selection

(1) A review may not be requested of an adoption placement selection when each potential adoptive resource was a general applicant.

(2) Except as provided in section (1) of this rule:

(a) Each of the following individuals may request a review of the process and the adoption placement selection under OAR 413-120-0021(10) or 413-120-0057(1):

(A) The child.

(B) The child's attorney.

(C) The CASA.

(D) A tribal representative.

(E) A member of the RCWAC.

(F) The child's caseworker, with the approval of the caseworker's supervisor and the Child Welfare Program Manager or designee.

(G) A relative or current caretaker who was considered as the adoptive resource but was not selected.

(b) A request for review of the process and decision made in the adoption placement selection must be in writing and received by the Child Permanency Program Manager or designee within seven calendar days of the notification of the adoption placement selection under OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b).

(c) When a request for review has been received, the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee must notify the Director of Child Welfare or designee and must send written notice of the request to the following individuals:

(A) Each of the potential adoptive resources considered by the caseworker or adoption committee and ADS;

(B) The child's caseworker;

(C) The adoption worker for each of the potential adoptive resources considered;

(D) The supervisors of the workers;

(E) The child's attorney;

(F) The child's CASA;

(G) The tribe, if the child is an Indian child;

(H) A member of the RCWAC, if the child is a refugee child; and

(I) The local Child Welfare Program Manager.

(d) The Director of Child Welfare or designee must decide whether to grant a review of the adoption placement selection within 14 calendar days after the notice of the adoption placement selection under OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b). Written notice of the decision whether or not to conduct a review must be sent to the individuals listed in subsection (c) of this section and to the Child Permanency Program Manager.

This written notice is not required to be provided within the 14 calendar day timeline for the decision whether to grant a review.

(e) The Director of Child Welfare or designee may, on his or her initiative and without a request for a review, give notice of intent to review the adoption placement selection when the decision to review is made within seven calendar days following the date of the notice of the adoption placement selection in OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b).

(f) The Director of Child Welfare or designee may conduct the review by any of the following methods:

(A) Personally conduct a review of information considered in making the adoption placement selection and may consider additional, relevant information about the child or potential adoptive resource.

(B) Refer the adoption placement selection to a review committee appointed by and at the discretion of the Director of Child Welfare or designee to;

(i) Review the information considered in making the original adoption placement selection;

(ii) Consider additional relevant information about the child or potential adoptive resources; and

(iii) Issue a recommendation that the Director of Child Welfare or designee affirm or modify the original adoption placement selection of the caseworker or the ADS or recommend a different adoption placement selection.

(C) Appoint another individual to;

(i) Review the information considered in making the original adoption placement selection;

(ii) Consider additional relevant information about the child or potential adoptive resources; and

(iii) Issue a recommendation that the Director of Child Welfare or designee affirm or modify the original adoption placement selection of the caseworker or the ADS, or recommend a different adoption placement selection.

(g) The Director of Child Welfare or designee must provide written notification of the decision affirming or changing the original adoption placement selection to the individuals identified in subsection (2)(c) of this rule and the Adoption Program Manager.

(3) Notwithstanding sections (1) and (2) of this rule, the Director of Child Welfare may reconsider a decision and require the actions in subsection (2)(f) of this rule to occur when the following conditions exist:

(a) The time to request review of an adoption placement selection under subsection (2)(b) of this rule has expired;

(b) There is no request for review pending; and

(c) The deadline set by statute for a person entitled to seek judicial review of an adoption placement selection entered under this rule has not expired.

(4) The adoption placement selection made by the Director of Child Welfare or designee under this rule is final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 23-2007(Temp), f. & cert. ef. 12-12-07 thru 6-9-08; CWP 4-2008, f. 5-30-08, cert. ef. 6-1-08; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 21-2015, f. & cert. ef. 10-1-15

Legalizing the Adoption

413-120-0100

Purpose

These rules define the process for legalizing an adoptive placement for children in the permanent custody of the Department of Human Services (Department).

Stat. Auth.: ORS 418.005

Chapter 413 Department of Human Services, Child Welfare Programs

Stats. Implemented: ORS 418.005 & 419B.529

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; CWP 5-2004, f. & cert. ef. 4-1-04

413-120-0105

Definitions

(1) "Legalization" is the process of giving an adoptive placement legal validity.

(2) "Consent to the Adoption": The Consent to the Adoption documents that the adoptive parents have been investigated and approved by the Department and gives permission for the adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 & 419B.529

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 22-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 5-2004, f. & cert. ef. 4-1-04

413-120-0110

Values

(1) Creating a legal child-parent relationship is the final goal of adoption.

(2) Achieving permanency for the child is important.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.307, 109.309 & 109.316

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96

413-120-0115

Procedures

(1) When adoption assistance has been approved, and the adoptive parents decide to use a "qualified vendor" attorney, the Adoption Assistance staff send the family a Qualified Vendor Agreement and the Qualified Vendor Attorney List. The family and the attorney must sign the Qualified Vendor Agreement and return it to the central Adoptions Services Unit. Upon receipt of the adoption decree, the adoption assistance staff will prepare the request to reimburse the attorney in accordance with the Department's contract with the attorney.

(2) If the adoptive parents choose to use an attorney who is not on the Qualified Vendor Attorney List, the adoption assistance staff will send the adoptive parents a Non Vendor Agreement. The adoptive parents must sign the agreement and return it to the Adoption Services Unit. Upon receipt of the adoption decree, the adoption assistance staff will reimburse the adoptive parents at the same rate as for a vendor attorney. The adoptive parents are responsible for any additional charges billed by the attorney and are responsible to reimburse the attorney for those charges.

(3) Department employees may not recommend an attorney to serve as counsel for the prospective parents.

(4) When the central office Adoptions Services Unit has received the request for consent to the adoption and the vendor or non-vendor agreement, the adoption assistance is in place, and the Legal Assistance Specialist has given approval, the Adoptions Services Unit will prepare the consent to be signed by the Adoption Services Manager or another person designated by the Assistant Director for Children, Adults and Families. In addition to the Consent to the Adoption, the Department's Adoption Services Unit will provide the adoptive parents or their attorney with the following documents to be filed with the petition:

(a) A certified copy of the court orders or the original release and surrender documents which show that the Department has permanent custody of the child and the authority to consent to the child's adoption.

(b) ICWA correspondence, if applicable.

(c) Statement of verification that the birth parents and the petitioners have been advised of the voluntary adoption registry.

(d) Documentation regarding compliance with the Interstate Compact on Placement of Children, if applicable.

(e) A copy of a signed legally enforceable Post Adoption Communication Agreement, if available.

(f) Affidavits, if applicable.

(5) After receiving the documents listed in (4), the Department will send the Consent to Adopt to the attorney for the adoptive family. Within 30 calendar days of the date the Department sends the Consent to Adopt, the attorney must file the petition (unless a

petition is not required under ORS 419B.529). After the central office Adoptions Services Unit receives a copy of the petition filed with the court, the Department will provide the court with the written court report waiving the 90-day waiting period.

(6) After the Department sends the Consent to Adopt to the attorney, the attorney prepares the petition if required and files it with the court, and the Department sends the written court report to the court, the attorney must, within 30 days following the court's receipt of the report to the court, prepare a decree and send it to the court or schedule an Adoption Ceremony.

(7) The court granting the adoption decree will provide the central office Adoption Services Unit with a copy of the adoption decree.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.307, 109.309, 109.316 & 419B.529

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 7-1999, f. & cert. ef. 5-14-99; SOSCF 22-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 39-2003(Temp), f. & cert. ef. 11-25-03 thru 5-21-04; CWP 5-2004, f. & cert. ef. 4-1-04

Legalizing the Adoption if Petition Not Required

413-120-0142

Purpose

ORS 419B.529 sets forth conditions under which a prospective adoptive parent is not required to file a petition for adoption. These rules establish DHS's responsibilities in the process for legalizing an adoption through the juvenile court where a petition for adoption is not required.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; SOSCF 48-2001, f. 12-31-01 cert. ef. 1-1-02

413-120-0145

Values

(1) Every child needs and deserves a safe, nurturing, and permanent home.

(2) Creating a legal child parent relationship is the final goal of adoption.

(3) Expediting legalization of adoption is desirable if the interests of the child and adoptive family are protected and basic requirements met.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99

413-120-0155

Conditions for Not Filing a Petition for Adoption

Pursuant to ORS 419B.529 and notwithstanding ORS 109.309, a prospective adoptive parent is not required to file a petition for adoption if all of the following conditions are in place:

(1) A juvenile court that is a circuit court has entered an order of permanent commitment of the child to DHS pursuant to ORS 419B.527, or the parent has signed and Department of Human Services Office of Safety and Permanency for Children has accepted a release and surrender to the Department and a certificate of irrevocability and waiver as provided in ORS 418.270 regarding the child.

(2) DHS has completed a home study that finds the prospective adoptive parent(s) suitable to adopt the child and consents to the adoption; and

(3) The adoptive parent(s) elect to legalize the adoption through the juvenile court.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; SOSCF 48-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 9-2004, f. & cert. ef. 4-1-04

413-120-0160

Right to Use Expedited Process

The adoption worker shall inform the adoptive parent(s) in writing of their right to use this expedited process, using form CF 438, Legalizing the Adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

413-120-0165

Requirements Prior to Proceeding to Legalization of the Adoption

When the supervision period is concluded and the Adoption Services Unit receives a request from the adoptive parent(s) or their legal representative to proceed with finalization of the adoption in the juvenile court, the Adoption Services Unit shall assure that the following requirements have been met or processes have been completed before proceeding with forwarding the matter to the juvenile court for legalization:

(1) The requirements of the Indian Child Welfare Act (ICWA) have been met (OAR 413-070-0100 through 0260).

(2) If applicable, the requirements of the Interstate Compact on Placement of Children have been met (OAR 413-040-0200 through 0330).

(3) The birth parent(s) and petitioners have been advised of the Voluntary Adoption Registry (OAR 413-130-0300 through 0360).

(4) The worker has assessed the child's need for openness in adoption, and if appropriate to the case, has provided information to the adoptive parent(s) and facilitated the development of a Post Adoption Communication Agreement (OAR 413-120-0610 through 0650); and

(5) The child has been referred to the Adoption Assistance Program; and if the child meets the criteria, a written Adoption Assistance Agreement has been completed, (OAR 413-130-0000 through 0110). If the adoptive parent(s) decline to participate in the Adoption Assistance Program, the worker must obtain a statement signed by the adoptive parent(s) which says that they have been fully informed of the availability of the Adoption Assistance Program and waive their rights to these benefits now and in the future.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; SOSCF 48-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 9-2004, f. & cert. ef. 4-1-04

413-120-0170

Attorney Fees

If Adoption Assistance has been approved, and the adoptive parent(s) elect to use an attorney to assist with legalization, the adoptive parent(s) can request reimbursement for reasonable and necessary attorney fees through the Adoption Assistance Program pursuant to OAR 413-130-0080(1), (4), 413-130-0090, and 413-120-0115(1) and (2).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99

413-120-0175

Court Filing Requirements

When the requirements of OAR 413-120-0165 have been met, the Adoption Services Unit will send the following to the attorney selected by the adoptive family, and the attorney must file with the court:

(1) A written consent to the adoption.

(2) A placement report requesting the juvenile court to enter a decree of adoption.

(3) Indian Child Welfare Act statement, ORS 109.309(10)(a)-(b).

(4) Statement regarding Voluntary Adoption Registry Notification, ORS 109.35.

(5) Documentation regarding compliance with the Interstate Compact on Placement of Children, Article IV, ORS 417.200.

(6) Adoption Disclosure Statement, form CF 960.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; CWP 40-2003(Temp), f. & cert. ef. 11-25-03 thru 5-21-04; CWP 9-2004, f. & cert. ef. 4-1-04

Adoption Applications, Adoption Home Studies, and Standards for Adoption

413-120-0190

Purpose

These rules (OAR 413-120-0190 to 413-120-0246) describe the Department's:

(1) Adoption application requirements for Oregon residents.

(a) Applying to adopt a child in the legal custody of the Department.

(b) Submitting an application to the Department to conduct an adoption home study for a child in the custody of a public child welfare agency in another state after the agency in the other state has submitted an adoptive placement request to the Department in accordance with the ICPC.

(c) Submitting an application to the Department to conduct an adoption home study for a child in the custody of a public child welfare agency in another country after the agency in the other country has submitted an adoption home study request to the Department and in accordance, when applicable, with Child Welfare Policy I-G.1.14, "Intercountry Adoption Pursuant to the Hague Convention and Intercountry Adoption Act", OAR 413-120-0900 to 413-120-0970.

(2) Authority regarding adoption applications submitted to the Department.

(3) Adoption home study criteria for individuals applying to adopt a child in the legal custody of the Department.

(4) Standards for an adoptive home for a child in the custody of the Department.

(5) Authority to release an adoption home study.

Stat. Auth.: ORS 418.005, 418.280, 418.285

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 37-2008, f. & cert. ef. 11-3-08; CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10

413-120-0220

Adoption Application Requirements

(1) A resident of Oregon applying to adopt a child in the legal custody of the Department must submit an application for an adoption home study to the Department or to a licensed adoption agency willing to contract with the Department or willing to allow another licensed adoption agency to contract with the Department for post placement supervision services as outlined in OAR 413-120-0830(2)(c).

(2) Applications.

(a) The Department accepts applications for an adoption home study from Oregon residents applying to adopt a child:

(A) In the custody of the Department;

(B) In the custody of a public child welfare agency in another state following receipt of an ICPC request from the agency in the other state; or

(C) In the custody of a public child welfare agency in another country following a request from the agency in the other country and in accordance, when applicable, with OAR 413-120-0900 to 413-120-0970.

(b) The Department accepts applications for an adoption home study for Oregon residents who have previously applied or are currently applying through another adoption agency. The applicant must:

(A) Sign a release of information allowing ongoing communication with the other adoption agency; and

(B) Sign a release of information allowing the Department to obtain a copy of the adoption file of the individual.

(3) An application submitted to the Department must include all of the following:

(a) An adoption application form;

(b) A signed, valid release of information from each applicant who is a subject of the adoption home study allowing the adoption home study to be released to the individuals and for the purposes described in OAR 413-120-0246(2);

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(c) An Adoptive Family Information and Placement Preference form, unless the Department determines this is not required due to the existing relationship between the child and the applicant;

(d) Financial information, current within 12 months of application, demonstrating the ability of the applicant to meet the needs of the family and the child to be adopted;

(e) Medical information current within 24 months of application;

(f) When applicable, mental health information;

(g) When applicable, copy of marriage certificate, divorce verification, or death certificate of spouse;

(h) Consent to a criminal offender information records check for each applicant and all household members age 18 and older under Child Welfare Policy I-G.1.4, "Oregon Computerized Criminal History Checks and Nationwide Criminal History Checks through the FBI for Relative Caregivers, Foster Parents, Other Persons in the Household and Adoptive Parents for Children in the Care or Custody of DHS", OAR 413-120-0400 to 413-120-0470;

(i) Consent to a child abuse and neglect background check for each adoptive applicant and all household members age 18 and older;

(j) Names and contact information of four references, two of whom may be relatives of the adoptive applicant, who can attest to the character and ability of the adoptive applicant to provide safe and protective care for a child.

(4) The Department may require additional information from an adoptive applicant to assess the ability of the applicant to meet the standards of an adoptive home.

(5) The adoptive applicant must be at least 21 years of age, unless one of the following subsections applies:

(a) The Child Welfare Program Manager or designee has approved a relative adoptive applicant between the ages of 18 through 20 years; or

(b) The child is an Indian child and the adoptive applicant is:

(A) A member of the child's extended family;

(B) Another member of the Indian child's tribe; or

(C) Another Indian family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 37-2008, f. & cert. ef. 11-3-08; CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0222

Conflict of Interest for Adoptive Applicants

(1) When an adoptive applicant under OAR 413-120-0220 is a Department of Human Services (DHS) staff member, the requirements of DHS Administrative Policy DHS-060-002, "Conflict of Interest Policy" and "Conflict of Interest Policy Addendum for CAF Employees" apply.

(2) When an adoptive applicant under OAR 413-120-0220 is not a DHS staff member and the Child Welfare Program Manager determines a potential conflict of interest with the Department exists, section (3) of this rule applies. If the Child Welfare Program Manager is unable to determine if there is a conflict of interest, the Adoption Program Manager or designee makes the determination.

(3) An adoptive applicant who has a conflict of interest with the Department is referred to one of the following entities for application and completion of the adoption home study:

(a) A local child welfare office in another district, upon the approval of the supervisor; or

(b) A contracted adoption agency, with the approval of the Adoption Program Manager or designee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: CWP 33-2010, f. & cert. ef. 12-29-10

413-120-0225

Conditions that Require Additional Approval or Termination of the Department's Adoption Application Process

(1) Prior to proceeding with an adoption application submitted by an individual who has lost permanent custody of a child, there

must be an approval by the Adoption Program Manager or designee, at the request of the District Manager or designee.

(2) The Department may terminate the application process and deny an application at any time or remove a completed adoption home study from consideration, when one or more of the following subsections applies:

(a) Information regarding the adoptive applicant is sufficient to determine the adoptive applicant cannot meet adoption home standards described in OAR 413-120-0246.

(b) An adoptive applicant's license or certificate to provide services to children, the elderly, or individuals with disabilities has previously been or is currently being denied, revoked, or suspended.

(c) The adoptive applicant falsifies or omits information.

(d) The adoptive applicant does not respond to the inquiries and requests for information within the timelines established by the Department.

(e) The adoptive applicant does not submit the required application information under OAR 413-120-0220.

(f) The adoptive applicant is selected by another adoption agency to adopt a child.

(3) When the Department terminates the adoption application process, the caseworker must:

(a) Send written notification of the termination to the adoptive applicant; and

(b) Document the termination and notification in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010,

f. & cert. ef. 12-29-10

413-120-0240

Status Notification of Adoption Applications

The Department must send written notice of the status of the application to an individual who has submitted an adoption application to the Department when the requirements of any of the following sections apply:

(1) The adoption home study is not initiated within 180 calendar days from the date the application is received; or

(2) The Department determines that an individual will not be recommended as a potential adoptive resource.

Stat. Auth.: ORS 418.005, 418.280, 418.285

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 37-2008, f. & cert. ef. 11-3-08; CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10

413-120-0243

Prioritization of an Adoption Home Study Application

The Department has discretion to prioritize adoption home study applications received from the following individuals according to the needs of the child or children awaiting adoption rather than the date of receipt of an application;

(1) An individual applying to adopt a related child.

(2) An individual applying as a current caretaker for a child.

(3) An individual who is a general applicant when the Department has determined that further general recruitment is not required under OAR 413-120-0750.

(4) An individual who is a general applicant interested in adopting a child with special needs for whom there are few or no available approved homes.

(5) An individual who is a general applicant other than those described in sections (3) and (4) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0246

Standards for an Adoptive Home and Release of an Adoption Home Study

(1) Except to the extent provided otherwise in section (2) of this rule, to be approved to adopt a child in the legal custody of the Department, an individual must complete all of the following:

(a) Have an adoption home study recommending the applicant as a potential adoptive resource written, amended, or updated within the 12 months prior to the adoption placement selection, completed by:

(A) The Department under OAR 413-200-0301 to 413-200-0396;

(B) An Oregon licensed private agency for an Oregon resident when the home study is prepared by a private agency for an Oregon resident under OAR 413-215-0401 to 413-215-0481;

(C) An out-of-state agency under OAR 413-040-0200 to 413-040-0330; or

(D) An agency in another country under OAR 413-120-0900 to 413-120-0970.

(b) Meet the Department's standards for adoptive homes by demonstrating the knowledge, skills, and ability to meet, without agency oversight, the current and lifelong needs of the child for all of the following:

(A) Physical and emotional safety and well-being;

(B) Developing and maintaining connections to the child's family;

(C) Continuity and familiarity;

(D) Appropriate social, educational, developmental, emotional, and physical support;

(E) Integration into the family;

(F) Stability and permanency; and

(G) Maintaining his or her identity, cultural, religious, and spiritual heritage.

(c) Provide evidence of successful completion of a training program approved by the Department, unless the Adoption Program Manager has approved an alternate training program.

(2) In the case of an individual or individuals residing in a state that does not complete an adoption home study prior to a child being placed with the individual or individuals or prior to the child being legally free for adoption:

(a) The Child Permanency Program may approve a foster home study or a relative study as an adoption home study for the purpose of adoption placement selection only as long as all other requirements of subsections (1)(a), (b), and (c) of this rule are met.

(b) An approved adoption home study must be completed prior to designation of the child's placement for the purpose of adoption.

(3) Release of an adoption home study. An adoption home study is considered confidential information and, when released under this rule must have a signed, valid release of information from each applicant who is a subject of the adoption home study.

(a) The Department may release a copy of the adoption home study to:

(A) An adoption applicant who is a subject of the adoption home study;

(B) Individuals involved in the adoption placement selection process, under OAR 413-120-0021 and 413-120-0035;

(C) The court for the purposes of finalizing an adoption; and

(D) A public agency upon the written request of an applicant who is a subject of the adoption home study.

(b) A Child Welfare Program Manager must approve the release of an adoption home study requested for a purpose other than those listed in subsection (a) of this rule.

(c) An individual receiving a copy of an adoption home study must keep the information contained therein confidential.

(d) Before releasing an adoption home study, the Department must redact or summarize information, when necessary, to prevent the identification of individuals, other than the applicants, who provided information for the adoption home study.

(e) When an agency or entity other than the Department completes the adoption home study, the Department must receive approval from the agency or entity that completed the adoption home study before release.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10; CWP 5-2013, f. & cert. ef. 10-1-13; CWP 21-2015, f. & cert. ef. 10-1-15

Criminal Records Check Requirements for Relative Caregivers, Foster Parents, Adoptive Resources, and Other Persons in the Household

413-120-0400

Purpose

(1) These rules (OAR 413-120-0400 to 413-120-0475) describe the *criminal records check* requirements for those seeking to provide relative care, foster care, or *respite care* to children in the care or custody of the Department, be *approved* as adoptive resources for children in the custody of the Department, or be approved as an *other person in the household*.

(2) These rules set forth the criminal convictions which disqualify a subject individual from being a *relative caregiver*, *foster parent*, adoptive resource, or *other person in the household*.

(3) These rules outline the process by which the Department determines the fitness of a *subject individual* convicted of or arrested for certain felony and misdemeanor crimes to be a *relative caregiver*, *foster parent*, adoptive resource, or *other person in the household*.

(4) These rules must be used in conjunction with other applicable standards when determining a subject individual's fitness to provide relative care, foster care, or *respite care* for children in the care or custody of the Department, or to be *approved* as an *other person in the household*.

Stat. Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01;

SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 1-2009, f. & cert. ef. 2-2-09; CWP 3-2012, f. & cert. ef. 6-26-12

413-120-0440

Circumstances in which a Criminal Records Check Must Occur and Types of Records Checks Required

(1) Circumstances in which the Department conducts criminal records checks.

(a) When a family applies to be certified as a *relative caregiver* or *foster parent* under OAR 413-200-0270 to 413-200-0296, the Department must conduct a *criminal records check* on each applicant and any person who is identified as an *other person in the household*.

(b) When a family applies to adopt a *child* under OAR 413-120-0190 to 413-120-0246, the Department must conduct a *criminal records check* on each applicant and any person who is identified as an *other person in the household*.

(c) When a *subject individual* who has not previously been approved as an *other person in the household* of a *certified family* seeks approval to be an *other person in the household*, the Department must conduct a *criminal records check* on the *subject individual*. Notwithstanding this requirement, when a person who lives in the household turns 18 years of age during the time that a family is certified, or after a family has been approved as a potential adoptive resource, a *criminal records check* is not required on the person who turned 18 until the family is being evaluated for renewal of certification or until a previously approved adoption home study is being amended or updated.

(d) When a *certified family* is being assessed to determine whether or not the certification will be renewed under OAR 413-200-0287, the Department must conduct a *criminal records check* on each applicant and any person who is identified as an *other person in the household*.

(e) When a previously approved home study is being amended or updated within the 12 months prior to an adoption placement selection as required by OAR 413-120-0246, the Department must conduct a *criminal records check* on each applicant and any person who is identified as an *other person in the household*.

(2) In addition to the required criminal records checks described in section (1) of this rule, the Department may conduct a *criminal records check* on any *subject individual* at any time, if deemed necessary by the Department to protect child safety.

(3) Each *criminal records check* conducted under section (1) of this rule must include a fingerprint-based check of records maintained by the Federal Bureau of Investigation (FBI) unless one of the following subsections applies:

(a) The *criminal records check* is being conducted for purposes of a certification renewal or an update to a previously approved home study as described in subsections (1)(d) and (1)(e) of this rule, and the *subject individual*:

(A) Has not lived outside of Oregon for more than 60 consecutive days after the subject individual's last *criminal records check*;

(B) Has not been arrested since the family was last certified to provide foster care or relative care or approved as a potential adoptive resource; and

(C) Previously had a fingerprint-based check of records maintained by FBI in order to be approved under these rules to live in the home that is being assessed for certification renewal.

(b) The *criminal records check* is being conducted for purposes of approval of a *subject individual* to provide *respite care*, and the *subject individual*:

(A) Has not lived outside the state of Oregon for more than 60 consecutive days in the last five years;

(B) Does not disclose any history of arrests or convictions;

(C) Is not determined, following a review of the results of a check of Oregon criminal records obtained from OSP's Law Enforcement Data System (LEDS), to have a history of arrests or convictions; and

(D) Is not determined, as a result of review of information received from any other source, to have a history of arrests or convictions.

(c) The *criminal records check* is being conducted for purposes of approval of a *subject individual* to be an *other person in the household*, and the *subject individual*:

(A) Is under the age of 18;

(B) Is a babysitter; or

(C) Frequents the home but is not a respite provider nor a care-giving employee or volunteer.

(d) The Department determines that the *subject individual* is unable to submit fingerprints due to a physical or mental condition that makes compliance impossible or presents an undue safety risk to the *subject individual* or staff, and the District Manager in the District where the *criminal records check* was initiated provides written approval to forego the fingerprint-based check. The District Manager's written approval, and written documentation of the circumstances that lead to the decision to forego fingerprinting, must be kept with other documents pertaining to the subject individual's *criminal records check*.

(4) Notwithstanding subsections (3)(a) to (3)(c) of this rule, the Department may require a fingerprint-based check of records maintained by FBI as part of the *criminal records check* for any *subject individual* if deemed necessary by the Department to protect child safety.

(5) Each *criminal records check* conducted under these rules must include a check of Oregon criminal records obtained from OSP's Law Enforcement Data System (LEDS) regardless of whether a fingerprint-based check of records maintained by FBI is conducted or not.

(6) A *criminal records check* under this rule may also include a review of records obtained from other law enforcement entities, courts, or any other source of criminal information.

(7) A *subject individual* who is required under these rules (OAR 413-120-0400 to 413-120-0475) to undergo a fingerprint-based check of records maintained by FBI may be approved following a check of Oregon criminal records obtained from OSP's Law Enforcement Data System (LEDS). When an approved *subject individual* is subsequently determined to have arrests or convictions which were unknown at the time of their approval, the *subject individual* must be approved following a new *fitness determination* in order to continue to function in the capacity for which the *subject individual* was previously approved.

(a) The new *fitness determination* is required regardless of the severity of the previously unknown criminal history, the length of time since the arrests or convictions occurred, or any other factor pertaining to the history.

(b) The new *fitness determination* must occur as soon as possible after any new criminal history has been discovered, and no later than 14 working days after the history has been discovered.

(c) The new *fitness determination* must occur regardless of when previously unknown criminal history is discovered and regardless of whether the history is discovered as a result of information obtained from LEDS, the FBI, or any other credible information source.

(d) The same Department employee who made the original *fitness determination* must also make the new *fitness determination*, unless the severity of the newly discovered history requires approval at a higher level of the Department's organizational structure or unless the person who made the original determination is no longer in the position she or he occupied at that time or is otherwise unavailable.

(e) Following the discovery of previously unknown criminal history, and pending a new *fitness determination*, the Department may permit a *subject individual* to continue to function in the capacity for which the individual was previously approved. If the newly discovered history includes any convictions that require a *fitness determination* by the District Manager, or the Child Welfare Director or Chief Operating Officer, written approval from the District Manager must be obtained within 24 hours in order for the

subject individual to continue in her or his current capacity pending the outcome of the new *fitness determination*.

(f) Notwithstanding subsections (a) to (c) of this section, when a *criminal records check* is being conducted for the purpose of approval of an adoptive resource or for the initial non-child-specific certification of a foster family, the *subject individual* must undergo both a check of Oregon criminal records obtained from OSP's Law Enforcement Data System (LEDS) and a fingerprint-based check of records maintained by FBI before a *fitness determination* is made and before the *subject individual* may be approved.

(8) A *subject individual* who was previously approved as a respite provider or as an *other person in the household* must undergo a new *criminal records check* and *fitness determination*, including a fingerprint-based check of records maintained by FBI, when applying to adopt a *child* or to be a *foster parent* or *relative caregiver*.

(9) When a family currently certified as child-specific caregivers seeks to become a non-child-specific *certified family*, and the household includes a *subject individual* who was previously approved following a criminal records related *fitness determination*, written approval must be granted prior to the family becoming non-relative foster parents. In these circumstances, decisions regarding approval must be made by the Department employees involved in the original fitness determinations or by employees in positions at the same level of the Department's organizational structure.

(10) A *subject individual* may not be denied under these rules due to the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.262.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 1-2009, f. & cert. ef. 2-2-09; CWP 3-2012, f. & cert. ef. 6-26-12

413-120-0450

Disqualifying and Potentially Disqualifying Criminal Convictions

(1) The Department must determine the fitness of individuals who have been convicted of crimes, or who have been arrested for but not convicted for certain crimes, to be relative caregivers, foster parents, *respite care* providers, adoptive resources, or an *other person in the household*.

(2) An *authorized designee* employed by the Department must make all fitness determinations.

(3) A *subject individual* convicted of any crime described in subsections (a) to (h) of this section may not be a *relative caregiver*, *foster parent*, adoptive resource, or an *other person in the household* regardless of how long ago the *subject individual* was convicted or any other factors or circumstances that exist. An *authorized designee* making a *fitness determination* under these rules must deny any *subject individual* who has been convicted in Oregon or any other jurisdiction of a felony crime that involves:

(a) Violence, including rape, sexual assault, and homicide, but not including other physical assault or battery;

(b) Intentional starvation or torture;

(c) Abuse or neglect of a *child*;

(d) Spousal abuse;

(e) Aiding, abetting, attempting, soliciting, or conspiring to cause the death of a *child*;

(f) Sodomy or sexual abuse;

(g) A *child* as the victim (including child pornography); or

(h) The following crimes under Oregon law, or substantially similar crimes in Oregon or any other jurisdiction:

(A) ORS 162.155 — Escape in the second degree, if the crime involves *violence*;

(B) ORS 162.165 — Escape in the first degree, if the crime involves *violence*;

(C) ORS 162.325 — Hindering prosecution, if the crime involves *violence*;

(D) ORS 163.095 — Aggravated murder;

(E) ORS 163.115 — Murder;

(F) ORS 163.118 — Manslaughter in the first degree;

(G) ORS 163.125 — Manslaughter in the second degree;

(H) ORS 163.145 — Criminally negligent homicide;

(I) ORS 163.149 — Aggravated vehicular homicide;

(J) ORS 163.160 — Assault in the fourth degree, if classified as a felony, and the victim is a *child* or the subject individual's spouse;

(K) ORS 163.165 — Assault in the third degree if the victim is a *child* or the subject individual's spouse;

(L) ORS 163.175 — Assault in the second degree if the victim is a *child* or the subject individual's spouse;

(M) ORS 163.185 — Assault in the first degree if the victim is a *child* or the subject individual's spouse;

(N) ORS 163.205 — Criminal mistreatment in the first degree if the victim is a *child* or the subject individual's spouse, or if the crime involves *violence*;

(O) ORS 163.207 — Female genital mutilation;

(P) ORS 163.213 — Unlawful use of an electrical stun gun, tear gas, or mace in the first degree;

(Q) ORS 163.225 — Kidnapping in the second degree if the victim is a *child* or the subject individual's spouse, or if the crime involves *violence*;

(R) ORS 163.235 — Kidnapping in the first degree if the victim is a *child* or the subject individual's spouse, or if the crime involves *violence*;

(S) ORS 163.245 — Custodial interference in the second degree if the victim is a *child*;

(T) ORS 163.257 — Custodial interference in the first degree if the victim is a *child*;

(U) ORS 163.355 — Rape in the third degree;

(V) ORS 163.365 — Rape in the second degree;

(W) ORS 163.375 — Rape in the first degree;

(X) ORS 163.385 — Sodomy in the third degree;

(Y) ORS 163.395 — Sodomy in the second degree;

(Z) ORS 163.405 — Sodomy in the first degree;

(AA) ORS 163.408 — Unlawful sexual penetration in the second degree;

(BB) ORS 163.411 — Unlawful sexual penetration in the first degree;

(CC) ORS 163.425 — Sexual abuse in the second degree;

(DD) ORS 163.427 — Sexual abuse in the first degree;

(EE) ORS 163.432 — Online sexual corruption of a *child* in the second degree;

(FF) ORS 163.433 — Online sexual corruption of a *child* in the first degree;

(GG) ORS 163.452 — Custodial sexual misconduct in the first degree;

(HH) ORS 163.479 — Unlawful contact with a *child*;

(II) ORS 163.525 — Incest, if the victim of the offense is a *child*;

(JJ) ORS 163.535 — Abandonment of a child;

(KK) ORS 163.537 — Buying or selling a person under 18 years of age;

(LL) ORS 163.547 — Child neglect in the first degree;

(MM) ORS 163.555 — Criminal nonsupport;

(NN) ORS 163.670 — Using a child in display of sexually explicit conduct;

(OO) ORS 163.684 — Encouraging child sexual abuse in the first degree;

(PP) ORS 163.686 — Encouraging child sexual abuse in the second degree;

(QQ) ORS 163.688 — Possession of materials depicting sexually explicit conduct of a child in the first degree;

(RR) ORS 163.689 — Possession of materials depicting sexually explicit conduct of a child in the second degree;

(SS) ORS 164.125 — Theft of services, if the theft involves *violence* and is for services valued at \$750 or more;

(TT) ORS 164.225 — Burglary in the first degree if the crime involves *violence*;

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(UU) ORS 164.395 — Robbery in the third degree if the crime involves *violence*;
(VV) ORS 164.405 — Robbery in the second degree if the crime involves *violence*;
(WW) ORS 164.415 — Robbery in the first degree if the crime involves *violence*;
(XX) ORS 166.015 — Riot if the crime involves *violence*;
(YY) ORS 166.165 — Intimidation in the first degree if the crime involves *violence*;
(ZZ) ORS 166.220 — Unlawful use of a weapon if the crime involves *violence*;
(AAA) ORS 167.017 — Compelling prostitution, if the victim is a *child* or the subject individual's spouse; or
(BBB) ORS 167.057 — Luring a minor.
(4) An *authorized designee* making a *fitness determination* under these rules must deny any *subject individual* who has been convicted in Oregon or any other jurisdiction of a felony crime within the last five years preceding the date of the *fitness determination*, if the felony crime involves:
(a) Physical assault, battery;
(b) A drug-related offense; or
(c) Any of the following crimes under Oregon law, or substantially similar crimes in Oregon or any other jurisdiction:
(A) ORS 163.160 — Assault in the fourth degree, if classified as a felony.
(B) ORS 163.165 — Assault in the third degree.
(C) ORS 163.175 — Assault in the second degree.
(D) ORS 163.185 — Assault in the first degree if the crime involved *violence*.
(E) ORS 163.208 — Assaulting a public safety officer.
(F) ORS 167.212 — Tampering with drug records.
(G) ORS 167.262 — Adult using minor in commission of controlled substance offense, if classified as a felony.
(H) ORS 475.846 — Unlawful manufacture of heroin.
(I) ORS 475.848 — Unlawful manufacture of heroin within 1,000 feet of school.
(J) ORS 475.850 — Unlawful delivery of heroin.
(K) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of school.
(L) ORS 475.854 — Unlawful possession of heroin.
(M) ORS 475.856 — Unlawful manufacture of marijuana.
(N) ORS 475.858 — Unlawful manufacture of marijuana within 1,000 feet of school.
(O) ORS 475.860 — Unlawful delivery of marijuana, if classified as a felony.
(P) ORS 475.862 — Unlawful delivery of marijuana within 1,000 feet of school.
(Q) ORS 475.864 — Unlawful possession of marijuana, if classified as a felony.
(R) ORS 475.866 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine.
(S) ORS 475.868 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.
(T) ORS 475.870 — Unlawful delivery of 3,4-methylenedioxy-methamphetamine.
(U) ORS 475.872 — Unlawful delivery of 3,4-methylenedioxy-methamphetamine within 1,000 feet of school.
(V) ORS 475.874 — Unlawful possession of 3,4-methylenedioxymethamphetamine.
(W) ORS 475.876 — Unlawful manufacture of cocaine.
(X) ORS 475.878 — Unlawful manufacture of cocaine within 1,000 feet of school.
(Y) ORS 475.880 — Unlawful delivery of cocaine.
(Z) ORS 475.882 — Unlawful delivery of cocaine within 1,000 feet of school.
(AA) ORS 475.884 — Unlawful possession of cocaine.
(BB) ORS 475.886 — Unlawful manufacture of methamphetamine.
(CC) ORS 475.888 — Unlawful manufacture of methamphetamine within 1,000 feet of school.
(DD) ORS 475.890 — Unlawful delivery of methamphetamine.

(EE) ORS 475.892 — Unlawful delivery of methamphetamine within 1,000 feet of school.
(FF) ORS 475.894 — Unlawful possession of methamphetamine.
(GG) ORS 475.904 — Unlawful manufacture or delivery of controlled substance within 1,000 feet of school.
(HH) ORS 475.908 — Causing another person to ingest a controlled substance.
(II) ORS 475.910 — Application of controlled substance to the body of another person, if the controlled substance is in Schedule I, II, III, or IV.
(JJ) ORS 475.914 — Prohibited acts for registrants related to Schedule I controlled substances.
(KK) ORS 475.962 — Distribution of equipment, solvent, reagent, or precursor substance with intent to facilitate manufacture of controlled substance.
(LL) ORS 475.967 — Possession of precursor substance with intent to manufacture controlled substance.
(MM) ORS 475.977 — Possessing or disposing of methamphetamine manufacturing waste.
(5) In addition to any other requirements pertaining to fitness determinations:
(a) Any fitness determinations made with regard to crimes identified in subsection (b) of this section must adhere to the following requirements:
(A) Approval of any *subject individual* convicted of a crime identified in subsection (b) of this section may not occur unless the *fitness determination* leading to approval is made by one of the following authorized designees:
(i) The Department's Child Welfare Director; or
(ii) The Department's Child Welfare and Self Sufficiency Chief Operating Officer; or
(iii) An Administrator or Manager who does not work in the district in which the *criminal records check* was initiated and who is designated by the Department's Child Welfare Director.
(B) Denial of any *subject individual* convicted of a crime identified in this section may not occur unless the *fitness determination* leading to denial is made by an *authorized designee* who is a Child Welfare Supervisor, a Child Welfare Program Manager, a District Manager, or an Administrator.
(b) Crimes to which subsection (a) of this section applies are as follows:
(A) Any misdemeanor crime of *violence* against a *child*.
(B) Any felony involving *violence*, unless the offense meets the criteria under sections (3) or (4) of this rule.
(C) A felony drug-related offense, unless the offense meets the criteria under sections (3) or (4) of this rule.
(D) The following crimes under Oregon law or substantially similar crimes in Oregon or any other jurisdiction:
(i) ORS 162.155 — Escape in the second degree, if the crime involves the threatened use of *violence*. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)
(ii) ORS 162.165 — Escape in the first degree, if the crime involves the threatened use of *violence* or the threatened use of a dangerous or deadly weapon. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)
(iii) ORS 163.160 — Assault in the fourth degree, if the conviction is classified as a felony. (If the conviction occurred within five years before the *fitness determination* or if the victim was a *child*, the *subject individual* must be denied.)
(iv) ORS 163.160 — Assault in the fourth degree if the conviction is a misdemeanor and the victim is a *child*. (If the conviction is a felony and the victim is a *child*, the *subject individual* must be denied.)
(v) ORS 163.165 — Assault in the third degree. (If the conviction meets the criteria in sections (3) or (4) of this rule, the *subject individual* must be denied.)
(vi) ORS 163.175 — Assault in the second degree. (If the conviction meets the criteria in sections (3) or (4) of this rule, the *subject individual* must be denied.)

(vii) ORS 163.185 — Assault in the first degree. (If the conviction meets the criteria in sections (3) or (4) of this rule, the *subject individual* must be denied.)

(viii) ORS 164.395 — Robbery in the third degree. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)

(ix) ORS 164.405 — Robbery in the second degree. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)

(x) ORS 164.415 — Robbery in the first degree. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)

(xi) ORS 166.015 — Riot. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)

(xii) ORS 166.165 — Intimidation in the first degree. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)

(xiii) ORS 166.220 — Unlawful use of weapon. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)

(xiv) ORS 167.017 — Compelling prostitution. (If the conviction meets the criteria in section (3) of this rule, the *subject individual* must be denied.)

(xv) ORS 167.212 — Tampering with drug records. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xvi) ORS 475.846 — Unlawful manufacture of heroin. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xvii) ORS 475.848 — Unlawful manufacture of heroin within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xviii) ORS 475.850 — Unlawful delivery of heroin. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xix) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xx) ORS 475.854 — Unlawful possession of heroin. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxi) ORS 475.856 — Unlawful manufacture of marijuana. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxii) ORS 475.858 — Unlawful manufacture of marijuana within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxiii) ORS 475.860 — Unlawful delivery of marijuana if the conviction is a felony. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxiv) ORS 475.862 — Unlawful delivery of marijuana within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxv) ORS 475.864 — Unlawful possession of marijuana if the conviction is a felony. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxvi) ORS 475.866 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxvii) ORS 475.868 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxviii) ORS 475.870 — Unlawful delivery of 3,4-methylenedioxymethamphetamine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxix) ORS 475.872 — Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxx) ORS 475.874 — Unlawful possession of 3,4-methylenedioxymethamphetamine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxi) ORS 475.876 — Unlawful manufacture of cocaine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxii) ORS 475.878 — Unlawful manufacture of cocaine within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxiii) ORS 475.880 — Unlawful delivery of cocaine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxiv) ORS 475.882 — Unlawful delivery of cocaine within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxv) ORS 475.884 — Unlawful possession of cocaine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxvi) ORS 475.886 — Unlawful manufacture of methamphetamine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxvii) ORS 475.888 — Unlawful manufacture of methamphetamine within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxviii) ORS 475.890 — Unlawful delivery of methamphetamine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xxxix) ORS 475.892 — Unlawful delivery of methamphetamine within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xl) ORS 475.894 — Unlawful possession of methamphetamine. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xli) ORS 475.904 — Unlawful manufacture or delivery of controlled substance within 1,000 feet of school. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xlii) ORS 475.908 — Causing another person to ingest a controlled substance. (If the conviction meets the criteria in sections (3) or (4) of this rule, the *subject individual* must be denied.)

(xliii) ORS 475.910 — Application of controlled substance to the body of another person. (If the conviction meets the criteria in sections (3) or (4) of this rule, the *subject individual* must be denied.)

(xliv) ORS 475.962 — Distribution of equipment, solvent, reagent, or precursor substance with intent to facilitate manufacture of controlled substance. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xlv) ORS 475.967 — Possession of precursor substance with intent to manufacture controlled substance. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(xlvi) ORS 475.977 — Possessing or disposing of methamphetamine manufacturing waste. (If the conviction meets the criteria in section (4) of this rule, the *subject individual* must be denied.)

(6) In addition to any other requirements pertaining to fitness determinations:

(a) Any fitness determinations made with regard to crimes identified in subsection (b) of this section must adhere to the following requirements:

(A) Approval of any *subject individual* convicted of a crime identified in subsection (b) of this section may not occur unless the *fitness determination* leading to approval is made by one of the following authorized designees:

(i) An Administrator designated by the Department's Child Welfare Director.

(ii) A District Manager.

(iii) If permitted by the District Manager in the District in which the *criminal records check* was initiated, a Child Welfare Program Manager.

(B) Denial of any *subject individual* convicted of a crime identified in subsection (b) of this section may not occur unless the *fitness determination* leading to denial is made by an *authorized designee* who is a Child Welfare Supervisor, a Child Welfare Program Manager, a District Manager, or an Administrator designated by the Department's Child Welfare Director.

(b) Crimes to which subsection (a) of this section applies are as follows:

(A) Any felony conviction for a crime which is not described in sections (3), (4), or (5) of this rule.

(B) A conviction for any crime involving domestic violence and which is not described in sections (3), (4), or (5) of this rule.

(7) In addition to any other requirements pertaining to fitness determinations:

(a) Any fitness determinations made with regard to crimes identified in subsection (b) of this section must adhere to the following requirements:

(A) Approval of any *subject individual* convicted of a crime identified in subsection (b) of this section may not occur unless the *fitness determination* leading to approval is made by one of the following authorized designees:

(i) An Administrator designated by the Department's Child Welfare Director.

(ii) A District Manager.

(iii) If permitted by the District Manager in the District in which the *criminal records check* was initiated, a Child Welfare Program Manager or a Child Welfare Supervisor.

(B) Denial of any *subject individual* convicted of a crime identified in subsection (b) of this section may not occur unless the *fitness determination* leading to denial is made by an *authorized designee* who is a Child Welfare Supervisor, a Child Welfare Program Manager, a District Manager, or an Administrator designated by the Department's Child Welfare Director.

(b) Subsection (a) of this section applies to any misdemeanor conviction for a crime which is not described in sections (3) to (6) of this rule.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 1-2009, f. & cert. ef. 2-2-09; CWP 3-2012, f. & cert. ef. 6-26-12

413-120-0455

Potentially Disqualifying Arrests

(1) Behavior that results in an arrest or a history of arrests may raise concerns about the fitness of a *subject individual* to be a *relative caregiver*, a *foster parent*, an adoptive resource, or an *other person in the household*. If a *subject individual* has a history of one or more arrests for any of the following offenses, the Department determines if, considering the behavior that resulted in the arrest, the *subject individual* is fit to be a *relative caregiver*, *foster parent*, adoptive resource, or *other person in the household*:

(a) Child abuse or neglect.

(b) Domestic violence.

(c) A crime against a *child*, including pornography.

(d) A crime involving *violence*, including rape, sexual abuse, manslaughter, or homicide.

(e) Physical assault.

(f) Battery.

(g) A drug or alcohol related offense.

(h) A weapons-related offense.

(2) If a *subject individual* has been arrested for any of the offenses listed in section (1) of this rule, the Department must make a *fitness determination* and approve or deny the *subject individual*.

(3) Approval of any *subject individual* arrested for a crime identified in section (1) of this rule may not occur unless the *fitness determination* leading to approval is made by one of the following authorized designees:

(a) An Administrator designated by the Department's Child Welfare Director.

(b) A District Manager.

(c) If permitted by the District Manager in the District in which the *criminal records check* was initiated, a Child Welfare Program Manager or a Child Welfare Supervisor.

(4) Denial of any *subject individual* arrested for a crime identified in section (1) of this rule may not occur unless the *fitness determination* leading to denial is made by an *authorized designee* who is a Child Welfare Supervisor, a Child Welfare Program Manager, a District Manager, or an Administrator designated by the Department's Child Welfare Director.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016
Hist.: SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 1-2009, f. & cert. ef. 2-2-09; CWP 3-2012, f. & cert. ef. 6-26-12

413-120-0457

Weighing Test

When making a *fitness determination* with regard to a *subject individual* with a history of potentially disqualifying crimes or conditions, the *authorized designee* must consider any of the following factors that apply to the *subject individual* or the subject individual's situation:

(1) Circumstances regarding the nature of potentially disqualifying convictions and conditions, including but not limited to:

(a) The details of the incidents that led to potentially disqualifying convictions, arrests, or other disqualifying conditions.

(b) The age of the *subject individual* at the time of the incidents that led to potentially disqualifying convictions, arrests, or other disqualifying conditions.

(c) The passage of time since the incidents that led to potentially disqualifying convictions, arrests, or other disqualifying conditions.

(d) The facts that support the convictions, arrests, or potentially disqualifying conditions.

(e) Whether or not the *subject individual* was charged with or indicted for a crime related to a potentially disqualifying arrest.

(f) The disposition of any charge or indictment related to a potentially disqualifying arrest.

(g) Consideration of state and federal laws, including regulations and rules which address crimes or conditions that potentially disqualify a person from being a *relative caregiver*, *foster parent*, adoptive resource, or an *other person in the household*.

(2) Other factors when available including but not limited to:

(a) Other information related to criminal activity including charges, arrests, pending indictments, and convictions. Other behavior involving contact with law enforcement may also be reviewed if information is relevant to other criminal records or shows a pattern relevant to criminal history.

(b) Periods of incarceration.

(c) Status of and compliance with parole, post-prison supervision, or probation.

(d) Evidence of alcohol or drug issues directly related to criminal activity or potentially disqualifying conditions.

(e) Evidence of treatment or rehabilitation related to criminal activity or potentially disqualifying conditions.

(f) Likelihood of repetition of criminal behavior or behaviors leading to potentially disqualifying conditions, including but not limited to patterns of criminal activity or behavior.

(g) Changes in circumstances subsequent to the criminal activity or disqualifying conditions including but not limited to:

(A) History of high school, college, or other education related accomplishments.

(B) Work history (employee or volunteer).

(C) History regarding licensure, certification, or training for licensure or certification.

(D) Written recommendations from current or past employers, including Department client employers.

(h) Indication of the subject individual's cooperation, honesty, or the making of a false statement during the *criminal records check* process.

(i) Acknowledgment and acceptance of responsibility for criminal activity and potentially disqualifying conditions.

(j) When the *subject individual* is seeking to provide care for a specific *child* or *young adult*, whether or not denial of the *subject individual* would create emotional harm to the *child* or *young adult* and placement of the *child* or *young adult* with the *subject individual* would be a safe placement that is in the best interest of the *child* or *young adult*.

(3) The *authorized designee* must consider the relevancy of the subject individual's criminal activity or potentially disqualifying conditions to the subject individual's fitness to be *relative caregiver*, *foster parent*, adoptive resource, or *other person in the household*.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016

Hist.: CWP 3-2012, f. & cert. ef. 6-26-12

413-120-0460

Contesting a Fitness Determination

(1) If the Department determines that a *subject individual* cannot be certified or approved as a *relative caregiver*, *foster parent*, or adoptive resource based on a negative *fitness determination*, unless the *subject individual* voluntarily withdraws from the process, the Department must notify the *subject individual* in writing that the *subject individual*:

(a) Has a right to inspect and challenge his or her Oregon criminal offender information through OSP procedures as adopted per ORS 181.555(3) and OAR 257-010-0035;

(b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the Assistant Director of the FBI Identification Division, Washington, DC 20537-9700; and

(c) May appeal the Department's determination of unfitness or indicate an intent to challenge information in the OSP or FBI report by requesting a *contested case hearing* pursuant to ORS chapter 183 and OAR 413-010-0500 to 413-010-0535 provided that the Department receives the request for a *contested case hearing* in writing within 30 days from the date of mailing the notice.

(2) Upon the determination of the Department that an applicant for relative care, foster care, or adoption of a *child* in the custody of the Department cannot be approved due to the denial of an *other person in the household*, the certifier or adoption worker must inform:

(a) The *other person in the household*, who was denied, of the right to inspect and challenge the subject individual's Oregon criminal offender information through OSP procedures as adopted per ORS 181.555(3) and OAR 257-010-0035 and the person's rights under ORS 181.557(2)(b);

(b) The *other person in the household*, who was denied, of the right to challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the Assistant Director of the FBI Identification Division, Washington, DC 20537-9700; and

(c) The *relative caregiver*, *foster parent*, or adoption applicant whose approval is affected by the denial of the *other person in the household*, in writing, that:

(A) Based on the *other person in the household's* denial, the Department may not certify or approve the *relative caregiver*, *foster parent*, or adoption applicant as long as the *other person in the household* remains in the home or provides care to a *child* or *young adult* in the home; and

(B) The *relative caregiver*, *foster parent*, or adoption applicant may appeal in a *contested case hearing* the Department's denial, provided that the Department receives the applicant's request for a

contested case hearing in writing within 30 days from the date of mailing the notice to the applicant.

(3) Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535 describes the requirements and process for requesting a *contested case hearing* due to the denial or revocation of a Certificate of Approval or a denial of approval to be an adoptive resource, including denials based on the criminal history, or false statement with regard to criminal history, of an applicant or *other person in the household*.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 1-2009, f. & cert. ef. 2-2-09; CWP 34-2011(Temp), f. 12-27-11, cert. ef. 12-28-11 thru 6-25-12; CWP 3-2012, f. & cert. ef. 6-26-12

413-120-0475

Record Keeping, Confidentiality

(1) All LEDS reports are confidential, and the *authorized designee* must maintain the reports in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 257, division 15).

(a) LEDS and FBI reports are confidential and may only be received or viewed by an *authorized designee*.

(b) LEDS and FBI and any photocopies may be shared with another *authorized designee* only if there is a need to know consistent with these rules.

(2) The results of a national *criminal records check* provided by the FBI or the OSP are confidential and may not be disseminated by the Department, except in the following circumstances:

(a) If a fingerprint-based *criminal records check* was conducted on the *subject individual*, the *subject individual* is provided a copy of the results if requested.

(b) The state and national criminal offender information may be provided as exhibits during a *contested case hearing*.

(3) All completed background check requests, other criminal records information, and other records collected or developed during the background check or contested case process must be kept confidential and disseminated only on a need-to-know basis.

(4) The Department must retain and destroy all *criminal records check* documents pursuant to federal law and records retention schedules published by Oregon State Archives.

(5) Documents may be requested and reviewed by the Oregon State Police for the purposes of determining and ensuring compliance with these rules (OAR 413-120-0400 to 413-120-0475).

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016

Hist.: CWP 3-2012, f. & cert. ef. 6-26-12

Openness and Post-Adoption Communication Through Legal Assistance Mediation Services

413-120-0600

Purpose

The purpose of these rules OAR 413-600-0005 through 0035 is to provide guidelines for a cooperative adoption planning process, as well as procedures for developing Post Adoption Communication Agreements (PACA), funded and managed by the Department's Adoption Services Program Unit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0620

Values

(1) Support and Safe Communication: Every healthy family requires support. Families created through adoption have different support needs than biological families in that the child is connected to more than one set of parent(s). One important aspect is the need for continued safe connection and communication between biolog-

ical and adoptive families, to the extent that it is consistent with the health and safety needs of the child.

(2) Collaboration: The child and their families benefit when the significant adults in their lives work collaboratively to identify and respond to the individual needs of the child. The significant adults for a child in foster care may include, but are not limited to: biological parent(s), prospective adoptive parent(s), child welfare workers, CASA, attorneys, and others.

(3) Empowered, Informed Decisions: Families, and individuals within them, are capable of making decisions about their lives. They should be empowered to make those decisions that affect the cooperative nature of an agreement for post adoption communication, whenever possible. In order for their decisions to be effective, they may need to be informed by a wide range of people and sources about a variety of adoption related issues.

(4) Mediation as Tool: Mediation is a process that can play an important role in developing effective communication between those families seeking to participate in a cooperative adoption planning process. Qualified mediators can provide assistance in the cooperative adoption planning process by providing a safe and constructive atmosphere for effective communication.

(5) Voluntary Commitment to Cooperate/Participate: Mediation is most successful when the adoptive parent(s) and biological parent(s) participate voluntarily. Their commitment to a cooperative planning process to support the lifelong safety and well-being of their child is an essential aspect of this success. It is these parent(s) who are the ultimate decision makers about this agreement and are responsible for maintaining the agreement throughout the life of the child.

(6) No Coercion: The cooperative adoption mediation process is meant to be a tool that is used to achieve a result that is in the long term best interest of the child. It is not meant to be used coercively for unilateral gain.

(7) Flexibility: PACAs should be flexible in responding to the child's maturity and developmental needs, or changes in the lifestyles of the birth and adoptive parent(s). Flexibility in these agreements will support the on-going nature of the cooperative relationship that is formed and fostered through the cooperative adoption process.

(8) Benefits of the PACA for the child may include, but are not limited to:

- (a) Having knowledge and information about his/her birth family,
- (b) Having an ability to maintain birth family identity,
- (c) Having a good model of effective communication,
- (d) Having a realistic understanding of the circumstances of the birth parent(s),
- (e) Having a sense of well-being fostered by adoptive and birth parent(s) working collaboratively to support the needs of the child,

(f) Having a better ability to process important life transitions as the child grows into an adult,

(g) Having an opportunity to appropriately grieve the loss of the birth family, and

(h) Having the permission of the birth parent(s) to become a member of the adoptive family.

(9) Benefits of the PACA for the adoptive parent(s) may include, but are not limited to:

- (a) Having an understanding of who the biological family is;
- (b) Having an exchange of on-going information such as medical and other important life information;
- (c) Supporting the child's need to be connected to the birth family;
- (d) Having the sense of accomplishment that is associated with positive cooperative relationships;
- (e) Helping the child to appropriately grieve the loss of the birth family; and

(f) Having the permission and the support of the birth parent(s) to help the child to become a member of the adoptive family.

(10) Benefits of the PACA for the birth parent(s) may include, but are not limited to:

- (a) Knowing their child is in a safe and secure environment,
- (b) Having a better ability to process loss of a child and the transition to a new family,
- (c) Having an exchange of on-going information such as medical and other important life information,
- (d) Having the sense of accomplishment that is associated with positive cooperative relationships,
- (e) Being able to get on-going information about the life of the child,
- (f) Having a sense of closure related to the loss of the child, and
- (g) Having assisted their child to successfully become a member of the adoptive family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0625

Roles and Responsibilities

(1) Child's caseworker: The child's caseworker represents the custodian of the child and assesses the appropriateness of mediation for cooperative post adoption planning for the children on their caseload. The child's caseworker consults with the supervisor and LAS, and seeks input from other interested persons. The decision to refer a case to mediation is based on the best interest of the child and whether the child's safety and permanency needs will be met with post adoption communication. The child's caseworker consults with an adoption worker, if assigned, or the identified adoptive parent(s) and the birth parent(s) about willingness to participate in the cooperative adoption mediation process. The child's caseworker initiates the referral to mediation and is the primary contact for the contract mediator.

(2) Adoption worker: The adoption worker connects to the cooperative adoption mediation process, selected adoptive parent(s) (including preliminary current caretaker families) of children who may benefit from post adoption communication. The adoption worker collaborates with the child's worker to identify benefits of the cooperative adoption mediation process and documents safety concerns to be communicated on the Mediation Referral Form.

(3) LAS:

(a) The LAS ensures that legal assistance mediation or cooperative adoption mediation services are included in the discussions of the plan to free the child for adoption (by relinquishment or termination of parental rights.) The LAS determines, in consultation with the child's worker and the legal assistance attorney, whether cooperative adoption mediation planning meets the child's best interest post adoptively. If the referral is appropriate the LAS approves the Referral for Mediation (**CF 0437**). The LAS confers with the child's caseworker when the caseworker determines that the PACA may not meet the safety concerns of the child. The LAS advises the child's caseworker on additional requirements related to Indian children.

(b) The outcome of the procedures to terminate parental rights shall not be the basis of ending the cooperative adoption mediation process.

(4) Contract Mediator: The contracted mediator for the cooperative adoption mediation process assists mediation participants in clarifying issues and stating expectations. The mediator is a neutral third party who assists the mediation participants in exploring options and empowers the mediation participants to make decisions through the confidential cooperative adoption planning process. The mediator will not make or impose decisions about the final outcome of the PACA.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0628

Criteria for Using the Cooperative Adoption Mediation Process

(1) The fundamental criteria for referring a child for a cooperative adoption mediation process is the best interest of the child's

well-being, permanency and safety. It is the responsibility of the department to determine if a referral for mediation is appropriate in accordance with the criteria of OAR 413-120-0628(1) through (3).

(2) Parent(s) who actively chose adoption for their child through voluntary relinquishment of parental rights and who do not present a danger to their child or to an adoptive family, may be most appropriate to participate in a cooperative adoption mediation process. However, parent(s) who have an adversarial relationship with the Department may be able to work cooperatively with a mediator and the adoptive family in a cooperative adoption mediation process.

(3) The decision of a birth parent(s) to relinquish parental rights or a Department decision to proceed to a termination of parental rights trial must be made independent from the Department's decision to refer a case for cooperative adoption mediation. One decision must not be conditioned upon the other.

(a) Relinquishment or termination of parental rights resolves the child's legal status;

(b) The cooperative adoption mediation process is not a means to avoid a termination of parental rights trial. At no time shall a voluntary relinquishment be conditioned on the willingness of the birth parent(s) and/or adoptive parent(s) to enter into a cooperative adoption mediation process;

(c) Caseworkers may not guarantee a certain level of openness in adoption nor make any promises regarding the cooperative adoption mediation process to convince a parent(s) to voluntarily relinquish the child for adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0630

Post Adoption Communication Agreements (PACAs)

(1) The cooperative adoption mediation process allows the mediation participants to make an informed and self determined decision after exploring the full range of options available to them. These decisions may be memorialized in a PACA. Post Adoption Communication Agreements make the most sense in situations where birth parent(s) are working with the agency to plan adoption, and where voluntary relinquishment of parental rights will be the mechanism to free the child for adoption rather than termination of parental rights. Parents who actively choose adoption for their child, and who do not present a danger to their child or to an adoptive family, are appropriate for a Post Adoption Communication Agreement.

(2) The PACA must address the safety concerns listed in the **Mediation Referral Form**.

(3) The PACA must not condition the terms of agreement upon the decision of the birth parent(s) to relinquish parental rights.

(4) Informed decision making in mediation involves giving the participants the opportunity to make self-determined decisions after exploring options that may impact the terms of their final agreement. The following characteristics should be considered in forming a PACA:

(a) It is based on the individual needs of the child and capable of meeting the child's developmental needs over time;

(b) Reflects the intent of relationship building in order for the adoptive parent(s) to meet the needs of the adopted child through growth and development;

(c) It is clear and can be understood by the mediation participants;

(d) It addresses how contingencies will be handled. For example: failure to adhere to the terms of the agreement by any mediation participant; requests for informal changes to the terms of the agreement, etc.

(e) It includes a procedure for modifying the agreement to meet the changes of the child through growth;

(f) It addresses how costs to support the agreement, such as transportation, counseling, supervision of visits, and letter and picture exchanges will be met.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0635

Cooperative Adoption Planning Through Legal Assistance Mediation Services

(1) Department will provide information on an ongoing basis to birth and adoptive families, Department staff, and other interested persons in the child's life: Information regarding the value and benefits of cooperative adoption planning; the use of mediation as a tool to achieve a cooperative adoption; and, the roles of all mediation participants in the cooperative adoption process. This concurrent planning education will take place early and often throughout the case. (See Flow Chart Box 1 & 2)

(2) The birth parents, identified adoptive parents, CASA, child, attorneys of record, Citizen Review Boards and other persons interested in the child's need for permanency, safety and well-being may request that the case be referred for cooperative adoption mediation services. (See Flow Chart Box 3.)

(3) The Department will obtain input from interested persons, prior to or during the cooperative adoption planning process, regarding the appropriateness of cooperative adoption planning to address the child's permanency, safety and well-being. (See Flow Chart Box 4.)

(4) On an ongoing basis, Department staff will explore the willingness of the birth and adoptive parents to engage in the cooperative adoption planning process through mediation. (See Flow Chart Box 5.)

(5) A Mediation Referral Form must not be submitted until a committee has selected the adoptive parents for a child, either at the preliminary current caretaker or adoption committee, and until the case has been staffed and approved for mediation by a LAS. See OAR 413-120-0010 to 413-120-0060.

(6) To support the development of a cooperative adoption planning process through mediation, the Department has the following responsibilities:

(a) After a Legal Assistance Referral has been approved, the caseworker must consult with the LAS and the assigned legal assistance attorney. Consultation must address whether the birth parents present a continuing threat to their child or adoptive parents, and whether a plan for openness in adoption will meet the needs of the child;

(b) If parents want to plan cooperatively and there is no approval for a legal assistance referral an exception can be made to allow for a referral for mediation using the criteria provided in OAR 413-120-0628.

(c) The child's caseworker must obtain from the birth parent(s) and from the adoptive parents, if no adoption worker is assigned, a signed DHS 2098 Authorization for Use and Disclosure of Non-Health Information and DHS 2099 Authorization for Use and Disclosure of Health Information to the mediator;

(d) To request mediation services funded through the Legal Assistance program, the child's caseworker, or in some cases, the adoptive parents' worker must make referrals for cooperative adoption mediation on the CF 0437 Mediation Referral Form. The child's caseworker, in consultation with the adoptive parents worker, if assigned, must list on the Mediation Referral Form, benefits specific to the individual case and safety concerns that, if an agreement is reached, must be met in a written PACA. The form should be prepared with the understanding that the birth parents and adoptive parents will be receiving a copy of the form.

(e) The child's caseworker, and in some cases, the adoptive parents' worker, must provide to the mediator, on the CF 437b Contact Information Form, information of the mediation participants, and other collateral resources when applicable.

(7) In order to allow for informed decision-making by the adoptive parents in the cooperative adoption mediation process, the adoption worker must:

(a) Provide the adoptive parents with the case materials itemized on the Form CF 963;

(b) Review with the adoptive parents the statement of benefits to the child for cooperative adoption planning listed on the Cooperative Adoption Mediation Referral Form CF 0437;

(c) Obtain from the adoptive parents a signed Authorization of Use and Disclosure of Non-Health Information Form DHS 2098 and a signed Authorization for Use and Disclosure of Health Information Form DHS 2099 authorizing release of information to the mediator;

(d) Be responsible to contact the mediator if the adoption worker is assigned after the cooperative adoption mediation process has already begun.

(8) The Cooperative Adoption Mediation Referral form must be forwarded to the central office LAS assigned to the local Department office for approval of funds disbursement. If funds are approved, Central office staff must notify the mediator that funds have been approved and that the mediation service may begin. (See Flow Chart Box 6.)

(9) A child welfare mediator contracted to provide cooperative adoption mediation must have the following responsibilities:

(a) The mediator must keep confidential all mediation communications. (ORS 36.220-25.238);

(b) The mediator must accept referrals from the Department on the Cooperative Mediation Referral Form CF 0437;

(c) Within two weeks of receiving the CF 0437, the mediator must contact the child's worker and the adoption worker of the selected adoptive family for additional information on the case and further discussion of the Department's safety concerns, if needed (See Flow Chart Box 7.);

(d) After contacting the child's worker and the adoption worker, but within the two week of receiving the CF 0437, the mediator must contact the birth parent(s) and adoptive parent(s) to begin mediation services,

(e) The beginning of the mediation process, the mediator must inform the mediation participants about the mediation process, explain their role and responsibilities during the process, provide them with a copy of ORS 109.305, review the mediation referral form with the mediation participants and provide them with a copy, and if the mediation participants choose to continue in mediation, obtain their signature on the Agreement to Mediate Form (See Flow Chart 8a.);

(f) The mediator must make collateral contact with professionals involved in the case including, but not limited to, children's attorney, CASA, and birth and adoptive parent(s)' attorneys. If requested, the mediator must also keep informed, the Assistant Attorney General or Deputy District Attorney assigned to the case;

(g) If the mediation participants reach agreement and the mediation participants desire it, the mediator must draft a PACA. The PACA must address the mediation participant's issues and the documented safety concerns as set forth in the Mediation Referral Form (See Flow Chart 9.);

(h) The mediator must provide the draft PACA to the mediation participants and must encourage the mediation participants to review the draft with legal counsel;

(i) Once the mediation participants have approved the draft, the mediator must provide the child's worker with the proposed PACA for the review and concurrence that it meets the safety needs of the child.

(10) The Department has the following additional responsibilities:

(a) The child's caseworker must review the draft PACA solely for the purpose of assessing whether it will meet the safety needs of the child, as set forth in the Mediation Referral Form (See Flow Chart Box 9.);

(b) If the child's caseworker concludes that the PACA meets the safety needs of the child, the child's caseworker or other agency representative must sign the final PACA. (Flow Chart Box 11(b).)

(c) If the child's caseworker concludes that the PACA may not meet the safety needs of the child, the child's caseworker must notify the LAS. The LAS must inform the mediation participants in the form of written communication sent to the mediator ("LAS

Notice"). The LAS Notice must state the continued safety concerns for the child. (See Flow Chart Box 11(a).)

(11) A contracted mediator has the following additional responsibilities:

(a) If the mediator is informed through a LAS Notice (see Flow Chart, Box 11) that the PACA does not meet the safety needs of the child, the mediator must set another mediation session with the mediation participants, and an agency representative, if requested by the mediation participants. The mediator may consult with the child's caseworker for clarification about the LAS Notice before setting the additional mediation session.

(b) If the additional mediation session results in a revised draft PACA, the mediator will repeat the processes outlined in (9)(g) through 10(c) in this rule.

(c) After the Department determines that the revised draft PACA meets the safety needs of the child, the mediator must arrange for the mediation participants and an agency representative to sign the agreement (See Flow Chart 11(b));

(d) If no agreement can be reached, the mediator must send a letter summarizing the situation to Central Office with the final invoice.

[ED. NOTE: Forms and Flow Charts referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03; CWP 21-2015, f. & cert. ef. 10-1-15

Identification and Consideration of Potential Adoption Resources

413-120-0700

Purpose

(1) The purpose of OAR 413-120-0700 to 413-120-0760 is to describe the responsibilities of the Department to;

(a) Identify the potential adoptive resources for a child or sibling group under consideration for adoption to best meet the current and lifelong needs of each child for safety, attachment, and well-being; and

(b) Establish an order of preference for assessment and consideration of potential adoptive resources.

(2) The term "sibling group" means siblings in the care and custody of the Department who are under consideration for adoption together.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.309, 409.010, 418.005, 418.280, 418.285, 418.937, 419B.090, 419B.100, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0720

Department Efforts to Place with Relatives, Current Caretakers and to Place Siblings Together

(1) The Department's preference for placement of a child is to place siblings together for the purpose of adoption with relatives or current caretakers.

(2) Prior to pursuing a general applicant as a potential adoptive resource, the caseworker and the caseworker's supervisor must comply with all of the following requirements:

(a) Review the diligent efforts of the Department to identify, contact, and place a child with relatives and to place siblings together as required by OAR 413-070-0060 to 413-070-0087.

(b) Confirm there are no current Department actions to identify or assess a relative who has expressed an interest in being assessed as a potential adoptive resource for the child or sibling group.

(c) Confirm there are no Department actions to identify or assess a current caretaker who has expressed an interest in being assessed as a potential adoptive resource for the child or sibling group.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.090, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0730

Order of Preference for Identification of Potential Adoptive Resources

(1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a child or sibling group, the caseworker must consider the needs and the best interest of each child, and assess the knowledge, skills, and abilities of each potential adoptive resource in the following order of preference:

(a) Except when (c) of this section applies, a relative as defined in OAR 413-120-0000(63)(a)-(c).

(b) Except when (c) of this section applies, a relative as defined in OAR 413-120-0000(63)(d).

(c) When a child or sibling group has a current caretaker as defined in OAR 413-120-0000(26), the current caretaker and a relative as defined in OAR 413-120-0000(63)(a)-(d).

(d) A general applicant.

(e) When an individual would otherwise meet the definition of current caretaker, except for being a relative as defined in OAR 413-120-0000(d), the individual is considered a current caretaker for purposes of this section.

(2) For an Indian child, the caseworker must comply with ICWA and OAR 413-070-0100 to 413-070-0260.

(3) For a refugee child, the caseworker must comply with OAR 413-070-0300 to 413-070-0380.

(4) When no current caretaker is being considered as a potential adoptive resource, and when it is determined in the best interest of the child, the Child Permanency Program Manager, upon receipt of a written request from the Child Welfare Program Manager, may grant an exception to the order of preference to a relative as defined in OAR 413-120-0000(63)(d). Within 30 days of receipt of the written request, the Child Permanency Program Manager must review the request and determine whether to grant the exception.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0750

Recruitment Efforts

(1) The Department must begin recruitment for the child or sibling group in a timely manner that is appropriate to each child's permanency and concurrent permanent plans.

(2) The Department may consider up to three general applicants as adoptive resources for a child or sibling group.

(3) Except as provided in section (4) of this rule, the Department's recruitment efforts may not consider the race, color, or national origin of a potential adoptive resource or a child.

(4) When recruiting potential adoptive resources for an Indian child, the Department may consider the cultural heritage of a potential adoptive resource or the child under OAR 413-070-0100 to 413-070-0260.

(5) When a child is not fully free for adoption, the legal assistance specialist must:

(a) Determine when recruitment may begin;

(b) Determine whether recruitment may begin for a child with extraordinary needs before the Department initiates the process to free the child for adoption; and

(c) Notify the caseworker to begin recruitment efforts.

(6) As part of the identification of general applicants who will be considered in the adoption placement selection process, the child's caseworker must conduct recruitment activities including, at a minimum, ensuring a Waiting Child Bulletin has been posted, for at least 30 days, unless one or more of the following subsections applies:

(a) An exception to this timeline has been approved by the Assistant Child Permanency Program Manager or designee.

(b) The Department has determined, under OAR 413-070-0516, an individual known to the child or sibling group should be

assessed as a potential adoptive resource, based upon all of the following:

(A) The best interest of each child.

(B) The strength of the relationship between each child and the individual.

(C) The likelihood the individual will have a positive adoption home study and meet the requirements of OAR 413-120-0246(1).

(D) The demonstrated knowledge, skills, abilities, and commitment of the individual to raise each child.

(E) The capacity of the individual to meet the current and life-long safety, attachment, and well-being needs of the child as required by OAR 413-070-0640.

(7) Recruitment activities under section (6) of this rule are not required when:

(a) The Department has planned for the child or sibling group to be adopted by a relative of at least one of the siblings;

(b) The Department has planned for the child or sibling group to be adopted by a current caretaker; or

(c) In the case of an Indian child, alone or as part of a sibling group, the Department has planned for adoption by an identified potential adoptive resource meeting the order of placement preference in ICWA.

(8) The recruitment efforts of the Department for a child or sibling group must be documented in the Department's electronic information system.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.090, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0760

Identification of a Child's Potential Adoptive Resources

(1) When identifying potential general applicant adoptive resources for a child or sibling group, the caseworker may:

(a) After discussion with his or her supervisor and on a case-by-case basis, consult with a birth parent to identify one to three potential adoptive resources; and

(b) Provide a birth parent with non-identifying information from the adoption home study of a potential adoptive resource who is a general applicant not known to the parent or child.

(2) When more than one relative is interested in being an adoptive resource for a child or sibling group, the Department must consult with the interested relatives to facilitate agreement on the most appropriate potential adoptive resource.

(a) When agreement cannot be reached, the Department considers relatives among both maternal and paternal family members who have expressed an interest, and may choose up to three relatives for adoption home studies.

(b) When an adoption home study has been initiated and the potential adoptive resource is not approved or withdraws, the Child Welfare Program Manager or designee decides whether the Department will initiate adoption home studies with additional relatives based upon:

(A) The best interest of the child or sibling group; and

(B) The impact on timeliness to achieving permanency.

(c) For an Indian child alone or part of a sibling group, the Department must identify potential adoptive resources and initiate adoption home studies as necessary to comply with ICWA.

(3) The child's caseworker must comply with the requirements of all of the following subsections:

(a) Make reasonable efforts to identify and place the child or sibling group with an adoptive resource in a timely manner.

(b) Request input about the knowledge, skills, abilities, and commitment a potential adoptive resource needs to best meet the current and lifelong needs of the child from;

(A) Professionals who have worked closely with the child, when applicable; and

(B) The child's attorney, CASA, tribal representative, RCWAC representative, and substitute caregiver, when applicable.

(c) Receive and review adoption home studies in a timely manner.

(d) Unless section (4) of this rule applies, following consultation with his or her supervisor, identify up to three potential adoptive resources following the order of preference in OAR 413-120-0730 to be considered for adoption placement selection who:

(A) Meet the standards of an adoptive home in OAR 413-120-0246;

(B) Have the knowledge, skills, abilities, and commitment to raise each child; and

(C) Have the capacity to meet the current and lifelong safety, attachment, and well-being needs of the child or sibling group under OAR 413-070-0640.

(4) Upon the recommendation of a caseworker and supervisor, and when it is determined in the best interest of the child, the Child Welfare Program Manager may submit a written request to the Child Permanency Program Manager for an exception to subsection (d) of section (3) of this rule to increase the number of potential adoptive resources to be considered for adoption placement who are in the order of preference as described in 413-120-0730(1)(c).

(5) In consultation with the supervisor, the caseworker must determine the appropriate adoption selection process pursuant to OAR 413-120-0020.

(6) The caseworker must consult with the adoption worker for each of the identified potential adoptive resources pursuant to OAR 413-120-0021(2).

(7) The caseworker must document the actions taken under this rule in the Department's electronic information system.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert. ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

Supervision and Support of an Adoptive Placement

413-120-0800

Purpose

The purpose of OAR 413-120-0800 to 413-120-0880 is to describe;

(1) Department responsibilities following the selection of an adoptive resource pursuant to OAR 413-120-0010 to 413-120-0060 for:

(a) Adoption transition and placement of the child with the adoptive resource;

(b) Supervision of the adoptive placement;

(c) Support for the child and adoptive family after placement; and

(d) Actions required by the Department when a disruption of an adoptive placement of a child in the legal custody of the Department is likely or has occurred.

(2) The actions required by the Department when concerns arise regarding the appropriateness of an adoptive resource for a child or children in the legal custody of another public child welfare agency that the Department is supervising.

(3) The additional requirements for an international adoption of a child in the legal custody of the Department pursuant to OAR 413-120-0900 to 413-120-0970.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 14-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0830

Department Actions Prior to Placement

(1) Prior to the physical placement of a *child* in the home of the family selected to be the *adoptive resource*, the caseworker must arrange *post-placement supervision* and medical coverage for the *child*.

(2) When the family selected to be the *adoptive resource* is outside the state of Oregon, but in the United States:

(a) The court and the receiving state must agree to the adoptive placement prior to the physical placement of a *child* who is not yet legally free for adoption;

(b) Approval as required by Child Welfare Policy I-B.3.4.2, "Interstate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330 must be received; and

(c) When supervision is to be provided by a private agency, the Department must contract only with an agency willing to:

(A) Provide supportive services to the *child* and adoptive family;

(B) Provide progress reports as required by the Department;

(C) Provide a written recommendation regarding the finalization of the adoption; and

(D) Accept payment as authorized by the Department.

(3) Unless an exception is approved as described in OAR 413-120-0840, *adoption transition* of a *child* into the home of a family selected to be the *adoptive resource* may not begin until:

(a) The time period has expired for the written request for review of the *adoption placement selection* as described in Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0060; or

(b) In the event the DHS Assistant Director of the Office of Child Welfare Programs or designee gives notice of the intent to review, until that review is complete.

(4) The Department may issue a child specific foster care certificate to an individual or individuals who have been selected as an *adoptive resource* when:

(a) Department staff have completed an assessment and home study under OAR 413-200-0274 for an adoptive applicant; or

(b) A child-caring agency licensed under OAR 413-215-0001 to 413-215-0131 and 413-215-0414 to 413-215-0481 as an adoption agency has submitted all of the following to the Department:

(A) Verification that the *adoptive resource* has completed the adoption agency orientation required under OAR 413-215-0446(2) and training required under 413-215-0456;

(B) The home study prepared subsequent to the assessment of the family described in OAR 413-215-0451;

(C) A copy of the checklist verifying the safety of the home and surrounding environment;

(D) Documentation verifying the approval of the criminal history and child abuse history checks required under OAR 413-215-0451(2)(s) and (t); and

(E) A copy of the Certificate of Approval as a potential *adoptive resource*.

(5) The child specific foster care certificate issued under subsection (4)(a) of this rule has a begin date coinciding with the date of approval of the most recent home study or home study update, and an end date two years from that approval unless the criminal records check required under OAR 413-120-0460 requires an earlier end date.

(6) The child specific foster care certificate issued under subsection (4)(b) of this rule is a two-year certificate with a begin date coinciding with the approval of the home study or home study update.

(7) When a child specific foster care certificate is issued under section (4) of this rule, the home visits required by a certifier under OAR 413-200-0283(1) are not required. Caseworker contact requirements for monitoring child safety under 413-080-0059 are required.

Stat. Auth.: ORS 418.005 & 418.640

Stats. Implemented: ORS 418.005, 418.630 & 418.640

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 24-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 32-2003, f. & cert. ef. 10-1-03; CWP 14-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 4-2012, f. 8-31-12, cert. ef. 9-1-12

413-120-0840

Early Adoption Transition

(1) The child's caseworker, following consultation with the caseworker's supervisor and the approval of the Child Welfare Program Manager, may request physical placement with the family selected to be the adoptive resource before the timelines described in OAR 413-120-0830 when the requirements in all of the following subsections are met:

(a) It is in the best interests of the child;

(b) There are no indications that a review of the adoption placement selection will be requested; and

(c) When the child is to be placed in a state within the United States and outside of Oregon, the requirements under OAR 413-120-0830 have been met regarding a placement in a state other than Oregon.

(2) The caseworker must send the written request for early adoption transition, including the basis for the request, to the Adoption Program Manager or designee who makes the final decision.

(3) The caseworker must document the decision regarding the early adoption transition in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 14-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10

413-120-0860

Placement and Post-placement Supervision

(1) The child's caseworker must offer support and services to the adoptive resource to assist in a successful adoption transition of the child into the home of a family selected to be the adoptive resource.

(2) Post-placement supervision must include all of the following:

(a) Monthly face-to-face contact with the child described in OAR 413-080-0055;

(b) Assessment of the child's safety and well-being under Child Welfare Policy I-B.1, Monitoring Child Safety, OAR 413-080-0067;

(c) Providing services and support to assist the adoptive resource in meeting the requirements described in Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption", OAR 413-120-0246(1)(b).

(d) Providing support to the adoptive resource in the process of the completion and submission of the adoption assistance application, when applicable; and

(e) Documentation from the supervising worker which includes the supervision reports and a recommendation regarding finalization of the adoption.

(3) When the child is placed through an in-state private agency, the Department must provide supervision of the placement and, when applicable, must coordinate support services with the in-state private agency.

(4) When it becomes known to the Department that there are significant changes to the adoptive resource's situation, including changes in the family structure, the Department may require an updated adoption home study prior to making a determination to proceed with finalization of the adoption.

(5) Prior to finalization of the adoption, the Department must ensure that the adoptive resource is made aware of all of the following:

(a) Available post-legal services;

(b) The potential eligibility for federal or state adoption tax credits, or both; and

(c) The ability to seek voluntary supportive services through the Department to stabilize an adoption and promote lifelong permanency for children.

(6) The standard supervision period for an adoptive placement is a minimum of six consecutive months and can include the time the adoptive resource was the child's substitute caregiver. When the child's caseworker and the adoption worker agree that it is in the child's best interests to proceed with finalization before the standard six month period:

(a) The child's caseworker or adoption worker must request approval from:

(A) Their supervisor; and

(B) The Adoption Program Manager or designee.

(b) The child's caseworker must document in the Department's information system when approval is given for a reduced post-placement supervision time.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 14-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13

413-120-0870

Disruption

(1) After the adoption placement selection has been made under Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0021 or 413-120-0057 but prior to the physical placement of the child with the family selected as the adoptive resource, when circumstances occur or conditions are made known to the Department that give the child's caseworker reason to believe the selected adoptive resource is no longer appropriate for the child or his or her siblings, the child's caseworker must:

(a) Consult with his or her supervisor;

(b) Document the conditions or circumstances of concern; and

(c) Request approval from the Adoption Program Manager to reconsider the adoption placement selection.

(2) When the caseworker for the child determines that a disruption is likely, the caseworker must consult with each of the following to try to preserve the placement, when it is in the best interest of the child to do so:

(a) His or her supervisor;

(b) The adoption worker who is supervising the adoptive placement;

(c) Members of the child's team identified as individuals who can offer additional information or support, and

(d) The family, if possible.

(3) When the Department is supervising an adoptive placement of a child in the custody of another public child welfare agency and concerns arise that indicate that the adoptive resource is no longer appropriate for the child or children, the caseworker must ensure contact is made with the responsible entity and coordinate subsequent actions.

(4) When the caseworker and supervisor recommend to the Child Welfare Program Manager that the adoptive resource for a child in the custody of the Department is no longer appropriate for the child or children, the Child Welfare Program Manager, when in agreement, forwards the request for final approval for a disruption to the Adoption Program Manager.

(5) The caseworker must document the disruption in the Department's information system and notify the central office Adoption Program and the central office ICPC unit, if applicable, of the date of the adoption disruption.

(6) After the disruption of an adoptive placement of a child in the custody of the Department, the child's caseworker must consult with his or her supervisor, the child's team, and individuals with significant adoption experience to staff the case in order to:

(a) Gain a comprehensive understanding of the issues leading to the disruption; and

(b) Increase the likelihood for the child's success in another adoptive placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 14-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10

413-120-0880

No Delay in Placement

(1) The Department may not delay placement of a child for adoption with an adoptive resource based on any criteria listed in the following subsections:

(a) Geographic location; or

(b) Race, color, or national origin of the child or the adoptive resource.

(2) An adoptive resource who believes that the Department violated the prohibition under section (1) of this rule may file a civil rights complaint and request a review under Child Welfare Policy I-A.1, "Client Rights".

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; Renumbered from 413-120-0045, CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10

**Intercountry Adoption Pursuant to the
Hague Convention and Intercountry Adoption Act**

413-120-0900

Purpose

These rules (OAR 413-120-0900 to 413-120-0970) describe:

(1) The Department's responsibilities in cases that are subject to the requirements of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention) and the Intercountry Adoption Act of 2000, 42 USC 14901 to 14954 (IAA). The Convention and IAA apply to any case where a child who is a habitual resident of one Convention country has been, is being, or will be moved to another Convention country for the purpose of adoption. The Convention and IAA are intended to protect the rights of and prevent abuses against children, birth families, and adoptive parents involved in any adoption that is subject to the Convention and IAA and to ensure that such adoptions are in the best interests of the child.

(2) The duty of the Department to enter into a formal agreement with the foreign authorized entity of the receiving Convention country for an outgoing Convention adoption to assure that the prospective adoptive parents are suitable and willing to adopt the child, support child safety, and assure the provision of needed services during the period of post-placement supervision prior to finalization of the adoption.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0910

Duty to Provide Information to Convention Case Registry

(1) Notwithstanding any other Department rule regarding the disclosure of information related to adoptions, the Department must provide all information to the U.S. State Department that is required for registry reporting. This includes, but is not limited to, information on each of the following actions for a Convention adoption, either incoming or outgoing, pending or finalized by the Department:

(a) A child immigrating to the United States for the purpose of adoption;

(b) A child emigrating from the United States for the purpose of adoption;

(c) Number of disruptions;

(d) Number of dissolutions; and

(e) Average length of time to finalization.

(2) The Department must maintain a database of all Oregon, licensed, private agency adoption placements, disruptions, finalizations, and dissolutions. This information must be reported to the U.S. Department of Health and Human Services Administration for Children, Youth, and Families Children's Bureau.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0920

Adoption of a Child Immigrating to the United States (Incoming Convention Adoption)

(1) An incoming Convention adoption can involve a child who:

(a) Holds or is eligible for dual United States and foreign citizenship; or

(b) Is undocumented, but the foreign authorized entity of the child's birth country has determined that the Convention applies to the adoption.

(2) The Department will cooperate with each applicable foreign authorized entity and comply with the requirements of the

Convention and IAA with respect to each incoming Convention adoption.

(3) Adoption planning for a child that may be the subject of an incoming Convention adoption must comply with all other applicable Department rules.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0925

Adoption of a Child Emigrating from the United States (Outgoing Convention Adoption)

(1) The Department may pursue an outgoing Convention adoption provided that:

(a) It is in the best interest of the child;

(b) The child has not been abducted, sold, or trafficked in connection with the adoption; and

(c) The prospective adoptive parent:

(A) Is a relative;

(B) Has been assessed, approved, and trained; and

(C) Has been determined able and willing to permanently provide for the safety, well-being, and special needs of the child.

(2) An outgoing Convention adoption may involve a child who meets the requirements of one of the following subsections:

(a) The child is, or is eligible to become, a:

(A) United States citizen;

(B) Legal United States resident; or

(C) Dual United States and foreign citizen.

(b) The child is undocumented, but the foreign authorized entity of the child's birth country has determined that the Convention applies to the adoption.

(3) Adoption planning for a child that may be the subject of an outgoing Convention adoption must comply with other Department rules, including Child Welfare policies: I-AB.4 "CPS Assessment", OAR 413-015-0400 to 413-015-0485; I-F.2 "Determining the Appropriateness of Adoption as a Permanency Plan for a Child", 413-110-0300 to 413-110-0360; I-E.1.1 "Search for and Engagement of Relatives", 413-070-0060 to 413-070-0087; I-F.6 "Sibling Adoption Placement Planning", 413-110-0100 to 413-110-0150; I-G.1.2 Identification and Consideration of Potential Adoptive Resources", 413-120-0700 to 413-120-0760; I-G.1.5 "Adoption Placement Selection", 413-120-0000 to 413-120-0060; and I-G.1.10 "Supervision and Support of an Adoptive Placement", 413-120-0800 to 413-120-0880.

(4) Before a child may be placed in a prospective adoptive home in another Convention country the Department must meet the requirements of each of the following subsections:

(a) Make a written determination that the child is eligible for adoption, that an outgoing Convention adoption is in the child's best interests, and that placement with the prospective adoptive parents is in the best interests of the child.

(b) Complete or obtain a written child background study that includes information about the child's identity; upbringing; adoptability; ethnic, religious, and cultural background; social environment; family history; personal medical history; family medical history; and special needs.

(c) Determine that the prospective adoptive parents meet the definition of relative and document that determination.

(d) Work with the foreign authorized entity in the receiving Convention country to determine whether the prospective adoptive parents are suitable, qualified, and eligible to adopt the child. To do so the Department must meet the requirements in each of following paragraphs:

(A) Provide a copy of the child's background study to the foreign authorized entity in the receiving Convention country.

(B) Obtain from the foreign authorized entity a comprehensive home study on the prospective adoptive parents that is prepared in accordance with the laws of the receiving country; meets the standards established by the Department using the Department's Hague Home Study template; addresses the capacity of the prospective

adoptive parents to meet the child's safety, permanency and well-being needs; and includes all of the following:

(i) Information on the prospective adoptive parents, including: identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an inter-country adoption, and the characteristics of a child for whom they would be qualified to care;

(ii) Confirmation that a foreign authorized entity has determined that the prospective adoptive parents are eligible and suitable to adopt and has ensured that the prospective adoptive parents have been counseled as necessary;

(iii) The results of a criminal background check; and

(iv) Information from competent references for the prospective adoptive parents.

(C) Obtain written confirmation from the foreign authorized entity that the prospective adoptive parents have completed a minimum of 10 hours of Department-approved training that includes training on all of the following:

(i) The effects of physical, emotional, and sexual abuse and neglect on a child;

(ii) The effects of drugs and alcohol on a child;

(iii) The effects of relocating a child and transition issues;

(iv) The significance of the birth family, include grief and loss issues;

(v) Openness in adoption;

(vi) Attachment process and attachment difficulties;

(vii) Positive behavior management; and

(viii) The specific needs of the child to be adopted by the prospective adoptive parents.

(D) Provide notice to the foreign authorized entity studying the prospective adoptive family and providing required training to the prospective adoptive parents that the Department does not condone the use of corporal punishment.

(E) Obtain from the foreign authorized entity a written, signed Supervision Agreement using the approved Department form that describes the responsibilities of the Department and foreign authorized entity with regard to the child's placement with the prospective adoptive parents and includes each of the following:

(i) Requirements for face-to-face visits with the child and the prospective adoptive parents at least every 30 days. These meetings must occur in the prospective adoptive home at least once every 60 days.

(ii) Requirements for face-to-face visits in the prospective adoptive home with other individuals living in the home who can provide information about the child's safety and well-being, as well as any concerns with the placement.

(iii) Requirements for contact at least once every 30 days with professional persons who have established a relationship to the child who can provide collateral observations regarding the child's functioning and the adoptive placement.

(iv) Minimum standards for written reports to be provided every 90 days on contacts with the child, prospective adoptive family, other family members, and collateral contacts.

(v) Confirmation that the child will be authorized to enter and reside in the receiving country permanently or on the same basis as the prospective adoptive parents.

(vi) Confirmation that the foreign authorized entity consents to the adoption of the child by the prospective adoptive family.

(vii) Confirmation that the foreign authorized entity agrees that the child's adoption by the prospective adoptive family may proceed.

(e) After the child is fully free for adoption, establish proof of citizenship for the child and apply for applicable passports.

(f) Submit to the foreign authorized entity written confirmation of the reasons the Department determined that the proposed adoptive placement is in the best interests of the child.

(g) Establish a direct means for the child's collateral contacts in the receiving Convention country to communicate any health or safety concerns about the child to the Department.

(h) Counsel and inform the child, as appropriate in light of the child's age and maturity, of the effects of the adoption, consider the

child's views regarding the adoption, and document the discussion and how the child's views were considered.

(i) If the child's consent to the adoption is required, counsel and inform the child about the effects of granting consent, obtain written consent from the child in a manner that assures the consent is given freely and without any inducement by compensation of any kind, and document the discussion.

(j) Determine whether the receiving Convention country requires a Hague custody declaration prior to placement of the child in the home of the prospective adoptive parents, and, if required, apply for and obtain a Hague custody declaration from the U.S. State Department, as provided in OAR 413-120-0970.

(k) Assure that the child's move to the receiving Convention country will be made under secure and appropriate circumstances and in the company of the child's prospective adoptive parents, caseworker, or with another adult.

(5) Following completion of all of requirements in section (4) of this rule and prior to the child traveling to the receiving Convention country for placement with the prospective adoptive parents, the Department must obtain an order from the court that makes findings:

(a) In support of an application for a Hague adoption certificate;

(b) That the prospective adoptive placement is in the best interests of the child;

(c) Authorizing the child to travel to the foreign country for placement with the prospective adoptive parents; and

(d) Authorizing release of the court order for purposes of affecting the child's placement.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0930

Transition, Travel, Placement, and Registration Requirements

For an outgoing Convention adoption:

(1) The Department is responsible for assuring that the child is fully prepared for transition to a new home, community, and country.

(2) A component of transition is establishing that the region the child will travel to and reside in is approved as a safe place to travel by the U.S. State Department.

(3) The child's move to the receiving Convention country must be made under secure and appropriate circumstances and in the company of the child's prospective adoptive parents, caseworker, or another adult.

(4) The child must carry a regular passport from all countries in which the child is a citizen.

(5) If the receiving Convention country requires a Hague custody declaration, the individual accompanying the child during travel must carry a copy of the Hague custody declaration.

(6) After a child is placed in another country for the purpose of adoption, the Department must register the child with the U.S. State Department as a United States citizen living abroad.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0940

Post-Placement Supervision

(1) Notwithstanding the provisions of OAR 413-120-0830 the Department may not consent to an outgoing Convention adoption until at least 6 months after the child has been placed with the prospective adoptive parents. This post-placement supervision period may not be waived.

(2) The Department must keep the foreign authorized entity fully informed about the adoption process and the steps taken to complete the adoption.

(3) The Department must comply with the requirements of each of the following subsections:

Chapter 413 Department of Human Services, Child Welfare Programs

(a) Monitor the child's adoption placement by reviewing the 90-day written progress reports received from the foreign authorized entity.

(b) Assess, based on the information in the 90-day reports, whether the child is adjusting to and being integrated into the prospective adoptive family's household.

(c) Complete all necessary steps related to the adoption assistance process, if applicable.

(4) When it becomes known to the Department that there are significant changes to the situation of the prospective adoptive parents, including changes in family structure, the Department may require an updated adoption home study prior to making a determination to proceed with finalization of the adoption.

(5) Prior to finalization of the adoption, when the local child welfare office determines the prospective adoptive parents are no longer appropriate for the child, the requirements of OAR 413-120-0870 apply.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0945

Finalization and Post-Finalization Duties

(1) After the post-placement supervision period has expired and before finalization of an outgoing Convention adoption the Department must submit to the foreign authorized entity proof of the Department's consent to the child's adoption.

(2) An outgoing Convention adoption must be finalized in Oregon pursuant to ORS 419B.529.

(3) Concurrent with finalization of the outgoing Convention adoption the Department must request an order from the court making all of the necessary findings required by the Convention and IAA to support an application for a Hague adoption certificate.

(4) After finalization of the outgoing Convention adoption the Department must apply for a Hague adoption certificate. To apply for a Hague adoption certificate the Department must submit all of the following to the Secretary of State:

(a) A completed Hague adoption certificate application on the form prescribed by the Secretary of State;

(b) A certified copy of the court's order finding that the child is eligible for adoption, that the adoption is in the child's best interest, granting the adoption, and verifying that the requirements of 22 C.F.R. 97.3 have been met; and

(c) Any other additional documentation and information required by the Secretary of State.

(5) For an outgoing Convention adoption, the Department must request two original Hague adoption certificates. The Department provides one original Hague adoption certificate to the adoptive parents and enters one original Hague adoption certificate into the sealed adoption record.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005, 419B.529

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0950

Adoption Assistance

To be eligible for adoption assistance a child who is the subject of a Convention adoption must be a United States citizen and meet all other eligibility requirements under Child Welfare Policy I-G.3.1 "Adoption Assistance", OAR 413-130-0000 to 413-130-0130.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0960

Disclosure to the Adoptive Family

The Department must provide the prospective adoptive parents in an outgoing Convention adoption all the child summary and medical history in both the original format and translated into the primary language of the prospective adoptive parents.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

413-120-0970

Hague Custody Declarations

(1) When a child will be placed for adoption in a Convention country the Secretary of State may issue a Hague custody declaration acknowledging that legal custody of the child has been granted to prospective adoptive parents for the purpose of immigration and adoption in another Convention country. If the receiving Convention country requires a Hague custody declaration for placement of a child for adoption in the receiving Convention country, the Department must apply for and obtain a Hague custody declaration by completing the U.S. State Department's application and submitting the application with a court order with the proper findings supporting the application.

(2) The Hague custody declaration must accompany the child when the child leaves the United States and travels to the other Convention country.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

Hist.: CWP 8-2010(Temp), f. & cert. ef. 6-30-10 thru 12-27-10; CWP 23-2010, f. & cert. ef. 12-28-10; CWP 9-2014, f. & cert. ef. 5-1-14

DIVISION 130

POST ADOPTION SERVICES

Adoption Assistance

413-130-0000

Definitions

(1) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the on-going needs of the child or young adult. Adoption assistance may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

(2) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the pre-adoptive family or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(3) "Adoption assistance agreement only" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, when the pre-adoptive family or adoptive family is not receiving an adoption assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(4) "Adoption assistance base rate" means the portion of the adoption assistance payment that is negotiated with a pre-adoptive family or an adoptive family and cannot exceed the amount of the Oregon foster care base rate payment for the child's or young adult's age.

(5) "Adoption assistance payment" means a monthly payment made by the Department to the pre-adoptive family or adoptive family on behalf of an eligible child or young adult.

(6) "Adoption Assistance Review Committee" means a committee composed of local and central office Department staff with expertise in the area of adoption.

(7) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child who joined the family through a judgment of the court.

(8) "Applicable child" has the same meaning as in OAR 413-100-0335.

(9) “Assisted search” means the work carried out to locate and make confidential contact with a sought for person upon the application of an authorized requester.

(10) “Base rate payment” means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(11) “Birth parent” means the woman or man who is legally presumed, under the laws of this state, to be the mother or father of genetic origin of a child.

(12) “CANS screening” means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(13) “Child” means a person under 18 years of age.

(14) “Department” means the Department of Human Services, Child Welfare.

(15) “Enhanced supervision” means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(16) “Fee” means the maximum fixed amount that the Department or Oregon licensed adoption agency may charge for conducting an assisted search for persons eligible to request such services, a birth father file review.

(17) “Identifying information” means names and addresses of birth parents, putative fathers, adult adoptee, and adult adoptee genetic siblings.

(18) “Independent adoption” means any adoption where the consent is given by other than the Department or a licensed adoption agency.

(19) “Legally free” means that, with respect to a child, the legal rights of all parents with legal standing have been judicially terminated, voluntarily relinquished, or otherwise terminated by operation of law, thus allowing for the child to be adopted.

(20) “Level of care payment” means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult determined by applying the CANS algorithm to the results of the CANS screening.

(21) “Licensed adoption agency” means an:

(a) Approved child-caring agency of this state acting by authority of ORS 418.270 and OAR 413-215-0401 to 413-215-0481; and

(b) Agency or other organization that is licensed, or otherwise authorized, to provide adoption services pursuant to the laws of that state, country, or territory.

(22) “Non-identifying information” means health and social and genetic history of the adult adoptees, birth parents, putative fathers, and other specified persons.

(23) “Nonrecurring adoption assistance agreement” means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family of an eligible child for a one-time payment to reimburse the adoptive family for the reasonable and necessary expenses incurred in legally finalizing the adoption of a child who has been determined to have special needs.

(24) “Nonrecurring expenses” mean a one-time payment up to \$2,000 per child, which the Department will pay to an adoptive family to assist with the reasonable and necessary expenses incurred in legally finalizing the adoption of an eligible child.

(25) “Parent” means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity 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), a legal father includes a man who is a father under applicable tribal law. “Parent” also includes a putative father 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.

(26) “Participating tribe” means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(27) “Pre-adoptive family” means an individual or individuals who:

(a) Has been selected to be the child’s adoptive family; and

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

(28) “Putative Father” means:

(a) A man who has not yet established paternity, but who may establish paternity under ORS 109.070;

(b) A man who a birth mother alleges is the father and the “putative father,” by written affidavit or surrender and release executed within three years of the relinquishment of the child by the mother, or the termination of parental rights of the birth mother, has acknowledged being the biological father of the child; or

(c) A man who is not legally presumed to be the father of genetic origin of the child, but who claims paternity on a notarized statement or is alleged to be the birth father of genetic origin of the adoptee.

(29) “Qualified alien” has the same meaning as in OAR 413-100-0210(2) and 8 USC 1641(b).

(30) “Qualified vendor attorney” means an attorney who has a price agreement with the Department to process the adoption of a child who is eligible for adoption assistance.

(31) “Requester” means a person duly registered on a voluntary adoption registry who requests an assisted search, and who has filed an application and paid the applicable fee.

(32) “Sibling” means one of two or more children or young adults 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.

(33) “Special payment” means a payment for unanticipated short-term costs which are directly related to the special needs of the child or young adult or are essential to the welfare of the child or young adult, and are not covered by another resource available to the adoptive family.

(34) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(35) “Voluntary adoption registry” means a voluntary registry operated by the Department or licensed adoption agency:

(a) Where birth parents, putative fathers, and adult adoptees may register their willingness to the release of identifying information to each other;

(b) That provides for the disclosure of identifying information to birth parents and their genetic offspring;

(c) That provides for the transmission of non-identifying health and social and genetic history of specified persons; and

(d) That provides for the disclosure of specific identifying information under certain circumstances to Indian tribes, governmental agencies, or to a person settling an estate.

(36) "Work Product" means any records, information, or other materials obtained or developed by the Department or licensed adoption agency during the course of the assisted search.

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

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0010

Purpose

(1) The purpose of OAR 413-130-0010 to 413-130-0130 is to describe the criteria for eligibility and the types of adoption assistance that may be established for:

(a) A child in the legal custody of:

(A) The Department;

(B) A participating tribe; or

(C) A licensed adoption agency in Oregon.

(b) A child relinquished by a parent directly to a pre-adoptive family residing in Oregon.

(2) These rules do not include criteria for program eligibility for adoption assistance for a child placed for adoption in Oregon by another public child welfare agency, as adoption assistance is the responsibility of the sending state.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0015

Funding for Adoption Assistance

(1) The Department makes efforts to establish Title IV-E adoption assistance eligibility under OAR 413-100-0335 to access federal reimbursement for adoption assistance.

(2) A child determined to have special needs under OAR 413-130-0020 who is ineligible for Title IV-E funded adoption assistance is eligible for state funded adoption assistance as described in OAR 413-130-0040(4)–(6). Administration of state funded adoption assistance is dependent upon the availability of such funds.

(3) When all available state funds are obligated, the Department must continue to:

(a) Accept new applications;

(b) Accept requests to adjust an adoption assistance payment; and

(c) Establish a waiting list.

(4) As state funds become available, an adoption assistance payment may be made according to the date that the adoption assistance agreement is signed by all parties. The adoption assistance agreement may be retroactive for up to twelve months only when a foster care base rate payment, level of care payment, or personal care service payment was not made on behalf of the child.

(5) When state funds are unavailable and a new adoption assistance application is received, the pre-adoptive family may sign an adoption assistance agreement only to prevent delay in finalizing the adoption, with the understanding that adoption assistance may be requested at a later date.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0020

Special Needs Determination for Adoption Assistance Eligibility

(1) In order to be eligible for adoption assistance, funded through either federal or state funds, a child must be determined to have special needs.

(2) The Department must make the determination that the child has special needs under each of the following subsections:

(a) The child cannot or should not be returned to the home of his or her parent or parents. This decision is based on one of the following paragraphs:

(A) An order from a court of competent jurisdiction terminating parental rights.

(B) The existence of a petition for termination of parental rights.

(C) A voluntary relinquishment of parental rights for a child under the jurisdiction of the court, in the custody of the Department, or in a subsequent adoption when there was an adoption assistance agreement in place during the prior adoption.

(D) A voluntary relinquishment of parental rights and a judicial determination that remaining in the home of a specified relative as defined in OAR 413-100-0000 would be contrary to the welfare of the child. The request for the judicial determination must be filed within six months of the time the child last lived with the specified relative.

(E) For a child who can be adopted in accordance with state or tribal law without a termination of parental rights or voluntary relinquishment of parental rights, the valid reason why the child cannot or should not be returned to the home of his or her parents.

(F) In the case of an orphan, verification of the death of the parent or parents.

(b) The child has at least one of the following factors or conditions that make adoptive placement difficult to achieve:

(A) A documented medical, physical, mental, or emotional condition or other clinically diagnosed disability, or a documented history of abuse or neglect or other identified predisposing factor that places the child at significant risk for future problems that need treatment;

(B) Is a member of a sibling group that will be placed together and is difficult to place because there are three or more children, or if in a sibling group of two, at least one of the children is six years of age or older;

(C) Is a member of an ethnic, racial, or cultural minority (such as African American, Hispanic, Asian, Indian, or Pacific Islander); or

(D) Is eight years of age or older.

(c) A reasonable but unsuccessful effort to place the child with an appropriate adoptive family for adoption without adoption assistance has been made, unless such an effort is not in the best interest of the child for reasons including placement with a relative or another person with whom the child has an established significant relationship.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0040

Eligibility for an Adoption Assistance Payment

(1) In determining eligibility for an adoption assistance payment, the Department may not impose an income eligibility requirement for the pre-adoptive family or adoptive family.

(2) To be eligible for a Title IV-E funded adoption assistance payment, a child must meet all of the following requirements.

(a) Be a citizen of the United States or a qualified alien as described in OAR 413-100-0210(2), and in 8 USC 1641(b) or (c).

(b) When the child is a qualified alien and is placed with a pre-adoptive parent who is an unqualified alien, the child must meet the five year residency requirement set forth in The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193.

(c) Be determined eligible for Title IV-E adoption assistance under OAR 413-100-0335.

(3) A licensed adoption agency, participating tribe, or another individual applying to receive adoption assistance on behalf of a child determined to have special needs must make all requested efforts to assist the Department in establishing Title IV-E eligibility.

(4) Except as provided in section (5) of this rule, a child determined to be ineligible for a Title IV-E adoption assistance payment is eligible for a state-funded adoption assistance payment when the child meets all of the following criteria.

(a) Is in the legal custody of:

(A) The Department;

(B) A participating tribe; or

(C) A licensed adoption agency and the child is placed with a family residing in Oregon.

(b) Is not eligible for or receiving adoption assistance for the same child through another state.

(c) Is determined to have special needs in accordance with OAR 413-130-0020.

(d) Meets the requirements in section (6) of this rule.

(5) A child relinquished by a parent directly to a family residing in Oregon who is not eligible for a Title IV-E funded adoption assistance payment is only eligible for a state funded adoption assistance payment when:

(a) A state funded adoption assistance agreement was previously in effect on behalf of the child;

(b) The pre-adoptive family or adoptive family is not eligible for or receiving adoption assistance for the same child through another state;

(c) The child is in a subsequent adoption; and

(d) The child meets the requirements in section (6) of this rule.

(6) In addition to the eligibility requirements in section (4) or (5) of this rule, a child must also be a citizen of the United States to receive a state funded adoption assistance payment when the child is being brought into the United States for the purpose of adoption or being placed outside of the United States, or a territory or possession thereof.

(7) When an adopted child becomes legally free for re-adoption due to the voluntary relinquishment of parental rights, the termination of the rights of the legal parent or parents, or the death of the legal parent or parents:

(a) The child must be determined to have special needs under OAR 413-130-0020 at the time the child again becomes available for adoption; and

(b) The determination of funding eligibility of the adopted child for adoption assistance remains as it was the last time the child was determined eligible for adoption assistance.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0050

Adoption Assistance Application Requirements and Responsibilities

(1) A licensed adoption agency recommending adoption assistance for a pre-adoptive family must verify and document that recruitment efforts under OAR 413-130-0020(2)(c) were made for the child.

(2) A pre-adoptive family under OAR 413-130-0040(5) may contact the Adoption Assistance and Guardianship Assistance Unit for help in submitting a written adoption assistance application directly to the Department.

(3) A pre-adoptive family of a child in the custody of the Department must notify the Department in writing if they choose not to accept any form of adoption assistance.

(4) An adoption assistance application is considered complete when the Adoption Assistance and Guardianship Assistance Unit has received a signed adoption assistance application form and all supporting documentation.

(5) Except as described in subsections (a) and (b) of this section, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the adoption assistance agreement no later than 60 calendar days after receipt of a completed adoption assistance application submitted for a legally free child in the home of an approved pre-adoptive family.

(a) The Adoption Assistance and Guardianship Unit may delay negotiation of the adoption assistance base rate for a completed application when the child is due for an updated CANS screening, a new CANS screening is warranted, or a CANS screening is in process or completed but a decision is pending regarding the level of care payment. The unit must begin negotiation no later than 30 calendar days from receipt of the final decision regarding the level of care.

(b) The Adoption Assistance and Guardianship Unit may delay negotiation following a request by the caseworker, the pre-adoptive family, or adoptive family when there are extenuating circumstances regarding the child or family. The unit must begin negotiation no later than 30 calendar days from notification that the extenuating circumstance causing the delay has been resolved.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0055

Extension of Adoption Assistance for a Young Adult

(1) The Department may approve an extension of an adoption assistance agreement for an individual under the age of 21 when the individual and meets subsection (a) or (b) of this section.

(a) An initial adoption assistance agreement was entered into on behalf of the child, and at the time of his or her 18th birthday, the child:

(A) Qualifies as an individual with a developmental disability as determined by the Oregon Department of Human Services, Developmental Disabilities Services;

(B) If living in a state other than Oregon, qualifies as an individual with a developmental disability as determined by the equivalent developmental disability program in that state; or

(C) Qualifies for Supplemental Security Income (SSI) as determined by the Social Security Administration.

(b) An initial adoption assistance agreement was entered into on behalf of the child who is age 16 or 17, and upon reaching the age of 18, the child is:

(A) Completing secondary school (or equivalent);

(B) Enrolled in post-secondary or vocational school;

(C) Participating in a program or activity that promotes or removes barriers to employment;

(D) Employed for at least 80 hours a month; or

(E) Determined incapable of any of the above due to a documented medical condition, physical disability, or mental disability.

(2) In order for the extension of adoption assistance under subsection (1)(a) of this rule to be approved on behalf of a young adult, the adoptive family must submit to the Department documentation from the agency making the determination described in paragraphs (1)(a)(A) through (C) of this rule.

(3) In order for the extension of adoption assistance under subsection (1)(b) of this rule to be approved on behalf of a young adult, the adoptive family must submit to the Department documentation verifying the circumstances described in paragraphs (1)(b)(A) through (E) of this rule. Documentation of circumstances described in paragraph (1)(b)(E) of this rule must be from a medical or mental health professional.

(4) The Department must receive the request for extension of the adoption assistance agreement and the documentation described in sections (2) and (3) of this rule:

(a) At least 30 calendar days before the individual's 18th birthday; or

(b) Before a date determined by the Department when the Department approves a request from the adoptive family to submit the documentation after the individual's 18th birthday. The Department must receive the request before the individual's 18th birthday.

(5) If the Department does not receive the documentation as required by sections (2) through (4) of this rule, the Department may not approve an extension of an adoption assistance agreement.

(6) An extension of adoption assistance approved under subsection (1)(a) of this rule will continue until the young adult turns 21 years old.

(7) The Department will review the young adult's eligibility for continued adoption assistance when an extension of adoption assistance has been granted under subsection (1)(b) of this rule:

(a) At least annually; or

(b) When information is received that indicates the young adult may no longer be eligible for adoption assistance or may be eligible for adoption assistance in a different amount.

(8) The adoptive family must notify the Department, orally or in writing, of any changes in circumstances that may make the young adult:

(a) Ineligible for adoption assistance; or

(b) Eligible for adoption assistance in a different amount.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0070

Negotiation and Determination of the Monthly Adoption Assistance Payment

(1) When adoption assistance is not provided, a pre-adoptive family or adoptive family may enter into an adoption assistance agreement only.

(2) The monthly adoption assistance payment may not exceed the total of:

(a) The adoption assistance base rate; and

(b) When applicable, the level of care payment determined by the CANS screening conducted under OAR 413-020-0230.

(3) The monthly adoption assistance base rate:

(a) Is determined through discussion and negotiation between the Department and the pre-adoptive family or adoptive family.

(b) May not exceed the current foster care base rate payment the child or young adult would be eligible to receive in foster care under OAR 413-090-0010(1)(b).

(c) Is negotiated between the pre-adoptive family or adoptive family and the Department, taking into consideration relevant factors which include, but are not limited to:

(A) The ordinary and special needs of the child or young adult;

(B) The services and goods required to meet the needs of the child or young adult;

(C) The cost of the services and goods required to meet the needs of the child or young adult;

(D) The circumstances of the pre-adoptive family or adoptive family and their ability to provide the required services and goods for the child or young adult; and

(E) The resources available to the pre-adoptive family or adoptive family such as medical coverage, private health insurance, public education, other income sources and community resources.

(4) When, during negotiation of the adoption assistance base rate, the Adoption Assistance and Guardianship Assistance Coordinator and the pre-adoptive family or adoptive family are unable to reach agreement, the Adoption Assistance and Guardianship Assistance Coordinator or the family may request a review by the Adoption Assistance Review Committee. When a review is requested:

(a) An Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Prepare documentation for the scheduled Adoption Assistance Review Committee;

(B) Notify the pre-adoptive family or adoptive family and the assigned caseworkers of the date of the committee; and

(C) Attend and participate in the Adoption Assistance Review Committee.

(b) The pre-adoptive family or adoptive family may provide written documentation to the Adoption Assistance and Guardianship Assistance Coordinator for the review and consideration by the Adoption Assistance Review Committee.

(c) The adoption worker for the pre-adoptive family or adoptive family and the caseworker for the child or young adult may participate in an Adoption Assistance Review Committee meeting and may present information and respond to questions. The workers may not participate in the deliberations of the Adoption Assistance Review Committee.

(d) The Adoption Assistance Review Committee members must:

(A) Consider written documentation provided by the pre-adoptive family or adoptive family, the adoption worker for the pre-adoptive family or adoptive family, the caseworker for the child or young adult, and the Adoption Assistance and Guardianship Assistance Coordinator.

(B) Review materials submitted to the Adoption Assistance Review Committee, deliberate, and make one or more recommendations regarding the adoption assistance base rate.

(e) At the conclusion of the Adoption Assistance Review Committee, the Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Document the recommendations of the Adoption Assistance Review Committee; and

(B) Submit the documentation to the Post Adoption Services Program Manager or designee within one business day of the Adoption Assistance Review Committee meeting.

(5) The Post Adoption Services Program Manager or designee must complete each of the following actions:

(a) Attend the Adoption Assistance Review Committee and ask any clarifying questions, but not participate in the deliberation or recommendation of the Adoption Assistance Review Committee.

(b) Review and consider:

(A) The materials submitted to the Adoption Assistance Review Committee;

(B) The recommendations of the committee; and

(C) The information presented by the pre-adoptive family or adoptive family under subsection (4)(b) of this rule.

(c) Make a decision within 30 calendar days of receipt of the documentation under paragraph (4)(e)(B) of this rule; and

(d) Provide written notification to the pre-adoptive family or adoptive family and the Adoption Assistance and Guardianship Assistance Coordinator within ten business days of the decision.

(6) The monthly level of care payment:

(a) Is determined based on the results of a CANS screening conducted under OAR 413-020-0230;

(b) May not exceed the amount of the level of care payment set forth in OAR 413-090-0010(2)(g); and

(c) Is included in the adoption assistance payment when the child or young adult qualifies for a level of care payment and when requested by the pre-adoptive family or adoptive family.

(7) When a pre-adoptive family or adoptive family is not satisfied with the final adoption assistance offer from the Department, consisting of the adoption assistance base rate and, when applicable, a level of care payment, the pre-adoptive family or adoptive family has the right to a contested case hearing under OAR 413-010-0500 to 413-010-0535.

(8) An initial adoption assistance payment begins on a date determined by the Department when all of the following criteria are met:

(a) The child is legally free for adoption;

(b) Unless the child is in the custody of a pre-adoptive family eligible to apply for adoption assistance under OAR 413-130-0040(5) or the Department has approved an adoptive family to apply for adoption assistance under OAR 413-130-0130, the Department, participating tribe, or licensed adoption agency has approved the pre-adoptive family as the adoptive placement; and

(c) An adoption assistance agreement has been signed by the pre-adoptive family or adoptive family and by the Department representative.

(9) An adoption assistance payment is issued at the end of each month of eligibility.

(10) An adoption assistance payment made to a pre-adoptive family or an adoptive family by the Department is inalienable by any assignment or transfer and exempt from garnishment, levy, or execution under the laws of this state.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 23-2008, f. & cert. ef. 10-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0075

Renegotiation of an Adoption Assistance Payment

(1) The Department, pre-adoptive family, or adoptive family may request renegotiation of an adoption assistance agreement. When the pre-adoptive family or adoptive family has previously signed an adoption assistance agreement only and requests adoption assistance at a later date, it is considered a renegotiation.

(2) A request for renegotiation of the adoption assistance agreement made by a pre-adoptive family or adoptive family must:

(a) Be in writing in a format provided by the Department to the pre-adoptive family or adoptive family;

(b) Document changes in the circumstances of the pre-adoptive family or adoptive family, when applicable;

(c) Document the needs of the child or young adult;

(d) Provide information about the financial expenses of the pre-adoptive family or adoptive family in meeting the needs of the child or young adult; and

(e) Provide additional documentation of the child's or young adult's current behaviors when the child or young adult meets the eligibility requirements for consideration of a level of care payment under OAR 413-020-0230, and the pre-adoptive family or adoptive family is requesting a level of care payment.

(3) Renegotiation of the adoption assistance base rate will be conducted using the negotiation process described in OAR 413-130-0070(3) through (7).

(4) A new adoption assistance agreement must be signed by all parties each time the adoption assistance payment changes as a result of renegotiation.

(5) The Department may authorize a renegotiated adoption assistance payment increase or decrease for the period commencing the first day of the month in which the Department receives the documentation required to complete the requested renegotiation, or

another date agreed upon by the pre-adoptive family or adoptive family and the Department.

(6) The Department may approve up to twelve months of retroactive payments unless a contested case hearing was requested and a subsequent decision necessitates a payment of more than twelve months. The decision includes any decision by the Department, including:

(a) A final order;

(b) A stipulated final order;

(c) A settlement agreement; or

(d) Any other agreement resulting in withdrawal of the contested case.

Stat. Auth.: ORS 418.005, 418.340

Stats Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0077

Eligibility for Nonrecurring Expenses

A pre-adoptive family is eligible for reimbursement of nonrecurring expenses through Title IV-E funding on behalf of a child determined to have special needs under OAR 413-130-0020 when the child is in the custody of:

(1) The Department, a participating tribe, or a licensed adoption agency; or

(2) An Oregon family following a relinquishment of parental rights by the legal parent directly to the Oregon family.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11, Renumbered from 413-130-0030; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 15-2014, f. & cert. ef. 8-1-14

413-130-0080

Payment for Nonrecurring Expenses

(1) An agreement, indicating the nature and amount of nonrecurring expenses, must be signed prior to the final judgment of adoption. Payment for nonrecurring expenses is made when the Department receives the final judgment of adoption.

(2) The Department will reimburse an adoptive family up to \$2,000 for each eligible child for approved nonrecurring expenses, including but not limited to:

(a) The cost of a home study;

(b) Court costs;

(c) Legal fees, as authorized by the Department;

(d) Physical and psychological examinations required for the adoption; and

(e) Travel to visit with the adoptive child prior to the placement.

(3) The Department will consider requests for nonrecurring expenses that:

(a) Are submitted with written documentation to the Adoption Assistance and Guardianship Assistance Unit;

(b) Are not in violation of state or federal law; and

(c) Do not duplicate expenses covered by:

(A) The Interstate Compact on Placement of Children (ORS 417.200 - 417.260);

(B) A Department contract with a licensed adoption agency; or

(C) Another resource available to the adoptive family.

(4) When a pre-adoptive family indicates that they will be using a qualified vendor attorney, the Adoption Assistance and Guardianship Assistance Unit must send the pre-adoptive family a list of qualified vendor attorneys.

(5) The pre-adoptive family may select and contact an attorney from the list of qualified vendor attorneys, in which case the pre-adoptive family must:

(a) Sign the legal fees agreement; and

(b) Send the legal fees agreement to the attorney, who will sign it and return it to the Department for payment after the judgment of adoption is received.

(6) The pre-adoptive family may privately retain an attorney, in which case:

(a) The adoptive family is responsible for paying the attorney; and

(b) The Department will reimburse the adoptive family reasonable charges equal to the amount allowed for a qualified vendor attorney unless the Adoption Assistance and Guardianship Assistance Coordinator has determined that a higher amount may be considered due to extraordinary circumstances.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0090

Special Payments

(1) A request for a special payment:

(a) May be made after finalization of the adoption by an adoptive family who has an existing adoption assistance agreement with the Department; and

(b) Must include documentation from the adoptive family when requested by the Department.

(2) The Department may authorize a special payment for a limited duration, on a case-by-case basis, subject to the availability of resources.

(3) An approved special payment may only be issued to the adoptive family.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11

413-130-0100

Medical Assistance

(1) A child or young adult who is the subject of an adoption assistance agreement funded by Title IV-E funds is categorically eligible for medical assistance through Title XIX and eligible for social services through Title XX.

(2) A child or young adult who is the subject of an adoption assistance agreement funded with state general funds is eligible for medical assistance under OAR 413-100-0400 to 413-100-0610 when:

(a) The child or young adult resides in Oregon; or

(b) The child or young adult resides outside of Oregon but in the United States or a territory or possession thereof and is not able to obtain medical assistance in his or her place of residence.

(3) When the adoptive child or young adult resides outside of Oregon, the Department provides the necessary documentation to the state of residence of the child or young adult through the Interstate Compact on Adoption and Medical Assistance (ICAMA) to assist the pre-adoptive family or adoptive family in obtaining medical assistance for the child or young adult.

(4) Medical assistance is not provided for a child or young adult who resides outside of the United States, a territory or possession thereof.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0110

Administration of Approved Adoption Assistance

(1) Except as provided in OAR 413-130-0130, in order for the Department to provide adoption assistance on behalf of an eligible child:

(a) An adoption assistance agreement must be signed by each individual who is a party to the agreement and a Department representative; and

(b) The adoption assistance agreement must be in effect before the judgment of adoption.

(2) An adoption assistance agreement must include each of the following:

(a) A statement indicating that an adoption assistance agreement remains in effect regardless of the state or residency of the pre-adoptive family or the adoptive family and the child.

(b) An effective date which:

(A) Must be after the completion of a signed adoption assistance application; and

(B) Except as provided in OAR 413-130-0130, must be before the date of the judgment of adoption.

(c) Information identifying the eligibility of the child or young adult to receive medical assistance and specifying the eligibility of the child or young adult for Title XIX and XX.

(d) Information that ORS 192.558 allows the Oregon Health Plan (OHP) and OHP managed care plans to exchange the following protected health information without authorization from the pre-adoptive family or adoptive family for the purpose of treatment activities related to behavioral or physical health of the child or young adult when the child or young adult is the recipient of OHP services:

(A) The name and Medicaid recipient number for the child or young adult;

(B) The hospital or medical provider for the child or young adult;

(C) The hospital or medical provider's Medicaid number;

(D) Each diagnosis for the child or young adult;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

(e) Specification of the amount and nature of all adoption assistance to be provided.

(f) A statement informing the pre-adoptive family or adoptive family of the right to a contested case hearing under OAR 413-010-0500 to 413-010-0535.

(3) The Department remains financially responsible for providing the services specified in the adoption assistance agreement if the needed service is not available in the new state or service area of residence, except as described in OAR 413-130-0100(4).

(4) The foster care base rate payment, level of care payment, any level of personal care payment, and medical coverage end when adoption assistance begins. Medical assistance, as determined by the child's eligibility, may continue when requested by the pre-adoptive family or adoptive family.

(5) The Department may require documentation from the pre-adoptive family or adoptive family verifying that the child:

(a) Is enrolled in an elementary or secondary school as determined by the law of the state of residence;

(b) Is home schooled in accordance with the law of the state of residence;

(c) Is enrolled in an independent study program in accordance with the law of the state of residence;

(d) Has completed secondary school; or

(e) Is incapable of attending school due to a documented medical condition, mental disability, or physical disability.

(6) A pre-adoptive family or adoptive family must immediately inform the Adoption Assistance and Guardianship Assistance Unit of a change in circumstances that may make them ineligible for adoption assistance or eligible for an adoption assistance payment in a different amount.

(7) An individual who is a party to an adoption assistance agreement may request a change of payee due to a divorce, legal separation, or other judicially recognized modification of custody.

(a) The requesting individual must provide the Department with the current address and telephone number of the current payee.

(b) The Department must notify the current payee that there has been a request to change the payee within 30 calendar days of receipt of a request for a change of payee.

(c) Unless the current payee submits a challenge to the request to change payee within 30 calendar days of the date the Department sends the notice in subsection (b) of this section, the request to change payee will be approved.

(d) If the change of payee is challenged, the Department requires legal documentation describing physical custody of the child to make a change in payee.

(e) The new payee must be one of the parties to the adoption assistance agreement.

(8) Overpayment.

(a) If the Department issues an adoption assistance payment on behalf of a child or young adult after the date the adoption assistance agreement automatically expires, the Department may seek reimbursement of the overpayment and the pre-adoptive family or the adoptive family must repay the Department.

(b) If the pre-adoptive family or adoptive family fails to comply with any provisions of the adoption assistance agreement, including failing to notify the Department of any of the events or circumstances described in section (6) of this rule, the Department may collect any adoption assistance payment or medical assistance which the Department would not have provided had the pre-adoptive family or adoptive family complied with the provisions of the adoption assistance agreement.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 22-1999, f. & cert. ef. 11-24-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0125

Adjustments of Adoption Assistance

(1) The Department may request updated information from the pre-adoptive family or the adoptive family when the Department becomes aware of a change in circumstances that may make the pre-adoptive family or the adoptive family ineligible for adoption assistance or eligible for adoption assistance in a different amount.

(2) When the adoptive family divorces, legally separates, or is party to a judicially recognized modification of custody, the Department may request updated information, including financial information, to reflect the change in family circumstances.

(3) When there is an across-the-board reduction or increase in the base rate payment or level of care payment that the child or young adult would be eligible to receive if the child or young adult were in foster care, the Department may, after a case-by-case review and without concurrence of the adoptive family, adjust the adoption assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care, as follows:

(a) In the case of a reduction, only those payments that exceed the amount the child or young adult would be eligible for if currently in foster care would be reduced, and the reduction would

only be to the amount that the child or young adult would be eligible to receive if currently in foster care.

(b) In the case of an increase, the Department, considering the needs of the child or young adult and the circumstances of the adoptive family, may increase the adoption assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care.

(4) If, upon an adjustment under section (3) of this rule, the Department intends to adjust an adoption assistance payment without the concurrence of the adoptive family, the Department will provide the adoptive family and the child or young adult with written notice as described in OAR 413-010-0500 to 413-010-0535.

(5) The Department, with the concurrence of the pre-adoptive family or adoptive family, may adjust or suspend the adoption assistance payment to reflect a change in the pre-adoptive family or adoptive family's circumstances or expenses on behalf of the child or young adult.

(6) The Department will terminate the adoption assistance agreement upon ten calendar days written notice to the pre-adoptive family or adoptive family when it becomes known to the Department that the pre-adoptive family or adoptive family is no longer providing any support to the child or young adult or is no longer legally responsible for the support of the child or young adult, including under the following circumstances:

(a) When the parental rights of the adoptive family have been terminated or relinquished.

(b) When the child becomes an emancipated minor.

(c) When the child or young adult:

(A) Marries.

(B) Enlists in the military.

(C) Dies.

(d) When the young adult no longer meets the eligibility requirements in OAR 413-130-0055.

(7) The adoption assistance agreement automatically expires when the child reaches the age of 18 or, when an extension has been granted under OAR 413-130-0055, no later than when the young adult reaches the age of 21 as documented in the adoption assistance agreement.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: CWP 16-2003, f. 1-21-03, cert. ef. 2-1-03; CWP 38-2003(Temp), f. & cert. ef. 11-19-03 thru 5-17-04; CWP 4-2004, f. & cert. ef. 4-1-04; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

413-130-0130

Post Judgment of Adoption Applications for Adoption Assistance

(1) An adoptive family asking to apply for adoption assistance after the judgment of adoption must submit a written request to the Adoption Assistance and Guardianship Assistance Unit, 500 Summer Street NE, E-71, Salem, Oregon 97301, based on one or more of the following extenuating circumstances:

(a) Relevant facts regarding the child, the biological family, or background of the child were known, but not shared with the adoptive family prior to legal finalization of the adoption;

(b) Adoption assistance was denied based on an assessment of the financial need of the adoptive family;

(c) The Department determined the child was ineligible for adoption assistance, but information becomes known that indicates a review of the determination is appropriate; or

(d) The Department failed to advise the adoptive family of a special needs child of the availability of adoption assistance.

(2) Upon receipt of the written request, the Department must determine, within 30 calendar days, whether the child meets Title IV E eligibility requirements.

(3) The Department may review and provide an adoptive family historic information regarding the child to assist in the

request and determination regarding eligibility for adoption assistance:

(a) Following receipt of a request from the adoptive parents for non-identifying information from the adoption registry as provided by ORS 109.425 through 109.507;

(b) Following receipt of a court order to review and release records from the sealed adoption file; or

(c) As otherwise allowed under OAR 413-010-0065.

(4) When a child is Title IV-E eligible, a decision is made through a contested case hearing on whether the adoptive family may apply for adoption assistance after the judgment of adoption based on the extenuating circumstances in section (1) of this rule:

(a) The Adoption Assistance and Guardianship Assistance Coordinator must write a summary of the situation and submit a hearing referral and supporting documentation to the Office of Administrative Hearings within 45 calendar days of receipt of the request in section (1) of this rule.

(b) An adoptive family has the burden of proof to show that extenuating circumstances exist. The Department may provide corroborating facts to both the adoptive family and the administrative law judge.

(c) The contested case hearing is conducted under OAR 413-010-0500 to 413-010-0535.

(5) When a child does not meet Title IV E eligibility requirements, the Post Adoption Services Program Manager determines if extenuating circumstances under section (1) of this rule exist that justify accepting an adoption assistance application from the adoptive family.

(a) The Adoption Assistance and Guardianship Assistance Coordinator must prepare information for review by the Post Adoption Services Program Manager including information submitted by both the adoptive family and Department records.

(b) A written finding will be sent to the adoptive family within 60 calendar days of the receipt of the request for review.

(c) When the Post Adoption Services Program Manager finds that extenuating circumstances do not exist, the adoptive family may request a contested case hearing under OAR 413-010-0500 to 413-010-0535.

(A) The administrative law judge in the contested case hearing reviews whether the adoptive family may submit an application for adoption assistance.

(B) The approval of the adoption assistance application is a separate determination made by the Department.

(6) When the decision, through a contested case hearing or Post Adoption Services Program Manager review, is that the adoptive family is eligible to apply for adoption assistance on behalf of the child, an adoption assistance application may be signed, effective the date of the written request described in section (1) of this rule. The process for application in OAR 413-130-0050 and negotiation in OAR 413-130-0070 apply.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 24-2015, f. & cert. ef. 10-26-15

Adoption Registry

413-130-0300

Purpose

The central office adoptions unit maintains the Voluntary Adoption Registry for all adoptions not arranged through a licensed agency and carries out the DHS administrative responsibilities specified in these rules. Staff are expected to provide general information about the registry, refer inquiries to the central office adoption unit, and upon request, provide counseling services to the reunited parties.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 10-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0310

Voluntary Adoption Registry

(1) The Voluntary Adoption Registry is the program established under ORS 109.425 to 109.500 through which the Department of Human Services (DHS) maintains a registry of persons wishing to receive adoption information and to provide identifying and non-identifying information to eligible adoptees and eligible relatives of adoptees. The Voluntary Registry also performs certain functions with the State Assisted Search Program as provided in ORS 109.502 to 109.507 and OAR 413-130-0400 through 413-130-0520.

(2) DHS shall maintain the registry for all public agency adoptions through DHS (formerly Services to Children and Families, State Public Welfare, Children's Services Division) and all adoptions through an attorney. If the adoption was through an Oregon licensed private agency, the registrant shall contact appropriate agency directly.

(3) DHS may contract with a licensed adoption agency for the operation of the registry. If it does so, these administrative rules shall govern the operation of the registry. The receiving agency and any agency to which it delegates the operation of the registry shall meet the statutory standards to operate an adoption registry.

(4) DHS may join a voluntary national or international registry and make its records available to that registry. The rules governing disclosure of information provided by DHS in such adoption registry shall be as prescribed in these rules.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 10-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0320

Requesting Non-Identifying Information

(1) A fee of \$45 will be charged to any eligible person who requests non-identifying information from the registry to cover the cost of providing the information.

(2) DHS shall provide written request forms to all eligible persons.

(3) Upon receipt of a written request form and the fee, DHS shall provide a genetic, social, and health history of the adoptee if known, excluding identifying information, to the following persons:

(a) The adoptive parent(s) of the adoptee or adoptee's guardian;

(b) The birth parent(s) of the adoptee;

(c) The adoptee if age 18 or older;

(d) In the event of the death of the adoptee:

(A) The adoptee's spouse, if the spouse is the birth parent of the adoptee's child or the guardian of any child of the adoptee; or

(B) Any progeny of the adoptee who is 18 years of age or older.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0330

Registration for Identifying Information

(1) **Eligible persons.** Persons eligible to register with the registry include:

(a) Birth parent(s) of an adoptee;

(b) Adult adoptee;

(c) An adoptee's genetic sibling who is 18 years of age or older;

(d) Adoptive parent(s) of a deceased adoptee;

(e) Adult siblings of deceased birth parent(s) of an adoptee;

(f) Parent(s) of deceased birth parent(s) of an adoptee.

(g) Putative father(s) of adult adoptee(s).

(2) An adoptee, or the parent or guardian of an adoptee under 18 years of age, may register to have specific identifying information disclosed to Indian tribes or to governmental agencies in order to establish the adoptee's eligibility for tribal membership or for benefits or to a person settling an estate. The information shall be limited to a true copy of documents that prove the adoptee's lineage. Information disclosed in accordance with this subsection shall not be disclosed to the adoptee or the parent or guardian of the adoptee by the registry nor by the Indian tribe, governmental agency or person receiving the information.

(3) Prior to the processing of any affidavit, registrants shall pay a fee of \$25 to DHS.

(4) Eligible persons may register by submitting a notarized affidavit to DHS on forms provided by DHS.

(5) Affidavit contents. The registrant shall send the affidavit to the Adoption Services section of DHS. It shall contain:

- (a) The current name and address of the registrant;
- (b) Any previous name by which the registrant was known;
- (c) The original or adopted names of the adopted child;
- (d) The place and date of birth of the adopted child, if known;
- (e) The name and address of the agency which made the adoptive placement, if known;
- (f) A statement of the registrant's willingness to be identified to other eligible persons who register; and
- (g) The registrant's signature, witnessed and notarized. A copy of the registrant's birth certificate shall be submitted with the affidavit.

(6) Processing Affidavits.

(a) DHS shall maintain files concerning all persons whose adoptions were completed through DHS or whose adoptions were independent adoptions, and who have completed an affidavit;

(b) It is the responsibility of the registrant to notify the registry of any change of name or change of address. DHS is not responsible to search for a registrant who fails to notify the registry of these changes;

(c) A registrant may cancel his or her registration at any time by written notice to the registry;

(d) DHS shall not contact or in any other way solicit any adoptee, birth parent or putative father to register with the registry except as provided for under ORS 109.502–507;

(e) If a birth parent of an adoptee registers prior to the adoptee's eighteenth birthday, DHS shall accept the birth parent's registration and notify the birth parent that the adoptee is not yet eligible to register with the registry and that the requirements of subsection (5)(f) of this rule must be met;

(f) When an adoptee reaches age 18, a birth parent of the adoptee, if the birth parent registered prior to the adoptee's eighteenth birthday, shall notify DHS in writing only if the birth parent does not desire to continue the registration;

(g) All affidavits and other related registry information collected by DHS shall be permanently maintained by DHS.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 10-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0340

Use of Registry

(1) **Eligible Persons.** The following persons are eligible to use the registry to obtain identifying information about birth parents, adult adoptees, and adult adoptees' genetic siblings:

- (a) Birth parent(s) of the adoptee;
- (b) Adult adoptee;
- (c) Adult genetic siblings of adoptee if the birth parent or parents are deceased;
- (d) Adult adoptee genetic siblings who have been adopted by different adoptive families and have no knowledge of their birth parents;
- (e) Adoptive parent(s) of deceased adoptee;
- (f) Parent(s) of deceased birth parent; and
- (g) Adult siblings of deceased birth parent.

(2) An adult adoptee who has a genetic sibling in the adult adoptee's adoptive family who is under the age of 18 years shall not have access to the registry.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 30-2000, f. & cert. ef. 11-7-00

413-130-0350

Release of Identifying Information — Counseling

(1) When DHS determines that a match exists, DHS shall notify the affected persons of the match by a method which is direct and confidential.

(2) DHS may recommend appropriate counseling by a DHS service worker prior to the release of identifying information to eligible persons.

(3) If DHS determines that there is a match, and if relevant persons have registered with the registry and have received appropriate counseling at the discretion of the agency operating the registry, notification of the match shall be given by DHS only to:

- (a) An adult adoptee;
 - (b) Birth parent(s) of an adult adoptee;
 - (c) The adult genetic siblings of an adult adoptee if the birth parent(s) are deceased;
 - (d) Adult adoptee genetic siblings who have been adopted by different adoptive families and have no knowledge of their birth parents;
 - (e) At DHS's discretion, parents or adult siblings of the birth parent(s) if the birth parent(s) are deceased;
 - (f) At DHS's discretion, the adoptive parent(s) of a deceased adoptee; or
 - (g) Putative father of adult adoptee.
- (4) No information shall be released to registrants pertaining to:

- (a) The adoptive parents;
- (b) The siblings of the adult adoptee who are children of the adoptive parents; and
- (c) The income of anyone.

Stat. Auth.: 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 10-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0355

Contact Preference Form.

(1) A birth parent may request from the voluntary registry a Contact Preference Form (45-89, Oregon Department of Human Services, Health Division) for the purpose of indicating the birth parent's preference regarding contact by the adoptee.

(a) If the birth parent wants contact or contact through an intermediary, the birth parent may complete only the Contact Preference form and return it to the Oregon Center for Health Statistics, Certification Unit. Completion of a Birth Parent Updated Medical History form (CF 246R) is not required.

(b) If the birth parent does not want contact he or she must fill out the Birth Parent Updated Medical History form (CF 246R) that he or she may obtain from the voluntary adoption registry, the private adoption agency that handled the adoption or the Oregon Center for Health Statistics, Certification Unit and submit it to the appropriate voluntary adoption registry.

(2) Upon receipt of the Birth Parent Updated Medical History form (CF 246R), the voluntary adoption registry shall provide the birth parent with a Certificate of Receipt of Birth Parent Updated Medical History (CF 247R). The agency operating the voluntary adoption registry shall photocopy the Certificate of Receipt of Birth Parent Updated Medical History (CF 247R) on letterhead, have it signed by an authorized representative, and have the signature notarized.

(3) The birth parent shall then attach the Certificate of Receipt of Birth Parent Medical History (CF 247R) to the completed Contact Preference Form and send both forms to the Oregon Center for Health Statistics, Certification Unit.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.425 - 109.500
Hist.: SOSCF 30-2000, f. & cert. ef. 11-7-00

413-130-0360**Confidentiality of Registry**

All information acquired by the registry shall be confidential and shall be disclosed only as provided in these rules or pursuant to a court order. The provisions of this rule do not apply when confidential information relating to an international adoption is requested by an adult adoptee.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.425 - 109.500
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

Assisted Search Program**413-130-0400****Purpose**

The State of Oregon administers the Assisted Search Program which permits a confidential search for certain adult members of an individual's birth family. This program recognizes that while some parties to adoption have a strong desire to obtain identifying information, others do not. This program is voluntary for all participants and fully recognizes the right to privacy and confidentiality of all parties to an adoption. Persons contacted under this program are directed to the voluntary adoption registry where exchange of identifying information can be authorized. Licensed Oregon adoption agencies conducting assisted search programs are subject to the policies and procedures established under these rules, whose purpose is to set forth criteria establishing eligibility standards, standards of conduct and search procedures, and fees to be paid by persons requesting assisted searches.

Stat. Auth.: HB 2004
Stats. Implemented: ORS 109.425 - 109.507 & SB 1105
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-130-0420**Use of Assisted Search Program**

(1) Eligible Persons: Certain persons duly registered with an Oregon voluntary adoption registry for identifying information are eligible to request an assisted search:

(a) Adult adoptee or adoptive parents of a deceased adoptee seeking the adoptee's birth parents or genetic siblings;

(b) Birth parents, adult genetic sibling(s) or the parent or adult sibling of a deceased birth parent seeking the adult adoptee.

(2) Completed searches for a birth parent where that person declines to register prevents any subsequent assisted search for the requester's biological siblings. A search for the other birth parent or registered putative father is permitted where authorized by statute.

(3) A putative father may register so that an adult adoptee may be assisted in contacting him, but putative the father is prohibited from conducting an assisted search.

Stat. Auth.: HB 2004
Stats. Implemented: ORS 109.425 - 109.507
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-1998, f. 4-27-98, cert. ef. 5-1-98

413-130-0430**Application**

Requesters for assisted searches must submit an application directly to the licensed adoption agency that facilitated the adoption if that agency has met all requirements under OAR 413-130-0455 and 413-130-0460, or to the State Office for Services to Children and Families Central Adoptions Unit. The completed application shall include:

(1) Proof of registration for identifying information on the appropriate voluntary adoption registry;

(2) The applicable fee.

Stat. Auth.: ORS 418.005 & 109.506
Stats. Implemented: ORS 109.425 - 109.507
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0440**Fees**

Each application for an assisted search shall be accompanied by the following fee(s):

(1) Four hundred dollars for all initial searches for any one eligible person. This fee includes \$100 which covers costs for administration of the assisted search program and \$300 which represents the fixed fee for actual search.

(2) Two hundred dollars each for any subsequent assisted searches for eligible persons by the same requester.

(3) Twenty five dollars non-refundable birth parent database review if the applicant requests an assisted search for a birth father. This review shall determine if there is a father who meets the definition of the legal or putative father permitted to utilize the voluntary registry. This \$25 fee will be applied towards the assisted search fees if it is determined that a search can be conducted.

(4) Once application is made for the assisted search to the licensed adoption agency or SOSCF, any fees paid are non-refundable under any circumstances, including unsuccessful location or reunion.

Stat. Auth.: ORS 418.005 & 109.506
Stats. Implemented: ORS 109.425 - 109.507 & SB 1105
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0450**Eligibility of Search Organization**

Licensed adoption agencies who perform assisted searches must meet the following requirements:

(1) Demonstrate knowledge of, and experience with, adoption and search issues including a statement of philosophy which values post adoption search consistent with ORS 109.430;

(2) Demonstrate experience providing administrative and supervisory oversight of employees and subcontractors, if applicable, including monitoring of conduct and performance;

(3) Demonstrate sufficient financial resources to insure effective work and organizational stability;

(4) Employ, or have on call as needed, sufficient capable, trained and experienced staff who meet the standards and minimum competencies outlined in OAR 413-130-0460;

(5) Be available to accept search requests within the time frame outlined in OAR 413-130-0480;

(6) Maintain signed statements of confidentiality in personnel files and provide notice of confidentiality requirements in all program policies concerning any information from sealed adoption files and any information obtained during the assisted search process;

(7) Demonstrate knowledge of available search resources to guarantee delivery of services within the fee schedule;

(8) Agree to provide current and comprehensive information regarding agency and community resources, including support groups, reading lists and other resources regarding psychological issues in adoption and potential outcomes of reunions, to certain individuals identified and contacted as a result of the search;

(9) Agree to compile statistical data on searches for periodic reports to SOSCF in a format determined by SOSCF.

Stat. Auth.: ORS 418.005 & 109.506
Stats. Implemented: ORS 109.425 - 109.507
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0455**Standards of Conduct For Licensed Agencies.**

Licensed adoption agencies performing assisted searches shall:

(1) Maintain accurate and complete records of each search;

(2) Keep confidential all adoption file information furnished by SOSCF and any licensed adoption agency and all work product developed during the assisted search process;

(3) Use discretion in the search in all contacts and requests for information from public sources, and from those known to the persons involved;

(4) Act within applicable statutory and administrative rules in applicable jurisdictions;

(5) Not exert any pressure upon a sought-after person in order to effect registration on a voluntary adoption registry;

(6) Accept only such compensation for a search as is permitted by law;

(7) Avoid any potential conflicts of interest in conducting assisted searches;

(8) Not assume the role of therapist or counselor to parties contacted during the assisted search process.

Stat. Auth.: ORS 418.005 & 109.506

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00, Renumbered from 413-130-0470

413-130-0460

Eligibility Competencies and Standards for Persons Performing Searches

Persons performing assisted searches for licensed adoption agencies or SOSCF must meet the following requirements:

(1) Demonstrate a minimum of two years of experience, either professional or volunteer, in legal and/or psychological aspects of adoption and adoption search.

(2) Demonstrate expertise, through written references, approved training and personal interviews, of the following:

(a) Sensitivity to adoption-related issues;

(b) Ability to maintain confidential files and information;

(c) Ability to work within established legal, administrative and ethical boundaries;

(d) Excellent listening and communication skills, written and verbal;

(e) Ability to work with persons from diverse backgrounds and cultures;

(f) Insight regarding personal attitudes regarding adoption, search and reunion to maintain professional neutrality.

(g) Demonstrate general and specific knowledge of search procedures and techniques to be utilized to successfully locate sought after parties.

(3) Provide a criminal background check, which demonstrates no record of criminal convictions:

(a) Related to maintaining the integrity or confidentiality of records;

(b) Related to child abuse or other offenses involving minor children.

(4) Attend continuing education/applicable training available if required by the licensed adoption agency or SOSCF in the areas of adoption, search and reunion.

(5) Sign a statement of confidentiality, which outlines potential civil and criminal penalties for any disclosure of file information to any one not expressly authorized in applicable statutes or administrative rules.

Stat. Auth.: ORS 418.005 & 109.506

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0480

Search Procedures

(1) SOSCF or licensed adoption agencies, upon receipt of the application and fees, shall complete the assisted search within 120 days from the date of assignment. If the case is still active, but not completed within 120 days, the agency shall contact the requester and state the reason for the delay and a projected completion date. The licensed adoption agency, or SOSCF shall inform the requester that the case has been opened, and shall maintain reasonable contact with the requester to give periodic updates on the search.

(2) The licensed adoption agency or SOSCF shall prepare a search file, and using established search techniques in accordance with the standards of conduct established under OAR 413-130-0470, shall attempt to identify and locate the person sought under the program.

(3) Upon location of that person, the licensed adoption agency or SOSCF shall make a confidential inquiry, in person if possible,

to determine if that person wishes to establish contact with the requester through the voluntary adoption registry:

(a) The licensed adoption agency or SOSCF shall inform the person that any participation he or she may have with the registry is voluntary and that no information regarding his or her identity or location will be released unless completed registration is made with the voluntary adoption registry;

(b) The agency or SOSCF shall provide information and any application materials necessary to register with the appropriate registry if contact is to be made. The application materials shall contain a statement regarding the voluntary nature of any participation in a voluntary adoption registry;

(c) The agency or SOSCF shall also provide information about agency and community resources regarding psychological issues in adoption and reunion to persons who express a wish to receive information;

(d) The agency or SOSCF shall notify the appropriate voluntary adoption registry that the person being sought has been identified and located, and has indicated that the person wishes to make contact;

(e) If the reason for the search is because there is a serious medical condition in the person's immediate genetic family that is, or may be, an inheritable condition, the person being sought shall be informed of that fact at first contact.

(4) SOSCF or the licensed adoption agency conducting the search, where practicable, shall, after 90 days, contact the person in the original contact who indicated interest in accessing the voluntary adoption registry, if that person has not returned the application materials. This second contact is to offer forms and materials to register and to determine if the person still intends to register.

(5) If, upon location, the person sought does not wish to register to establish contact through the voluntary adoption registry, the person shall be given information about the voluntary adoption registry under ORS 109.435 to 109.507.

(6) The licensed adoption agency or SOSCF shall notify the appropriate voluntary registry that the person being sought has been located and has indicated that the person does not wish the contact.

(7) If the licensed adoption agency or SOSCF is unable to identify or locate the person being sought, SOSCF or the licensed adoption agency shall notify the appropriate voluntary registry of that fact.

(8) Upon receiving notice under OAR 413-130-0480(3), (5) or (6), the voluntary adoption registry shall:

(a) Enter the information into its records;

(b) Notify the requester only that the person being sought has or has not been located; and either.

(A) Has indicated a wish to make contact and has been given information and forms necessary to register; or

(B) Has indicated a wish not to make contact.

(9) Except as otherwise provided under this rule, no contact shall be made with requesters or persons sought under the assisted search program.

(10) All search file information, including all work product developed during the course of the search, shall be incorporated into the permanent registry adoption file in the agency of origin, either SOSCF and/or a licensed Oregon adoption agency upon completion of the search.

Stat. Auth.: OL 1993, Ch. 676

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-1998, f. 4-27-98, cert. ef. 5-1-98

413-130-0490

Access to Records

(1) A licensed adoption agency may examine adoption records maintained by the State Office for Services to Children and Families subject to SOSCF operating procedures.

(2) No original file contents or copies of confidential documents will be removed from SOSCF Central Adoptions Unit.

(3) No file contents will be open to inspection by a licensed adoption agency other than the file directly related to the requester's file.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-130-0500

Maintenance of Records

(1) All work product and adoption file information obtained in connection with the assisted search program under these rules is confidential. All confidential adoption records made available to a licensed adoption agency, and all work product, are the property of the agency of origin, either SOSCF or the licensed adoption agency. At the conclusion of the assisted search, all materials shall be forwarded to the agency of origin, and shall become part of the permanent adoption file. Licensed adoption agencies conducting an assisted search program shall maintain a record of each search undertaken and its outcome in a form which does not breach the confidentiality of any registrant.

(2) During an active search, licensed adoption agencies shall keep records of all actions taken on behalf of requesters, and shall furnish copies of those records upon request from SOSCF.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-130-0510

Exclusion of Licensed Agencies

Any licensed adoption agency authorized to conduct searches per OAR 413-130-0460, shall be immediately excluded from all access to confidential adoption file information if any rules are violated, and may be subject to immediate termination for any willful unauthorized disclosure of any confidential file information. Such persons may be subject to criminal prosecution.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-130-0520

Advisory Committee

SOSCF may establish an advisory committee selected by SOSCF. The advisory committee may meet as needed to consider any changes or improvements to the administration of the Assisted Search Program. Membership shall reflect affected parties, including, but not limited to, adult adoptees, adoptive parents, birth parents, private adoption agency personnel and SOSCF adoptions staff.

Stat. Auth.: ORS 418.005 & 109.506

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00

DIVISION 140

INDEPENDENT ADOPTION SERVICES

Independent Adoption

413-140-0000

Purpose

The purpose of these rules (OAR 413-140-0000 to 413-140-0110) is to:

(1) Define the role of the Department in an Oregon Non-Departmental adoption of a child;

(2) Provide appropriate Department procedures regarding Non-Departmental adoptions in Oregon;

(3) Specify documents and information required for Non-Departmental adoption waivers issued by the Department; and

(4) Specify fees applicable to the completion of an independent adoption placement report.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109.309, 109.311, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0010

Definitions

The following definitions apply to OAR 413-140-0000 to 413-140-0110:

(1) "Adoption home study" means a written report documenting the result of an assessment to evaluate the suitability of an individual or individuals to adopt and make a lifelong commitment to a child or children, conducted by a licensed adoption agency, the Department, or — when authorized by under the law of another state, country, or territory — another public agency, private individual, or entity.

(2) "Certificate of approval" for the purpose of an adoption home study is a document that:

(a) Is issued by an Oregon licensed adoption agency, and

(b) Approves an adoption home study and certifies that the prospective adoptive family has met the requirements of OAR 413-140-0033.

(3) "Child" means an unmarried person under 18 years of age.

(4) "Contracted adoption agency" means an Oregon licensed adoption agency holding a current contract with the Department to conduct placement reports for independent adoptions and to file those reports with the court.

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

(6) "Household" means all individuals living in the home.

(7) "Independent adoption" means an adoption that is being finalized in Oregon of a child:

(a) That is not a re-adoption, private agency adoption, or out-of-state public agency adoption; and

(b) The child is not in the custody of the Department.

(8) "Licensed adoption agency" means:

(a) An approved child-caring agency of this state acting by authority of ORS 418.270 and OAR 413-215-0401 to 413-215-0481; and

(b) An agency or other organization that is licensed, or otherwise authorized, to provide adoption services pursuant to the laws of that state, country or territory.

(9) "Non-Departmental adoption" means an adoption that is finalized in Oregon for a child who is not in the custody of the Department, and includes:

(a) Re-adoption;

(b) Independent adoption;

(c) Private agency adoption; or

(d) Out-of-state public agency adoption.

(10) "Out-of-state public agency adoption" means an adoption of a child who is a ward of another state and consent for the adoption to finalize in Oregon is given by the out-of-state child welfare agency in loco parentis.

(11) "Petitioner" as used in this rule, means an individual person who has filed an adoption petition in an Oregon court.

(12) "Placement report" commonly known as "court report" or "post-placement report" is a comprehensive written report and recommendation to the court prepared after:

(a) The filing of an adoption petition;

(b) The child has been placed for the purpose of adoption; and

(c) A licensed adoption agency has evaluated the status and adjustment of the child and the adoptive parents.

(13) "Private agency adoption" means an adoption of a child that is being finalized in Oregon in which consent in loco parentis from a licensed adoption agency is required.

(14) "Re-adoption" means an adoption of a child who was originally adopted in another country and who is being re-adopted in Oregon.

(15) “Surrogate mother” means an adult woman who:

(a) Agrees to become pregnant with the intention of gestating, bearing, and giving birth to a child of another individual or couple who are the intended parents; and

(b) Intends and agrees to assert or retain no parental rights or obligations with regard to the resulting child.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109, 409.010, 418.240, 418.270

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 24-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0026

Service of Petition for Adoption and Required Documentation

(1) Within 30 days of filing an adoption petition with the court, the petitioner must serve a copy of the adoption petition and related documents upon the Department as set forth in ORS 109.315(5)(a).

(2) Documents initially filed with the court must be delivered by registered or certified mail with return receipt or by personal service to the following address: Department of Human Services, Attention: Independent Adoptions, 500 Summer Street NE, E-71, Salem, OR 97301-1066.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.315, 409.010, 418.005

Hist: CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0030

Required Documentation

The following documents are required to be submitted by the petitioner to the court pursuant to ORS 109.309(12)(a). The Department may consider any or all of the following documents in determining whether a waiver may be granted for the 90-day waiting period, adoption home study requirement or placement report:

(1) Petition for adoption containing information as outlined in ORS 109.315(1).

(2) Exhibits attached to petition in accordance with ORS 109.315(3).

(3) Unless waived by the Department, written evidence documenting a current adoption home study and certificate of approval in accordance with Child Welfare Policy I-G.4, “Non-Departmental Adoptions”, OAR 413-140-0035.

(4) Unless waived by the Department, a placement report in accordance with Child Welfare Policy I-G.4, “Non-Departmental Adoptions”, OAR 413-140-0040.

(5) The Adoption Summary and Segregated Information Statement as outlined in ORS 109.317(1).

(6) Exhibits attached to the Adoption Summary and Segregated Information Statement in accordance with ORS 109.317(2).

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.092, 109.094, 109.096, 109.239, 109.243, 109.309, 109.311, 109.312, 109.315, 109.317, 109.326, 109.330, 109.342, 109.353, 109.385, 109.400, 109.450, 109.701 to 109.784, 409.010, 417.200

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 32-2000, f. & cert. ef. 11-7-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 24-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0031

Actions Performed by the Department upon Receipt of an Adoption Petition

Following receipt of an adoption petition:

(1) The Department will review the adoption petition, along with accompanying documentation to determine whether a placement report is required under OAR 413-140-0032(3) and, when applicable, will assign the placement report as outlined in 413-140-0040.

(2) The Department will provide written notification to the court and the petitioner indicating:

(a) The Department’s determination regarding any waivers that have been requested in accordance with OAR 413-140-0032;

(b) When applicable, information regarding the assignment of a placement report; and

(c) Other considerations regarding documentation required to be served upon the Department pursuant to ORS 109.315(5)(a).

(3) The Department must notify the court, in writing, when the Department reasonably suspects that the conduct of a person involved in an adoption or the conduct of an adoption agency violates Oregon law. Examples of such violations include but are not limited to:

(a) Any actions that constitute a violation or possible violation of ORS 109.311.

(b) Prohibitions regarding placement of a child for adoption pursuant to ORS 418.300.

(c) Prohibitions regarding buying and selling a person under 18 years of age pursuant to ORS 163.537.

(d) Fees charged by an Oregon licensed adoption agency that are not in accordance with ORS 109.311(3) and OAR 413-140-0035(3).

(4) The Department must provide a copy of the notification described in section (3) of this rule to the petitioner and when applicable, to the licensed adoption agency.

Stat. Auth.: ORS 109.309, 19.315, 409.050, 418.005

Stats. Implemented: ORS 163.537, 109.309, 109.311, 409.010, 418.300

Hist.: CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0032

Waivers the Department May Issue

(1) Waiver of the 90-day waiting period.

(a) In accordance with ORS 109.309(10), the Department may waive the required 90-day waiting period for an adoption.

(b) Upon receipt of the adoption petition and accompanying documents, the Department will review and consider all items listed in OAR 413-140-0030 when determining whether to waive the required 90-day waiting period.

(c) The Department will provide written notification regarding the determination of the 90-day waiver request to the court, petitioner and, when applicable, the Oregon licensed adoption agency involved.

(d) The Department may reconsider the initial determination of the 90-day waiver request provided:

(A) All remaining items outlined in the Department’s prior written notification have been sufficiently addressed; and

(B) The required 90-day waiting period has not expired.

(2) Waiver of the Adoption Home Study.

(a) In accordance with ORS 109.309(7)(b), the Department has discretion to waive the home study requirement for some adoptions.

(b) The Department may consider a waiver of the adoption home study in an independent adoption when:

(A) One biological parent or adoptive parent retains parental rights.

(B) The petitioner qualifies as a relative, for the purpose of this rule, under the following conditions:

(i) At least one of the adopting petitioners is the biological or adoptive sibling or half-sibling, aunt, uncle, grandparent, great-aunt, great-uncle, or great-grandparent of the child; and either

(ii) The child has lived with the petitioner since birth and for at least six months immediately prior to the petitioner’s request to waive the adoption home study requirement; or

(iii) The child has lived with the petitioner on a continuous basis for at least one year prior to the petitioner’s request to waive the adoption home study requirement.

(c) The Department may consider waiving the adoption home study requirement in an independent adoption involving a child born to a surrogate mother when there is evidence documenting that the following conditions, as applicable, are met:

(A) At least one of the petitioners is a biological parent of the child; and

(B) When the surrogate mother is married:

(i) Her husband has consented to the adoption; or

(ii) There is a joint affidavit of non-paternity completed by the surrogate and her husband.

(d) The following documents must be submitted to the Department before consideration may be given to a waiver of the adoption home study requirement:

- (A) A Request for Waiver of the Adoption Home Study Form.
- (B) Background checks as described in OAR 413-140-0065.
- (C) A copy of the petition for adoption.
- (D) Verification that the child being adopted shares a residence with the adopting petitioner.

(E) Additional information, when requested by the Department, to clarify any concerns that could compromise the safety, permanency or well-being of the child being adopted.

(e) The Department does not waive the adoption home study requirement when there are safety, permanency, or well-being concerns that warrant completion of an adoption home study.

(f) Any concerns that come to the attention of the Department regarding the ability of a petitioner to meet the standards set forth in OAR 413-140-0033 may also be considered when determining whether the Department will waive the adoption home study.

(g) Upon receipt of all requested documents listed in subsection (d) of this section, the Department will:

(A) Make a determination as to whether an adoption home study waiver is appropriate;

(B) Provide written notification of the Department's determination regarding the adoption home study waiver request to the court and petitioner or petitioner's attorney;

(C) Outline in written notification any remaining information the Department determines is needed to reconsider the petitioner's adoption home study waiver request; and

(D) Provide petitioner or petitioner's attorney with a list of Oregon licensed adoption agencies authorized to complete an adoption home study if the Department determines petitioner's request for waiver cannot be granted.

(3) Waiver of the Placement Report.

(a) In accordance with ORS 109.309(8)(a), the Department has the authority to waive the placement report requirement.

(b) The Department must waive the placement report for an adoption in which one biological or adoptive parent retains parental rights.

(c) When a written request is received from the petitioner, the Department may waive the placement report for any of the following:

(A) An adoption for which the Department has waived the adoption home study;

(B) An independent or out-of-state public agency adoption in which the petitioner and the child are currently receiving services from the Department or a licensed adoption agency or have received services in the past 12 months and the Department or an Oregon licensed adoption agency provides a written recommendation that adoption is in the best interests of the child.

(C) When the adoptee is 14 years of age or older, has consented to his or her adoption, and an Oregon licensed adoption agency provides a written recommendation that adoption is in the best interest of the child.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.243, 109.309, 109.315, 109.328, 409.010

Hist.: CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0033

Minimum Standards for Adoptive Homes

(1) The Department is authorized under ORS 109.309(7)(a) to set forth the minimum standards for adoptive homes.

(2) Minimum standards for an adoptive home that must be addressed in a written adoption home study include:

(a) Approved background checks in accordance with OAR 413-140-0065 for all adult household members;

(b) Documented completion of minimum pre-adoption training required under Child Welfare Policy II-C.1.3, "Licensing Adoption Agencies", OAR 413-215-0456, or by the Department of State under the Inter-Country Adoption Act of 2000 (42 USC 14923), 22 CFR 96.48, when applicable; and

(c) Evidence that the adoptive applicant demonstrates the following:

(A) Capability to meet the child's specific emotional and physical needs;

(B) Ability to ensure the safety of the child being sought for adoption;

(C) Financial ability within the household to ensure the stability and financial security of the family;

(D) Understanding that adoption is a lifelong commitment to provide a safe and permanent family for a child not born to them; and

(E) Consideration of the benefits and challenges of open adoption and the various levels of openness in the adoption plan, as applicable.

Stat. Auth.: ORS 109.309, 181.537, 409.050, 418.005, 418.240

Stats. Implemented: ORS 109.309, 409.010, 418.005

Hist.: CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0035

Adoption Home Study

(1) Unless waived by the Department in accordance with OAR 413-140-0032, an adoption home study is required for the filing of a petition for the adoption of a child in Oregon.

(2) For the purpose of private agency and independent adoptions, an adoption home study must have a certificate of approval issued by an Oregon licensed adoption agency.

(3) Prior to issuing a certificate of approval, the Oregon licensed adoption agency is responsible for ensuring that:

(a) The adoption home study meets criteria outlined in section (7) of this rule; and

(b) Verification is received that the private individual, entity or licensed adoption agency that completed the adoption home study is authorized to perform adoption services under the laws of the state, country or territory where the prospective adoptive parents reside.

(4) Any fees charged to a petitioner by an Oregon licensed adoption agency must be based on reasonable costs and the actual expenses incurred by the adoption agency as a result of completing the required services.

(5) In accordance with Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption", OAR 413-120-0220, the Department completes adoption home studies for Oregon residents applying to adopt a child in substitute care and who is within the custody of the Department or another public child welfare agency. An adoption home study may only be completed by the Department for this purpose. A home study completed for this purpose may only be considered for later use in an independent or private agency adoption if approved by the Permanency Program Manager or designee.

(6) In the interest of promoting safety, well-being, and permanency of children residing in Oregon, upon approval of the Post Adoption Services Manager or designee, the Department may assign a contracted adoption agency to complete an adoption home study for an independent adoption.

(7) Validity of an adoption home study.

(a) With the exception of a re-adoption, an adoption home study is valid for a maximum of two years from the date of completion, providing significant changes have not occurred in the petitioner's household.

(b) When significant changes occur in the petitioner's household after the completion of the home study but before the adoption is finalized, a licensed adoption agency must complete an update of the adoption home study.

(c) Except in the case of a re-adoption, the adoption home study must not have been used for a previously finalized adoption.

(d) The adoption home study must:

(A) Demonstrate that the standards set forth in OAR 413-215-0451 and 413-140-0033 have been met;

(B) Comply with standards for inter-country adoptions set forth in Child Welfare Policy II-C.1.3, "Licensing Adoption Agencies", OAR 413-215-0476, when applicable; and

(C) Include the date and signature of one of the following:

(i) An authorized representative of the licensed adoption agency completing the adoption home study; or

(ii) The private individual or entity authorized to complete an adoption home study under the laws of another state, country or territory.

(8) For an independent adoption, when there are seven or more children under the age of 18 residing in the adoptive home, before the Oregon licensed adoption agency may approve the adoption home study:

(a) The director of the Oregon licensed adoption agency must convene a review committee of at least three human services professionals not employed by the adoption agency with experience in adoption and services to families and children, to determine whether the adoption home study should be approved.

(b) The decision of the review committee must be determined by a majority vote.

(c) The original adoption home study or a home study addendum by the Oregon licensed adoption agency issuing a certificate of approval must include:

(A) The name and professional title of each participant;

(B) The date when the committee convened; and

(C) The findings and recommendations of the review committee, including any dissenting or minority findings.

Stat. Auth.: ORS 109.309, 409.050, 418.005, 418.240

Stats. Implemented: ORS 109.304, 109.309, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 3-1999, f. & cert. ef. 3-22-99; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; Renumbered from 413-140-0020, CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0040

Placement Report

(1) Unless waived by the Department under OAR 413-140-0032, a placement report must be completed after the filing of an adoption petition and after the placement of a child in the adoptive home.

(2) Placement Report Assignment and Format.

(a) Within 30 days of receipt of an adoption petition and when applicable, the placement report fee as indicated in OAR 413-140-0047, the Department must:

(A) Assign the completion of the placement report to one of the following:

(i) A contracted adoption agency for an independent adoption;

(ii) The Oregon licensed adoption agency that has authority to give consent in loco parentis to the private agency adoption; or

(iii) For a private agency adoption involving an out-of-state licensed adoption agency, the Oregon licensed adoption agency completing the certificate of approval.

(B) Supply all information and materials as provided to the Department to the designated Oregon adoption agency for completion of the placement report.

(b) The adoption agency designated under paragraph (a)(A) of this section must:

(A) Prepare a placement report in accordance with ORS 109.304(2) that:

(i) Includes the adoption agency's recommendation to the court regarding whether the adoption should be granted;

(ii) Evaluates the status and adjustment of the child and the prospective adoptive parent; and

(iii) Documents information gathered by the Department or the adoption agency during the preparation of the placement report.

(B) Complete and file an original report with the court within 60 days of the assignment from the Department.

(C) In the event a placement report cannot be completed within 60 days of assignment, the adoption agency must:

(i) Notify the court of the delay in writing, stating specific reasons for the delay, and the anticipated additional time needed to prepare and submit a complete report to the court; and

(ii) Provide a copy of the notification of delay to the Department.

(D) Serve a true copy of the report filed with the court on the Department and the petitioner or petitioner's attorney within 10 days of filing the report with the court.

(E) As needed, coordinate with an out-of-state adoption agency that provided the original adoption home study to ensure the completion of the placement report according to the above timeframe requirements.

(3) A suggested reporting format for the required placement report is provided on the Department's Independent Adoptions website for Non-Departmental adoptions or may be obtained by sending a written request to the following address: Department of Human Services, Attention: Independent Adoptions, 500 Summer Street NE, E-71, Salem, OR 97301-1066.

Stat. Auth.: ORS 109.309, 409.050, 418.005, 418.240

Stats. Implemented: ORS 109.304, 109.309, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 3-1999, f. & cert. ef. 3-22-99; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0047

Fees for the Placement Report and Certificate of Approval

Fees associated with the adoption of a minor child must be charged in accordance with ORS 109.311. The Department sets forth the following fee for an independent adoption placement report:

(1) Unless the fee is waived under section (2) of this rule, the assignment and completion of a placement report for an independent adoption may be charged at a maximum rate of \$800 per report. The fee must be:

(a) Paid by the petitioner in check or money order directly to the Department; and

(b) Submitted within 30 days of service of the petition on the Department.

(2) Waiver of Fee for an Independent Adoption Placement Report.

(a) The Department may, upon petitioner's request, consider waiving all or a portion of the fee set under this rule to complete a placement report.

(b) The Department's determination of a reduction or waiver of the placement report fee is based upon the federal poverty guidelines that the United States Department of Health and Human Services establishes each calendar year. Fee waiver eligibility is calculated using the size of the household in correlation to the following federal poverty guidelines:

(A) A household income at or below 100% of the federal poverty guideline may qualify for a full (100%) waiver.

(B) A household income at or below 115% (and above 100%) of the federal poverty guideline may qualify for a 75% waiver.

(C) A household income at or below 130% (and above 115%) of the federal poverty guideline may qualify for a 50% waiver;

(D) A household income at or below 145% (and above 130%) of the federal poverty guideline may qualify for a 25% waiver.

(c) The Department may, on a case by case basis, allow partial waiver of the fee for the placement report after reviewing the following documentation submitted by the petitioner to the Department:

(A) Request for Waiver of Independent Adoption Placement Report Fee Statement of household earnings, CF 239B; and

(B) A copy of the petitioner's most recent Federal Tax Report 1040 and verification of household income (see subsection (c) of this section).

(d) For the purpose of this rule, "household income" includes all of the following:

(A) Before tax cash receipts from all sources such as wages or salaries.

(B) Public assistance.

(C) Entitlement and benefits.

(D) Private support and assistance payments.

(E) Payments that include, but are not limited to:

(i) Investments and annuities;

(ii) Rents;

(iii) Pensions;

(iv) Allotments;

(v) Child support;

- (vi) Alimony;
- (vii) Tax refunds; and
- (viii) Grants, interest, and winnings.

(e) After review of the petitioner's request for a waiver of the independent adoption placement report fee, the Department must:

(A) Provide written notification to the petitioner and the court regarding the Department's determination of the fee waiver request; and

(B) When applicable, assign a contracted adoption agency to complete the necessary report in accordance with the procedures described in OAR 413-140-0040(2)(b).

(f) The Department may, at any time, require updated financial information to be re-submitted by petitioner.

(g) In the event a fee waiver is authorized based upon erroneous information, the petitioner is liable for the full cost of the placement report and any amounts associated with the recovery of those costs.

Stat. Auth.: ORS 109.309, 409.050, 418.005, 418.240

Stats. Implemented: ORS 109.304, 109.309, 109.311, 418.005, 409.010, 418.005

Hist.: CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0065

Background Checks for Consideration of Home Study Waiver

(1) Before the Department may approve a request for waiver of an adoption home study, the following background check requirements must be met:

(a) For a petitioner residing in Oregon, except as described in section (3) of this rule, each adopting petitioner and all adult members of the petitioner's household must provide documentation of required background checks as follows:

(A) A criminal history check from the Oregon State Police, using Form CF249g, Request for Oregon Criminal History Information; and

(B) When the petitioner has resided outside of Oregon for a period of more than sixty consecutive days in the last five years:

(i) A criminal history check from the Federal Bureau of Investigation (FBI); and

(ii) A child abuse and neglect registry check from an authorized agency of each state or country where the individual has lived in the preceding five years immediately prior to the petitioner's request to waive the adoption home study requirement.

(b) For a petitioner who is a resident of Oregon as defined in ORS 109.309(2) but is temporarily residing outside the state for a period of more than sixty consecutive days for purposes such as, but not limited to, military service, academics or vacation, except as described in section (3) of this rule, each petitioner and all adult members of the petitioner's household must provide documentation of required background checks as follows:

(A) A criminal history check from the FBI and an authorized agency of the state or country where the adopting petitioner currently resides and has lived in the preceding five years immediately prior to the filing of the petition; and

(B) A child abuse and neglect registry check from an authorized agency of each state or country where the adopting petitioner currently resides and has lived in the preceding five years immediately prior to the petitioner's request to waive the adoption home study requirement.

(c) For a petitioner who is not a resident of Oregon, except as described in section (3) of this rule, each adopting petitioner and all adult members of the petitioner's household must provide documentation of required background checks as follows:

(A) A criminal history check from the petitioner's current state of residence;

(B) A criminal history check from the FBI; and

(C) A child abuse and neglect registry check from an authorized agency of each state or country where the individual has lived in the preceding five years immediately prior to the petitioner's request to waive the adoption home study requirement.

(2) The Department must conduct a check of the child abuse and neglect registry maintained by the Department for an Oregon resident.

(3) When a waiver of the adoption home study is requested, the biological or adoptive parent retaining rights is only exempt from submitting a criminal history clearance to the Department.

(4) Background checks may also be required for a household member under the age of 18 if there is reason to believe that the individual may pose a safety threat to children placed in the home.

(5) For the purpose of this rule, criminal background checks and child abuse and neglect registry checks are valid up to one year after completion. The Department may request updated background checks from the adopting petitioner at any time when making a determination regarding the waiver of a home study.

(6) The Department is not responsible for paying any fees associated with the application for, acquisition of, and provision of background checks.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.309, 181.534, 181.537, 409.010, 418.005

Hist.: SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; Renumbered from 413-140-0025, CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

413-140-0110

Confidentiality

Adoption records contain confidential information. The Department may only disclose confidential information relating to an adoption as follows:

(1) As provided in Child Welfare Policies I-A.3.2, "Confidentiality of Client Information", OAR 413-010-0000 to 413-010-0075; I-G.3.3, "Adoption Registry", OAR 413-130-0300 to 413-130-0360; and I-G.3.4, "Assisted Search Program", OAR 413-130-0400 to 413-130-0520; or

(2) As otherwise authorized by law.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 15-2013, f. 12-31-13, cert. ef. 1-1-14

DIVISION 200

STATUTORY AUTHORITY

Responsibilities for Certification and Supervision of Foster Parents and Relative Caregivers and Approval of Potential Adoptive Resources

413-200-0260

Definitions

The following definitions apply to OAR chapter 413, division 200.

(1) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.

(2) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(3) "Applicant" means any individual who applies:

(a) For a Certificate of Approval, Child-Specific Certificate of Approval, Temporary Certificate of Approval, to renew certification, or for a change of status; or

(b) For approval through the Department as a potential adoptive resource.

Chapter 413 Department of Human Services, Child Welfare Programs

(4) “Babysitting” means the provision of temporary care for a child or young adult that is:

- (a) Ten consecutive hours or less; and
- (b) Not overnight care.

(5) “CANS screening” means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult used for one or more of the following purposes:

(a) Identifying case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) Determining the level of care payment while in substitute care with a certified family; and

(c) Determining the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(6) “Certificate of Approval” means a document the Department issues to a certified family to approve the operation of a home to provide care for a child or young adult in the care or custody of the Department.

(7) “Certification supervisor” means an employee of the Department, designated as a supervisor, supervising staff responsible for certification, training, and monitoring homes certified by the Department.

(8) “Certified family” 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 or young adult in the care or custody of the Department.

(9) “Certifier” means a Department employee who:

(a) Conducts assessments of applicants and homes;

(b) Determines whether or not to recommend approval of a potential adoptive resource or that a Certificate of Approval be approved or renewed; and

(c) Monitors the compliance of a certified family and home with OAR 413-200-0301 to 413-200-0396.

(10) “Child” means a person under 18 years of age.

(11) “Child care” means regularly scheduled care, supervision, and guidance of a child by an individual other than the parent, guardian, foster parent, or relative caregiver during any time that the parent, guardian, foster parent, or relative caregiver works or attends school.

(12) “Child protective services assessment” (CPS assessment) means an investigation into a report of child abuse pursuant to ORS 419B.020, that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.

(13) “Child protective services supervisor” (CPS supervisor) means an employee of the Department trained in child protective services and designated as a supervisor.

(14) “Child protective services worker” (CPS worker) means an employee of the Department who has completed the mandatory Department training for child protective service workers.

(15) “Child-Specific Certificate of Approval” means a document the Department issues to a certified family to approve the operation of a home to provide care for a specific child or young adult in the care or custody of the Department and for whom the Department determines a placement is needed.

(16) “Cohabiting” means the act of two adults, unmarried to each other, living together in an intimate relationship as if married.

(17) “Consulting foster parent or relative caregiver” means an individual who maintains or has held a Certificate of Approval to operate a foster or relative caregiver home, received Department approved training on the role of a “consulting foster parent or relative caregiver”, and agrees to serve in this role.

(18) “Criminal records check” means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information obtained from other sources.

(b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information sources located in, or regarding, a state or jurisdiction outside Oregon.

(19) “Day Care Facility” 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 Listed Facility, 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 of Human Services.

(20) “Denial” means the refusal of the Department to approve an application for certification and issue or renew a certification.

(21) “Department” means the Department of Human Services, Child Welfare.

(22) “Discipline” means a training process to help a child or young adult develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(23) “Disqualifying condition” means any information or circumstance related to a person or to the home that does not meet one or more of the requirements in OAR 413-200-0301 to 413-200-0396.

(24) “Electronic monitoring” means the use of video monitoring or listening devices to monitor or record the behavior of a child or young adult. “Electronic monitoring” does not include:

(a) Door monitors;

(b) Window alarms;

(c) Motion detectors;

(d) Audio or video baby monitors used for a child five years and under; or

(e) Monitors approved by a medical provider for medical purposes.

(25) “Enhanced supervision” means the additional support, direction, observation, and guidance necessary to promote and assure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(26) “Foster parent” means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(27) “Home study” means a document containing an analysis of the ability of the applicant to provide safe and appropriate care of a child or young adult.

(28) “Impending danger safety threat” means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that 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.

(29) “Inactive Referral Status” means a period of time, not to exceed 12 months, during which neither the Department nor any

other agency may place an additional child or young adult with a certified family.

(30) “Initial contact” means the first face-to-face contact between a CPS worker and a family. The “initial contact” includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, other 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.

(31) “Level of care payment” means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of the child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(32) “Listed DHS child care program provider” means a child care provider who has been approved by DHS Self-Sufficiency Program to provide child care to DHS clients.

(33) “Member of the household” means any adult or child living in the home, including the applicant and any caregiving employee or volunteer.

(34) “Personal care services plan” means a written plan to provide personal care services for the child or young adult documenting:

(a) The determination that the individual is a qualified provider;

(b) The frequency or intensity of each personal care service to be provided; and

(c) The date personal care services begin.

(35) “Physical restraint” means the act of restricting the voluntary movement of a child or young adult as an emergency measure in order to manage and protect the child, young adult, or others from injury when no alternate actions are sufficient to manage the behavior of the child or young adult. “Physical restraint” does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(36) “Placement support plan” means a documented set of actions or resources that is developed to assist a relative caregiver or foster parent to maintain conditions that provide safety and well-being for a child or young adult in the home.

(37) “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.

(38) “Psychotropic medication” means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated intended effect when prescribed because it may have many different effects.

(39) “Punishment” means the intentional infliction of emotional or physical pain or suffering.

(40) “Reasonable and prudent parent standard” means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(41) “Referral” means a report that has been assigned for the purpose of CPS assessment.

(42) “Relative caregiver” means a person defined as a “relative” under OAR 413-070-0000 who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(43) “Report” means an allegation of child abuse or neglect provided to the Department that the screener evaluates to determine

if it constitutes a “report” of child abuse or neglect as defined in ORS 419B.005.

(44) “Respite care” means a formal planned arrangement to relieve a certified family’s responsibilities by a person temporarily assuming responsibility for the care and supervision of a child or young adult in the home of the person or certified family. “Respite care” must be less than 14 consecutive days.

(45) “Revocation” means an administrative act by the Department that rescinds an existing Certificate of Approval, Child-Specific Certificate of Approval, or Temporary Certificate of Approval.

(46) “Screener” means a Department employee with training required to provide screening services.

(47) “Surrogate” means an individual who has been appointed to safeguard a child’s rights in the special education decision-making process. The individual may be appointed pursuant to applicable Department of Education administrative rules and statutes or by the juvenile court.

(48) “Temporary Certificate of Approval” means a document the Department issues to a certified family to approve the operation of a home to provide care for a specific child or young adult in the care and custody of the Department. The “Temporary Certificate of Approval” is valid for up to 180 days unless an extension is granted under OAR 413-200-0276(3).

(49) “Young adult” means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 409.050, 418.005, 418.015, 418.027, 418.285, 418.315, 418.470, 418.625 - 418.648

Hist.: CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0270

Purpose

(1) The purpose of OAR 413-200-0270 to 413-200-0298 is to describe the activities of the Department related to:

(a) Certification of a relative caregiver or foster parent, and assessment of a potential adoptive resource;

(b) Monitoring compliance of a certified family with the certification standards in OAR 413-200-0301 to 413-200-0396; and

(c) Renewal of a certified family and reopening of a previously certified family.

(2) Regardless of the nature of the relationship between an applicant and a child or young adult, an applicant must be assessed and certified prior to placement of the child or young adult in the home.

(3) Unless otherwise indicated, a child or young adult refers to an individual in the care or custody of the Department.

(4) The following do not apply to a potential adoptive resource: OAR 413-200-0276, 413-200-0278, 413-200-0281, 413-200-0283, 413-200-0285, 413-200-0287, 413-200-0289, 413-200-0292, 413-200-0294, and 413-200-0296.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 18-2007, f. & cert. ef. 11-1-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0272

Responsibilities for Assessment and Certification

(1) Except as provided in sections (2) and (3) of this rule, the Department must conduct an assessment to determine if the applicant and the home of the applicant meet the standards in OAR 413-200-0301 to 413-200-0396 as follows:

(a) For the approval of a potential adoptive resource or issuance of a Certificate of Approval or Child-Specific Certificate of Approval, the Department must conduct the activities described in OAR 413-200-0274. The Certificate of Approval and Child-Specific Certificate of Approval expire two years from the date of issuance unless OAR 413-200-0276(2)(b), OAR 413-200-0287(7), or OAR 413-200-0296(6) applies.

(b) For issuance of a Temporary Certificate of Approval, the Department must conduct the activities described in OAR 413-

200-0275. A Temporary Certificate of Approval expires 180 days from the date of issuance unless an extension is granted, and may only be issued to a qualified applicant seeking to provide care only for specific children or young adults in the care or custody of the Department.

(c) For issuance of a Certificate of Approval or Child-Specific Certificate of Approval to a certified family that has been issued a Temporary Certificate of Approval, the Department must conduct the activities described in OAR 413-200-0276. In this circumstance, the Certificate of Approval or Child-Specific Certificate of Approval expires two years from the date of issuance of the Temporary Certificate of Approval.

(2) The Department is not required to assess an applicant and may deny the application if:

(a) The applicant has had a previous application for certification denied or if certification has been revoked during the five years prior to the date on the application;

(b) The applicant is seeking to care for a specific child or young adult who is not in the care or custody of the Department;

(c) The applicant is seeking to care for a specific child or young adult the Department has determined does not require placement change; or

(d) The applicant is seeking to care for a specific child or young adult for whom the Department has not received a request for a home study under the Interstate Compact for the Placement of Children (ICPC).

(3) The Department is not required to assess an applicant who has an accepted assessment or home study from a licensed adoption agency under OAR 413-120-0830(4).

(4) The Department may terminate the assessment process at any time and proceed to issue a proposed and final order denying certification for one or more of the reasons in OAR 413-200-0296 or, if the application is for approval to be a potential adoptive resource, for the reasons in OAR 413-120-0225(2).

(5) Any certificate issued under OAR 413-200-0270 to 413-200-0298 must include all of the following information:

(a) The name of each applicant approved as the certified family.

(b) The address to which the certificate applies.

(c) The age range (birth to 20) of the children or young adults for whom the certified family is approved to provide care.

(d) The maximum number of children or young adults who can be placed in the home.

(e) The provider number that the Department has given the home.

(f) The effective and expiration dates of the certificate.

(g) The signature of the Child Welfare Program Manager or designee.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; Renumbered from 413-200-0280, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0274

Assessment for Approval of an Adoptive Resource or Issuance of a Certificate of Approval or Child-Specific Certificate of Approval

(1) To complete an assessment of an applicant and approve an adoptive resource or issue a Certificate of Approval or Child-Specific Certificate of Approval, the certifier must:

(a) Review the completed application.

(b) Have face-to-face contact with the applicant and each member of the household.

(c) Explain to the applicant the process and requirements for certification of a relative caregiver or foster parent and approval of a potential adoptive resource.

(d) Discuss with the applicant the role and responsibilities of the Department.

(e) Assess the applicant's motivation for and interest in caring for a child or young adult.

(f) Assure the applicant possesses a valid driver license and auto insurance if the applicant will transport a child or young adult.

(g) Determine, with input from the applicant, the gender, ages, and maximum number of children and young adults who may be placed in the home by the Department.

(h) When appropriate, obtain the approval of the Child Welfare Program Manager when the number of children or young adults placed in the home will exceed the maximum number of children or young adults as described in OAR 413-200-0276.

(i) When appropriate, obtain approval from the Child Welfare Program Manager or designee on a form approved by the Department under any of the following circumstances:

(A) The applicant or a member of the household is an in-home child care provider or a foster care provider licensed by another child-caring agency.

(B) The applicant or a member of the household is an adult foster care or in-home adult day care provider.

(C) An applicant applying to become a relative caregiver is 18, 19, or 20 years of age.

(D) An applicant is married, in a domestic partnership, or cohabitating but the spouse or partner is not an applicant.

(j) When appropriate, obtain approval from the Child Welfare Program Manager or designee on a form approved by the Department when the applicant applies for a Certificate of Approval or Child-Specific Certificate of Approval through a Department office other than the office in the county in which the family resides.

(k) Complete a minimum of two home visits.

(A) Observe and assess the safety of the physical environment;

(B) Walk through each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual;

(C) Complete a safety assessment of the home and surroundings using a form approved by the Department; and

(D) Provide an age-appropriate statement of rights under ORS 418.201 and OAR 413-010-0170 to 413-010-0185.

(l) Gather personal, family, and social history information through a series of questionnaires approved by the Department, interviews, and observations in which the Department staff gathers personal information about the applicant and the household. Analyze information as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that affect safety, health, and well-being for a child or young adult.

(m) Assure completion of a criminal records check and a fingerprint-based criminal records check of national crime information databases on each adult member of the household and, at the Department's discretion, on any child under 18, as outlined in OAR 413-120-0400 to 413-120-0475.

(A) Assess the fitness of the applicant or member of the household pursuant to OAR 413-120-0450 and 413-120-0455;

(B) If appropriate, request an exception pursuant to OAR 413-120-0450(7) to complete certification of the applicant despite the criminal offender history of an applicant or member of the household; and

(C) If the applicant or a member of the household has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the individual, the Department will proceed under OAR 413-120-0460 and issue a proposed and final order denying certification.

(n) At the Department's discretion and when there is reason to believe a child, not in the care or custody of the Department and living in the home, may pose a risk to a child or young adult placed in the home, initiate a fingerprint-based criminal offender records check of national crime information databases as outlined in OAR 413-120-0400 to 413-120-0475.

(o) Assure completion of child abuse history background checks for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon and within the United States in the previous five years, obtain a child abuse history background check from each state where the individual resided in the five years preceding the date on the application for certification from the Department;

(B) If the applicant or an adult member of the household has lived outside of the United States in the previous five years, a child abuse history background check must be requested from each country where the individual lived within the five years preceding the date on the application for certification from the Department;

(C) Assess any safety concerns regarding the applicant or member of the household raised by information learned from the child abuse history background check; and

(D) When the applicant or a member of the household has been identified as the perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state, do all of the following:

(i) Consult with the certification supervisor about whether to seek approval from the District Manager or designee to continue the certification assessment and regardless of the decision document the information considered on a form approved by the Department.

(ii) If the decision in subparagraph (i) of this paragraph is to proceed with the certification assessment, the District Manager or designee may approve or deny, and documents the decision on a form approved by the Department.

(p) Gather information from at least four personal references for the applicant, no more than two of which may be provided by the applicant's relatives.

(q) Except as provided in subsection (s) of this rule, verify the applicant has completed Orientation and Foundations training before or within 12 months after the issuance of a certificate under this rule, or has written documentation of completion of equivalent training content from another licensed child-caring agency within two years of the date on the current application for certification from the Department.

(r) For purposes of a Child-Specific Certificate of Approval, as appropriate, verify the applicant has a written, individualized training plan, approved by a supervisor, specific to meeting the needs of the child or young adult placed with the certified family. The individualized training plan must:

(A) Include training on the mental, emotional, and physical impacts of abuse and neglect, including sexual abuse and rape of a child; and

(B) Be developed within 90 days after the Temporary Certificate of Approval is issued by the Department.

(s) An applicant is exempt from subsection (q) of this rule if the applicant is applying to become a potential adoption resource and has approval under OAR 413-120-0246.

(t) Discuss and develop a training plan with each applicant, which must include knowledge and skills related to applying the reasonable and prudent parent standard for the participation of the child or young adult in age-appropriate or developmentally appropriate activities.

(u) Document the assessment of the ability of the applicant to provide safety, health, and well-being for the child or young adult in a home study on a form approved by the Department when the recommendation is to issue a Certificate of Approval.

(2) If the certifier has completed all of the activities in section (1) of this rule and the supervisor has approved the documented assessment of the applicant's qualifications and ability to provide safety, health, and well-being to a child or young adult, the Department may:

(a) In the case of an applicant seeking certification, either:

(A) Issue a Certificate of Approval or Child-Specific Certificate of Approval for a two-year period, as applicable; or

(B) Issue a proposed and final order denying certification.

(b) In the case of an applicant seeking to be an adoptive resource, send written notice of the status of the application pursuant to OAR 413-120-0240.

(3) The Department must assess an applicant and determine whether to approve the application or deny the application within 180 days of Department receipt of a completed application unless:

(a) The application is withdrawn by the applicant; or

(b) The District Manager or designee extends the assessment period.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0275

Assessment for Issuance of a Temporary Certificate of Approval

(1) The Department may only use the assessment described in this rule for the purpose of issuing a Temporary Certificate of Approval.

(2) To complete an assessment of an applicant and issue a Temporary Certificate of Approval, the certifier must:

(a) Complete the activities in subsections (a) to (j) of section (1) of OAR 413-200-0274.

(b) Gather information from at least two personal references for the applicant within 24 hours of receipt of a completed application.

(c) Complete a home visit:

(A) Observe and assess the safety of the physical environment;

(B) Walk through each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual;

(C) Complete a safety assessment of the home and surroundings using a form approved by the Department; and

(D) Provide a copy of the Oregon Foster Children's Bill of Rights as provided in ORS 418.201 and OAR 413-010-0170 to 413-010-0185.

(d) Gather and analyze information, through interview and observation, as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that affect safety, health, and well-being for a child or young adult.

(e) Assure completion of a criminal records check through LEDS on each adult member of the household and initiate a fingerprint-based criminal offender records check of national crime information as outlined in OAR 413-120-0400 to 413-120-0475.

(A) Assess the fitness of the applicant or member of the household pursuant to OAR 413-120-0450 and 413-120-0455;

(B) If appropriate, request an exception pursuant to OAR 413-120-0450(7) to complete certification of the applicant despite the criminal offender history of an applicant or member of the household; and

(C) If the applicant or a member of the household has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the individual, the Department will proceed under OAR 413-120-0460 and issue a proposed and final order denying certification.

(f) At the Department's discretion and when there is reason to believe a child, not in the care or custody of the Department and living in the home, may pose a risk to a child or young adult placed in the home, initiate a fingerprint-based criminal offender records check of national crime information databases as outlined in OAR 413-120-0400 to 413-120-0475.

(g) Assure completion of a child abuse history background check in the state of Oregon for each adult member of the household and initiate a child abuse history background check from any other state where the individual has resided in the last five years;

(h) Assess any safety concerns raised by information learned from the child abuse history background check;

(i) Complete all of the following activities when a member of the household has been identified as a perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state:

(A) Consult with the certification supervisor about whether to seek approval from the District Manager or designee to continue the certification assessment and regardless of the decision document the information considered on a form approved by the Department; and

(B) If the decision in paragraph (A) of this subsection is to proceed with the certification assessment, the District Manager or designee must approve or deny, and document the decision on a form approved by the Department.

(j) Document the assessment of the certified family's ability to provide safety, health, and well-being for the child or young adult on a form approved by the Department.

(k) Obtain supervisor review and approval of the assessment of the ability of the applicant to provide safety, health, and well-being for the specific child or young adult in the care or custody of the Department.

(L) Upon completion of the activities in section (2) of this rule, and based on the assessment, either:

(A) Proceed to the assessment described in OAR 413-200-0276;

(B) Issue a Temporary Certificate of Approval; or

(C) Issue a proposed and final order denying certification.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.016, 418.625 - 418.648

Hist.: CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0276

Assessment to Move from a Temporary Certificate of Approval to a Certificate of Approval or Child-Specific Certificate of Approval

(1) To complete the assessment of an applicant that already has been issued a Temporary Certificate of Approval and issue a Certificate of Approval or Child-Specific Certificate of Approval, the certifier must complete the following activities as soon as possible, but no later than 180 days from the date the Temporary Certificate of Approval is issued, unless the certificate has been extended under subsection (3) of this rule:

(a) Gather information from at least two additional references. No more than two of the four required references may be provided by the applicant's relatives.

(b) Contact the caseworker of the child or young adult placed in the home and gather information regarding the adjustment of the child or young adult to the home and the certified family's ability to meet the needs of the child or young adult.

(c) Conduct a home visit at least every 90 days, and when necessary, additional home visits. During each visit review and assess the certified family's compliance with certification standards and the conditions that appear to exist in the home that affect safety and well-being for the child or young adult; and document the certified family's compliance with the certification standards after each visit.

(d) Gather personal, family, and social history information sufficient to assess the conditions that appear to exist in the home that affect safety, health, and well-being of a child or young adult through a series of questionnaires and interviews completed by applicants, members of the household, and others.

(e) Assure completion of a criminal records check and a fingerprint-based criminal records check of national crime information databases on each adult member of the household and, at the Department's discretion, on any child under 18, as outlined in OAR 413-120-0400 to 413-120-0475.

(A) Assess the fitness of the applicant or member of the household pursuant to OAR 413-120-0450 and 413-120-0455;

(B) If appropriate, request an exception pursuant to OAR 413-120-0450(7) to complete certification of the applicant despite the

criminal offender history of an applicant or member of the household; and

(C) If the applicant or a member of the household has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the individual, the Department will proceed under OAR 413-120-0460 and issue a proposed and final order denying certification.

(f) At the Department's discretion and when there is reason to believe a child, not in the care or custody of the Department and living in the home, may pose a risk to a child or young adult placed in the home, initiate a fingerprint-based criminal offender records check of national crime information databases as outlined in OAR 413-120-0400 to 413-120-0475.

(g) Assure completion of the child abuse history background checks for each adult member of the household as required in OAR 413-200-0274(1)(o) and request a child abuse history background check for each adult member of the household who has lived in another country in the five years preceding the date on the current application for certification.

(h) Verify that the certified family;

(A) Has completed Orientation within 30 days after the Temporary Certificate of Approval was issued; and

(B) Has a plan;

(i) To complete Foundations training before or within 12 months after the date on which the Temporary Certificate of Approval was issued, unless the supervisor waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult; or

(ii) Has a written, individualized training plan, approved by a supervisor, specific to meeting the needs of the child or young adult placed with the certified family. The individualized training plan must:

(I) Include training on the mental, emotional, and physical impacts of abuse and neglect, including sexual abuse and rape of a child; and

(II) Be developed within 90 days after the Temporary Certificate of Approval is issued by the Department.

(i) Discuss and develop a training plan under OAR 413-200-0379(6) for each certified adult in the family.

(j) Document the assessment of the certified family's ability to provide safety, health, and well-being for the child or young adult in a home study on a form approved by the Department when the recommendation is to issue a Certificate of Approval or Child-Specific Certificate of Approval

(k) Obtain supervisor approval of the documented assessment of the certified family's qualifications and ability to provide safety, health, and well-being for the specific child or young adult in the care or custody of the Department.

(2) If the certifier has completed all of the activities in section (1) of this rule, the Department may issue a Certificate of Approval or Child-Specific Certificate of Approval.

(a) The Certificate of Approval or Child-Specific Certificate of Approval becomes effective no sooner than the date of issuance.

(b) The Certificate of Approval or Child-Specific Certificate of Approval expires two years from the date the Temporary Certificate of Approval was issued.

(3) When the activities described in sections (1) and (2) of this rule have not been completed within 180 days:

(a) The District Manager or designee may extend the Temporary Certificate of Approval on a form approved by the Department for no longer than 30 days; or

(b) The Child Well-Being Program Manager or designee may extend the Temporary Certificate of Approval for more than 30 days if an activity has not been completed due to circumstances beyond the control of the Department.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0278

Responsibility to Determine the Maximum Number of Children or Young Adults in a Certified Family Home

(1) Except as provide in subsection (3) of this rule, a supervisor may not issue a Certificate of Approval, a Child-Specific Certificate of Approval, or a Temporary Certificate of Approval if the fully-occupied home would exceed the following maximum number of children or young adults living in the home:

- (a) A total of four children or young adults to one foster parent or relative caregiver living in the home;
- (b) A total of seven children or young adults to two foster parents or relative caregivers living in the home; or
- (c) A total of two children under the age of three.

(2) When counting the children or young adults in a home for purposes of a certification assessment a supervisor includes all children and young adults in the care and custody of the Department who are living in the home, and any other children living in the home.

(3) A Child Welfare Program Manager may approve placing an additional child or young adult in the home in special circumstances.

(a) Special circumstances include, but are not limited to:

- (A) Placing siblings together; or
- (B) Placing a child or young adult with special needs with a family that has demonstrated extraordinary ability in meeting the safety, health, and well-being needs of a child or young adult.

(b) In these special circumstances, the certifier must assess:

(A) The skills and abilities, willingness, and training of the certified family related to the quantity of services required for each child or young adult;

(B) The skills and abilities, safety, health, and well-being needs of each child or young adult;

(C) The amount of Departmental supervision and support the certified family requires to meet the needs of each child or young adult;

(D) The maximum safe physical capacity of the home, including sleeping arrangements; and

(E) The plan for each individual to escape from the home in case of fire or other emergency.

(4) The certifier must document the assessment described in subsection (b) of section (3) of this rule on a form approved by the Department, including the sustainability of the plan, and obtain Child Welfare Program Manager approval prior to permitting the home to exceed the maximum number of children or young adults specified in section (1) of this rule.

(5) When a Child Welfare Program Manager approves placing additional children or young adults in a certified home, the certifier must:

- (a) Visit the home every 90 days;
- (b) During each visit, review and assess the certified family's compliance with certification standards as outlined in OAR 413-200-0283 and the conditions that appear to exist in the home that affect safety and well-being for the child or young adult; and
- (c) Document compliance of the certified family with the certification standards after each visit.

(6) The Department may at its discretion modify any certificate issued under OAR 413-200-0270 to 413-200-0298 to increase or decrease the maximum number of children or young adults or the age range of the children or young adults for whom the family is certified within the limits prescribed in this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0281

Respite Care Providers, Child Care, and Babysitters

(1) The certifier must undertake all of the following activities when applicable:

(a) Discuss with the certified family the plan for providing care to a child or young adult when the certified family will be unavailable to provide care.

(b) Assure completion of a criminal records check through LEDS as outlined in OAR 413-120-0400 on any individual the certified family has identified as a prospective respite care provider or child care provider unless the provider is a day care facility.

(c) Assure the fitness of each prospective respite care provider or child care provider having a conviction described in OAR 413-120-0450 or an arrest described in OAR 413-120-0455 is determined by the appropriate authorized designee, in accordance with OAR 413-120-0450, 413-120-0455 and 413-120-0457.

(d) Assure initiation of a fingerprint-based criminal offender records check of national crime information databases as outlined in OAR 413-120-0400 to 413-120-0475 whenever:

(A) The criminal records check conducted under subsection (b) of this section indicates the prospective respite care or child care provider has a criminal history; or

(B) The prospective respite care or child care provider has lived in Oregon less than five years.

(e) Assure completion of a fingerprint-based criminal offender records check of national crime information databases described in subsection (d) of this section and, if previously unknown crimes or arrests are discovered, notwithstanding any fitness determination made under subsection (c) of this section, assure that the fitness of the respite care provider or child care provider is redetermined by the appropriate authorized designee, in accordance with OAR 413-120-0450, OAR 413-120-0455 and OAR 413-120-0457 based on the new information.

(f) Conduct child abuse history background checks on any individual the certified family has identified as a prospective respite care provider or child care provider unless the provider is a day care facility.

(g) When respite care or child care will be provided in the home of the respite care or child care provider, assure the activities described in subsections (b) through (f) of this section are complete for all adults living in the home of the respite care or child care provider.

(h) Analyze information gathered under subsections (a) to (g) of this section prior to determining the individual is safe and appropriate to provide respite care or child care and approving the individual to provide respite care or child care.

(i) Document the analysis under subsection (h) of this section in the provider record of the Department's electronic information system.

(j) Notify the certified family of the approval for the individual identified to provide respite care or child care within one business day of the approval.

(k) Verify that any certified family identified to provide respite care for another certified family has a current Certificate of Approval.

(l) When the analysis under subsection (g) of this section results in a determination that the individual is either not a safe or appropriate individual to provide respite care or child care, notify the certified family that the individual is not authorized to provide respite care or child care within one business day of the decision.

(m) The Department may disapprove a prospective respite care provider or child care provider even if the provider has a positive fitness determination.

(2) If the respite care provider or child care provider has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the respite care provider or child care provider, the provider may not be approved to provide care.

(3) The Department has the discretion to request a criminal records check of a babysitter.

(4) When a certified family notifies the Department of their intent to provide respite care for another child or young adult, the certifier must approve the request prior to the certified family providing respite care.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0283

Responsibilities to Monitor Certification Compliance

(1) A certifier must conduct the following home visits:

(a) A minimum of one home visit every 90 days during the period a Temporary Certificate of Approval is effective;

(b) A minimum of one home visit every 90 days when a certified family has been approved to exceed the maximum number of children or young adults as prescribed in OAR 413-200-0278(1), as long as the approval is applicable; and

(c) A minimum of one home visit to any certified family every 180 days.

(2) To monitor a certified family's compliance with OAR 413-200-0301 to 413-200-0396, a certifier must complete the following activities when applicable:

(a) Assess the certified family's ability to maintain conditions in the home that provide safety, health, and well-being for the children and young adults whenever it becomes known that the certified family wishes to become an in-home child care, an adult foster care, or an in-home adult day care provider, and, when appropriate, obtain approval from the Child Welfare Program Manager or designee on a form approved by the Department.

(b) Obtain approval from the Child Welfare Program Manager or designee on a form approved by the Department whenever it becomes known that another agency wishes to place a child or young adult in a certified home, prior to placement of the child or young adult.

(c) Assure completion of a criminal records check and child abuse history background checks as outlined in OAR 413-120-0400 to 413-120-0475 whenever it becomes known that another adult is living in the household, the certified family identifies another potential respite care or child care provider, or the Department has reason to believe that a child, not in the custody of the Department, who lives in the home, a babysitter, or a person who frequents the home poses a risk to the children or young adults placed in the home.

(d) Before the home visit required under subsection (1)(b) of this rule, seek input from the caseworkers of each child and young adult placed or living in the home during the past 180 days and assess the conditions that appear to exist in the home that affect safety, health, and well-being for the child or young adult.

(e) Assess the information that the certifier learns from the home visit, the certified family, members of the household, and caseworkers to determine whether conditions appear to exist in the home that affect safety, health, and well-being for the child or young adult placed in the home by the Department.

(f) Complete the activities under OAR 413-200-0278 when a Child Welfare Program Manager has approved placing additional children or young adults in the certified home.

(g) Document the contacts with the certified family and the assessment information obtained under this rule in the provider record of the Department's electronic information system.

(3) During and at the conclusion of a child protective services assessment regarding an allegation of child abuse or neglect in a certified family, follow the requirements of OAR 413-200-0404 to 413-200-0424.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0285

Responsibilities When Developing a Placement Support Plan

(1) When a certifier determines that a certified family needs additional support to maintain conditions that provide safety, health, and well-being in the home, the certifier must develop a placement support plan. A placement support plan is appropriate when one or both of the following circumstances apply:

(a) The certified family needs additional training, instruction, or skills to improve their ability to meet the needs of children or young adults placed in the certified family's home.

(b) The certified family is not in compliance with one or more of the Department's certification standards, and the non-compliance does not result in either a present danger safety threat or an impending danger safety threat to a child or young adult.

(2) When a placement support plan is appropriate to support a certified family, the certifier must gather information regarding current circumstances from:

(a) The certified family;

(b) The children or young adults placed in the certified family's home, when appropriate;

(c) The caseworkers of the children or young adults currently placed in the home; and

(d) Other collateral contacts that may have information regarding the characteristics of the care provided in the certified family's home.

(3) The certifier must schedule a meeting with the certified family to discuss the current circumstances that require a placement support plan and the appropriate supports and services to assist the certified family.

(4) The certifier must prepare a written placement support plan that specifies all of the following:

(a) The actions or services in which the certified family will participate.

(b) The actions or services the Department will provide to support the certified family in maintaining conditions that provide safety, health, and well-being for the children or young adults placed in the home by the Department.

(c) Agreement that the certified family is willing and able to participate in the actions or services.

(d) Agreement to review the placement support plan on a specified date, which is within at least 90 days.

(e) The anticipated end date of the placement support plan.

(5) A supervisor must approve the placement support plan.

(6) When the placement support plan has been approved, the certifier must:

(a) Provide a copy to the certified family;

(b) Document the placement support plan in the Department's electronic information system; and

(c) Provide written notification to the caseworkers of each child or young adult placed in the home of the placement support plan.

(7) The certifier must maintain regular contact with the certified family to monitor the effectiveness of the placement support plan and assure activities and services are in place.

(8) The certifier must review the placement support plan on or before the date specified in subsection (4)(d) of this rule and determine, in consultation with the certification supervisor, whether the placement support plan should be updated or ended.

(9) If the placement support plan is updated or ended, the certifier must document the decision in the provider record and must notify the caseworkers of each child or young adult placed in the certified family's home.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0287

Assessment for Renewal of Certification

(1) When an application for a certification renewal is received before the current certification expires, the Department must reassess the certified family to determine whether to renew the Certificate of Approval or Child-Specific Certificate of Approval for two additional years.

(2) The Department may terminate the assessment process at any time and issue a proposed and final order denying the certification renewal for one or more of the reasons in OAR 413-200-0296

or, if the application is for approval to be a potential adoptive resource, OAR 413-120-0225(2).

(3) To complete the assessment and renew a Certificate of Approval or Child-Specific Certificate of Approval, the certifier must:

(a) Conduct a minimum of one visit to the home of the certified family and:

(A) Have face-to-face contact with each member of the household.

(B) Complete the questionnaires and interviews necessary to complete a home study update.

(C) Observe and assess the safety of the physical environment.

(D) Walk through each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual.

(E) Complete a safety assessment of the home and surroundings using a form approved by the Department.

(F) Confirm that an age-appropriate statement of rights under ORS 418.201 and OAR 413-010-0170 to 413-010-0185 is posted.

(b) Review the completed Certified Family Certificate Renewal or Change of Status Application.

(c) Confirm completion of required hours of training, and develop a training plan for the new certification period.

(d) Contact and gather information from the caseworkers of children or young adults who have been placed with the certified family during the past 180 days.

(e) Assure completion of criminal records checks on each adult member of the household; and, at the Department's discretion, any child, when there is reason to believe the child may pose a risk to children placed in the home, as described in OAR 413-120-0400 to 413-120-0475. A fingerprint-based criminal offender records check of national crime information databases is not required for an application for renewal of a Certificate of Approval or Child-Specific Certificate of Approval, unless an applicant or member of the household has lived outside of Oregon for more than 60 consecutive days within the two-year certification period or has been arrested or convicted during the two-year certification period.

(A) Assess any safety concerns regarding the fitness of the applicant or member of the household pursuant to OAR 413-120-0450 and 413-120-0455; and

(B) If appropriate, request an exception pursuant to OAR 413-120-0450(7) to complete certification of the applicant despite the new criminal offender history of an applicant or member of the household.

(C) If the applicant or a member of the household has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the individual, the Department will proceed under OAR 413-120-0460 and issue a proposed and final order denying certification.

(f) Assure completion of child abuse history background checks for each adult member of the household.

(A) When the applicant or an adult member of the household has lived outside the state of Oregon for more than 60 consecutive days during the two-year certification period, a child abuse history background check must be requested from each state or country where the individual resided during the two-year certification period.

(B) Assess any safety concerns regarding the applicant or adult member of the household raised by information learned from the child abuse history background check.

(C) When the applicant or adult member of the household has been identified as the perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state, do all of the following:

(i) Consult with the certification supervisor about whether to seek approval from the District Manager or designee to continue

the certification assessment and regardless of the decision document the information considered on a form approved by the Department.

(ii) If the decision in subparagraph (i) of this paragraph is to proceed with the certification assessment, the District Manager or designee may approve or deny, and documents the decision on a form approved by the Department.

(g) Review and assess whether conditions appear to exist in the home that affect the safety, health, or well-being of the child or young adult.

(h) Review and analyze the certified family's skills and abilities in maintaining conditions in the home that provide safety, health, and well-being for the child or young adult, maintaining relationships with the community and the Department, and supporting the case plan of the child or young adult.

(i) When recommending renewal of the certification, update the home study on a form approved by the Department, including results of the assessment activities completed in subsections (a) to (h) of this section, and submit to the supervisor for approval.

(4) Before the Department may renew a certification, a supervisor must:

(a) Assure the certifier has completed all assessment activities required by subsections (3)(a) to (i) of this rule and review the certifier's assessment of the certified family; and

(b) Review the updated home study.

(5) If the supervisor reviews the certifier's completed assessment activities in subsections (3)(a) to (i) of this rule as documented in the updated home study and the supervisor decides to renew the certification based on the certified family's continued qualifications and ability to provide safety, health, and well-being to a child or young adult as documented in the home study, the Department may issue a new Certificate of Approval or Child-Specific Certificate of Approval, valid for two years.

(6) If the supervisor decides not to renew the certification, the Department must proceed to deny the application as outlined in OAR 413-200-0296(5), unless the certified family voluntarily withdraws their application as provided in OAR 413-200-0314(4). The current certificate continues until its expiration date unless the Department proceeds to revoke the certificate as outlined in OAR 413-200-0296 or the certified family requests to voluntarily terminate the certificate and the Department accepts the family's request.

(7) Pursuant to ORS 183.430, if the certified family has submitted a timely Renewal Application and the Department does not complete the activities in sections (3) to (5) of this rule before the stated expiration date on the certified family's Certificate of Approval, the certified family's Certificate of Approval may not be deemed to expire until the Department has issued a new Certificate of Approval or there is a final order denying renewal.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.016, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0289

Responsibilities Regarding Withdrawal of an Application or Termination of a Certification

(1) When an applicant requests to withdraw his or her application for certification under OAR 413-200-0314(4), the certifier must document his or her communication regarding the applicant's request.

(2) When a certified family requests the Department terminate their certification, the certifier must:

(a) Terminate the certification on a date to be determined by the Department and the certified family, notify the certified family of the date the certificate was terminated and document the reasons for the termination of the certificate; or

(b) If the Department has decided to take action to revoke the certification, determine with a Program Manager or designee whether to accept the request to terminate the certificate or continue with the revocation process, inform the certified family of

the Department's decision, and document the Department's decision regarding the certified family's request.

(3) The Department must terminate a Temporary Certificate of Approval or Child-Specific Certificate of Approval 10 business days after the departure of the child or young adult from the home of the certified family, unless at least one of the following applies:

(a) The certified family submits a written request to change the type of certificate from a Child-Specific Certificate of Approval to a Certificate of Approval under section (5) of this rule within 10 business days of the departure of the child or young adult from the home.

(b) The certified family requests to voluntarily terminate the Temporary Certificate of Approval or Child-Specific Certificate of Approval, and the Department agrees to terminate the certificate; or

(c) The Department has taken action to revoke a Temporary Certificate of Approval or Child-Specific Certificate of Approval under OAR 413-200-0296.

(4) When a certified family with a Temporary Certificate of Approval or Child-Specific Certificate of Approval seeks to change the type of certificate to one that does not limit the family to care for a specific child or young adult, the certifier must:

(a) Provide the family with a "Certified Family Certificate Renewal or Change of Status Application" when the individuals caring for the child remain the same as those previously on the Temporary Certificate of Approval or Child-Specific Certificate of Approval;

(b) Assess the family's ability to meet the safety, health, and well-being needs of a non-specific child or young adult placed in the home pursuant to the requirements of OAR 413-200-0274;

(c) Document the assessment in the provider record; and

(d) If a fitness determination had previously been made under OAR 413-200-0274, assure completion of a new fitness determination.

(5) Before the Department may change the type of certificate under section (4) of this rule, a supervisor must:

(a) Assure the certifier has completed all activities required by section (4) of this rule;

(b) Review the certifier's assessment of the certified family; and

(c) Determine, upon completion of the review in subsection (b) of this section, whether to approve or not approve the certified family's application to change the Temporary Certificate of Approval or Child-Specific Certificate of Approval to a type of certificate that does not limit the family to care for a specific child or young adult

(6) If the supervisor decides to approve the certified family's application to change the Temporary Certificate of Approval or Child-Specific Certificate of Approval to a type of certificate that does not limit the family to care for a specific child or young adult, the Department must issue a Certificate of Approval with the same end date as the current certificate to the family.

(7) If the supervisor decides not to approve the certified family's application to change the type of certificate to one that does not limit the family to care for a specific child or young adult, the Department must proceed to issue a proposed and final order to deny the application as outlined in OAR 413-200-0296(5), unless the certified family voluntarily withdraws the application as provided in OAR 413-200-0314(4).

(8) No child or young adult in the care or custody of the Department may remain in the home if there is not an active certification or the Department has taken an action to revoke certification.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0292

Responsibilities Regarding a Previously Certified Family and When a Certified Family Moves

(1) The Department will conduct an assessment to reopen a previous certification when all of the following apply:

(a) The certification has been closed less than six months;

(b) The certification has not been revoked and would not have expired during the months the certification has been closed;

(c) The individual or group of individuals seeking to reopen the certification is the same individual or group of individuals who held the former certification; and

(d) The former certified family continues to live in the same residence.

(2) When a former certified family requests that the Department reopen the family's previous certification, and the requirements of section (1) of this rule are met, the certifier must undertake the following actions:

(a) Provide the former certified family with a Certified Family Certificate Renewal or Change of Status Application.

(b) Assure completion of criminal records checks on each adult member of the household; and, when there is reason to believe a child, not in the care or custody of the Department and living in the home, may pose a risk to a child or young adult placed in the home, initiate a fingerprint-based criminal offender records check of national crime information databases as described OAR 413-120-0400 to 413-120-0475. A fingerprint-based criminal offender records check of national crime information databases is required whenever an applicant or member of the household has lived outside of Oregon for more than 60 consecutive days or has been arrested or convicted during the two-year certification period.

(A) Assess any safety concerns regarding the fitness of the applicant, child, or member of the household pursuant to OAR 413-120-0450 and 413-120-0455; and

(B) If appropriate, request an approval pursuant to OAR 413-120-0450(7) to complete the process to reopen a previously certified family despite the new criminal offender information history of an applicant, child, or member of the household.

(c) Assure completion of a new child abuse history background check for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon or the country since the last time the Department issued a Certificate of Approval, obtain a child abuse history background check from each state where the applicant or adult member of the household resided and request a child abuse history background check from any country in which they resided.

(B) Assess any safety concerns regarding the applicant or adult member of the applicant's household raised by information learned from the child abuse history background check.

(C) When a member of the household has been identified as the perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state, do all of the following:

(i) Consult with the certification supervisor about whether to seek approval from the District Manager or designee to continue certification.

(ii) Document the information considered on a form approved by the Department.

(iii) If the District Manager or designee approves, document the decision on a form approved by the Department.

(d) Conduct a home visit to identify and assess any changes in the environment or family:

(A) Have face-to-face contact with each applicant and other person in household;

(B) Observe and assess the safety of the physical environment;

(C) Walk through each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual;

(D) Complete a safety assessment of the home and surroundings using a form approved by the Department; and

(E) Confirm that an age-appropriate statement of rights under ORS 418.201 and OAR 413-010-0170 to 413-010-0185 is posted.

(e) Document in the provider record of the Department's electronic information system the circumstances under which the Department reopened the certification.

(3) Before the Department may reopen a previously certified family, a supervisor must assure that the certifier has completed the actions outlined in subsections (a) to (e) of section (2) of this rule and decide whether to approve or deny the family's request to reopen a certification.

(a) If the supervisor decides to approve the family's request, the Department will reopen the family for the time remaining on the certificate.

(b) If the supervisor decides not to approve the family's request, the Department will proceed to issue a proposed and final order to deny the application as outlined in OAR 413-200-0296(5), unless the previously certified family voluntarily withdraws their request.

(4) A family previously certified by the Department must complete Foundations training if the family has not been certified within the last two years unless the supervisor either:

(a) Approves an individualized training plan for a certified family who has been issued a Child-Specific Certificate of Approval; or

(b) Waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(5) When the certified family moves to another residence in the State of Oregon, the Department terminates the certification automatically. The Department may issue a new certification for the new residence after the activities described in this section have been completed. Within 10 business days, the certifier must complete the following actions:

(a) Conduct a home visit.

(A) Provide the certified family a Certified Family Certificate Renewal or Change of Status Application.

(B) Review the completed Certified Family Certificate Renewal or Change of Status Application.

(C) Observe and assess the safety of the physical environment;

(D) Walk through every room in the home and each surrounding building; and

(E) Complete a safety assessment of the home and surroundings using a form approved by the Department.

(b) Document in the provider record of the Department's electronic information system the circumstances of the family's relocation.

(6) When a certified family has been initially certified by the local Child Welfare office in the county in which the family resides and the family moves to another county:

(a) The Child Welfare Program Managers or designees in both counties must coordinate the transfer of the record and ongoing Department responsibilities for certification; and

(b) A certifier must complete the actions described in section (5) of this rule.

(7) When a certified family wishes to move outside the State of Oregon with a child or young adult, OAR 413-040-0200 to 413-040-0330 apply.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.016, 418.315, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0294

Responsibilities Regarding Inactive Referral Status

(1) The certified family or the Department may initiate an Inactive Referral Status. When a certified family is on Inactive

Referral Status, no additional child or young adult may be placed in the home.

(2) A certified family may ask the Department to place their home on Inactive Referral Status for any reason for up to 12 months. The Inactive Referral Status begins on the date requested by the certified family.

(3) When either a certified family or the Department initiates an Inactive Referral Status, the certifier must immediately notify Department staff responsible for placement that the certified family is unavailable for placement of a child or young adult and update the provider record.

(4) Within 30 days of a certified family requesting Inactive Referral Status, the certifier must send a letter to the certified family that documents the inactive status, the reasons for the status, and the length of the Inactive Referral Status.

(5) The Department may initiate Inactive Referral Status for one or more of the following reasons:

(a) The special needs of a child or young adult, who is currently in the home, require so much of the certified family's care and attention that no agency should place an additional child or young adult in the home.

(b) The family or members of the household are experiencing significant family or life stress.

(6) The Department must place a certified family on Inactive Referral Status when the Department is assessing an allegation of child abuse or neglect in the home.

(7) If the Department initiates Inactive Referral Status, the Department must:

(a) Within 14 business days, send a letter to the certified family that documents the beginning date of Inactive Referral Status, the reason for the Inactive Referral Status, specific certification standards that have been violated, if any, and what action the Department may take if the conditions that warranted the Inactive Referral Status are not resolved within the time frame of the Inactive Referral Status.

(b) Provide written notification to the certified family when inactive referral status ends.

(8) Inactive referral status, when requested by the certified family, ends:

(a) At the request of the certified family; or

(b) When the certification terminates or expires, unless the Department has renewed the certificate.

(9) If the certified family is not able or willing to end the inactive referral status, requested by the certified family, the Department may proceed to revoke the certificate as outlined in OAR 413-200-0296, unless the certified family requests to voluntarily terminate the certificate and the Department accepts the family's request.

(10) When the Department initiates Inactive Referral Status, the Department determines, within the time frame of the Inactive Referral Status, when the conditions that warranted the Inactive Referral Status have been resolved. The Department may revoke a certification if a certified family is unable to remedy a violation of a certification standard within the time frame of the Inactive Referral Status.

(11) When the Inactive Referral Status ends at the request of the family or because the conditions that warranted the inactive referral status have been resolved, the certifier must:

(a) Document removal of the Inactive Referral Status in the provider record of the Department's electronic information system; and

(b) Send written notification to the family within 30 days.

Stat. Auth.: ORS 409.050, 418.005, 418.015, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0296

Responsibilities Regarding Denial or Revocation of a Certification

(1) The Department may deny an application for certification if:

(a) The application is for a specific child or young adult who is not in the care or custody of the Department; or

(b) The applicant fails to provide requested information within 90 days of a written request from the Department.

(2) The Department may deny an application for a certification or revoke a certification when:

(a) The applicant or certified family does not meet or no longer meets one or more of the certification standards in OAR 413-200-0301 to 413-200-0396;

(b) The Department discovers an applicant or certified family has falsified information by act of commission or omission;

(c) An applicant or certified family fails to provide information to the Department or fails to inform the Department of any disqualifying condition, including a disqualifying condition that arises after the certification has been issued;

(d) An adult member of the household is found to have a disqualifying conviction under OAR 413-120-0450(3) or (4) or an authorized designee makes a negative fitness determination with respect to the adult member of the household;

(e) When an adult member of the household has been identified as the perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state; or

(f) The certified family fails to follow through with a placement support plan developed under OAR 413-200-0285.

(3) The Department must take action to revoke a certification when, at the conclusion of a child protective services assessment, the Department determines there is an impending danger safety threat in the certified family's home, unless:

(a) The certified family provides written request to voluntarily terminate the certification; and

(b) The Department agrees to accept the voluntary termination of the certification.

(4) The Department must inform the certified family of the Department's decision in section (2) of this rule

(5) If the Department decides to deny an application for a certificate, renewal of a certificate, or a Change of Status, or decides to revoke a certificate, the Department must provide an applicant or certified family a written notice of intent to deny the application or revoke the certificate, which must state the reasons for the action and comply with OAR 413-010-0510.

(6) When the Department has issued a written notice to revoke a certification before the stated expiration date on the certificate, the certificate will not expire until there is a final order on the notice to revoke the certification.

(7) The Department must remove from the home all children and young adults in the care or custody of the Department upon making the decision to revoke the certified family's certification.

(8) The Department may deny an application for certification if, during the five years prior to the date an application is received by the Department, the applicant has had a previous application for certification denied or revoked.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0298

Confidentiality of Applicant or Certified Family Information

(1) The name, address, and other identifying information about a certified family are not open to public inspection and the Department may not disclose the information, except in limited circumstances described in section (2) of this rule.

(2) The Department may disclose the name, address, or other identifying information about a certified family when:

(a) The Department determines disclosure is necessary or advisable to protect the best interest of a child or young adult;

(b) The Department determines disclosure is necessary to protect the safety of children or other vulnerable persons;

(c) The Department determines disclosure is necessary to comply with mandatory abuse reporting laws including, but not limited to, ORS 124.060 (elder abuse), 419B.010 (child abuse), 430.765 (adults with mental illness or developmental disabilities), and 441.640 (residents in long-term care facilities);

(d) The Department determines disclosure is necessary for the administration of child welfare laws; or

(e) The Department determines disclosure would allow an applicant or certified family to receive support, training, education, or other information regarding their role as a certified family.

(3) The Department may release information about an applicant or certified family to other individuals or organizations if the applicant or certified family authorizes the release in writing, unless the information is otherwise protected by state or federal law, such as drug and alcohol information, protected health information, criminal record information, juvenile court records, and information protected by the Public Records Law.

Stat. Auth.: ORS 409.050, 418.005, 418.642

Stats. Implemented: ORS 409.010, 409.050, 418.005, 418.642

Hist.: CWP 20-2015, f. & cert. ef. 10-1-15

Standards for Certification of Foster Parents and Relative Caregivers and Approval of Potential Adoptive Resources

413-200-0301

Purpose and Applicability of Certification Standards

(1) The purpose of OAR 413-200-0301 to 413-200-0396 is to describe the criteria for approval as:

(a) A certified family; or

(b) A potential adoptive resource.

(2) These rules apply to any individual who:

(a) Has applied to become a certified family or potential adoptive resource;

(b) Is currently a certified family; or

(c) Has applied to renew certification.

(3) Unless otherwise indicated, child or young adult refers to an individual in the care or custody of the Department.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640, 418.642
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.016, 418.027, 418.285, 418.315, 418.470, 418.625-418.648

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0305

Authorization

(1) Title IV-E, section 471(a)(10) of the Social Security Act, requires the State of Oregon to establish a state authority responsible for establishing and maintaining standards for foster family homes and child care institutions.

(2) ORS 418.005 gives the Department the authority and responsibility to approve homes for children and young adults in the care or custody of the Department. ORS 418.005 authorizes the Department to develop rules to approve these homes.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.648

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0306

Eligibility for Certified Families and Adoptive Resources

To qualify as a newly certified family or adoptive resource for a child or young adult in the custody of the Department, an individual must:

(1) Be a United States citizen, a qualified non-citizen, or a relative of the child for whom the individual is seeking to be a relative caregiver or adoptive resource, except when a certified family applies for renewal;

(2) Be at least 21 years of age, unless:

(a) Granted an exception by a Child Welfare program manager or designee, who may approve an applicant between 18 and 20 years of age to become a relative caregiver; or

(b) Otherwise specified in OARs governing the placement of Indian children, OAR 413-070-0100 to 413-070-0269;

(3) Submit a completed application on a form, and in the manner, prescribed by the Department;

(4) Participate in the applicant assessment processes prescribed by the Department, and provide additional information requested by the Department to support the assessment; and

(5) Be determined by the Department to meet the qualifications and standards required by OAR 413-200-0301 to 413-200-0396

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07;

CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP

12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert.

ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-

2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP

20-2015, f. & cert. ef. 10-1-15

413-200-0308

Personal Qualifications of Applicants and Certified Families

(1) An applicant has the burden of proving that he or she possesses the required qualifications to be approved as a certified family or as a potential adoptive resource.

(2) An applicant must, as determined by the Department pursuant to OAR 413-200-0274 to 413-200-0298:

(a) Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior;

(b) Possess the ability to manage the home and personal life of the applicant;

(c) Possess the ability to apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(d) Maintain conditions in the home that provide safety, health, and well-being for the child or young adult;

(e) Have supportive relationships with adults and children living in the household and with others in the community;

(f) Have a lifestyle and personal habits free of criminal activity, and abuse or misuse of alcohol or drugs;

(g) Have adequate financial resources to support the household independent of the monthly family foster care payments;

(h) Be willing to participate in the assessment process that includes a comprehensive inquiry into the personal and family history of the applicant and his or her family dynamics;

(i) Have the physical and mental capacity to care for a child or young adult. Upon request, be willing to provide copies of medical reports from a health care professional, and be willing to participate in an expert evaluation and authorize the Department to obtain a report from the evaluator; and

(j) Assure that all adult members of the household:

(A) Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior, within the individual's developmental and cognitive abilities;

(B) Do not pose a risk to the safety, health, and well-being needs of a child or young adult;

(C) Have a lifestyle and personal habits free of criminal activity, and abuse or misuse of alcohol or drugs; and

(D) Cooperate with the Department's assessment of the household.

(3) To maintain certification, in addition to continuing to meet the personal qualifications listed in sections (2) of this rule, a certified family must:

(a) Learn and apply effective childrearing and behavior intervention practices focused on helping a child or young adult grow, develop, and build positive personal relationships and self-esteem;

(b) Incorporate into the family's care-giving practices positive non-punitive discipline and ways of helping a child or young adult build positive personal relationships, self-control, and self-esteem;

(c) Assure the child or young adult is taught age appropriate health and hygiene practices and is given the opportunity to practice good hygiene;

(d) Assure the child or young adult has regular, ongoing opportunities to engage in age-appropriate or developmentally-appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(e) Respect and support the Department's efforts to develop and maintain the relationships of the child or young adult with the birth family, their relatives, and any other significant individual in the life of the child or young adult;

(f) Respect the spiritual beliefs, sexual orientation, gender identity and gender expression, disabilities, national origin, and cultural identities of each child or young adult, and provide opportunities to enhance the positive self-concept and understanding of the heritage of the child or young adult;

(g) Work in partnership with the Department to identify the strengths and meet the needs of each child or young adult;

(h) Follow Department direction and comply with prescribed services and activities in the case plan, including, but not limited to supervision plans, personal care services plans, visitation plans, transition plans, and restrictions for each child or young adult placed with the certified family, as applicable to that child or young adult;

(i) Follow through with any placement support plan; and

(j) Use reasonable efforts to prevent anyone from influencing the child or young adult regarding allegations in a judicial or administrative proceeding in which the family or legal guardian of the child or young adult, the child or young adult, or another individual may be involved.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07;

CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-

11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0314

Initial Application Process to Become a Certified Family or Adoptive Resource

(1) An applicant must comply with all of the following requirements:

(a) Complete a Department application.

(b) Provide the names and contact information of at least four references, two of whom may be relatives of the applicant, who can attest to the applicant's character and ability to provide safe and protective care for a child or young adult.

(c) Provide names and contact information of at least two individuals with whom the applicant is likely to remain in contact if displaced due to a natural disaster.

(d) Complete all paperwork and written requests for information required by the Department in a timely manner and no later than 90 days after the initial request.

(e) Allow Department staff to conduct an in-home safety assessment of conditions that appear to exist in the home that affect health, safety, and well-being for the child or young adult by providing access to each room in the primary residence of the applicant and each surrounding building and structure on the property of the applicant unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual.

(f) Allow Department staff to have face-to-face contact with all members of the applicant's household.

(g) Provide personal, family, and social history information to the Department.

(h) Provide information about any current or previous licenses, certifications, or applications for relative care, foster care, day care, adoption, or any other types of services for vulnerable individuals including adult care giving. Information must include the organization's name and any denials, suspensions, revocations, or terminations.

(i) Sign a Department Authorization for Use and Disclosure of Information as requested to allow the Department to contact an individual or an organization to complete a thorough background check of the applicant.

(j) Allow the Department, at its discretion, to gather information regarding juvenile court involvement or law enforcement contacts of any child, not in the care or custody of the Department, who lives in the household when there is reason to believe that child may pose a risk to children placed in the home and, if requested, authorize disclosure of the records regarding such information to the Department.

(2) Both individuals are required to apply when the two individuals are lawfully married, have a domestic partnership (as defined in ORS 106.310), or are cohabitating, unless:

(a) One individual is in the military and stationed out of the state; or

(b) There are unique circumstances in which one individual will not be responsible for any household management or the care of a child or young adult placed in the home. An exception must be approved by the Child Welfare Program Manager.

(3) The applicant and each adult member of the household must have face-to-face contact with a Department certifier and must provide:

(a) Information regarding criminal involvement, including arrests and convictions regarding any member of the household;

(b) Consent to a criminal records check, as outlined in OAR 413-120-0400 to 413-120-0475;

(c) Information regarding any previous allegations of child abuse and neglect; and

(d) Consent to a child abuse history background check, as outlined in OAR 413-200-0274.

(4) An applicant may voluntarily withdraw the application by:

(a) Completing a form provided by the Department;

(b) Submitting a written request to the Department in a format of his or her choice; or

(c) Making a verbal request to a certifier, adoption worker, or the supervisor of the certifier or adoption worker.

(5) An application will be considered withdrawn if, during the assessment process, the applicant fails to respond to a written request for contact from the certifier, the adoption worker, or the supervisor of the certifier or adoption worker within 30 days of the request.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.016, 418.315, 418.625 - 418.648

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0381, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0335

Standards Regarding the Home Environment

The applicant or certified family must allow Department staff access to each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual, and assure the home and surrounding environment comply with all of the following requirements:

(1) General Conditions.

(a) The home must be the primary residence of the applicant or certified family and the residence where the child or young adult will reside.

(b) The home must have adequate space, including space for safe and appropriate sleeping arrangements, for each member of the household.

(A) Department staff must consider the age, gender, special needs, behavior, and history of abuse or neglect of the child or young adult in determining appropriate sleeping arrangements.

(B) An unrelated child or young adult in the care or custody of the Department may not share a bed.

(c) The home may not use electronic monitoring.

(d) The certified family must post and comply with the Foster Children's Bill of Rights as required by OAR 413-010-0170 to 413-010-0185.

(e) The applicant or certified family must have access to a working telephone to make and receive phone calls.

(f) The applicant or certified family must consider the age, special needs, and capabilities of the child or young adult, and have necessary safeguards to assure that:

(A) Swimming pools, hot tubs, wading pools, ponds, and other water hazards are inaccessible to a child or young adult unless responsibly supervised, and safeguards comply with state and local ordinances;

(B) Outdoor tools and equipment, machinery, chemicals, flammables, and combustibles are stored in a safe manner;

(C) Animals are properly cared for and kept in compliance with local ordinances;

(D) Access of a child or young adult to potentially dangerous animals is restricted; and

(E) Hunting and sporting equipment, such as knives, spears, arrows, hunting sling shots, bows, and martial art weapons are stored in a safe and secure manner inaccessible to a child or young adult.

(g) The certified family must consider the age, special needs, and capabilities of the child or young adult when determining if an animal is a safe and appropriate pet.

(h) The certified family must receive authorization from the caseworker of the child or young adult or the caseworker's supervisor prior to the beginning of hunting or target practice by the child or young adult.

(2) Sanitation and Health.

(a) If there are potential hazards in or around the home, a plan to prevent the exposure of the child or young adult to the potential hazard must be developed and approved by the certification supervisor.

(b) The home must have the necessary equipment for the safe preparation, storage, serving, and clean-up of food.

(c) The home must have a safe, properly maintained, and operational heating system. Space heaters must be plugged directly into a wall outlet and must be equipped with tip-over protection.

(d) The home and furnishings must be clean and in good repair, and the grounds must be maintained.

(e) There must be no accumulation of garbage or debris.

(f) The home must have safe and adequate drinking water, and an adequate source of safe water to be used for personal hygiene.

(g) There must be provision for the safe storage and administration of all medications in the household, taking into consideration the child's age, developmental level, and need.

(h) There must be easily accessible first aid supplies, and a reasonable understanding of how to use such supplies.

(i) Smoking, tobacco and nicotine limitations:

(A) A child or young adult may not be exposed to any type of second-hand smoke in the family's home or vehicle; and

(B) A member of the household may not provide any form of tobacco, nicotine, or other product illegal for a minor to possess to a child or young adult.

(C) All products referenced in paragraph (B) of this subsection must be stored in a safe and secure manner inaccessible to a child or young adult.

(3) Fire and Carbon Monoxide Safety.

(a) The home must have all of the following:

(A) A working smoke alarm in each bedroom where a child or young adult sleeps within 24 hours of the time the applicant is certified or approved.

(B) A working carbon monoxide detector within 15 feet of each bedroom where a child or young adult sleeps and at least one on each floor within 24 hours of the time the applicant is certified or approved.

(C) At least one operable fire extinguisher rated 2-A:10-B-C or higher within 24 hours of the time the applicant is certified or approved.

(D) At least one means of emergency exit and at least one means of rescue from the home.

(E) An adequate safeguard around operating fireplaces, wood stoves, or other heating systems that may cause burns to a child or young adult developmentally unable to reasonably follow safety rules regarding such devices.

(F) A written, comprehensive home evacuation plan, shared with each child or young adult at the time of placement, and practiced at least every six months. The written, comprehensive home evacuation plan must include a provision for the safe exit of a child or young adult who is not capable of understanding or participating in the evacuation plan.

(G) Interior doors that lock must be operable from both sides of the door.

(b) Each bedroom used by a child or young adult must have:

(A) At least one unrestricted exit;

(B) At least one secondary means of exit or rescue;

(C) Smoke alarms required under paragraph (a)(A) of this section;

(D) Unrestricted, direct access at all times to hallways, corridors, living rooms, or other such common areas; and

(E) Quick release mechanisms on all barred windows.

(4) Travel and Transportation Safety.

(a) An applicant or certified family must have available, and be willing to use, a safe and reliable method of transportation.

(b) Any member of the household transporting a child or young adult must provide proof of a valid driver license and current insurance on any family-owned motorized vehicle by which a child or young adult might be transported, when a family has applied for certification or renewal of certification.

(c) The applicant or certified family must assure that, as required by current state law:

(A) Only a licensed and insured driver transports a child or young adult in motorized vehicles; and

(B) A child or young adult uses a seat belt or age and size appropriate safety seat when transported in motorized vehicles.

(d) Written authorization from the Department must be received by the certified family prior to transporting a child or young adult out of the State of Oregon or outside the United States.

(e) A certified family must request approval from the Department no less than 90 days prior to any international travel with a child or young adult. In an emergency, the certified family must request approval from the Department as soon as the need for international travel becomes known.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.315, 418.625 - 418.648

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0348

Requirements Regarding the Number of Children and Young Adults in the Home

(1) Except as provided in section (3) of this rule, a certified family may not exceed the following maximum number of children and young adults in the home:

(a) A total of:

(A) Four children or young adults when one foster parent or relative caregiver lives in the home; or

(B) Seven children or young adults when two foster parents or relative caregivers live in the home.

(b) Two children under the age of three.

(2) The limits in section (1) of this rule include all children and young adults in the care or custody of the Department who are living in the home and any other children living in the home.

(3) Under special circumstances, a Child Welfare Program Manager may approve placement of an additional child or young adult in the home of a certified family that exceeds the maximum number of children and young adults specified in section (1) of this rule.

(4) A certified family may not accept a child or young adult for placement from another agency without prior approval of the Child Welfare Program Manager or designee.

(5) A certified family may not provide formal or informal adult foster care or child care without prior approval of the Child Welfare Program Manager or designee.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0352

Requirements for the Care of Children and Young Adults

The certified family must comply with all of the following requirements related to the care of children and young adults:

(1) Work cooperatively with the Department, the child or young adult, and his or her family to support the case plan and meet the needs of the child or young adult including, but not limited to:

(a) Health, dental, and mental health care;

(b) Intellectual, emotional, social, and recreational needs, including participation in extracurricular, enrichment, cultural, and social activities;

(c) Continued contact or connection with family members, siblings, and relatives; and

(d) Adequate and appropriate clothing.

(2) Include the child or young adult as part of the certified family household.

(3) Assure that when a child or young adult leaves the certified family, the belongings of the child or young adult, both those brought with him or her and those obtained while living in the home, remain with the child or young adult.

(4) When a child or young adult placed with a certified family is missing, immediately report information about the missing child or young adult to the Department.

(5) Not subject any child to abuse, as described in ORS 419B.005.

(6) Not subject any young adult to abuse.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0375, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0354

Requirements Regarding the Education of a Child or Young Adult

(1) The certified family must comply with all of the following requirements related to the education of the child or young adult:

(a) Enroll the child or young adult in his or her school or educational placement as determined by the Department, unless the placement has been determined by the child's or young adult's Individualized Education Plan (IEP) team.

(b) Enroll the child or young adult in the Free and Reduced Lunch program, even if the services may not be used.

(c) Support the child or young adult in his or her school or educational placement, and respond to inquiries from the school or educational placement.

(d) Assure the child or young adult regularly attends the school or educational placement, monitor the educational progress of the child or young adult, and share all of the following information with the caseworker in a timely manner:

(A) The report cards of the child or young adult.

(B) Any reports received from the teacher, school, or educational placement.

(C) Any evaluations received as a result of educational testing or assessment, including the Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP).

(D) Any excused and unexcused absences.

(E) Disciplinary reports and notices of restraint or seclusion regarding the child or young adult.

(F) Ongoing progress toward high school graduation of a child or young adult, including number of credits earned.

(e) Monitor and share with the caseworker in a timely manner the educational successes, learning style, and potential learning difficulties of the child or young adult.

(f) Work with the caseworker of the child or young adult when referring the child or young adult for assessment of a possible disability.

(g) Inform the caseworker of and invite the caseworker to Individualized Education Plan (IEP) meetings, school conferences, and other school-related meetings.

(2) The certified family may consent to routine school-related activities, such as school enrollment, storage and administration of a child or young adult's medication at school, field trips within the state of Oregon, and extracurricular, enrichment, cultural, and social activities.

(3) When the certified family has been identified as the surrogate, the certified family may consent to evaluation for an Individualized Education Plan (IEP) or 504 plan and special education decisions.

(4) Unless the decision about the diploma type is being made by the child or young adult's Individualized Education Plan (IEP) team, the certified family must receive approval from the Department when considering a modified diploma.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0356

Requirements Regarding Extracurricular, Enrichment, Cultural, and Social Activities

(1) The certified family must:

(a) Support the child or young adult in his or her interests to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(b) Assure the child or young adult has ongoing opportunities to participate in at least one age-appropriate or developmentally appropriate activity.

(c) Apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(d) Periodically update the Department regarding participation by the child or young adult in extracurricular, enrichment, cultural, and social activities, including any barriers that may keep the child or young adult from participation in such activities.

(2) When applying the reasonable and prudent parent standard, the certified family must consider:

(a) The age, maturity, and developmental level of a child or young adult;

(b) The nature and inherent risks of harm; and

(c) The best interest of the child or young adult based on information known by the caregiver.

(3) The certified family must receive training related to applying the reasonable and prudent parent standard to decisions such as whether to allow a child or young adult to engage in extracurricular, enrichment, cultural, and social activities.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.625 - 418.648

Hist.: CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0358

Requirements Regarding the Discipline of a Child or Young Adult

(1) The certified family must demonstrate a willingness to understand the meaning of the behaviors of the child or young adult, and have the ability to develop and use appropriate discipline strategies to address challenging behaviors.

(2) When disciplining a child or young adult, the certified family may not do any of the following:

(a) Use or threaten physical force.

(b) Use threats or intimidation.

(c) Withhold food or other items essential to the protection, safety, or well-being of a child or young adult.

(d) Discipline all children or young adults in the household for the misbehavior of one child or young adult.

(e) Use any form of punishment, including, but not limited to:

(A) The deliberate infliction of physical force causing pain.

(B) Verbal abuse including derogatory remarks about the child or young adult, or the family characteristics, physical traits, culture, ethnicity, language, sexual orientation, gender identity and expression, or traditions of the child or young adult.

(C) Denying a child or young adult visits, telephone contact, or other types of contact with an individual authorized in a visit and contact plan.

(D) Assigning extremely strenuous exercise or work.

(E) Use of or threatened use of restraining devices.

(F) Imposing a sanction, penalty, consequence, or reprimand for bed-wetting or during toilet training.

(G) Directing or permitting a child or young adult to punish another child or young adult.

(H) Threat of removal from the certified family home.

(I) Forcing or requiring a child or young adult to shower or bathe as a sanction, penalty, consequence, or reprimand.

(J) Extreme isolation as a means of punishment that restricts the ability of a child or young adult to talk with or associate with others.

(K) Locking a child or young adult in a room or outside of the home.

(3) The certified family may use a time-out only for the purpose of giving the child or young adult a short break to regain control, and not as a punishment. The certified family must take into consideration the age and developmental level of the child or young adult in determining the length of a time-out.

(4) Pursuant to OAR 413-020-0200 to 413-020-0255, only a foster parent or relative caregiver who has been trained to use a physical restraint may do so, unless a child, young adult, or others are at imminent risk of harm. Physical restraint may only be used if good judgment indicates a physical restraint may be safely implemented. Any time a physical restraint is used, the certified family must follow the reporting requirements in OAR 413-020-0236 and 413-020-0240.

(5) The certified family must notify and request assistance of the Department when the challenging behavior of a child or young adult may be beyond the ability of the certified family to discipline in a positive manner.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418.648

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01, Renumbered from 413-200-0347, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0362

Requirements Regarding the Medical, Dental, and Mental Health Care of a Child or Young Adult

(1) In addressing the health care for a child or young adult, the certified family must:

(a) Work collaboratively with the Department in managing the health care needs of the child or young adult, which may include involving a parent of the child or young adult in medical, dental, and mental health appointments;

(b) Regularly exchange medical, dental, and mental health information of the child or young adult with the Department;

(c) Work collaboratively with providers in managing the medical, dental, and mental health needs of the child or young adult; and

(d) Maintain health care documentation for each child or young adult, including:

(A) Medical, dental, and mental health appointments;

(B) Medical, dental, and mental health information;

(C) Medical, dental, and mental health appointment follow-up reports; and

(D) Immunization records.

(2) A certified family must comply with the Department's direction on obtaining medical, dental, and mental health care for a child or young adult.

(3) A certified family may consent to routine examinations and laboratory tests.

(4) A certified family must follow the Department's direction regarding vaccination and immunization of a child or young adult in accordance with the case plan.

(5) Except as provided in section (6) of this rule, the certified family must contact the caseworker of a child or young adult to obtain appropriate prior consent from the Department before a child or young adult receives any medical care or undergoes a procedure, other than routine medical care.

(6) In an emergency, a certified family must notify the Department as soon as possible when emergency care is needed.

(7) Medication management requirements.

(a) The certified family must comply with all of the following requirements related to medication management:

(A) Administer prescription medications to a child or young adult only in accordance with the written prescription or authorization.

(B) Record the dosage, date, and time that each medication is administered to a child or young adult on a form approved by the Department. If medication is given in a location other than the certified home, such as at school or in daycare, the medication log of the institution or program must be attached to the Department form. The medication form, with any attachments, must be submitted monthly to the caseworker of the child or young adult.

(C) Take the medication log to each medical appointment and share with the medical provider.

(D) Inform the caseworker of the child or young adult or the supervisor of the caseworker within one business day when a child or young adult is prescribed a psychotropic medication or the dosage of any existing prescription for psychotropic medication is changed, as required by OAR 413-070-0470.

(E) Begin administration of any psychotropic medication only after authorization has been obtained from the Department pursuant to OAR 413-070-0470.

(F) Maintain the documentation received from the caseworker when a child is prescribed a psychotropic medication or when the dosage of any existing prescription for a psychotropic medication is changed.

(b) Except as provided in subsection (c) of this section, the certified family must provide for the safe storage and administration of all medications in the household, taking into consideration the child's age, development level, and needs.

(c) When a child or young adult is learning to manage his or her own medications, the certified family, the child or young adult, and the caseworker may develop an individualized, written plan for the child or young adult to access the medication. The child or young adult may not have access to medication that is not his or her own. The plan must state how the medication will be inaccessible to other children or young adults in the home. The certified family, the child or young adult, and the caseworker must each retain a copy of the plan.

(8) The certified family must comply with the personal care services plan for any child or young adult placed in the certified family's home and eligible for personal care services pursuant to OAR 413-090-0100 to 413-090-0210.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418.648

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0346, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0371

Responsibilities and Notification Requirements for Selection and Use of Respite Care Providers and Babysitters

(1) Respite Providers.

(a) The certified family is responsible for identifying a safe and responsible respite care providers for a child or young adult

placed in the certified family's home and must take into consideration:

(A) The age, special needs, attachment, and individual behaviors of each child or young adult; and

(B) The length of time that the child or young adult will be with the respite care provider.

(b) When identifying respite care providers, the certified family must:

(A) Select respite care providers who;

(i) Are at least 18 years of age;

(ii) Are capable of assuming child care and supervision responsibilities, including meeting the safety, health, and well-being needs of each child or young adult in the certified family's care; and

(iii) Will comply with OAR 413-200-0358 regarding discipline.

(B) Provide to the certifier the names, addresses, and telephone numbers of the prospective respite care providers and receive Department approval under OAR 413-200-0281 prior to using the respite care provider.

(2) Babysitters.

(a) The certified family must use a responsible person 14 years of age or older for babysitting, and must:

(A) Assure the babysitter is capable of assuming care and supervision responsibilities required to meet the needs of each child or young adult, and will be present with the child or young adult for whom the babysitter is providing care at all times, and

(B) Have no reason to suspect that the babysitter;

(i) Has any criminal history or child abuse or neglect history; or

(ii) Poses any risk to the child or young adult for whom the babysitter will provide care.

(b) Unless requested by the Department, the certified family does not need to provide identifying information to the Department to complete a criminal records check for a babysitter.

(3) General Provisions for Respite Care and Babysitting.

(a) The certified family must have an available method through which the certified family may be contacted in an emergency any time the child or young adult is cared for by another individual.

(b) A certified family may use a licensed day care facility for a child or young adult, and must notify the Department in advance of using the day care facility.

(c) The certified family must notify the certifier or certifier's supervisor of any plans to provide respite care for another certified family; and obtain approval when the number of children or young adults in the home is expected to exceed the maximum number of children or young adults allowed under the family's Certificate of Approval.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640

Stats. Implemented: ORS 409.010, 418.015, 418.625 - 418.648

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; SOSCF 15-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 29-2003, f. 7-31-03 cert. ef. 8-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0377

Confidentiality

(1) The certified family must exercise good judgment in sharing personal information about the child or young adult and the family of the child or young adult. The certified family must store documents in a way that protects the privacy of the child or young adult and his or her family.

(2) The certified family may not disclose confidential information regarding a child or young adult or the family of a child or young adult, except when necessary to promote or to protect the health and welfare of the child, young adult, or the community.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Chapter 413 Department of Human Services, Child Welfare Programs

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0379

Education and Training for Applicants and Certified Families

(1) An applicant must participate in the Department's orientation prior to receiving a Certificate of Approval or Child-Specific Certificate of Approval, or within 30 days after the placement of a child or young adult in a home that has been issued a Temporary Certificate of Approval.

(2) Except as provided in sections (3), (4), or (5) of this rule, each applicant and certified family must complete Foundations training before or within 12 months after the date on which the certificate was issued, or provide written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for certification.

(3) A certified family is exempt from section (2) of this rule if a written, individualized training plan, specific to the needs of the child or young adult has been approved by a supervisor and developed within 90 days after a Child-Specific Certificate of Approval or Temporary Certificate of Approval has been issued by the Department.

(4) An applicant is exempt from section (2) of this rule if the applicant has met the requirements to adopt a child under OAR 413-120-0246.

(5) Foundations training is required if an applicant previously certified by the Department has not been certified within the preceding two years unless:

(a) Alternative training has been approved under sections (3) or (4) of this rule; or

(b) The supervisor waives the training requirement based on the applicant's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(6) The certified family and the certifier must develop a training plan for each foster parent or relative caregiver to complete at least 30 hours of training during each two-year certification period, unless a written individualized training plan is developed for a certified family with a Child-Specific Certificate of Approval. The written individualized training plan:

(a) Must be designed to strengthen the ability of the certified family to meet the safety, health, and well-being needs of the child or young adult;

(b) May be less than the required 30 hours required during a certification period; and

(c) Must be approved by a certification supervisor.

(7) An applicant or certified family with limited English proficiency or a hearing or visual impairment, who is unable to meet the training requirements outlined in sections (1) to (6) of this rule may be provided an individualized training plan prepared by the certifier and approved by the certification supervisor.

(8) The Department may require a certified family to complete more than the 30 hours of training for a two-year certification period based on the needs of the child or young adult placed in the home and the knowledge, skills, and abilities of the certified family.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.105, 418.625 - 418.648

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0349, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0383

Other Required Notifications

(1) A certified family must immediately notify the certifier or certifier's supervisor of the following information and events:

(a) Any anticipated change in address.

(b) Any physical or structural change in the home or surrounding property on which the certified family lives.

(c) Any known allegation of child abuse or neglect perpetrated by any member of the household or other person in the household, or any individual who frequents the home of the certified family.

(d) Any time another agency wishes to place a child or young adult in the home of the certified family home.

(e) Any other circumstance that reasonably could affect the safety, health, or well-being of a child or young adult in the home of the certified family.

(2) A certified family must notify the certifier or certifier's supervisor of the following information and events within one business day of the certified family learning of the information or event:

(a) Any individual joins or leaves the household, including any individual who frequents the home.

(b) The suspension of a driver license of any foster parent, relative caregiver, or any member of the household or other individual in the household.

(c) Any change in the physical health, mental health, or medication of a member of the household or other individual in the household that reasonably could affect the safety, health, and well-being of a child or young adult.

(d) Any time any member of the household or other individual in the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider.

(e) Any arrest or court conviction for any member of the household or other individual in the household.

(3) A certified family must notify the caseworker or caseworker's supervisor of any suicidal ideation, significant behavioral changes, or significant injury or illness to a child or young adult as soon as the certified family learns of the information.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.105, 418.315, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0386

Requirements Regarding Mandatory Reporting

Any certified family must report information required by ORS 419B.015 to the Department upon reasonable cause to believe that any child with whom the individual comes in contact has suffered abuse or neglect or that any adult with whom the individual comes in contact has abused or neglected a child.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0388

Requirements Regarding Visits in the Certified Family's Home

For purposes of assessing the conditions in the home that affect safety, health, and well-being of the child or young adult, a certified family must:

(1) Allow on-going in-home visits, both scheduled and unscheduled, by Department staff; and

(2) Allow Department staff unsupervised contact with a child or young adult.

(3) Allow Department staff access to each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0390

Requirements Regarding Maintaining the Certificate of Approval

(1) The Department may issue a Temporary Certificate of Approval for no more than 180 days when assessment activities described in OAR 413-200-0275 have been completed.

(2) The Department may issue a Certificate of Approval or Child-Specific Certificate of Approval for up to two years when all assessment activities in OAR 413-200-0274 have been completed.

(3) To renew a Certificate of Approval or Child-Specific Certificate of Approval for up to two additional years, the certified family must submit a completed Application for Renewal or Change of Status. Upon receiving an application, the Department will assess the application under OAR 413-200-0287 and either renew the certification or issue a proposed and final order denying the application.

(4) When the certified family has submitted an application for renewal, the current certificate will not expire, despite any expiration date, until the Department has renewed the certification or there is a proposed and final order denying the application.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418.648

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0393

Requirements Regarding Inactive Referral Status

(1) The Certificate of Approval or Child-Specific Certificate of Approval remains in effect and the responsibilities of the Department and the certified family remain in effect during inactive referral status.

(2) A certified family may request that the Department place the home on inactive referral status for any reason for up to 12 months. The inactive referral status begins on the date requested by the certified family and while it is in effect:

(a) The Department will place no additional child or young adult in the home; and

(b) The certified family may not accept placement of any child or young adult from another agency.

(3) Inactive referral status, when requested by the certified family, ends:

(a) At the request of the certified family; or

(b) When the certification terminates or expires.

(4) The Department may initiate a certified family's inactive referral status under the conditions described in OAR 413-200-0294. When the Department initiates inactive referral status, the Department must:

(a) Provide written notification to the certified family of the inactive referral status within 14 business days after the inactive status is initiated.

(b) Provide written notification to the certified family when inactive referral status ends, unless subsection (c) of this section applies.

(c) If inactive referral status was initiated under OAR 413-200-0294 and the certified family does not meet one or more of the certification standards, provide written notification of intent to deny an application or revoke a Certificate of Approval.

(5) The Department may revoke certification if a certified family does not remedy a violation of a certification standard within the time frame of the inactive referral status.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.105, 418.315, 418.625 - 418.648

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0394

Requirements Regarding Termination of a Certificate of Approval

(1) A certified family may voluntarily request that the Department terminate certification and close the home. The certified family must give the Department (ten business days) notice between the date of the request and the date of the certified family would like the certification to terminate.

(a) The Department may deny the certified family's request if the Department has decided to revoke the certification.

(b) When the Department accepts the certified family's request, the Department will notify the certified family of its decision to accept the voluntary termination and notify the certified family of the date the certification will terminate.

(2) When a child or young adult leaves a home that has a Child-Specific Certificate of Approval or Temporary Certificate of Approval, the certificate terminates 10 business days after the departure of the child or young adult, unless at least one of the following applies:

(a) The Child-Specific Certificate of Approval is a two-year certificate and the certified family submits a written request to change the type of certification under OAR 413-200-0289(5) within 10 business days of the departure of the child or young adult from the home.

(b) The certified family requests to voluntarily terminate their Child-Specific Certificate of Approval or Temporary Certificate of Approval and the Department agrees to terminate the certification.

(c) The Department has taken action to revoke the Child-Specific Certificate of Approval or Temporary Certificate of Approval.

(3) When a certified family moves to a different residence, the Department will terminate the certification. The Department may issue a new certification when the activities described in OAR 413-200-0292(4) have been completed.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.0105 418.315, 418.625 - 418.648

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0396

Requirements Regarding Contested Case Hearings

(1) When the Department denies an application for certification or revokes certification, the applicant or certified family has a right to request a contested case hearing under this rule.

(2) An applicant for certification, renewal of a certificate, or a Change of Status may request a contested case hearing when the Department has mailed a proposed and final order denying the application.

(3) A certified family may request a contested case hearing when the Department has mailed a proposed and final order revoking certification.

(4) A certified family, applicant for certification, renewal of a certificate, or a Change of Status, or applicant for consideration as a potential adoptive resource may request a contested case hearing, as provided in OAR 413-010-0505 and OAR 413-120-0460

(5) An applicant who is denied approval as a potential adoptive resource does not have a right to request a contested case hearing, and instead OAR 413-120-0225(2) applies.

(6) If the Department does not receive a request for a contested case hearing within 30 days of the date that the Department mailed the proposed and final order of denial or revocation, the certified family or applicant has waived the right to a hearing, except as provided in OAR 413-010-0505.

(7) Department actions when a contested case hearing is timely requested but such request is subsequently withdrawn are outlined in OAR 413-010-0530.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

Department Responsibilities During Screening and Assessment of a Child Abuse or Neglect Report Involving the Home of a Department Certified Foster Parent or Relative Caregiver

413-200-0404

Purpose

(1) The purpose of these rules (OAR 413-200-0404 to 413-200-0424) is to describe Department responsibilities during the screening and assessment of a report of child abuse or neglect involving the home of a Department certified foster parent or relative caregiver. A report involves the home of a Department-certified foster parent or relative caregiver if the report alleges that someone in the home abused or neglected any child.

(2) When a report is received involving the home of a Department-certified foster parent or relative caregiver, these rules, OAR 413-015-0100 to 413-015-1230, 413-200-0301 to 413-200-0396, 413-200-0270 to 413-200-0298, and 413-080-0040 to 413-080-0067 apply.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015, 419B.020

Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2011(Temp), f. & cert. ef. 9-1-11 thru 2-28-12; CWP 38-2011, f. 12-27-11, cert. ef. 1-3-12; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0414

Department Actions During Screening

(1) Screener Actions.

(a) When a screener receives information involving the home of a certified family, the screener must--

(A) Refer to and follow OAR 413-015-0200 to 413-015-0225 to gather and share information;

(B) Consult with the CPS supervisor before determining the Department's response;

(C) Notify the assigned caseworker of each child or young adult placed in the home, each assigned caseworker's supervisor, the assigned certifier, and the certifier's supervisor of all information received; and

(D) If the information is closed at screening as described in OAR 413-015-0210(4):

(i) Document the information in provider case notes in the Department's information system; and

(ii) Notify the individuals listed in paragraph (C) of this subsection that the information was closed at screening.

(b) When a screener receives information alleging abuse or neglect of a young adult living in the home of a certified family, the screener must provide the information to the young adult's caseworker; and

(A) Provide the information to the Department's Aging and People with Disabilities Division local office, Community Developmental Disabilities Program, or Community Mental Health Program when the young adult is an individual with a diagnosed physical, developmental, or mental disability, respectively; or

(B) Provide the information to law enforcement.

(2) Certifier Actions. When the assigned certifier is notified by a screener that information involving the home of a certified family was closed at screening, the certifier must examine the information received and follow OAR 413-200-0270 to 413-200-0298.

(3) Assigned Caseworker Actions.

(a) When a report of information alleging abuse or neglect of a young adult has been shared with the Department's Aging and People with Disabilities Division local office, Community Developmental Disabilities Program, or Community Mental Health Program because the young adult is an individual with a diagnosed physical, developmental, or mental disability, the young adult's caseworker must coordinate the Department's response.

(b) When a report of information alleging abuse or neglect of a young adult has been shared with law enforcement, the young adult's caseworker must coordinate the Department's response with law enforcement.

(c) When a report is received alleging that a child or young adult in substitute care in the home of a certified family may have been subjected to abuse or neglect, and the screener determines that the report constitutes a report of child abuse or neglect as defined in ORS 419B.005, within three business days of the Department's receipt of the report, the caseworker of the child or young adult in substitute care who is the alleged victim must notify the following individuals that a report was received:

(A) The attorney for the child or young adult;

(B) The court appointed special advocate (CASA) for the child or young adult;

(C) The parents of the child or young adult;

(D) Any attorney representing the parents of the child or young adult; and

(E) If the disclosure is authorized by ORS 419B.035, others who are involved in the case plan as necessary.

(d) The notification of the parents of the child or young adult and any attorney representing the parents of the child or young adult in paragraphs (3)(c)(C) and (D) of this rule is not required if the notification may interfere with an investigation or assessment or jeopardize the safety of the child or young adult. The CPS supervisor, or the supervisor of a caseworker of the child or young adult may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015 & 419B.020

Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2011(Temp), f. & cert. ef. 9-1-11 thru 2-28-12; CWP 38-2011, f. 12-27-11, cert. ef. 1-3-12; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0419

Department Actions During the CPS Assessment

(1) CPS Worker and CPS Supervisor Actions.

(a) If the report involving the home of a certified family 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 safety. The purpose of the staffing is:

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

(B) To notify the certifier assigned to the home, the caseworkers assigned to each child or young adult placed in the home, and their respective supervisors of the referral; and

(C) To share information known by the Department regarding the children or young adults placed in the home and the certified family.

(b) The CPS worker must assure that the following people are invited to the staffing:

(A) The assigned certifier or the certification supervisor; and

(B) The assigned caseworker of each child or young adult in the home or each caseworker's supervisor.

(c) The CPS supervisor or his or her designee must:

(A) Assure 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 safety;

(B) Determine whether the Child Welfare Program Manager, CPS Consultant, and Foster Care Coordinator should be invited to the staffing; and

(C) If the staffing does not occur prior to the initial contact, assure the staffing occurs the next business day and that all persons identified in subsection (b) of this section share information known by the Department regarding children or young adults placed in the home, the certified family, and any other individuals living in the home.

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

(A) At initial contact, in addition to the requirements in OAR 413-015-0400 to 413-015-0485, provide the certified family with the appropriate "What you need to know about a Child Protective Service Assessment" pamphlet;

(B) Consult with a CPS supervisor before making the decision to remove any child or young adult from the home;

(C) Provide on-going information to the assigned certifier and to the caseworkers of each child or young adult placed in the home on the status of the CPS assessment; and

(D) Complete the CPS assessment.

(2) Certifier and Certification Supervisor Actions. When the assigned certifier is notified that information received by a screener involving the home of a certified family 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 certified family 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 certified family is immediately placed on inactive referral status pending the completion of the CPS assessment;

(C) The certified family has the option of having a consulting foster parent or relative caregiver available for support during the assessment; and

(D) The names of foster parents and relative caregivers who have agreed to serve as a consulting foster parent or relative caregiver.

(b) Within one business day, the certifier must document the initiation of a CPS assessment and the placement of the certified family on inactive referral status in provider case notes in the Department's information system.

(c) Within one business day, the certifier must notify Department staff responsible for placement that the certified family's home is on inactive referral status.

(d) Within 14 days of the notification required in paragraph (2)(a)(B) of this rule, the Department must provide written notification to the certified family 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 certified family 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 assure that the actions required in subsections (a) through (e) of this section are completed if the certifier is unavailable.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015 & 419B.020

Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2011(Temp), f. & cert. ef. 9-1-11 thru 2-28-12; CWP 38-2011, f. 12-27-11, cert. ef. 1-3-12; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0424

Department Actions at the Conclusion of the CPS Assessment

(1) CPS Worker and Supervisor Actions.

(a) In addition to the actions required in OAR 413-015-0400 to 413-015-0485, the CPS worker must convene a staffing within five business days of the completion of the CPS assessment to --

(A) Share information acquired during the CPS assessment, and the results of the CPS assessment;

(B) Discuss and determine whether any additional actions described in OAR 413-015-0400 to 413-015-0485 are appropriate;

(C) Determine who needs to be notified of the disposition of the CPS assessment and determine which staff will be responsible for providing notification;

(D) Discuss certification actions that have been taken and whether any additional actions described in OAR 413-200-0270 to 413-200-0298 are appropriate.

(b) The CPS worker must assure that the following staff members are invited to the staffing:

(A) The CPS supervisor;

(B) The assigned certifier or the certification supervisor; and

(C) The caseworkers assigned to each child or young adult placed in the home of the certified family or their respective supervisors.

(c) The CPS supervisor or his or her designee must:

(A) Assure that the staffing, discussed in subsection (a) of this section occurs;

(B) Determine whether the Child Welfare Program Manager, CPS Consultant, and Foster Care Coordinator should be invited to the staffing; and

(C) Approve notification of the following individuals of the disposition of the CPS assessment:

(i) The attorney for the child;

(ii) The court appointed special advocate (CASA) for the child;

(iii) The parents of the child;

(iv) Any attorney representing the parents of the child; and

(v) If the disclosure is authorized by ORS 419B.035, others who are involved in the case plan as necessary.

(D) The supervisor may authorize an exception to the notification of the parents of the child and any attorney representing the parents of the child required in paragraph (C) of this subsection if the notification may interfere with an investigation or assessment or jeopardize the safety of the child.

(d) At the conclusion of any CPS assessment, regardless of the disposition, the CPS supervisor must immediately notify the assigned caseworkers, the certifier, the CPS Consultant, and the Foster Care Coordinator that the CPS assessment has been completed and approved.

(2) Assigned Caseworker Actions.

(a) Within ten business days of the Department determining the disposition of a CPS assessment involving the alleged abuse of a child placed in the home of a certified family, the caseworker for the child must notify the individuals identified in paragraph (1)(c)(C) of this rule of the disposition unless an exception, described in paragraph (1)(c)(D) of this rule, is authorized by the CPS supervisor or his or her designee.

(b) Within ten business days of the conclusion of a law enforcement determination involving the alleged abuse of a young adult placed in the home of a certified family, the caseworker for the young adult must notify the individuals identified in paragraph (1)(c)(C) of this rule of the disposition, unless notification may interfere with an investigation or assessment or jeopardize the young adult's safety as authorized by the caseworker's supervisor.

(3) Certifier and Certification Supervisor Actions.

(a) At the conclusion of the CPS assessment, during or within five business days of the meeting required in subsection (1)(a) of this rule, the certifier and certification supervisor must:

(A) Staff the case and review all the information in the CPS assessment;

(B) Determine whether the information indicates certification actions described in OAR 413-200-0270 to 413-200-0298 should be taken; and

(C) Assure documentation of the results of the staffing in provider case notes in the Department's information system.

(b) After completing the staffing required in subsection (1)(a) of this rule, if the Department determines --

(A) That the Certificate of Approval for the certified family should be revoked, the assigned certifier must initiate revocation of the Certificate of Approval as described in OAR 413-200-0298.

(B) That inactive referral status should continue because one or more of the conditions in OAR 413-200-0294 are present, the assigned certifier must summarize the outcome of the assessment and the reasons for continuing inactive referral status in a letter delivered to the certified family within 10 days of the completed CPS assessment. The certifier must retain a copy of the letter in the certification file.

(C) That the certificate will not be revoked after a founded or unable to determine disposition, the assigned certifier must:

(i) Submit written documentation supporting the continued certification of the certified family to the District Manager or Child Welfare Program Manager for approval;

(ii) Upon receiving approval for continued certification from the District Manager or Child Welfare Program Manager, remove the certified family from inactive referral status;

(iii) Within ten business days of receiving approval from the District Manager or Child Welfare Program Manager, send written notification to the certified family that the home is no longer on inactive referral status and retain a copy of the written notification in the certification file; and

(iv) Notify Department staff responsible for placement that the certified family is no longer on inactive referral status.

(4) The CPS worker or supervisor, and the certifier or supervisor must meet with the certified family within ten business days of the completion of the CPS assessment to explain the disposition and any certification actions that will be taken unless the certified family declines the opportunity for a meeting.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015 & 419B.020

Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2008(Temp), f. & cert. ef. 7-17-08 thru 1-13-09; CWP 26-2008, f. & cert. ef. 10-1-08; CWP 17-2011(Temp), f. & cert. ef. 9-1-11 thru 2-28-12; CWP 38-2011, f. 12-27-11, cert. ef. 1-3-12; CWP 20-2015, f. & cert. ef. 10-1-15

DIVISION 215

PRIVATE CHILD CARING AGENCIES

Licensing Umbrella Rules

413-215-0001

Regulation of Child-caring Agencies and Residential Programs for Children

(1) The Department is required to regulate and license certain organizations and agencies that care for children. The rules in this division of rules (413-215) establish the requirements of the Department for obtaining and maintaining the required license, and the policies of the Department required by ORS 418.205 to 418.327.

(2) These umbrella rules (OAR 413-215-0001 to 413-215-0131) apply to both an organization that is a *private child-caring agency* (defined in OAR 413-215-0006) and an organization or school that offers a residential program for children (regulated by ORS 418.327). These rules apply to all of the following agencies:

(a) An adoption agency (defined at OAR 413-215-0406 and further regulated by 413-215-0401 to 413-215-0481).

(b) An agency (which is further regulated by OAR 413-215-0301 to 413-215-0396) that offers to place children for foster care by taking physical custody of and then placing the children in foster homes approved by the agency or by the state.

(c) An agency (which is further regulated by OAR 413-215-0501 to 413-215-0586) that provides residential care services to children 24 hours a day.

(d) An agency that provides an *outdoor youth program* (defined in OAR 413-215-0911 and further regulated by 413-215-0901 to 413-215-1031).

(e) An agency (which is further regulated by OAR 413-215-0801 to 413-215-0876) that provides day treatment for children with emotional disturbances.

(f) An agency (which is further regulated by OAR 413-215-0701 to 413-215-0766) that provides residential services for homeless or runaway youth, pregnant or parenting girls, or other youth working towards independent living.

(g) An agency providing other services for children similar to the services covered by subsections (a) to (f) of this section.

(h) An academic boarding school (which is further regulated by OAR 413-215-0201 to 413-215-0276).

(i) A therapeutic boarding school (which is further regulated by OAR 413-215-0601 to 413-215-0681).

(j) Any other agency (defined at OAR 413-215-0006) that falls under ORS 418.205(2)(a).

(3) An agency must comply with all of the Department rules that apply to the agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0006

Definitions

As used in OAR 413-215-0001 to 413-215-0131:

(1) “Agency” means a *private child-caring agency* (under ORS 418.205(2)(a) and section (6) of this rule) or an organization or school that offers a residential program for children (regulated by ORS 418.327).

(2) “Child” means an unmarried person who is under 18 years of age.

(3) “Children” mean unmarried persons under 18 years of age.

(4) “Department” means the Oregon Department of Human Services.

(5) “Licensee” means a private child-caring agency or an organization or school that offers a residential program for children (regulated by ORS 418.327) and holds a license issued by the Department.

(6) “Private child-caring agency” is defined by the definitions in ORS 418.205, and means a “child-caring agency” that is not owned, operated, or administered by any governmental agency or unit.

(a) A “child-caring agency” means an agency or organization providing:

(A) Day treatment for disturbed children;

(B) Adoption placement services;

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

(D) Outdoor youth programs (defined at OAR 413-215-0911); or

(E) Other similar services for children.

(b) A child-caring agency does not include 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.

(7) “Program” means a set of one or more services provided by an agency that make the agency subject to the rules in Division 413-215.

(8) “Substantial compliance” means a level of adherence to the rules in Division 413-215 and other applicable law that, although failing to meet one or more of the requirements of these rules, in the Department’s estimation does none of the following:

(a) Constitute a danger to the health or safety of any individual.

(b) Constitute a willful or ongoing violation of the rights of children or families served by an agency.

(c) Prevent the accomplishment of the Department’s purposes.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0011

Requirement to Obtain and Comply with License

(1) Except for a *licensee* (defined in OAR 413-215-0006) subcontractor that provides limited services under OAR 413-215-0061(5)(b):

(a) An *agency* (defined in OAR 413-215-0006) must have a license issued by the Department in accordance with Division 413-215. An agency holding a license issued by the Department under these rules (a licensee) must at all times comply with the provisions of the license and with all laws (including rules) applicable to the agency.

(b) An agency may not represent itself as able to or purport to provide services governed by the rules in Division 413-215, except the services the agency is authorized by law (including rules) and licensed to provide.

(2) An *agency* engaged in providing residential care for both adults and children (defined in OAR 413-215-0006) is subject to the rules in Division 413-215, unless each child residing in the agency’s facility has a custodial parent residing in the facility.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0016

Requirements Related to Corporation Status

(1) Only a corporation may receive a license from the Department under these rules (OAR 413-215-0001 to 413-215-0131). A limited liability company is an unincorporated association, and not a corporation, and may not be licensed under Division 413-215.

(2) In-state and out-of-state corporations must meet all requirements of the Oregon Secretary of State, Corporation Division in order to receive a license from the Department.

(3) An agency's articles of incorporation, its bylaws, or another written document approved by the board of directors must clearly set forth the purposes of the organization.

(4) A licensee (defined in OAR 413-215-0006) must submit to the Department within seven business days each amendment to its articles of incorporation, bylaws, statement of its purposes, and name registration.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0050, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0021

Governance

(1) Governing board requirements.

(a) An *agency* (defined in OAR 413-215-0006) must have a governing board that has responsibility for its mission, operation, policy, and practices. These responsibilities must be stated in writing.

(b) The governing board of an agency must be a board of directors consisting of no fewer than five responsible individuals of good moral character who are citizens or legal residents of the United States.

(c) An agency must maintain a list of the members of the governing board that includes the name, address, telephone number, board office, and term of membership for each.

(d) Members of the governing board of an agency that is a not-for-profit agency may not receive compensation for serving on the board, other than reasonable reimbursement for the expenses associated with their services.

(2) Responsibilities of the governing board. The governing board of an agency must have all of the following responsibilities:

(a) To provide leadership for the agency.

(b) To be responsible for establishing the agency's by-laws and policies, to monitor the agency's programs consistent with its policies and mission, and to guide program development.

(c) To adopt by-laws that provide a basic structure for the operation of the programs of the agency.

(d) To develop by-laws for selection and rotation of its members.

(e) To ensure the employment of a qualified executive director and to delegate appropriate responsibility to that individual for the administration, management, and operation of the agency, including the employment of all agency staff and the authority to dismiss any staff member.

(f) To formally evaluate the executive director's performance annually.

(g) To approve the annual budget of anticipated income and expenditures necessary to provide the services described in its program description.

(h) To review an annual report of actual income and expenditures.

(i) To obtain and review an annual independent financial review of financial records.

(j) To establish and ensure compliance with personnel practices for the selection and retention of staff sufficient to operate the agency.

(k) To ensure a written quality improvement program that identifies systematic efforts to improve its services.

(l) To keep permanent records of meetings and deliberations on major decisions affecting the delivery of services.

(3) Executive director or program director requirements. An agency must operate under the direct supervision of an executive or

program director appointed by the governing board. The executive director or program director must have all of the following qualifications:

(a) Knowledge of the requirements for providing care and treatment appropriate to the agency's programs.

(b) Ability to maintain records on children and families, personnel, and the agency in accordance with these rules.

(c) Ability to direct the work of staff.

(d) No history of conduct indicating it may be unsafe to allow the individual to supervise the care of children.

(e) Health sufficient to carry out the duties of the position.

(f) Good moral character, including honesty, fairness, and respect for the rights of others.

(4) The executive or program director must be responsible for all of the following:

(a) The daily operation and maintenance of the agency and its facilities in compliance with the rules in division 413-215 and the established program budget.

(b) Administration of policies and procedures to ensure clear definition of staff roles and responsibilities, lines of authority, and equitable workloads that ensure safe and protective care, supervision, and treatment of the children served by the agency.

(c) Ensuring that only individuals whose presence does not jeopardize the health, safety, or welfare of the children served by the agency are employed or used as volunteers.

(d) Recruiting, employing, supervising, training, or arranging for training.

(e) Reporting to the governing board on the operation of the agency.

(f) Providing for appropriate staff to assume the executive or program director's responsibility for the operation and maintenance of the agency whenever the executive or program director is absent from the agency.

(g) Terminating from employment any staff member who is unsuitable or who performs in an unsatisfactory manner.

(5) Suitability. In order for the Department to evaluate the suitability of an agency and its staff, the agency must immediately disclose to the Department all of the following information:

(a) Each instance in which the agency or a member of its staff or board of directors has permanently lost the right to provide services to children or families in any jurisdiction, and the basis for each action.

(b) The circumstances and disposition of any licensing denial, suspension, or revocation; or any other negative sanction or proposed sanction by an oversight body against the agency or a member of its staff or board of directors, if the denial, suspension, or revocation; or any other negative sanction or proposed sanction results from conduct that is relevant to the agency's, staff's, or board member's ability or fitness to carry out the duties imposed by these rules and governing statutes.

(c) For the previous ten years, any disciplinary action against or investigation of the agency or a member of its staff or board of directors by a licensing or accrediting body, including the basis and disposition of each action, if the disciplinary action or investigation results from conduct that is relevant to the agency's or staff or board member's ability or fitness to carry out the duties imposed by these rules and governing statutes.

(d) Any instance in which the agency or a member of its staff or board of directors has been found guilty of any crime under federal, state, or foreign law.

(e) Any civil or administrative violation involving financial irregularities by the agency or a member of its staff or board of directors under federal, state, or foreign law.

(f) For the previous five years, any instance in which the agency, a member of its board of directors, or its executive or program director has filed for bankruptcy.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0060, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0026

Financial Management

(1) Budget. An *agency* (defined in OAR 413-215-0006) must operate under an annual line-item budget, showing planned expenditures and sources of income, which has been approved by the governing board as the plan for management of its funds.

(2) Funding. The annual budget of a licensee (defined in OAR 413-215-0006) must document that the licensee has sufficient funds to meet the requirements of licensure, to operate the programs the licensee is licensed to operate, and to provide the services the licensee has stated the agency (defined in OAR 413-215-0006) will provide.

(3) Fiscal accountability. An *agency* must maintain complete and accurate accounts, books, and records following generally accepted accounting principles of accounting management.

(4) A for-profit agency must meet the financial reporting requirements of state and federal regulations and may not have filed for bankruptcy within five years prior to the date of application for licensure.

(5) Insurance. An agency must at all times maintain each of the following:

(a) General liability insurance in an amount that is reasonably related to the exposure to risk but in no case in an amount less than \$1,000,000 for each occurrence and \$3,000,000 aggregate.

(b) Adequate fire insurance.

(c) Adequate auto insurance if the agency owns or operates a vehicle.

(6) An agency must have an independent financial review performed annually.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0031

Cultural, Ethnic, and Gender-specific Services

An *agency* (defined in OAR 413-215-0006) must make efforts to ensure services provided to children and families are compatible with the cultural, ethnic, and gender considerations the children and families served by the agency consider important. The agency must ensure that written materials are made available in other languages as necessary, or as indicated by the demographic environment or the population served by the program.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0036

Conflict of Interest

An agency (defined in OAR 413-215-0006) must have a conflict-of-interest policy that prohibits preferential treatment of board members, employees, volunteers, and contributors. The policy must outline safeguards when the agency allows dual relationships, such as employees serving as foster parents.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0041

Code of Ethics

If an agency (defined in OAR 413-215-0006) subscribes to a code of ethics, or if the agency expects that all or some portion of its staff subscribe to a code of ethics, the agency must identify the code and make it available for review upon request.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0046

Children and Families Rights and Grievance Policy

(1) Rights of children and families served by the agency. An agency (defined in OAR 413-215-0006) must subscribe to a policy regarding the rights of the children and families the agency serves, and must provide them a written copy of its policy.

(2) Grievance Procedures.

(a) An agency must have written procedures for the children and families the agency serves to submit a grievance. For an academic boarding school (defined in OAR 413-215-0206), this subsection only applies to grievances about health or safety issues. The agency must provide the procedures to each child and family. The procedures must include all of the following:

(A) A process likely to result in a fair and expeditious resolution of a grievance.

(B) A prohibition of reprisal or retaliation against any individual who files a grievance.

(C) A procedure to follow, in the event the grievance is filed against the executive director, that ensures that the executive director does not make the final decision on the grievance.

(D) The name, address, and phone number of:

(i) A licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department; and

(ii) For each agency that is not an academic boarding school, any other governmental entities with oversight responsibilities.

(b) Grievances and complaints filed with the agency and all information obtained in their resolution must be maintained for a minimum of two years and provided to the Department upon request.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0040, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0051

Resources Required

(1) An agency (defined in OAR 413-215-0006) must ensure that it has sufficient space, equipment, and office equipment to deliver its services within Oregon.

(2) An agency must employ or contract for a sufficient number of employees to perform the functions regulated by these rules and to provide adequate care, safety, protection, and supervision of the children and families the agency serves.

(3) The agency must ensure that a individual who fulfills more than one staff function or position meets the requirements for each position.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0056

Policies and Procedures

For each program (defined in OAR 413-215-0006) it is licensed to operate, a licensee (defined in OAR 413-215-0006) must have and follow comprehensive policies and procedures that are well organized, accessible, and easy to use. These policies and procedures must include expectation around child abuse reporting, consistent with ORS 419B.005, 419B.010, and 419B.015.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0061

Personnel

(1) Staff requirements and hiring. In order to ensure that the agency (defined in OAR 413-215-0006) uses only staff and volunteers who do not jeopardize the health, safety, or welfare of children, an agency and its contractors must meet all of the following requirements:

(a) Comply with the Department's criminal records history rules at OAR 407-007-0200 to 407-007-0370 and the agency must appoint a Contact Person (CP), designated to receive and process criminal history and child abuse check request forms.

(A) The CP may make preliminary fitness determinations under the authority of the Department when there is no indication of potentially disqualifying crimes or conditions;

(B) Final fitness determinations are made by the Department, the CP is not authorized to make final fitness determinations.

(b) Obtain background and reference checks.

(c) Employ individuals who meet the staff minimum qualifications.

(2) Personnel policies of the agency and its contractors must include all of the following:

(a) For each staff position, a job title and a written job description that defines the qualifications, duties, and lines of authority for the position.

(b) A staff development plan providing for opportunities for professional growth through supervision, training, and experience.

(c) Procedures for a written annual evaluation of the work and performance of each staff member that include provision for employee participation in the evaluation process.

(d) A description of the termination procedures established for resignation, retirement, and dismissal.

(e) A written grievance procedure for staff.

(3) Personnel Files. The agency and its contractors must have a personnel file for each employee that is maintained for a minimum of two years after the termination date of each employee and includes all of the following:

(a) A record of education, training, and previous employment.

(b) Documentation of reference checks.

(c) Criminal records and child abuse check clearance and disposition.

(d) Annual performance evaluations.

(e) Ongoing record of training received.

(f) Records of personnel actions.

(g) Starting and termination dates, and reason for termination.

(h) A current job description.

(4) Staff orientation. An agency must provide orientation to each newly hired employee within 30 days of employment on all of the following subjects:

(a) Agency policies and procedures.

(b) Ethical and professional guidelines.

(c) Organizational lines of authority.

(d) Attributes of population served.

(e) Child-abuse reporting laws and requirements.

(f) Privacy laws.

(g) Emergency procedures.

(5) Contractor-related requirements.

(a) If an agency contracts with other private providers or individuals in lieu of or in addition to hiring permanent employees, the agency must ensure that the contractor meets the applicable requirements of this rule and the rules in Division 413-215 specific to the type of service the contractor provides.

(b) If the agency contracts to provide any of its services:

(A) The agency must ensure the contractor has a process to screen its employees for professional conduct and sufficient methods for holding its employees accountable.

(B) The contract between the agency and contractor must specify all of the following:

(i) The services the contractor provides.

(ii) The contractor's fees.

(iii) Disclosure of information from the contractor to the agency.

(iv) Lines of authority between the contractor and the agency and among employees of the contractor in connection with the provision of services.

(v) The awareness of the contractor of applicable Department rules and requirements.

(vi) Any liability of the agency for acts of the contractor, any rights of indemnity, and any limitations on liability of the agency or contractor.

(C) The agency must amend any contracts that started prior to the effective date of this rule to comply with this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0070, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0066

Privacy

(1) An agency (defined in OAR 413-215-0006) may not disclose any identifying information of a child, including a picture, without first obtaining the written consent from the child's parents or legal guardians.

(2) An agency must ensure the privacy of all information that identifies a child or family the agency serves. An agency may not disclose such information without proper written consent or as otherwise allowed by law.

(3) An agency must have a written policy that addresses protection of the privacy of children and families the agency serves or has served.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0071

Records and Documentation

With respect to the records on children and families an agency (defined in OAR 413-215-0006) serves and to other records maintained by an agency, the agency must meet all of the following requirements:

(1) The agency must accurately prepare and safely store its records and ensure the records are readily available for inspection by the Department.

(2) All entries in records required by the rules in division 413-215 must be permanent, legible, dated, and signed by the person making the entry.

(3) Records must be uniform in organization, readily identifiable and accessible, current and complete, and contain all of the information required of the agency by the rules in division 413-215.

(4) Records must be corrected, when necessary, by the use of a single line drawn through the incorrect information, the addition of the correct information, a notation of the date the correction is made, and the initials of the person making the correction. No "white out," eraser tape, or other means of eradicating information may be used to make a change to a record.

(5) Fiscal records must be kept that are accurately prepared and properly reflect all direct and indirect revenues and expenditures for the operation and maintenance of the agency.

(6) The agency must keep reports of all inspections of the agency and its facilities for not less than five years after an inspection.

(7) The agency must maintain a permanent registry of each child the agency serves. The registry must include the child's name, gender, and birth date; the names and addresses of its parents or guardians; the dates of admission; and the placement upon discharge.

(8) If an agency changes ownership or executive or program director, all records of the children and families served by the agency must remain in a facility operated by the agency.

(9) Prior to the dissolution of an agency, the executive or program director must inform, in writing, a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department of the location and storage of records on children or that the records have been transferred with the children to a new facility.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0140, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0076

Behavior Management (Excluding Adoption Agencies and Academic Boarding Schools)

(1) An agency (defined in OAR 413-215-0006), except an agency licensed only to provide adoption services under 413-215-0401 to 413-215-0481 or an agency licensed only as an academic boarding school under 413-215-0201 to 413-215-0286, must meet all of the requirements of this rule.

(2) The agency must have and follow behavioral management policies consistent with the requirements of this rule. The policies must include a description of the model, program, or techniques used (for instance, a level system or token economy), and its use of each of the following:

(a) Non-violent crisis intervention. For purposes of this rule, non-violent crisis intervention means a nationally recognized, holistic system for defusing escalating behavior and safely managing physically aggressive behavior. The agency's choice of a non-violent crisis-intervention system must be conveyed to and approved by the Department.

(b) Use of time out, if applicable.

(c) Use of restraints, if applicable.

(d) Use of seclusion, if applicable.

(3) The behavior management policy of the agency must identify appropriate and positive methods of behavior management based on a child's needs, developmental level, and behavior.

(4) Chemical restraint, meaning the administration of medication for the management of uncontrolled behavior, is prohibited. Chemical restraint is different from the use of medication for treatment of symptoms of severe emotional disturbances or disorders.

(5) Mechanical restraint, meaning the use of any physical device to involuntarily restrain the movement of a child as a means of controlling his or her physical activities, is prohibited.

(6) Discipline Policy. The agency must have and follow a discipline policy that includes prohibitions against all of the following:

(a) Spanking, hitting, or striking with an instrument.

(b) Committing an act designed to humiliate, ridicule, or degrade a child or undermine a child's self-respect.

(c) Punishing a child in the presence of a group or punishment of a group for the behavior of one child.

(d) Depriving a child of food, clothing, shelter, bedding, rest, sleep, toilet access, or parental contact.

(e) Assigning extremely strenuous exercise or work or requiring a child to spend prolonged time in one position likely to produce unreasonable discomfort.

(f) Using *physical restraint* (see subsection (8)(a) of this rule) or seclusion as discipline.

(g) Permitting or directing a child to punish another child.

(h) Using any other kind of harsh punishment.

(7) If the agency utilizes seclusion and restraint as part of its behavior management practices, its use of seclusion and restraint must be in compliance with all applicable federal and state regulations and rules.

(8) Physical restraint.

(a) For the purposes of this rule, "physical restraint" means the act of restricting a child's voluntary movement as an emergency measure in order to manage and protect the child, or others from injury when no alternate actions are sufficient to manage the child behavior. "Physical restraint" does not include temporarily holding a child to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(b) Only agency staff who have been trained in a nationally recognized non-violent crisis-intervention system (described in subsection (2)(a) of this rule) may use physical restraint, except when physical restraint is necessary as a last resort to prevent a child from inflicting harm to self or others.

(c) The agency must report each use of physical restraint on a child to the child's parent or legal guardian within five working days, and must document the notification in the child's case file.

(d) Any use of physical restraint by a staff member of the agency, if the member is not trained in a nationally recognized non-violent crisis intervention system, must be reported to a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department within one working day of occurrence.

(e) Limitations. The agency must have a policy that prohibits the application of a non-violent physical restraint to a child who has a documented physical condition that would contraindicate the use of that particular restraint, unless a qualified medical professional has previously and specifically authorized its use in writing for that

child. Documentation of the authorization must be maintained in the child's record.

(f) Physical Restraint Documentation. The policies of the agency must require a report on an incident report form of behavior that required the use of physical restraint. The report must include the specific attempts to de-escalate the situation before using physical restraint and the length of time the physical restraint was applied. The report must include the time the restraint started and the time it was terminated, the debriefing completed with the staff and child involved in the physical restraint, and documentation of a review by the executive director, program director, or designee.

(g) Review. The policies of the agency must require that whenever a physical restraint is used on a child more than two times in seven days, there is a review by the executive director, the director's designee, or a management team to determine the suitability of the program for the child, whether modifications to the child's plan are warranted, and whether staff need additional training in alternative therapeutic behavior management techniques. The agency must take appropriate action indicated by the review.

(9) Seclusion.

(a) For the purposes of this rule, "seclusion" means that a child is involuntarily confined to an area or room, and is physically prevented from leaving.

(b) Rooms used for seclusion must have adequate space, heat, light, and ventilation.

(c) Seclusion may only be used to ensure the safety of the resident or others during an emergency safety situation.

(d) Episodes of seclusion are limited to two hours for children age nine and older and one hour for children under the age of nine.

(e) Visual monitoring of a child in seclusion must occur and be documented at least every fifteen minutes.

(f) Each incident of seclusion must be documented in the child's clinical record, and must include the clinical justification for its use.

(g) If incidents of seclusion used with an individual child cumulatively exceed five hours in five days, or a single episode of more than two hours for children age nine and older or more than one hour for children under age nine, the executive director or designee must review the case with those with clinical leadership responsibilities to evaluate the child's plan of care and make necessary adjustments.

(10) Time out.

(a) For the purpose of this rule, "time out" means restricting a child to a designated area for a period of time to give the child an opportunity to regain self-control.

(b) Time out must include frequent contact with staff.

(c) Rooms used for time out must have adequate space, heat, light, and ventilation, and must not be capable of locking.

(d) Time out episodes must be documented in the child's clinical record.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0190, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0081

Application for License

(1) For purposes of this rule, "*applicant*" means an agency (defined in OAR 413-215-0006) that is in the process of applying for a license from the Department.

(2) Application required.

(a) An agency must submit a completed application in each of the following situations:

(A) To obtain an initial license.

(B) To renew a license.

(b) An applicant must apply for a license on forms provided by the Department.

(3) Documents to be submitted by a new applicant. The applicant must submit to the Department at the time of application all of the following documents:

(a) An application form that is complete and signed by the board chair and either the executive director or program director.

(b) A copy of the articles of incorporation, bylaws, amendments to the articles of incorporation and bylaws, and documents evidencing each name change or assumed business name.

(c) A list of the current board of directors, including names, addresses, telephone numbers, term, and office held.

(d) A complete personnel list with job titles.

(e) An organization chart with job titles and staff names.

(f) Authorization to obtain criminal histories and child abuse background checks on the executive director and program director.

(g) A proposed annual budget adequate to finance the program. The budget must clearly indicate all sources of income and anticipated expenditures, as described in OAR 413-215-0026.

(h) A written program description, including admission requirements, population served, gender and ages served, types of programs and services offered, the cost to clients (if any), the geographical area to be served, and the projected staffing pattern. The program description must identify all exclusions that would make a child ineligible to be served by the agency.

(i) For new, expanding, or changing residential programs only, documentary proof of compliance with ORS 336.575, which requires notification of the superintendent or the district school board of possible effect of additional children and services, three months before children arrive at the agency's facility.

(j) Written policies regarding the rights of children and families the agency would serve upon being licensed.

(k) A grievance procedure for children and families.

(l) Floor plans for any proposed facility.

(m) A written policy for compliance with Interstate Compact on the Placement of Children (ICPC) (see ORS 417.200 to 417.260), if applicable.

(n) A written policy for compliance with the Indian Child Welfare Act of 1978, Pub. L. No. 95-608, 92 Stat. 3069 (1978) (ICWA) (see OAR 413-070-0100 to 413-070-0260), if applicable.

(o) Proof of adequate fire, auto, and liability insurance.

(p) Emergency procedures.

(q) Current inspection report of the Fire Marshal and current sanitation inspection reports, unless the application is for a license as an adoption agency (OAR 413-215-0001(2)(a)) or a foster care placement agency (413-215-0001(2)(b)). For an outdoor youth program (413-215-0001(2)(d)), these inspections reports are only required for each base camp component.

(r) For the previous ten years, a copy of each report by a federal or state authority concerning a criminal charge, charge of child abuse, malpractice complaint, or lawsuit against the agency, a member of the agency's board of directors, or one of its employees related to the provision of services, and the basis and disposition of each action, if applicable.

(s) Other documents or information requested by the Department.

(4) Documents to be submitted to renew a license. A licensee must submit to the Department at the time of application for renewal all of the following documents:

(a) An application renewal form that is complete and signed by the board chair and either the executive director or program director.

(b) A list of the current board of directors, including names, addresses, telephone numbers, term, and office held.

(c) A complete personnel list with job titles.

(d) An organization chart with job titles and staff names.

(e) Authorization to obtain criminal histories and child abuse background checks on the executive director and program director.

(f) Proof of adequate fire, auto, and liability insurance.

(g) Current inspection report of the Fire Marshal and current sanitation inspection reports, unless the re-application is for a license as an adoption agency (OAR 413-215-0001(2)(a)) or a foster care placement agency (413-215-0001(2)(b)). For an outdoor youth program (413-215-0001(2)(d)), these inspections reports are only required for each base camp component.

(h) Other documents or information requested by the Department.

(5) Application fees.

(a) The Department requires no fee to be paid by an applicant for the inspection conducted to determine whether to grant, withhold, suspend, or revoke a license required by these rules.

(b) An agency may be required to pay for inspections done by other governmental agencies, such as county health departments and the State Fire Marshal, that are necessary to obtain a license from the Department.

(6) Processing the Application. Within 30 days of the receipt of an application and the documents described in section (3) or (4) of this rule, the Department will begin its review to determine whether the applicant is in substantial compliance (defined in OAR 413-215-0006) with the rules in division 413-215. In connection with its evaluations, the Department may examine the records and files of the applicant, inspect and observe the physical premises, and interview children and families served by the program (defined in 413-215-0006), the staff of the applicant, and persons in the community.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0020, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0086

Issuance of License

(1) If the Department determines from the application and its review that the agency (defined in OAR 413-215-0006) is in compliance with the rules in Division 413-215, the Department issues a license to the agency. A license is effective for a two-year period subject to being suspended, revoked, or rendered invalid as provided in OAR 413-215-0121.

(2) The license is not transferable and is not applicable to an entity other than the corporation to which the license is issued. The license is applicable only to a facility or site identified on the license.

(3) The following information is included on the license:

(a) The incorporated name of the licensee (defined in OAR 413-215-0006), and its "assumed business name" if applicable.

(b) The address of the administrative office of the corporation.

(c) The address of each facility operated under authority of the license.

(d) The maximum number to be served at any one time in each facility, if applicable.

(e) The age and gender of the persons to be served by the agency.

(f) The types of services the licensee is authorized to provide.

(g) The effective date and term of the license.

(h) Restrictions imposed by the Department, if applicable.

(i) Such other information deemed appropriate by the Department.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0096

Renewal of License

(1) To renew a license, a licensee (defined in OAR 413-215-0006) must submit to the Department an application for renewal prior to the expiration of the current license (see 413-215-0081). If the Department receives an application for renewal before the license expires, the license remains effective until the Department issues a decision on the application.

(2) Before the Department will consider an application for renewal of a license, the licensee must submit the documents required in OAR 413-215-0081(4) with an application to renew a license. The licensee must make available for examination by the Department all records and files of the agency (defined in 413-215-0006). The licensee must allow representatives of the Department to enter and inspect the physical premises, and interview children receiving services from the agency and agency staff.

(3) Within 30 days of the receipt of the renewal application, the Department will begin its review to determine whether the licensee is in compliance with the rules in division 413-215.

(4) The Department will not renew a license if the licensee is not in substantial compliance (defined in OAR 413-215-0006) with the rules in division 413-215 and other applicable law.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0230, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0101

Periodic Inspections

(1) The Department will visit and inspect each *licensee* (defined in OAR 413-215-0006) and each facility operated by the licensee at least once every two years to determine whether the program (defined in OAR 413-215-0006) is maintained and operated in accordance with the rules in Division 413-215 and all other applicable rules.

(2) Employees of the Department may conduct inspections and may visit the licensee at unannounced, irregular intervals.

(3) The Department may also make informal visits, with notice to the licensee, in order to provide technical assistance to the licensee.

(4) A *licensee* must allow employees of the Department, for the purposes of carrying out the inspections and investigations described in Division 413-215 and other applicable rules, to enter the facilities of the agency (defined in OAR 413-215-0006); inspect all accounts, records of work, and physical premises; and interview all children and staff.

(5) An agency must make all of the following documents available for review during a site inspection:

(a) Personnel files on each employee.

(b) Criminal history, child abuse, and reference checks on volunteers.

(c) Board meeting minutes.

(d) A complete set of the policies and procedures of the agency.

(e) Records of the children and families served by the agency.

(f) Other documents or information requested by the Department.

(6) A licensee must allow access by the State Fire Marshal or an authorized representative of the State Fire Marshal to all facilities maintained by the licensee, residents of its facilities, and records of the licensee that pertain to fire safety.

(7) A licensee must allow access by a registered sanitarian, for the purpose of conducting a health and sanitation inspection, to the facilities maintained by the agency, the records of the agency pertaining to sanitation, and residents.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0210, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0106

Investigation of Complaints

(1) The Department will investigate each report received of abuse, dereliction, or deficiency in or by an agency (defined in OAR 413-215-0006).

(2) The Department will notify the executive director and board of directors of any needed corrective action, of the deadlines for completing the corrective action, and of any other actions the Department may initiate as a result of the investigation.

(3) If there is a reasonable basis for sustaining a complaint against an organization or school that offers a residential program for children (regulated by ORS 418.327) that is not a private child-caring agency (defined in OAR 413-215-0006), the Department will initiate a contested case proceeding with the Office of Administrative Hearings.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 183.635, 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0220, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0091

Responsibilities of Licensees

A *licensee* (defined in OAR 413-215-0006) is responsible to do all of the following:

(1) Meet with an employee of the Department upon request.

(2) Notify the Department if the agency (defined in OAR 413-215-0006) employs a new executive director or program director and submit a request to the Department for a criminal history and child abuse background check on that person.

(3) Make reports to the Department as necessary to ensure that the requirements for licensing are met.

(4) Notify a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department within one business day if a critical event occurs. As used in this section, a "critical event" is a significant event occurring in the operation of an agency that is considered likely to cause complaints, generate concerns, or come to the attention of the media, law enforcement agencies, first responders, Child Protective Services, or other regulatory agencies. Compliance with this notification requirement does not satisfy the mandatory reporting requirements under ORS 419B.005 to 419B.045.

(5) Notify a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department 30 days or more prior to the voluntary closure or change to inactive status of a program (defined in OAR 413-215-0006) of the *agency*.

(6) Post a copy of the license in a common area at each facility operated by the licensee and retain the license at the administrative offices of the licensee.

(7) Return the license to a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department immediately upon the suspension or revocation of the license, a change to inactive status, or a change of ownership or location.

(8) Inform a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department of the discontinuation of services or the intent to reactivate a service after a period of inactivity.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0111

Corrective Actions

(1) As a result of an inspection, or at any time, the Department may require a *private child caring* agency (defined in OAR 413-215-0006) to comply with a plan of correction that explains the actions required to be taken by the private child caring agency to be in compliance with the rules in Division 413-215 and other applicable statutes and rules.

(2) The Department may establish deadlines by which the private child caring agency must correct the deficiencies noted in the corrective action plan.

(3) Where a condition exists in an organization or school that offers a residential program for children (regulated by ORS 418.327) that immediately endangers the health or safety of a child, the director of the Department may issue an interim order without any notice, or with such notice as is practical under the circumstances, requiring the school or organization to alter the conditions under which the child lives or receives schooling. Such interim emergency order may remain in force until a final order, after a hearing provided in OAR 413-215-0106(3), is entered.

(4) Where the evidence at a contested case hearing (OAR 413-215-0106(3)) justifies such an order, an Administrative Law Judge may issue a proposed order and the Department may issue a final order that orders a private school or organization that offers a residential program for children (regulated by ORS 418.327) to correct the conditions not in conformity with standards.

(5) If corrections required under section (3) or (4) of this rule are not made within time limits set by the final order, the Department may take any other lawful actions necessary for the protection of the child or children involved.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327, 418.995

413-215-0116

Civil Penalties

(1) In addition to the actions described in OAR 413-215-0121, as provided in ORS 418.992, the Department may impose a civil penalty against a *private child-caring agency* (defined in OAR 413-215-0006) if subsections (a) and (b) of this section both apply:

(a) The *private child-caring agency* has committed one of the following acts:

(A) Violation of any of the terms or conditions of a license issued under ORS 418.205 to 418.310 and OAR 413-215-0086.

(B) Violation of any rule in division 413-215 or a general order of the Department against a private child-caring agency.

(C) Violation of any final order of the Department that pertains specifically to the private child-caring agency.

(b) The violation involves one of the following:

(A) Direct care or feeding of children.

(B) Staff to child ratios (OAR 413-215-0561).

(C) Sanitation involving direct care. (OAR 413-215-0541);

(D) The violation has occurred on two consecutive surveys on-site reviews of the private child-caring agency.

(2) As required by ORS 418.995, the Department will consider the following factors in making a decision about the level of penalty imposed:

(a) The past history of the private child-caring agency incurring the penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of statutes or rules pertaining to private child-caring agencies.

(c) The economic and financial conditions of the private child-caring agency incurring the penalty.

(d) The immediacy and extent to which the violation threatens the health, safety, and well being of the children served by the private child-caring agency.

(3) Civil Penalty Schedule. For each violation by a private child-caring agency, the following civil penalty may be imposed:

(a) \$100 per violation if all four subsections of section (2) of this rule favor the private child-caring agency.

(b) \$200 per violation if three subsections of section (2) of this rule favor the private child-caring agency.

(c) \$300 per violation if two subsections of section (2) of this rule favor the private child-caring agency.

(d) \$400 per violation if one subsection of section (2) of this rule favor the private child-caring agency.

(e) \$500 per violation if no subsections of section (2) of this rule favor the private child-caring agency.

(4) In all cases in which the Department is considering the imposition of a civil penalty, the Department must prescribe a reasonable time period for the private child-caring agency to eliminate the violation:

(a) Not to exceed 30 days after the first notice of violation; or

(b) In cases where the violation requires more than 30 days to correct, such time as is specified in a plan of correction found acceptable by the Department.

(5) A civil penalty imposed under this rule may be canceled or reduced under terms or conditions determined by the Department to be proper and consistent with public health and safety.

(6) A civil penalty will be imposed by written notice of violation and assessment of penalty provided to the private child-caring agency. Such notice shall be sent by registered or certified mail and will include:

(a) Reference to the statute, rule, standard or order involved;

(b) A short statement of the matters asserted or charged;

(c) A statement of the amount of the penalty imposed; and

(d) A statement of the right of the private child-caring agency to request a hearing.

(7) As provided in ORS 418.993, the private child-caring agency to which the notice of violation and assessment of penalties is addressed has 10 days from the date of service of the notice in

which to make a written request for a hearing. All such hearings shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(8) A civil penalty imposed under this rule is due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal. A private child-caring agency against whom a civil penalty is to be imposed shall be served a notice in the form provided in ORS 183.415. Service of the notice shall be accomplished in the manner provided in ORS 183.415.

(9) If the private child-caring agency does not request a hearing, or if after such a hearing the private child-caring agency is found to be in violation of a license, rule or order as specified in the notice, the Department will make a final order imposing the penalty.

(10) Judicial review of civil penalties shall be as provided under ORS 183.480. The reviewing court may, in its discretion, reduce the amount of the penalty.

(11) Civil penalties are payable within 10 days after the order of the Department is entered, unless the order is appealed and is sustained or modified, in which case the penalty is payable within 10 days after the court decision is rendered.

(12) If the order of civil penalty is not appealed or sustained on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the agency incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(13) Upon recording an order in the County Clerk Lien Record, the Department may initiate proceedings to enforce the order by filing in the Circuit Court for the county where the order is recorded a certified copy of the civil penalty order and a certified copy of the recording made in the County Clerk Lien Record. Subject to any other requirements that may apply to the enforcement proceedings sought by the Department, the court shall then proceed as with judgments issued by the court. Enforcement proceedings available to the Department through this procedure shall include:

(a) Writ of Execution proceedings under ORS 23.030 to 23.105 and 23.410 to 23.600;

(b) Supplementary proceedings under ORS 23.710 to 23.730;

(c) Garnishee proceedings under ORS 29.285 to 29.335; and

(d) Renewal of judgment under ORS 18.360.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.994

Stats. Implemented: ORS 418.205 - 418.327, 418.992 - 418.998

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0030, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0121

Denial, Suspension, or Revocation of License

(1) Except as provided in section (2) of this rule:

(a) The Department may deny, suspend, or revoke a license upon finding that an agency (defined in OAR 413-215-0006) is not in substantial compliance (defined in OAR 413-215-0006) with the rules in Division 413-215.

(b) If an agency operates more than one facility, the Department may suspend, revoke, or deny the license only as it applies to the facility or facilities out of *substantial compliance* with applicable statutes or rules.

(2) The Department may suspend or revoke the license of an organization or school that offers a residential program for children (regulated by ORS 418.327) that is not acting as a private child-caring agency only after corrections required under OAR 413-215-0111(4) are not made within time limits set by the Department or an Administrative Law Judge.

(3) Immediate Suspension or Revocation. In the event of an imminent danger to the health or safety of children or families receiving services or of the public, the Department may take immediate action to suspend or revoke the license of a private child-caring agency.

(4) An agency may appeal the decision to deny, suspend, or revoke a license in a contested case hearing subject to the provisions of ORS Chapter 183.

(5) To request a contested case hearing, as provided in ORS Chapter 183, the agency must provide the Department's Licensing Unit a written request for a hearing within 30 days of the date that the Department mailed the notice of denial, suspension, or revocation. If the Department does not receive a request for a contested case hearing within 30 days of the date that the Department mailed the notice of denial, suspension or revocation, the agency has waived the right to a hearing, except as provided in OAR 137-003-0528(1).

(6) Except for an agency that retains a facility with an active license under subsection (1)(b) of this rule, if the Department revokes a license, the agency may not apply under any name for licensure under this chapter of rules for the three years following the effective date of revocation.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0240, CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0126

Temporary, Inactive, and Amended Licenses

(1) Temporary license.

(a) The Department may issue a temporary license when the application by an agency (defined in OAR 413-215-0006) for a license is approved, and the agency does not hold a current, valid license. A temporary license is valid for a period not to exceed six months. Use of a temporary license allows the licensee (defined in OAR 413-215-0006) to start providing services authorized by the temporary license. To obtain a temporary license, an agency must meet all requirements of the rules in division 413-215 except those that can be met only while providing services.

(b) Once an agency with a temporary license begins providing services, the licensee must request an inspection by the Department for the purpose of verifying its compliance with the rules in Division 413-215. Upon verification, the Department will issue a license valid for two years, as described in OAR 413-015-0086.

(2) Inactive license.

(a) An agency is considered to have an inactive license if the agency discontinues or fails to provide a service for which the agency is licensed for a period of 180 days.

(b) An agency no longer providing services for which it is licensed must immediately inform a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department.

(c) In order to reactivate an inactive license, an agency must request an inspection by the Department for the purpose of verifying its compliance with all applicable Department rules. The agency may not resume providing services until the Department has verified in writing that the agency is in compliance with all applicable Department rules and reinstated the agency to active status.

(3) Amended license.

(a) The Department may require additional documentation of a licensee if the Department is considering the amendment of a license.

(b) The Department may issue an amended license to a licensee that has an inactive facility or program (defined in OAR 413-215-0006), but retains another facility or program with an active license.

(c) The Department may issue an amended license upon written request of the licensee to accommodate changes in the factors upon which an existing license is based.

(4) The term of a temporary, inactive, or amended license is not extended by any action described in this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 29-2008, f. & cert. ef. 10-17-08

413-215-0131

Exceptions

(1) The Department may waive a requirement of a rule in Division 413-215 upon written request of an agency (defined in OAR 413-215-0006). The request must identify the rule, give the

reasons that justify the exception, state the length of time for which the exception is requested, and explain how the needs of children and families would be affected if the agency did not comply with the rule.

(2) The Department may approve a request for an exception upon a determination that the failure of an agency to comply with the rule does not pose a threat to the health, safety, and welfare of children and families. In determining whether to grant an exception, the Department additionally must take into consideration:

(a) Whether the agency has consistently been in compliance with licensing regulations and has a history or provision of services that meet the best interests of children.

(b) Innovative approaches of the agency.

(c) The availability of services to children and families similar to the services provided by the agency.

(d) The impact of the rule exception sought.

(e) Whether the Department may waive application of the rule under state statute or federal law.

(3) An agency granted an exception may, as a condition of obtaining and retaining the exception, be required to provide specific information on its operation under the exception.

(4) An agency may operate under an exception for a period of time set by the Department, not to exceed the term of its current license.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0250, CWP 29-2008, f. & cert. ef. 10-17-08

Licensing Academic Boarding Schools

413-215-0201

Academic Boarding Schools; What Law Applies

(1) An *academic boarding school* (defined in OAR 413-215-0206) must be licensed in accordance with and comply with 413-215-0001 to 413-215-0131 and 413-215-0201 to 413-215-0276.

(2) Therapeutic boarding schools (OAR 413-215-0601 to 413-215-0681) and residential care agencies (413-215-0501 to 413-215-0586) are not subject to 413-215-0201 to 413-215-0276.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0206

Definitions

The following definitions apply to OAR 413-215-0201 to 413-215-0276:

(1) "Academic boarding school" means an organization or a program in an organization that:

(a) Provides educational services and care to children for 24 hours a day; and

(b) Does not hold itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.

(2) "Approval" means acceptable to the regulatory authority based on conformity with generally recognized standards that protect public health.

(3) "Boarding student" means a student of an academic boarding school who resides on the school campus.

(4) "Care" means services provided to meet the needs of a child, such as food, shelter, clothing, medical care, schooling, protection, and supervision. Care does not include services provided in family foster homes or adoptive homes.

(5) "Child" means an individual under 18 years of age.

(6) "Employee" means an individual holding a paid position with an academic boarding school.

(7) "Facility" means the physical setting, buildings, property, or structures of an academic boarding school.

(8) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(9) "Staff" means employees of the academic boarding school who are responsible for providing direct care to boarding students.

Stat. Auth.: ORS 409.050, 418.005, 418.327
 Stats. Implemented: ORS 409.010, 418.005, 418.327
 Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0211

Educational Services

The educational services of an *academic boarding school* (defined in OAR 413-215-0206) must comply with all of the following requirements:

(1) The *academic boarding school* must comply with the minimum requirements for private schools as determined by the Oregon Department of Education.

(2) The academic boarding school must ensure that it has a curriculum that considers the goals of modern education as defined in OAR 581-022-1020 and the requirements of a sound comprehensive curriculum.

(3) Secondary schools must verify that they have academic standards necessary for students to obtain admission to community colleges and institutions of higher education and receive a high school diploma or GED.

Stat. Auth.: ORS 409.050, 418.005, 418.327
 Stats. Implemented: ORS 409.010, 418.005, 418.327
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0610, CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0216

Physical Plant Requirements

An *academic boarding school* (defined in OAR 413-215-0206) must meet all of the following requirements:

(1) All buildings owned, maintained, or operated by the academic boarding school to provide services to children must meet all applicable state and local building, electrical, plumbing, and zoning codes.

(2) Each room used by children must have floors, walls, and ceilings that meet the interior finish requirements of the applicable *Oregon Structural Specialty Code* (see the current version of OAR 837-040-0140) and the *Oregon Fire Code* (see the current version of OAR 837-040-0010 and 837-040-0020) and be free of harmful drafts, odors, and excessive noise.

(3) Each room used by children must be adequate in size and arrangement for the purpose in which it is used.

(4) A system providing a continuous supply of hot and cold water must be distributed to taps conveniently located throughout each facility (defined in OAR 413-215-0206).

(5) Water systems serving the property must be installed and maintained in compliance with applicable drinking water regulations (chapter 333 of the Oregon Administrative Rules) from the Public Health Division of the Department of Human Services.

(6) Heat and ventilation.

(a) Buildings must be ventilated by natural or mechanical means and must be free of excessive heat, condensation, and obnoxious odors.

(b) Room temperature must be maintained within a normal comfort range.

(7) Individual Rooms.

(a) Living area. A separate living room or lounge area must be available for the exclusive use of students, employees, and invited guests.

(b) Bedrooms. Bedrooms for students may not be exposed to drafts, odors, or noises that interfere with the health or safety of the occupants. Each bedroom must comply with all of the following requirements:

(A) Be separate from the rooms used for dining, living, multi-purpose, laundry, kitchen, or storage.

(B) Be an outside room, with a window of at least the minimum size required by the State Fire Marshal and building codes.

(C) Have a ceiling height of at least 90 inches.

(D) Have a minimum of 60 square feet per bed.

(E) House no more than 25 boarding students in one room when a dormitory-style sleeping arrangement is used.

(F) Have permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(G) Have a window covering on each window to ensure privacy.

(H) Contain beds for boarding students that meet both of the following requirements:

(i) There must be at least three feet between beds, including trundle beds if used; and

(ii) Bunk beds, if used, must be maintained to ensure safety of the boarding students.

(c) Restrooms must be provided and be conveniently located, and must have:

(A) A minimum of one toilet for every eight children.

(B) One hand-washing sink with mixing faucets for each toilet. The sink may not be used for the preparation of food or drinks or for dish washing.

(C) Hot and cold running water, soap, and paper towels at each hand washing sink or other hand drying options approved by an environmental health specialist.

(D) One bathtub or shower for every ten boarding students.

(E) Arrangements for individual privacy for users.

(F) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(G) A window covering on each window to ensure privacy.

(H) Adequate ventilation.

(I) Each self-closing metered faucet, if provided, must provide water flow for at least 15 seconds without the need to reactivate the faucet.

(d) Laundry facilities must be separate from:

(A) Kitchen and dining areas;

(B) Student living areas, including bedrooms; and

(C) Areas used for the storage of un-refrigerated perishable food.

(e) Storage areas must be provided appropriate to the size of the facility. Separate storage areas must be provided for:

(A) Food, kitchen supplies, and utensils.

(B) Clean linens.

(C) Soiled linens and clothing.

(D) Cleaning compounds and equipment.

(E) Poisons, chemicals, pest control products, insecticides, and other toxic materials, which must be properly labeled, stored in the original container, and kept in a locked storage area.

(F) Outdoor recreational and maintenance equipment.

(f) Food service areas.

(A) Kitchens must have facilities for dish washing, storage, and preparation of food and must be separate from student living areas.

(B) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or in which utensils are washed or stored must be smooth, washable, and easily cleanable.

(C) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and non-absorbent and must be maintained in a clean and sanitary condition.

(D) All equipment used for food preparation must be installed and maintained in a manner providing ease of cleaning beneath, around, and behind each unit.

(g) Dining area. A separate dining room or area must be provided for the exclusive use of students, employees, and invited guests. The dining area must contain a minimum of 15 square feet per occupant.

(h) Classrooms and school buildings must be adequate in size and arrangement for the programs offered.

(i) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light, and ventilation and must not be capable of locking.

(j) Activity area. A usable recreational activity area must be provided that is:

(A) Protected from motor traffic and other hazards; and

(B) Of a size and availability appropriate to the age and needs of the children served by the academic boarding school.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0560, CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0221

Boarding Student Furnishings and Personal Items

An academic boarding school (defined in OAR 413-215-0206) must meet all of the following requirements:

(1) Furniture. Furniture must be provided for each boarding student (defined in OAR 413-215-0206) including:

- (a) A bed, including a frame;
- (b) A clean, comfortable mattress; and
- (c) A private dresser, closet, or similar storage area for personal belongings that is readily accessible to the boarding student.

(2) Linens. Linens in good repair must be provided or arranged for each boarding student, including:

- (a) A waterproof mattress cover or waterproof mattress;
- (b) Sheets, pillows, and pillowcase;
- (c) Blankets appropriate in number and type for the season and the comfort of the individual boarding student; and
- (d) Towels and washcloths.

(3) Bedding must be changed when soiled and upon change of occupant.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0226

New Facility or Remodel

An academic boarding school (defined in OAR 413-215-0206) must meet all of the following requirements:

(1) Building Plans. An academic boarding school must submit to the Department for approval a set of plans and specifications for each facility (defined in OAR 413-215-0206), operated by the academic boarding school and utilized by boarding students, at each of the following times:

- (a) Prior to construction of a new building;
- (b) Prior to construction of an addition to an existing building;
- (c) Prior to the remodeling, modification, or conversion of a building; and

(d) In support of an application for initial license to operate an academic boarding school under OAR 413-215-0001 to 413-215-0131 and 413-215-0201 to 413-215-0276.

(2) The required plans must comply with both current Oregon Structural Specialty Codes (OAR 837-040-0140) and local fire and safety codes.

(3) Plans must be drawn to scale and must specify the estimated date upon which construction, modification, or conversion will be completed.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0570, CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0231

Environmental Health

An academic boarding school (defined in OAR 413-215-0206) must meet all of the following requirements:

(1) The academic boarding school must maintain an environment that ensures safety for staff (defined in OAR 413-215-0206) and boarding students.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

- (a) Food service risk assessment.
- (b) Drinking water or waste water assessment.
- (c) Vector and pest control, including the use of pesticides and other chemical agents.
- (d) Hazardous material management, including handling and storage.

(e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0600, CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0236

Food Services

An academic boarding school (defined in OAR 413-215-0206) must meet all of the following requirements with regard to food services:

(1) Nutrition and dietary requirements.

(a) An academic boarding school must arrange meals daily, consistent with normal mealtimes.

(b) Snacks must be available and provided as appropriate to the age and activity levels of boarding students.

(c) Menus must be prepared in advance in accordance with USDA guidelines and must provide a sufficient variety of foods served in adequate amounts for each child at each meal, adjusted for seasonal changes. Records of menus as served must be maintained in the academic boarding school for at least six months.

(d) Drinking water must be freely available to the children served by the academic boarding school.

(2) Food selection, storage, and preparation.

(a) All food and drink provided by the academic boarding school must be stored, prepared, and served in a sanitary manner.

(b) All employees who handle food served to children must have a valid food handlers card pursuant to ORS 624.570.

(c) Selection of food. All food products served by an academic boarding school must be obtained from commercial suppliers, except:

(A) Fresh fruits and vegetables and fruits or vegetables frozen by the academic boarding school may be served.

(B) The serving of unpasteurized juice is prohibited.

(d) Requirements related to milk.

(A) Only Grade A pasteurized and fortified milk may be served to children.

(B) Milk and fluid milk products must be dispensed from a commercially filled plastic container of not more than one-gallon capacity or from a refrigerated bulk container equipped with a dispensing device approved by the Food and Drug Administration or the Oregon Department of Agriculture.

(e) Children may participate in activities in a food-preparation area, other than routine clean up, only while under the supervision of the employees of the academic boarding school.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0580, CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0241

Safety

An academic boarding school (defined in OAR 413-215-0206) must meet all of the following requirements:

(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The academic boarding school must provide fire safety equipment which meets the requirements of applicable building codes and the Oregon Fire Code (see OAR 837-040-0010 and 837-040-0020).

(b) The academic boarding school must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The academic boarding school must have, for each boarding facility (defined in OAR 413-215-0206) it operates, a written emergency plan that includes:

(A) Instructions for evacuation of children and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the staff (defined in OAR 413-215-0206) in case of emergency.

(3) Evacuation drills.

(a) An unannounced evacuation drill must be held monthly under varying conditions to simulate the unusual conditions that occur in the event of fire. For each drill, the academic boarding school must document the following information and retain it for a minimum of two years:

(A) Identity of the person conducting the drill.

(B) Date and time of the drill.

(C) Notification method used.

(D) Staff members on duty and participating.

(E) Number of occupants evacuated.

(F) Special conditions simulated.

(G) Problems encountered.

(H) Time required to accomplish complete evacuation.

(b) The academic boarding school must ensure that all employees and children are aware of the procedures to follow in case of emergencies.

(4) Hazards.

(a) The academic boarding school must protect children it serves from guns, drugs, plastic bags, sharps, paint, hazardous materials, bio-hazardous materials, and other potentially harmful materials. An academic boarding school must have a written policy that addresses potentially harmful materials that are in the building accessible to the children in the program or on the grounds of the program.

(b) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in all buildings serving children. Direct supervision by staff must be provided for any child who does not have the ability to adjust and control water temperature.

(c) Each light fixture must have a protective cover unless it is designed to be used without one.

(5) Transportation. The academic boarding school must ensure the following when providing transportation to the children it serves:

(a) Driver requirements.

(A) Each employee (defined in OAR 413-215-0206) transporting a child in a motor vehicle must have a current driver license on record with the academic boarding school.

(B) The academic boarding school may use an employee to provide transportation for children only if the employee is covered by an insurance policy in full force and effect, and in compliance with the standards set by the academic boarding school.

(C) The academic boarding school must ensure that employees providing transportation are trained in emergency procedures, including behavior management, while in a vehicle.

(D) The academic boarding school must ensure that each person who transports a child in a van for 15 or more passengers receives training in the safe operation of that type of vehicle prior to transporting children.

(b) Vehicle requirements.

(A) Each vehicle used to transport a child served by the academic boarding school must be covered by an insurance policy in full force and effect.

(B) Each vehicle used to transport a child served by the academic boarding school must be maintained in safe operating condition.

(C) Each vehicle used to transport a child must meet the vehicle requirements as set by the Department of Education.

(D) Each vehicle used to transport a child must be smoke-free.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0550, CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0246

Health Services

(1) An *academic boarding school* (defined in OAR 413-215-0206) must obtain all private health record information referred to in this rule in a manner that complies with federal and state law.

(2) Medical History. Within 30 days of a child starting in an academic boarding school, the academic boarding school must obtain available medical history and other health-related information on the child, including:

(a) Significant findings of the most current physical examination;

(b) The child's current immunizations, history of surgical procedures and significant health issues or injuries, and past or present communicable diseases;

(c) Any known allergies;

(d) Physician or qualified medical professional's orders, including those related to medication (defined in OAR 413-215-0206), if any.

(3) An academic boarding school must have established protocols for accessing routine and urgent medical care for the boarding students with the academic boarding school.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0251

Medication

An *academic boarding school* (defined in OAR 413-215-0206) must meet all of the following requirements:

(1) Policy and procedures. The academic boarding school must have policies and procedures that cover all prescription and non-prescription medication (defined in OAR 413-215-0206) that address all of the following:

(a) How the medication will be administered.

(b) By whom the medication will be administered.

(2) A prescription, signed by a physician or qualified medical professional, is required before any prescription medication is administered to, or self-administered by a child. Medication prescribed for one child may not be administered to, or self-administered by another child or staff (defined in OAR 413-215-0206). As used in this rule, "self administration of medication" refers to the act of a boarding student (defined in 413-215-0206) placing a medication internally in, or externally on, his or her own body.

(3) Medication storage.

(a) A prescription medication that is unused and any medication that is outdated or recalled may not be maintained in a facility (defined in OAR 413-215-0206). "Outdated" means any medication whose designated period of potency, as indicated on the label, has expired.

(b) The facility may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications stored in the facility must be kept in a manner that they are accessible only to staff or the boarding student for whom the medication is intended.

(d) A medication requiring refrigeration must be refrigerated and kept in a manner that it is accessible only to staff or the boarding student for whom the medication is intended.

(4) Medication disposal. Medication must be disposed of in a manner that ensures that it cannot be retrieved, in accordance with all applicable state and federal law.

(5) A written record of all medications disposed of by the academic boarding school must be maintained and must include all of the following:

(a) A description of the prescribed medication and the amount disposed.

(b) The child for whom the medication was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the person disposing the medication, and the initials of an adult witness.

(6) Medication Records. A written record must be kept for each child listing each medication, both prescription and over-the-counter, that is administered or dispensed by the academic *boarding school*. The record must include all of the following:

- (a) The child's name.
- (b) A description of the medication, instructions for use, and the recommended dosage.
- (c) Dates and times medication is administered.
- (d) A record of missed dosages.
- (e) Medication dropped or disposed of.
- (f) Method of administration for each medication.
- (g) Identification of the person administering the medication.
- (h) Any possible adverse reactions to the medication.
- (i) Documentation of any medication taken outside the facility to be administered during a home visit or other activity.

Stat. Auth.: ORS 409.050, 418.005, 418.327
 Stats. Implemented: ORS 409.010, 418.005, 418.327
 Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0256

Staff Training

In addition to the requirements to provide orientation in OAR 413-215-0061(4), an academic boarding school (defined in 413-215-0206) must meet the all of the following training requirements with respect to its staff (defined in 413-215-0206):

- (1) Staff of the academic boarding school must be provided with orientation training prior to or within 30 days of hire.
- (2) Staff of the academic boarding school must receive ongoing training at least annually on all of the following:

- (a) Mandatory child abuse reporting.
 - (b) Procedures for handling emergencies.
- Stat. Auth.: ORS 409.050, 418.005, 418.327
 Stats. Implemented: ORS 409.010, 418.005, 418.327
 Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0261

Minimum Staffing Requirements

An academic boarding school (defined in OAR 413-215-0206) must meet all of the following requirements:

- (1) The *academic boarding school* must provide adequate supervision and protection for children. The supervision must be adequate for the type of program, location of program, the time of day or night, the age and type of children served, physical plant design, location and ability of the supervisor to respond, electronic backup systems, and other means available to ensure supervision and protection.

- (2) Additional staffing requirements for emergency response.

- (a) When there is only one employee (defined in OAR 413-215-0206) of the academic boarding school on duty in a facility (defined in 413-215-0206), there must be additional staff (defined in 413-215-0206) immediately available in the event of an emergency, with a maximum response time of 30 minutes.

- (b) One employee who is age 18 or over, has a current certification in cardiopulmonary resuscitation and first aid, and is capable of taking appropriate action in an emergency must be on site at all times when one or more boarding students are present on the premises of the academic boarding school.

Stat. Auth.: ORS 409.050, 418.005, 418.327
 Stats. Implemented: ORS 409.010, 418.005, 418.327
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0540, CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0266

Separation of Children

An *academic boarding school* (defined in OAR 413-215-0206) must meet all of the following requirements:

- (1) Combining children and adults. Special care must be taken by an academic boarding school to provide adequate supervision of children when adults are being served by the academic boarding school. Children and adults must be housed in separate bedrooms, except that a child (defined in OAR 413-215-0206) and the child's parent may be housed in the same room if the parent is the child's caretaker. If a person is 18 years of age or older, and is to share a

bedroom with a child, the academic boarding school must obtain written approval from the DHS Licensing Coordinator.

- (2) Co-ed facilities. Special care must be taken by an academic boarding school to provide adequate supervision when the program serves both males and females concurrently. Children's bedrooms for males must be separated from bedrooms for females.

Stat. Auth.: ORS 409.050, 418.005, 418.327
 Stats. Implemented: ORS 409.010, 418.005, 418.327
 Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0271

Consents, Disclosures, and Authorizations

- (1) Consents. For each *boarding student* (defined in OAR 413-215-0206) of an academic boarding school (defined in 413-215-0206), the academic boarding school must ensure that a parent or legal guardian signs a consent that authorizes the academic boarding school to undertake each of the following:

- (a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the academic boarding school is not required to use medical, psychological, or rehabilitative procedures, unless the child is old enough to consent to these procedures and does so. The academic boarding school must have policies and procedures for this practice, which are reviewed and approved by the boarding student's parent or legal guardian.

- (b) To provide care (defined in OAR 413-215-0206) to the student.

- (2) The *academic boarding school* will make any written policy or procedure pertaining to program services available for review by the child, parent, or legal guardian, upon request.

- (3) Authorizations. Authorizations must be pre-approved by the child's parent or legal guardian to allow children to participate in potentially hazardous activities, such as but not limited to using motorized yard equipment, swimming, and horseback riding.

Stat. Auth.: ORS 409.050, 418.005, 418.327
 Stats. Implemented: ORS 409.010, 418.005, 418.327
 Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

413-215-0276

Information about Boarding Students

Child's files. For each boarding student (defined in OAR 413-215-0206) of an academic boarding school (defined in 413-215-0206), the academic boarding school must maintain a record that includes all of the following information:

- (1) The child's name, gender, and date of birth.

- (2) The date of admission to the program.

- (3) The name, address, and telephone number of:

- (a) The child's parents.

- (b) The child's legal guardian, if different than the parents, and a copy of the document that provides for his or her authority over the child.

- (4) Incident Reporting. A written description of any injury, accident, or unusual incident involving a child must be placed in the individual child's record.

Stat. Auth.: ORS 409.050, 418.005, 418.327
 Stats. Implemented: ORS 409.010, 418.005, 418.327
 Hist.: CWP 30-2008, f. & cert. ef. 10-17-08

Licensing Foster Care Agencies

413-215-0301

Foster Care Agencies, What Law Applies

A *private child-caring agency* (defined in OAR 413-215-0006) that uses care in the homes of provider parents or foster parents as a placement option must be licensed in accordance with and comply with 413-215-0001 to 413-215-0131 and 413-215-0301 to 413-215-0396.

Stat. Auth.: ORS 409.050, 418.005, 418.240
 Stats. Implemented: ORS 418.205 - 418.325
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0400, CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0306

Definitions

(1) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adult of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(2) "Approved provider parent" means an individual who a foster care agency, Oregon Youth Authority (OYA), or a governmental agency other than the Department has approved to provide care to children in the home of the individual.

(3) "Certified provider home" means the home of at least one approved provider parent or foster parent that a foster care agency has approved for this individual to provide care to children placed by the foster care agency.

(4) "Criminal history check" means compliance with the Department's criminal records history rules (OAR 407-007-0200 to 407-007-0370). To comply with these rules, the agency must appoint a Contact Person (CP) who is designated to receive and process criminal history and child abuse check forms. Final fitness determinations will be made by the Department.

(5) "Department" means the Department of Human Services, Child Welfare.

(6) "Foster care agency" means a private child-caring agency (defined in OAR 413-215-0006) that offers to place children by taking physical custody of and then placing the children in homes certified by the agency.

(7) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(8) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0410, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0311

License Requirements

(1) A foster care agency (defined in OAR 413-215-0306) must be licensed by the Department to certify a home as a certified provider home (defined in OAR 413-215-0306).

(2) A foster care agency must be licensed by the Department before the foster care agency accepts physical custody of a child for placement in the home of a foster parent (defined in OAR 413-215-0306) or approved provider parent (defined in OAR 413-215-0306).

(3) To be licensed by the Department, a foster care agency must:

(a) Have a current, written program statement that describes:

(A) The type of provider and foster care provided.

(B) The children served.

(C) The services provided to the children, their families, their foster families, or their approved provider families.

(D) The geographical area covered.

(b) Have an ongoing recruitment and retention program to ensure an adequate number of suitable certified provider homes based on the written program statement of the foster care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0470, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0313

Personal Qualifications Required for Approved Provider Parents

(1) To be approved by a foster care agency as an approved provider parent (defined in OAR 413-215-0306), the applicant must:

(a) Be at least 21 years of age.

(b) Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior.

(c) Possess the ability to manage the applicant's home and personal life.

(d) Possess the ability to apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(e) Maintain conditions in the home that provide safety and well-being for the child.

(f) Have supportive relationships with adults and children living in the household and with others in the community.

(g) Have a lifestyle and personal habits free of criminal activity and abuse or misuse of alcohol or other drugs.

(h) Have the physical and mental capacity to care for a child or young adult. A foster care agency or the Department may, by request, require an applicant to:

(A) Provide copies of medical reports from a health care professional.

(B) Complete an expert evaluation with a report provided to the foster care agency.

(2) A foster care agency may only approve an applicant as an approved provider parent if the applicant meets the requirements of section (1) of this rule.

(3) A foster care agency may only use a certified provider home (defined in OAR 413-215-0306) if each approved provider parent or foster parent (defined in OAR 413-215-0306) meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0316

Orientation for Certified Provider Home Applicants

(1) To be approved by a foster care agency (defined in OAR 413-215-0306) to operate a certified provider home (defined in OAR 413-215-0306), an applicant must complete orientation training.

(2) The orientation training required by section (1) of this rule must, at a minimum, include all of the following:

(a) The policies and procedures of the foster care agency.

(b) The needs and characteristics of children needing placement.

(c) Attachment, separation, and loss issues for children and families.

(d) The importance of cultural identity to the child and ways to foster this identity.

(e) The impact of foster care on the child and family.

(f) The rights and responsibilities of the foster parent (defined in OAR 413-215-0306) or approved provider parent (defined in OAR 413-215-0306) and the foster care agency.

(g) The resources available to the foster parent or approved provider parent.

(h) Legal responsibility to report suspected child abuse.

(i) Confidentiality.

(j) Rights of families and children.

- (k) Copies of all of the following documents:
 - (A) The program statement.
 - (B) The requirements for certified provider homes.
 - (C) The policies of the foster care agency governing certified provider homes.
 - (D) The training requirements of the foster care agency for certified provider homes.
 - (E) The licensing rules for foster care agencies.
 - (F) Expectations for working with the foster care agency.
- (3) The foster care agency must document in the file of each applicant:
 - (a) Whether the applicant has received the orientation described in section (2) of this rule;
 - (b) Whether the foster care agency has provided the notification described in OAR 413-215-0321(4); and
 - (c) Whether the applicant is approved and a certificate has been issued by the foster care agency to operate a certified provider home. If a certificate is issued, the foster care agency must document the number of children and the age range of children the home is certified to serve, and any specific gender or other restrictions and limitations.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0321

Assessment and Approval of Certified Provider Homes

A *foster care agency* (defined in OAR 413-215-0306) must comply with all of the following requirements:

- (1) Prior to approval of an approved provider parent (defined in OAR 413-215-0306) and prior to the certification of a certified provider home (defined in OAR 413-215-0306), the foster care agency must complete a certified provider home assessment for each parent.
 - (2) The certified provider home assessment must be based on an on-site review of the applicant's home, and observations of and interviews with each member of the household. The foster care agency must require that each applicant submit all of the following:
 - (a) A completed application. In a two-parent family, the application must be signed by both parents.
 - (b) Assurance that the home is the primary residence of the applicant family and is the residence where each child will reside.
 - (c) A completed statement of physical and mental health.
 - (d) If the foster care agency considers it appropriate, a report from a licensed health care or mental health professional concerning any medical, psychological, or substance-abuse problem that might interfere with a parent's ability to care for a child.
 - (e) A minimum of four references, not more than one of which may be a relative of the applicant.
 - (3) The foster care agency must complete a written home study that includes all of the following information:
 - (a) Safety information, including documentation that the home is in full compliance with the safety standards identified in the Safety Assessment Checklist (CF 979).
 - (b) The names and ages of children in the home and children no longer in the home.
 - (c) A criminal history check for all members of the household age 18 and over as required by OAR 407-007-0200 to 407-007-0370. A criminal history check for a household member under the age of 18 is required if there is reason to believe that the household member may pose a risk to children placed in the home.
 - (d) A completed child abuse history background check from every state where the individual has resided in the last five years and a request for a child abuse history background check from any other county where the individual has resided in the last five years:
 - (A) For all members of the household age 18 and over; and
 - (B) For a household member under the age of 18 is required if there is reason to believe that the household member may pose a safety threat to children placed in the home.
 - (e) The applicant's placement preferences.
 - (f) The applicant's motivation for providing foster care.

- (g) The applicant's life experiences and challenges.
- (h) The applicant's relevant health history. Each parent in a certified provider home must assure that a child will not be exposed to any type of second hand smoke in the home or in family vehicles, and that no member of the household provides any form of tobacco products to a child.
 - (i) The applicant's education and training.
 - (j) The applicant's employment and finances.
 - (k) The applicant's need for support services and description of current support systems.
 - (l) The applicant's marital history, including previous marriages, divorces, and long-term relationships.
 - (m) The applicant's parenting skills and values.
 - (n) The applicant's lifestyle.
 - (o) The applicant's religion or spiritual beliefs.
 - (p) Cultural background and experiences with diverse cultural groups.
 - (q) An assessment of current and previous licenses, certifications, and applications for relative care, foster care, day care, adoption, and other types of services for vulnerable individuals, including adult care giving. Information must include any denials, suspensions, revocations, or terminations.
 - (r) An assessment of the areas in which training is needed and the plan of the foster care agency for providing needed training, including time frames.
 - (s) The applicant's home and community.
 - (t) Summary assessment and recommendations including the characteristics and number of children who may be placed.
- (4) A process for notifying applicants. The foster care agency must notify each applicant in writing of the acceptance or denial of the application for approval as an approved provider parent and certification as a certified provider home.
 - Stat. Auth.: ORS 409.050, 418.005, 418.240
 - Stats. Implemented: ORS 418.205 - 418.325
 - Hist.: CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0326

Training for Parents in Certified Provider Homes

- (1) The foster care agency (defined in OAR 413-215-0306) must have and follow a written training plan that:
 - (a) Provides each parent in a certified provider home (defined in OAR 413-215-0306) a minimum of 15 hours of training before the foster care agency places a child in the home.
 - (b) Provides each parent in a certified provider home a minimum of 15 hours of training annually prior to the issuance of the annual approval required by OAR 413-215-0331.
 - (c) The training plan must include all of the following topics:
 - (A) Characteristics and needs of children who may be placed with the family.
 - (B) Ways to effectively parent children who are placed by the foster care agency, including application of the reasonable and prudent parent standard.
 - (C) Positive behavior management, non-punitive discipline.
 - (D) The importance of the family of the child and working with the family of the child.
 - (E) The importance of age-appropriate or developmentally appropriate extracurricular, enrichment, cultural, and social activities.
 - (F) Preparation of the child for independence based on the age, stage of development, and needs of the child.
 - (G) Legal responsibility to report suspected child abuse.
- (2) The foster care agency must document in parent records the training received by each parent.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0440, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0331

Annual Review and Approval

A foster care agency (defined in OAR 413-215-0306) must comply with all of the following requirements:

(1) The foster care agency must evaluate every certified provider home (defined in OAR 413-215-0306) at least once every twelve months to ensure that the home continues to meet the applicable standards.

(2) The annual review must include all of the following:

(a) The foster care agency must update the written home study required by OAR 413-215-0321(3).

(b) A criminal history check for all members of the household age 18 and over must be completed as required by OAR 413-120-0400 to 413-120-0470. A criminal history check for a household member under the age of 18 is required if there is reason to believe that the household member may pose a risk to children placed in the home.

(c) A completed state of Oregon child abuse history background check must be completed:

(A) For all members of the household age 18 and over; and

(B) For a household member under the age of 18 is required if there is reason to believe that the household member may pose a safety threat to children placed in the home.

(d) If an adult member of the household has lived outside the state of Oregon in the previous five years, and an out-of-state child abuse history background check has not been completed, a child abuse history background check must be requested from each state or country where the individual resided in the last five years.

(e) Documentation that the home remains in full compliance with the safety standards identified in the Safety Assessment Checklist (CF 979).

(f) A recommendation to approve or deny the re-issuance of the certificate of approval of the certified provider home.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0480, CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0336

Complaints about Certified Provider Homes

(1) Employees of the foster care agency (defined in OAR 413-215-0306) are covered by the requirements to report suspected child abuse in ORS 419B.010 and, in addition to any other requirements of law, must refer a complaint of suspected child abuse to the local branch of the Department for investigation.

(2) If the foster care agency receives information alleging a certified provider home (defined in OAR 413-215-0306) is not in compliance with the certification requirements of the foster care agency, the foster care agency must initiate an on-site assessment of the home as soon as is appropriate, based on the nature of the complaint.

(a) As part of the assessment, the foster care agency must prepare a detailed written investigation report that includes all of the following information:

(A) The name of the foster care agency employee who received the complaint, date the complaint was received, name of complainant, and the allegations.

(B) Dates and places of contacts, the names of persons interviewed or observed, and the names of the interviewers.

(C) Findings, summary, and conclusions regarding compliance or noncompliance and recommendations regarding corrective action.

(b) The foster care agency must complete the assessment in a timely manner following the receipt of the complaint.

(c) The foster care agency must provide the foster parent (defined in OAR 413-215-0306) or approved provider parent (defined in OAR 413-215-0306) with a copy of the report of the assessment once it is complete, and must inform this parent in writing that he or she has a right to have his or her response included in an attachment to the report.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0341

Closures of Certified Provider Homes

If a foster care agency (defined in OAR 413-215-0306) decertifies a certified provider home (defined in OAR 413-215-0306) or withdraws approval of an approved provider parent (defined in OAR 413-215-0306), the foster care agency must provide the parent or parents a written notice of the specific reasons for the action and must retain a copy of the notification in the record of the certified provider home.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0346

Modifications to the Certification of a Certified Provider Home

A foster care agency (defined in OAR 413-215-0306) must document all of the following in the record of each certified provider home (defined in OAR 413-215-0306):

(1) Change of address of a parent.

(2) Change in name of a parent.

(3) Change in household composition.

(4) Any exceptions to or suspensions of the certification by the foster care agency of a certified provider home.

(5) Inactive referral status.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0349

Notifications Required of Parents

A foster care agency (defined in OAR 413-215-0306) must require parents in a certified provider home (defined in OAR 413-215-0306) to notify the foster care agency of each of the following:

(1) Any physical or structural changes in the home in which they live.

(2) Any arrests or court convictions of any member of the household. A parent of the certified provider home must notify the foster care agency within one working day of learning about the arrest or conviction.

(3) Any allegation of child abuse or neglect perpetrated by any member of the household or any individual who regularly visits the home. A parent of the certified provider home must notify the foster care agency on the day he or she learns of the allegation.

(4) The suspension of a driver's license of any adult on the Certificate of Approval or any member of the household.

(5) Any change in the physical or mental health of a member of the household that reasonably could affect the ability of the family to meet the safety needs of the child.

(6) Any time a member of the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider, including the approval of the foster care agency to provide such care.

(7) Any other circumstance that could reasonably affect the safety or well-being of a child.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0351

Records of Certified Provider Homes

(1) A foster care agency (defined in OAR 413-215-0306) must safely and consistently maintain a record for each certified provider home (defined in OAR 413-215-0306) it approves. Such records must be separate from records the foster care agency maintains on the children and families it serves.

(2) The record for each certified provider home must contain all of the following:

(a) All documents pertaining to approval of the certified provider home.

(b) All documents pertaining to formal complaints about the certified provider home.

(c) The contract between the foster care agency and the parents in the certified provider home.

(d) A list of all children placed in the certified provider home that includes identifying and placement information.

(e) Documentation that the foster care agency conducted a minimum of one home visit every 180 days to assure compliance with certification standards.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0450, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0356

Placement of a Child by a Foster Care Agency

(1) A foster care agency (defined in OAR 413-215-0306) may place a child in a certified provider home (defined in OAR 413-215-0306).

(2) The placement of a child in a certified provider home must be consistent with the recommendations for the use of the home as identified in the current home assessment.

(3) The foster care agency may not issue a certification for a certified provider home that allows the home to exceed any of the following subsections:

(a) A total of four children to one foster parent or approved provider parent living in the home;

(b) A total of seven children to two foster parents or approved provider parents living in the home; or

(c) A total of two children under the age of three.

(4) The foster care agency may only place or supervise a child in a certified provider home approved by another foster care agency, or with a foster parent, or with an approved provider parent approved by the Oregon Youth Authority (OYA) or another governmental agency (other than the Department), without prior approval from the parent as well as the foster care agency or governmental agency. Before placing the child, the foster care agency must obtain copies of pertinent documents from the file of the foster parent or approved provider parent to determine the safety and appropriateness of the home for the child.

(5) The foster care agency must base each placement on an assessment of the individual needs of the child and an assessment of the ability of the home provider to meet those needs. The foster care agency must document the basis for the selection in the file of the foster parent or approved provider parent.

(6) Before or at the time of placement of a child in a certified provider home, or within two working days after placement if the placement is an emergency placement, the foster care agency must have a written contract signed by the foster parent or approved provider parent and by the foster care agency. The contract must contain all of the following:

(a) The rights and responsibilities of the foster care agency and the parents regarding placement and an acknowledgment that the parents agree to follow the policies and procedures of the foster care agency for certified provider homes and services.

(b) Language that requires the parents to notify the foster care agency immediately of any circumstances in their home that reasonably could affect the safety or well-being of a child in care, including injury, illness, an emotional or mental health issue, communicable disease, an accident, or an arrest.

(7) Sleeping Arrangements.

(a) Children and adults must be housed in separate bedrooms, except that a child and the parent of the child may be housed in the same room if the parent is the caretaker of the child. If a youth is 18 years of age or older and is to share a bedroom with a child less than 18 years of age, written approval must be obtained from the Department licensing coordinator.

(b) The foster care agency must consider the age, gender, special needs, behavior, and history of abuse or neglect of the child in determining appropriate sleeping arrangements.

(c) Unrelated foster children may not share a bed.

(8) The foster care agency must provide to the parent a copy of the signed contract and maintain a copy in the parent file.

(9) At the time of placement of each child in a certified provider home, the foster care agency must provide the parents with all of the following information and authorizations:

(a) The name and date of birth of the child, and the reason for placement.

(b) The name of the assigned worker and a telephone number to contact the foster care agency.

(c) Information about the health, behavioral characteristics, and needs of the child.

(d) Authorization and clear written instructions for obtaining medical, dental, and other professional care, and authorization for emergency medical care.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0361

Documentation Required When a Foster Care Agency Changes a Placement

Within seven working days after a child is moved out of a certified provider home (defined in OAR 413-215-0306) and placed in a different certified provider home, a foster care agency (defined in OAR 413-215-0306) must record all of the following information in the case record:

(1) The reason for the new placement.

(2) The name of each new foster parent (defined in OAR 413-215-0306) or approved provider parent (defined in OAR 413-215-0306), and the address of the home.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0366

Respite Care

A *foster care agency* (defined in OAR 413-215-0306) must comply with all of the following requirements:

(1) The foster care agency must have a respite care policy for foster parents and approved provider parents that addresses the need to provide children with safe and adequate substitute care when the parents are not present.

(2) The respite care policy of the foster care agency must include the following:

(a) The foster care agency is responsible for identifying and selecting safe and responsible alternate caregivers for a child placed in a certified provider home (defined in OAR 413-215-0306):

(A) Each alternate caregiver must be at least 21 years of age;

(B) The foster care agency must assure completion of criminal records checks (pursuant to OAR 407-007-0200 to 407-007-0370) and child abuse history background checks prior to an individual providing relief or respite care; and

(C) Prior to determining that an individual is safe and appropriate to provide relief or respite care, the foster care agency must analyze information relevant to paragraphs (A) and (B) of this subsection.

(b) The certified provider home must receive the approval of the foster care agency prior to using a relief or respite caregiver.

(c) The certified provider home is responsible for notifying the foster care agency in advance when the parents plan to provide relief or respite care for another family and the number of children will exceed the maximum number of children authorized.

(d) There must be a respite care plan relating to the age, developmental ability, and special needs of each foster child placed in the certified provider home.

(e) There must be plans for respite care in the event of an emergency that makes a foster parent (defined in OAR 413-215-0306) or approved provider parent (defined in OAR 413-215-0306) unavailable.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0371

Training of Foster Care Agency Staff

In addition to the orientation requirements in OAR 413-215-0061(4), a foster care agency (defined in OAR 413-215-0306) must meet all of the following training requirements with respect to its employees:

(1) Staff of the foster care agency must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:

(a) Behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping children build positive personal relationships and self-control.

(b) If restraint and seclusion are utilized by the program, the approved techniques and monitoring procedures. The training must be clear in the policy of the foster care agency that restraint or seclusion is used as an intervention of last resort.

(2) Staff of the foster care agency must receive ongoing training at least annually on all of the following:

(a) Mandatory child abuse reporting.

(b) Procedures for handling environmental emergencies.

(c) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(d) Behavior management.

(3) Staff of the foster care agency must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

(4) Staff of the foster care agency must receive training related to the reasonable and prudent parent standard, and age-appropriate or developmentally appropriate activities.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0430, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0376

Health Services

A *foster care agency* (defined in OAR 413-215-0306) must comply with all of the following requirements:

(1) The foster care agency must obtain all private health record information referred to in this rule in a manner that complies with federal and state law.

(2) Medical History. Within 30 days after the foster care agency assumes physical custody of a child, the foster care agency must obtain available medical history and other health-related information on the child, including:

(a) Significant findings of the most current physical examination;

(b) The child's current immunizations, history of surgical procedures and significant injuries, and past or present communicable diseases, to the extent such information is available under ORS 192.518 to 192.526;

(c) Any known allergies;

(d) Dental, vision, hearing, and behavioral health;

(e) Documentation that the child has received age-appropriate instruction regarding pregnancy prevention, nutrition, prevention of HIV and AIDS, and general information about the prevention and treatment of sexually transmitted disease; and

(f) Physician's orders, including those related to medications, if any.

(3) Female health care. If licensed to serve female children, the foster care agency must provide or arrange for the following health services, as applicable:

(a) Information on maintaining reproductive health.

(b) Prenatal care.

(c) Well-baby care.

(d) Fetal alcohol syndrome.

(e) Accessing child and infant health insurance programs.

(f) Screening for breast and other common cancers.

(4) Medical examinations. The foster care agency must safeguard the health of each child it serves by providing for a medical examination by a physician or qualified health professional at the following intervals:

(a) Three examinations during the first year of the child's life.

(b) One examination at the age of two.

(c) One examination at the age of four.

(d) One examination at the age of six.

(e) One examination at the age of nine.

(f) One examination at the age of fourteen.

(5) The foster care agency must have established protocols for accessing routine and urgent care for the children in the physical custody of the foster care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0381

Medication

A *foster care agency* (defined in OAR 413-215-0306) must comply with all of the following requirements:

(1) Policy and procedures. The foster care agency must have policies and procedures that cover prescriptions, herbal remedies, and all non-prescription medications that address all of the following:

(a) How the medication will be administered.

(b) By whom the medication will be administered.

(c) How the staff of the foster care agency and the parents who administer medication will be trained.

(d) How the administration of medication will be documented.

(e) How the administration of medication will be monitored.

(f) How unused medication will be disposed of.

(g) The process that ensures that each child's prescription and non-prescription medications are reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non prescription medication" means any medication that does not require a written prescription for purchase or dispensing.

(2) A prescription, signed by a physician or qualified health professional, is required before any prescription medication is administered to, or self-administered by a child. Medications prescribed for one child may not be administered to, or self-administered by another child, foster parent (defined in OAR 413-215-0306), approved provider parent (defined in OAR 413-215-0306), or staff. As used in this rule "self administration of medication" refers to the act of a resident placing a medication internally in, or externally on, his or her own body.

(3) A written order, signed by a physician or qualified health professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(4) Before a foster care agency permits a child to self-administer prescription medication, self-administration must be recommended by the foster care agency, approved in writing by a physician, and closely monitored by the foster parent, approved provider parent, or the staff of the foster care agency.

(5) Medication storage.

(a) Prescription medications that are unused and medication that is outdated or recalled may not be maintained in a certified provider home (defined in OAR 413-215-0306). "Outdated" means any medication whose designated period of potency, as indicated on the label, has expired.

(b) The certified provider home may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications stored in the home must be kept in a manner that they are inaccessible to children.

(d) Medications requiring refrigeration must be refrigerated and secured.

(e) Medications must be maintained and stored in its original container, including the prescription label.

(6) Medication disposal. Medications must be disposed of in a manner that ensures that they cannot be retrieved, in accordance with all applicable state and federal law.

(7) A written record of all medication disposals must be maintained and must include all of the following:

(a) A description of the prescribed medication and the amount disposed.

(b) The child for whom the medication was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the person disposing the medication, and the initials of an adult witness.

(8) Medication records. A written record must be kept for each child listing all medications, both prescription and over-the-counter, that is administered. The record must include all of the following:

(a) The child's name.

(b) A description of the medication, instructions for use, and the recommended dosage.

(c) Dates and times medication is administered.

(d) A record of missed dosages.

(e) Medication dropped or disposed of.

(f) Method of administration for each medication.

(g) Identification of person administering the medication.

(h) Any possible adverse reactions to the medication.

(i) Documentation of any medication taken out of the certified provider home by a child during a home visit or other activity.

(9) Where applicable, the foster care agency must maintain documentation of the continuing evaluation of the child's ability to self-administer a medication.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0386

Referral and Initial Evaluation of Children

A *foster care agency* (defined in OAR 413-215-0306) must comply with all of the following requirements:

(1) Referral. The foster care agency must have a policy that addresses the process by which children are referred to the foster care agency. The policy must include all of the following:

(a) From whom referrals are accepted.

(b) On what basis children are accepted by the foster care agency.

(c) How information necessary to provide for the safety and care of children will be provided to foster parents, approved provider parents, and staff of the foster care agency.

(2) Initial evaluation of a child. The foster care agency must evaluate each child referred to the foster care agency for placement. In conducting the evaluation, the foster care agency must:

(a) Request and review all available reports of the child's past and present behavior, educational status, and physical and behavioral health.

(b) Make a preliminary determination whether the prospective child has disorders, disabilities, or deficits due to mental, emotional, behavioral, or physical problems for which care, supervision, training, rehabilitation, or treatment is needed to reduce a problem, maintain present level of functioning, or clarify the ongoing placement or service needs of the child.

(3) The foster care agency must be prepared to provide to a parent or legal guardian of a referred child suggestions for obtaining resources in the event the child is not accepted by the foster care agency for placement.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08

413-215-0391

Consents, Disclosures, and Authorizations

(1) Consents. For each child taken into the physical custody of a foster care agency (defined in OAR 413-215-0306), the foster care agency must ensure that a parent or legal guardian signs a con-

sent that authorizes the foster care agency to undertake each of the following, as applicable:

(a) To provide routine and emergency medical care. If a foster care agency relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the foster care agency may not require medical, psychological or rehabilitative procedures. The foster care agency must have policies and procedures for this practice, which are reviewed and approved by the parent or legal guardian of the child.

(b) To use the behavior management system of the foster care agency, including the point, level, or other behavior management techniques utilized by the foster care agency.

(c) To use restraint or seclusion in the management of the child. The consent must specify the reasons such interventions are used by the foster care agency and how the employees of the foster care agency, approved provider parents, or foster parents are trained and supervised in the use of restraint or seclusion.

(d) To restrict the child's contact with persons outside the foster care agency and the certified provider home (defined in OAR 413-215-0306), including visits, telephone communication, electronic mail, and postal mail.

(e) To exclude or limit the child's possession of personal items.

(f) To impose a dress code.

(g) To apply the reasonable and prudent parent standard to determine whether the child or young adult is allowed to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(2) Disclosures. At admission, the foster care agency must ensure that each parent or legal guardian of the child receives and acknowledges in writing the receipt of each of the following:

(a) Mandatory child abuse reporting requirements.

(b) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the foster care agency for any program-initiated room or body search.

(c) A statement concerning the rights of children and parents or legal guardians served by the foster care agency. The statement must be written in a manner that is easy to understand, and the foster care agency must ensure that the child and the parent or legal guardian understand the statement. The statement must explain all of the following:

(A) The child's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian.

(B) The child's right to privacy.

(C) The child's right to participate in service planning.

(D) The child's right to fair and equitable treatment.

(E) The child's right to file a grievance if the child or family feels that they are treated unfairly, or, if they are not in agreement with the services provided.

(F) The child's right to have personally exclusive clothing.

(G) The child's right to personal belongings.

(H) The child's right to an appropriate education.

(I) The child's right to participate in recreation and leisure activities.

(J) The child's right to have timely access to physical and behavioral health care services.

(d) The grievance policies and procedures of the foster care agency.

(e) The foster care agency will make any written policy or procedure pertaining to program services available for review by the child, parent, or legal guardian, upon request.

(3) Authorizations.

(a) Authorization to disclose information from other service providers must be filled out prior to signatures being requested and be specific to one other provider. Information may only be requested on a need-to-know basis.

(b) All child-specific visitors must be approved or authorized by the parent or legal guardian, except court appointed special advocates (CASA) and attorneys appointed to represent the child.

(c) Visitation resources must be pre-approved by the parent or legal guardian of the child and the identity of these resources verified by the foster care agency.

(d) Activity-specific authorizations must be pre-approved by the parent or legal guardian of the child to allow children to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the parent or legal guardian of the child.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; ; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0396

Information About Children Placed in Physical Custody of the Foster Care Agency

A *foster care agency* (defined in OAR 413-215-0306) must comply with all of the following requirements:

(1) Child's case files. For each child the foster care agency accepts for placement, the foster care agency must maintain an individual record that includes a summary sheet containing all of the following information:

(a) The child's name, gender, date of birth, religious preference, and previous address.

(b) The name and location of the child's previous school.

(c) The date of admission to the program.

(d) The status of the child's legal custody, including the name of each person responsible for consents and authorizations.

(e) The name, address, and telephone number of:

(A) The child's parents.

(B) The child's legal guardian, if different than parents, and his or her legal relationship to child.

(C) Other family members or other persons identified by the family as significant to the child.

(D) Other professionals to be involved in service planning, if applicable.

(2) Service planning.

(a) All documentation, including but not limited to service plans, daily notes, assessments, progress reports, medication records, and incident reports, must be written in terms that are easily understood by all persons involved in service planning.

(b) Intake documentation. A foster care agency must complete a written intake document containing screening information on the date the foster care agency accepts a child for placement except in the case of an emergency placement, when the intake document must be completed within 48 hours of admission.

(c) Each child must be served according to an individual written service plan developed by staff of the foster care agency and including, whenever possible, the child, the child's family, and other professionals involved with the child or family. This document must outline goals for services and care coordination.

(d) Assessment. A comprehensive assessment must be completed within the first 30 days of placement. This assessment must include relevant historical information, current behavioral observations, any identified needs for services, and a description of how the foster care agency will provide or coordinate services.

(e) Service plan and review.

(A) Within 60 days of placement, a formal service plan must be developed by staff of the foster care agency in conjunction with the child and his or her parents or legal guardians, and any other persons who are actively involved with the family, as appropriate.

(B) The service plan must reflect how the foster care agency will address the child's issues, describe the anticipated outcomes of the placement, and be reviewed and approved by the child and the legal guardian or parent, unless contraindicated.

(C) The service plan must be reviewed by the foster care agency at least quarterly.

(D) Service plans must be revised at any time additional information becomes available indicating that other services should be provided.

(3) Case management.

(a) The foster care agency must document services provided, as necessary, to track and monitor progress toward the achievement of service plan goals.

(b) Discharge. The foster care agency must identify how a child's progress will be evaluated, and how the determination is made of readiness for discharge or unsuitability for continued stay.

(c) Discharge planning. Discharge planning for children must be a participatory decision-making process between the child, staff of the foster care agency, the parent or legal guardian, and significant others. As used in this rule, "significant others" means relatives, friends, or interested members of the community who are approved by the parent or legal guardian.

(d) Discharge instructions. The foster care agency must provide the child and the child's guardian with discharge instructions on or before the discharge date, including current medications, name of the doctor who prescribed each medication, any outstanding medical or other appointments, and other follow-up instructions as needed.

(e) Follow-up services. The foster care agency must identify any transitional or aftercare services or service coordination that will be offered by the program.

(f) Incident reporting. A written description of any injury, accident, or unusual incident involving a child must be placed in the individual child's record.

(4) Financial records. A foster care agency must keep a separate written record for each child itemizing all money received or disbursed on behalf of the child. The record must include all of the following:

(a) The date of each receipt and disbursement and the amount of each.

(b) The source of income.

(c) The purpose of each disbursement.

(d) The signature of the person making each entry.

(e) The signature of the child for each entry.

(5) Personal possessions records. An individual written inventory must be maintained for each child of all personal possessions belonging to the child. The record must be updated as needed.

(6) The foster care agency will ensure, in policy, that:

(a) Disallowable items are either stored, or returned to the parent or legal guardian; and

(b) All money and personal belongings are returned to the child at the time of discharge.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0460, CWP 31-2008, f. & cert. ef. 10-17-08

Licensing Adoption Agencies

413-215-0401

Adoption Agencies, What Law Applies

A *child caring agency* (defined in OAR 413-215-0006) that is an adoption agency (defined in OAR 413-215-0406) must be licensed in accordance with:

(1) OAR 413-215-0001 to 413-215-0131 which sets forth the requirements of the Department for licensing child-caring agencies, including adoption agencies; and

(2) These rules, OAR 413-215-0401 to 413-215-0481, which provide additional regulation of adoption agencies.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95; Renumbered from 413-220-0090, CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0406

Definitions

As used in OAR 413-215-0401 to 413-215-0481:

(1) "Adoption agency" means an organization providing any of the following services:

- (a) Identifying a child for adoption and arranging an adoption.
- (b) Securing the necessary consent to relinquishment of parental rights and to adoption.
- (c) Performing a background study on a child or a home study on a prospective adoptive parent and reporting on such a study.
- (d) Making determinations of the best interests of a child and the appropriateness of adoptive placement for the child.
- (e) Monitoring a case after *placement* until final adoption.
- (f) When necessary because of *disruption* before final adoption, assuming custody and providing childcare or other social services for the child pending an alternative placement.
- (2) "Birth parent" means each person who holds a legally recognized parental relationship to the child but does not include the adoptive parents in the adoption arranged by the adoption agency.
- (3) "Criminal history check" means compliance with the Department's criminal records history rules (OAR 407-007-0200 to 407-007-0370). To comply with these rules, the agency must appoint a Contact Person (CP) who is designated to receive and process criminal history and child abuse check forms. Final fitness determinations will be made by the Department.
- (4) "Disruption" means the interruption of an adoptive placement prior to the finalization of the adoption in a court of law.
- (5) "Intercountry adoption" means an adoption in which a child who is a resident and citizen of one country is adopted by a citizen of another country.
- (6) "Placement" of a child occurs when the child is placed in the physical or legal custody of prospective adoptive parents.
- (7) "Re-adoption" means a process in which a child whose adoption was completed in another country is re-adopted in this country.
- (8) "Special needs" mean a trait or disability of a child that requires special care or attention of the child or that historically has made placement of a child with similar characteristics or disability difficult.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0411

Information and Reporting Requirements of an Adoption Agency

- (1) Public information.
 - (a) An *adoption agency* (defined in OAR 413-215-0406) must provide to each person making an inquiry about adoption a written program statement that describes the services of the adoption agency and includes all of the following information:
 - (A) A description of the children normally placed by the adoption agency.
 - (B) Eligibility requirements for adoptive families.
 - (C) Timelines for intake screening and for being placed on a waiting list.
 - (D) A clear delineation of fees, charges, contributions, or donations required to obtain adoption services.
 - (E) The services provided during the adoption process.
 - (F) The geographical area covered by the adoption agency.
 - (b) The written and electronic materials of an adoption agency describing its adoption program must be accurate, must be reviewed regularly for accuracy, and must include the date the material was last updated.
 - (2) Cost disclosures. An adoption agency must provide the following information regarding the costs of an adoption:
 - (a) The adoption agency must provide all of the following information to all prospective adoptive parents:
 - (A) A written schedule of estimated fees and expenses.
 - (B) An explanation of the conditions under which estimated fees or expenses may be charged, waived, reduced, increased, or refunded.
 - (C) When, how, and to whom the estimated fees and expenses must be paid.
 - (b) Before providing an adoption service to a prospective adoptive parent, the adoption agency must itemize and disclose in

writing to the parent the estimated fees and expenses the parent will be charged related to each of the following:

- (A) A home study.
- (B) The adoption agency fees in the United States.
- (C) Other — country program expenses, if applicable.
- (D) Translation and document expenses, if applicable.
- (E) Travel and accommodation expenses, if applicable.
- (F) Contributions.
- (G) Post-placement (defined in OAR 413-215-0406) and post-adoption reports.
- (H) Likely charges of the U.S. Citizenship and Immigration Services (USCIS).
- (I) Legal finalization or re-adoption (defined in OAR 413-215-0406) expenses, if applicable
- (c) The adoption agency must specify in its written adoption contract when and how funds advanced to cover fees or expenses will be refunded if adoption services are not provided.
- (d) When the delivery of adoption services is completed, the adoption agency must provide the prospective adoptive parents, within 30 days following the completion of services, a detailed written accounting of the total fees and expenditures for which the adoptive parents will be charged by the adoption agency.
- (3) Data collection requirements. An *adoption agency* must maintain in a standard and accessible format all of the following information and make it available on request:
 - (a) The number of adoption placements it completes each year for the prior three calendar years, and the number and percentage of those placements that remain intact, are disrupted, and have been dissolved as of the time the information is provided.
 - (b) The number of parents who apply with the adoption agency to adopt a child each year.
 - (c) The number of waiting children available for adoption that the adoption agency is attempting to place.
 - (4) Mandatory reporting of disruption and dissolution. The adoption agency must submit to the Department on a prescribed form a written report within 14 days after a disruption (defined in OAR 413-215-0406) or dissolution is reported to the adoption agency if the adoption agency was involved in the study of the family, the placement of the child, or the supervision of the adoptive placement. As used in this rule, "dissolution" means the termination of an adoptive placement after finalization.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0416

Adoption Agency Staff

In addition to meeting the requirements in OAR 413-215-0021(3):

- (1) Required staff. An *adoption agency* (defined in OAR 413-215-0406) must have an executive director and a social services supervisor. If one person fills both positions, that person must meet the qualifications of both the executive director and the social services supervisor listed in subsections (2)(a) and (b) of this rule.
- (2) Qualifications.
 - (a) The executive director must possess all of the following qualifications:
 - (A) Management skills and abilities.
 - (B) A bachelor's degree from an accredited program.
 - (C) Two years of full-time experience in child social services.
 - (b) The social services supervisor must possess all of the following qualifications:
 - (A) A master's or doctorate degree from an accredited program in social work, psychology, guidance and counseling, or a similar subject area.
 - (B) Two years of experience in family and children's services, one year of which must include providing adoption services.
 - (C) If the agency provides *intercountry adoption* (defined in OAR 413-215-0406) services, the supervisor must have experience in intercountry adoptions.
 - (c) On the date this rule as renumbered becomes effective, an incumbent executive director or social services supervisor — of an

adoption agency already licensed by the Department — who does not meet the qualifications listed in subsections (a) and (b) of this section is deemed to meet those requirements if he or she has been in the position for at least three years, has significant skills and experience with the adoption process, and has access to consultation with persons having the qualifications listed in subsections (a) and (b) of this section, as applicable.

(d) Social services staff, who are non-supervisory employees providing adoption-related social services requiring the application of clinical skills and judgment, must possess:

(A) A master's degree from an accredited program of social work education or another human service field;

(B) A bachelor's degree from an accredited program of social work education; or

(C) A combination of a bachelor's degree in another human service field and experience in family and children's services or adoption.

(3) Supervision. All non-supervisory social services staff described in subsection (2)(d) of this rule must be supervised by an employee of the adoption agency who meets the requirements for social services supervisor set forth in subsection (2)(b) or (2)(c) of this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95; Renumbered from 413-220-0040, CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0421

Staff Training Requirements for Adoption Agencies

An *adoption agency* (defined in OAR 413-215-0406) must meet all of the following requirements related to its staff:

(1) The *adoption agency* must have a comprehensive plan for providing basic training to newly hired social services employees on the issues that arise with adoptive placement.

(2) The adoption agency must ensure that all social services staff and contracted social services providers obtain a minimum of 10 hours of training annually on issues related to adoption.

(3) The adoption agency must ensure that all social services staff and all persons who provide adoption services complete training in all of the following areas:

(a) The potential short- and long-term effects of prenatal exposure to alcohol, drugs, and poor nutrition.

(b) The potential effects of separation and loss.

(c) The process of developing emotional ties to an adoptive family.

(d) Normal child and adolescent development.

(e) The potential effects of physical abuse, sexual abuse, neglect, and institutionalization on the development of the child.

(f) The potential issues of race, culture, and identity; issues of acculturation and assimilation; and, if applicable, the effects of having been adopted internationally.

(g) The emotional adjustment of adopted children and their families.

(h) Open adoption.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0426

Policies and Procedures for Adoption Agencies

An *adoption agency* (defined in OAR 413-215-0406) must have and follow written policies and procedures for the adoption services it provides including, at a minimum all of the following:

(1) Policies and procedures prescribing safeguards relating to the needs, rights, and responsibilities of the following:

(a) A birth parent (defined in OAR 413-215-0406) who is considering the release of a child for adoption;

(b) A child who becomes available for adoption; and

(c) A family who adopts a child.

(2) Policies and procedures designed to ensure compliance by the adoption agency all applicable federal and state laws, including but not limited to:

(a) The Indian Child Welfare Act of 1978, Pub. L. No. 95-608, 92 Stat. 3069 (1978) (ICWA)(see OAR 413-070-0100 to 413-070-0260);

(b) The Interstate Compact for Placement of Children (ICPC) (see ORS 417.200);

(c) Section 1808 of the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat. 1903 (1996), amending 42 U.S.C. § 671;

(d) The Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056 (1994);

(e) The Intercountry Adoption Act of 2000, Pub. L. No. 106-279, 114 Stat. 825 (2000), 42 U.S.C. §§ 14901 to 14954.

(f) Oregon Revised Statutes Chapter 109.

(3) Policies and procedures designed to ensure that the decision to place a child in a specific home or to disrupt a placement (defined in OAR 413-215-0406) is not made autonomously by a social services worker.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0431

Records Requirements for Adoptions

In addition to compliance with the records and documentation requirements of OAR 413-215-0071 and 413-215-0456:

(1) Permanent record in a domestic adoption. An *adoption agency* (defined in OAR 413-215-0406) must maintain a permanent record on each birth parent (defined in OAR 413-215-0406) who has consented to and has surrendered a child to the adoption agency. Except as authorized by section (2) of this rule, the record must include all of the following documents or information:

(a) The date and place of the birth parent's initial inquiry with the adoption agency and the persons present when the inquiry was made.

(b) The date, place, and purpose of each subsequent contact between the adoption agency and the birth parent.

(c) Evidence that the following adoption agency forms were provided to the birth parent:

(A) Consent for Service;

(B) Receipt of Grievance Procedures;

(C) Clients' Rights and Responsibilities, including the notice required by ORS 109.346 when applicable; and

(D) Service Plan.

(d) Each alternative to adoption discussed with the birth parent.

(e) A description of each discussion relating to fees, expenses, or other consideration or thing of value relating to the adoption.

(f) The date, time, and place of birth of the child, the name and address of the hospital or birthing center if the child was born in one, and all pertinent prenatal information.

(g) The names, dates of birth, physical description of the birth parents at the time of the child's birth, including age, height, weight, and color of eyes, hair and skin.

(h) Personality traits of the *child's birth parents*, siblings, and members of the child's extended family.

(i) A medical history of the birth parents, siblings, and extended family of the child, including medical, mental, and emotional history, including the history of the use of drugs or alcohol, gynecologic and obstetric history of the birth mother, and a record of inheritable genetic or physical traits or tendencies of the birth parents or their families.

(j) The ethnicity of the child's birth parents and the members of the child's extended family.

(k) Documentation of the efforts of the adoption agency to determine whether the Indian Child Welfare Act (ICWA) applies.

(l) The religious background of the child's birth parents and the members of the birth parents' extended family.

(m) The educational level and functioning, employment history, criminal history, and social and emotional functioning of the birth parents, siblings, and the members of their extended family.

(n) A notation that identifies the adoptive parents sufficient to cross-reference the file of the adoption agency on the adoptive parents.

- (o) A copy of the placement agreement.
- (p) Post-adoption communication agreements.
- (q) Details about any termination of parental rights.
- (r) A copy of the general judgment of adoption.
- (s) Copies of any documents signed by the birth parent.

(2) If the adoption agency is unable to include in the permanent record a document or information required by subsections (1)(f) to (1)(m) of this rule, the adoption agency must include in the record a description of its reasonable effort to obtain the document or information.

(3) Preservation and retention of adoption records for adoptions. An adoption agency giving legal consent to the adoption of a child must permanently retain, to the extent allowed by law, the records concerning the child's adoption, as follows:

- (a) The record must include all of the following:

(A) Adoptive parent orientation documentation.

(B) Evaluation documentation of both the birth and adoptive parents.

(C) Placement (defined in OAR 413-315-0406) documentation.

(D) Post-placement supervision documentation.

(E) Originals of photographs, letters, and other personal items provided by the child's birth family.

(b) The adoption agency must store the records in fire-retardant, locked files kept in a secure location.

(c) If more than one adoption agency is involved in an adoption, the adoption agency that placed the child must preserve the permanent case record.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 109.342, 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0436

Services Prohibited

An *adoption agency* (defined in OAR 413-215-0406) may not guarantee or represent to prospective adoptive parents that a particular child will be placed in their home for payment of a fee.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0441

Services for Birth Parents Considering Domestic Adoption

(1) If an *adoption agency* (defined in OAR 413-215-0406) is serving a birth parent (defined in OAR 413-215-0406) who is considering the adoption of his or her child:

(a) The adoption agency must provide the services described in these rules, OAR 413-215-0401 to 413-215-0481.

(b) If the adoption agency is serving a *birth parent* who lives in a state other than Oregon, the adoption agency must make the services described in these rules (OAR 413-215-0401 to 413-215-0481) available to the birth parent in the state of residence of the birth parent.

(2) Information.

(a) The adoption agency must make reasonable efforts to provide information described in subsection (2)(c) of this rule to each legal parent.

(b) The adoption agency must make reasonable efforts to provide information described in subsection (2)(c) of this rule to a putative father if:

(A) The putative father resided with the child within 60 days of the court proceeding about the adoption or custody of the child;

(B) The putative father repeatedly contributed or tried to contribute to the support of the child within 12 months of the court proceeding about the adoption or custody of the child; or

(C) There is a notice of initiation of filiation proceedings on file with the Center for Health Statistics of the Department prior to the initiation of either a court proceeding about the adoption or custody of the child, or the placement (defined in OAR 413-215-0406) of the child in the physical custody of a person for the purpose of

adoption by them. There is no requirement to provide information under this paragraph if the notice of initiation of filiation proceedings was not on file at the time of placement.

(c) The adoption agency must provide all of the following information to the persons identified in subsections (2)(a) and (2)(b) this section:

(A) Information regarding support and resources needed to parent a child.

(B) Information regarding options within adoption and the consequences of each option, including the possibility of a birth parent continuing contact with the adopted child and the adopting parents after adoption, the variables and options for such continuing contact, the desire of the child for continuing contact, and the availability of mediation to resolve issues involving contact.

(C) Information regarding grief and loss inherent in adoption.

(D) Information regarding the effects and permanence of adoption.

(E) Information regarding availability of or referral to appropriate support services. The availability of these services may not be made contingent upon the birth parent's decision to select adoption as the plan for the child.

(3) The adoption agency must provide guidance if a child's birth parents disagree with each other about the adoption plan.

(4) Identification of birth fathers. If the adoption agency is working with a birth mother, the adoption agency must ensure all of the following:

(a) The adoption agency asks the birth mother for the identity and whereabouts of the birth father.

(b) The adoption agency does not counsel or advise a birth mother to state that the identity or location of the father is unknown.

(c) If the birth mother indicates that the identity or location of the father is unknown, or if the birth mother refuses to identify the birth father, the adoption agency advises her of the potential ramifications of her knowing failure to provide the information.

(d) The adoption agency must contact the Center for Health Statistics of the Department within a reasonable period of time prior to placement to determine whether the child's legal or putative father can be identified.

(e) The adoption file of the adoption agency includes all reported information about the legal or putative father, even if his identity or location is unknown to the mother.

(5) Disclosures prior to placement:

(a) Potential disclosure of parental identity. The adoption agency must tell each birth parent who is contemplating making their child available for adoption that information related to their identities may subsequently be disclosed to the child in accordance with Oregon law.

(b) Voluntary adoption registry. As required by ORS 109.353, the adoption agency must inform each birth parent of the voluntary adoption registry established under 109.450.

(c) Adoption — related counseling for birth parents. As required by ORS 109.346, the adoption agency must provide notice to each birth parent consenting to an adoption regarding his or her right to adoption-related counseling.

(6) Consent and surrender. The adoption agency may accept the voluntary consent and surrender of a child after taking all of the following actions:

(a) Providing to each birth parent full and accurate information, and the opportunity to discuss the consequences of the documents they are signing.

(b) Discussing with each birth parent the circumstances leading to the decision to choose adoption.

(c) Informing each birth parent of their right to their own legal counsel at their own expense.

(d) Providing each birth parent with written information to assist them in understanding the changes that result from adoption in their parental legal rights, obligations, and responsibilities, including potential ramifications of post-placement establishment of paternity.

(e) After the birth of the child, reassessing the birth mother's ability to understand the consequences of her decision to sign a consent and surrender document. This assessment must include consideration of her emotional state and current influence of medication.

(f) In the case of an Indian child, informing the parents that if no different order of preference has been established by the child's tribe for adoptive placement, the adoption agency must, in the absence of the court's determination that good cause to the contrary exists, give preference to placing the child with a member of the child's extended family, other members of the Indian child's tribe, or other Indian families.

(g) Informing the birth parent that the adoption agency cannot honor a request of the birth parent to place the child with a family based solely on preferred race, color, or national origin unless the child is an Indian child, in which case the licensed agency must follow the Indian Child Welfare Act of 1978.

(7) Documents. The adoption agency must provide a copy of all documents signed by the birth parents to the birth parents at the time they sign a consent and surrender document.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 109.096, 109.346, 109.353, 418.205 - 418.310

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95; Renumbered from 413-220-0050, CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0446

Adoptive Family Recruitment and Screening

An *adoption agency* (defined in OAR 413-215-0406) must have a recruitment and screening process that meets all of the following standards:

(1) The adoption agency must have an ongoing recruitment program to ensure an adequate number of suitable adoptive families are identified for the types of children identified in the program statement of the adoption agency.

(2) Orientation. The adoption agency must provide orientation for the adoptive family before the adoption agency approves the home study. The orientation must include the following information:

(a) The adoption program, policies, and procedures of the adoption agency.

(b) The needs and characteristics of children available for adoption.

(c) Attachment, separation, and loss issues for children and families.

(d) The importance of cultural and ethnic identity to the child and ways to foster these identities.

(e) The effects of adoption on the child and family.

(f) The adoption process.

(g) Rights and responsibilities of the adoptive family and adoption agency.

(h) Information on the potential risks and challenges inherent in adoption.

(i) *Pre-placement* (defined in OAR 413-215-0406), placement, and post-legal adoption services and resources available to the adoptive family.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0451

Adoptive Home Requirements

(1) Home study. Before an *adoption agency* (defined in OAR 413-215-0406) approves a family for an adoptive placement (defined in OAR 413-215-0406) and before referring or placing a child with a family for the purpose of adoption, a social services worker must complete a written home study of the adoptive family. The home study must include all of the following:

(a) An individual interview with each applicant parent as well as with each member of the applicants' household, as applicable.

(b) If the applicants are married or are a cohabiting couple, an additional, joint interview with the couple.

(c) An on-site evaluation of the applicants' home to determine whether the home is in full compliance with the safety standards identified in the Safety Checklist (CF 979).

(2) Written home study. The home study required by section (1) of this rule must include all of the following information:

(a) The dates and places in which applicant parent and household members were interviewed or observed.

(b) The identity of each child to be considered for placement, if known.

(c) The applicants' motivation for adoption.

(d) The family's plan for honoring the child's ethnic and cultural heritage.

(e) Education or training needs of the adoptive parents, including education and training for children having special needs (defined in OAR 413-215-0406).

(f) The applicants' need for support services and description of current support system.

(g) Life experiences and challenges of the applicants.

(h) Marriage status or relationship of the applicants.

(i) The names and ages of the applicants' children in the home.

(j) The names and ages of the applicants' children not living in the home.

(k) The applicants' parenting skills and values.

(l) The applicants' lifestyle.

(m) The applicants' home and community.

(n) The applicants' health.

(o) The applicants' religion or spiritual beliefs, as applicable.

(p) The applicants' employment and finances.

(q) Safety information and safety issues discussed with the applicants.

(r) Minimum of four references not related to the applicants.

(s) Criminal history check and a child abuse and neglect history from every state in which the individual has lived within the preceding five years for each member of the household age 18 or older. Checks are also required for a household member under the age of 18 if there is reason to believe that the household member may pose a safety threat to children placed in the home.

(t) Documentation that a child abuse and neglect history was requested from any other country in which a member of the household age 18 or older has lived within the preceding five years, and the response if any.

(u) Summary assessment of the home and any recommendations.

(v) Signed approval or denial by a social services supervisor to use the home for adoption.

(3) Home study requirements.

(a) An adoption agency may not complete a home study until the prospective adoptive parents have received at least six hours of the pre-adoptive training and education required by OAR 413-215-0456.

(b) An adoptive home study is valid for a maximum of two years from the date of completion, providing significant changes have not occurred in the applicants' household.

(c) If significant changes occur in the applicants' household after the completion of the home study but before the adoption is finalized, the adoption agency must complete an update of the home study.

(d) Once the adoption is finalized, the adoption agency must complete a new home study each time the family seeks to adopt another child.

(4) Certificate of approval. The adoption agency must issue a written document certifying the approval or disapproval of the applicants as potential adoptive parents.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0456

Stats. Implemented: ORS 418.205 - 418.310

Information, Education, and Training for Adoptive Parents

An *adoption agency* must meet all of the following requirements related to information, education, and training for adoptive parents:

(1) Adoptive parent training. The adoption agency must document that it has provided the prospective adoptive parents a minimum of 10 hours of comprehensive orientation and training, independent of the home study, that covers all of the following:

(a) The possible short- and long-term effects of prenatal exposure to alcohol, drugs, and poor nutrition.

(b) The effects of separation and loss.

(c) The process of developing emotional ties to an adoptive family.

(d) Normal child and adolescent development.

(e) What research indicates about the potential effect on a child's development of physical abuse, sexual abuse, neglect, institutionalization, and multiple caregivers.

(f) Issues related to race, culture, and identity.

(g) Acculturation, assimilation, and, if applicable, the effects of having been adopted internationally.

(h) Emotional adjustment of adopted children and their families, including attachment and psychological issues of children who have experienced abuse, neglect, or trauma.

(i) In the case of an *intercountry adoption* (defined in OAR 413-215-0406), the process involved in an intercountry adoption and the general characteristics and needs of children awaiting intercountry adoption.

(2) Individual preparation. The adoption agency must document reasonable efforts to prepare prospective parents for the adoption of each child under consideration before the earliest of the following:

(a) The child is placed with them.

(b) Travel to the child's country for the purpose of adoption.

(3) Methods of training.

(a) The adoption agency must provide the required training using appropriate methods, such as:

(A) Collaboration among agencies or persons to share resources to meet the training needs of parents;

(B) Group seminars offered by the adoption agency or others who provide training;

(C) Individual counseling sessions;

(D) Video, computer-assisted, or distance learning methods using standardized curricula.

(b) If the training cannot otherwise be provided, the adoption agency may allow the prospective adoptive family to complete an independent study that includes a system for evaluating the thoroughness of the subjects covered.

(4) Information and disclosures.

(a) The adoption agency must give the adoptive family detailed written information covering the following subjects:

(A) Resources for financial support, including tax credit, employee adoption benefit programs, and other financial assistance.

(B) Medical assistance availability, as applicable.

(C) Support services available to the family and the adoptive child, including adoptive family support groups, educational workshops and conferences, individual and family counseling, mental health services, and respite care.

(D) Information identifying each organization or individual who will be involved in the proposed placement (defined in OAR 413-215-0406), including whether the organization or individual will derive a fee or other consideration from a source other than the client in connection with the adoption.

(E) In domestic adoptions only, the potential ramifications of a failure of the birth father to sign the consent and surrender documents.

(b) If a child qualifies for adoption assistance through the department's Adoption Assistance Program, the adoption agency must assist the prospective adoptive parents in getting approvals or agreements in a timely manner, prior to adoption finalization.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95; Renumbered from 413-220-

0070, CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0461

Evaluation and Selection of Adoptive Family

An *adoption agency* (defined in OAR 413-215-0406) must meet all of the following requirements regarding the placement (defined in OAR 413-215-0406) of a child:

(1) Pre-placement evaluation. A social services worker must review the record, evaluate, and document all of the following factors before making a *placement* with an adoptive family:

(a) Physical, emotional, social, behavioral, educational, and other individual needs of the child.

(b) The child's need for continued contact with siblings, relatives, foster parents, and other persons significant to the child.

(c) The ability and willingness of the prospective adoptive parents to accept the general and specific risks and challenges inherent in the placement being considered.

(2) Placement requirements. For the placement of a child, the adoption agency must select an adoptive family who is approved by an adoption agency, consistent with the needs of the child and the recommendations in the *pre-placement* evaluation.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0466

Domestic Adoptive Placement; Adoption Agency Requirements

An *adoption agency* (defined in OAR 413-215-0406) must meet all of the following requirements related to a domestic placement (defined in OAR 413-215-0406):

(1) Pre-placement visit. The adoption agency must develop a written transition plan based on the developmental needs and best interests of the child. The plan must include provisions for pre-placement visits with the prospective adoptive family.

(2) Placement agreement documents. Before placing the child in a home, the adoption agency must have a written agreement with the pre-adoptive parents. A signed copy of this agreement must be given to the pre-adoptive parents and a copy must be placed in the case record. The agreement must specify the following, if appropriate:

(a) That the pre-adoptive parents agree to legally finalize the adoption in a time frame that is based on the best interests of the child;

(b) That the adoption agency will provide the documents necessary for finalizing the adoption in a time frame that is based on the best interests of the child;

(c) That the pre-adoptive parents agree to participate in supervision by the adoption agency, based on the best interests of the child, during the time prior to finalization of the adoption;

(d) That the pre-adoptive parents agree to provide written notification to the adoption agency prior to each of the following:

(A) A change of residency.

(B) The removal of the child from the state for more than 72 hours.

(C) *Placement* of the child in the care of another person for more than 72 hours.

(e) That the adoption agency will arrange for supervision in accordance with the Interstate Compact for Placement of Children if the adoptive family moves to another state.

(f) The plan must address all of the following subjects, based on the best interests of the child, in the event of a disruption (defined in OAR 413-215-0406):

(A) Who has responsibility for providing care and the cost of care.

(B) Financial arrangements to ensure transfer of custody when necessary.

(C) For *intercountry adoptions* (defined in OAR 413-215-0406) only, whether the child is to remain in the country of placement and how the authorities in the originating country will be notified of the disruption.

(3) Medical consent form. At the time of the child's *placement* in the adoptive home, the adoption agency must give the adoptive parents a signed medical consent form authorizing medical care of the child.

(4) Child and birth parent information. Before placing a child with a family, the adoption agency must make reasonable efforts to discuss with the adoptive parents and provide them in writing all available information about the child and his or her birth parents (defined in OAR 413-215-0406), including, but not limited to:

(a) Medical data.

(b) Information about genetic, congenital, or pre-existing conditions.

(c) Information on the child's physical, emotional, and behavioral functioning and adjustment

(d) Pertinent information regarding the *birth parents*, excluding identity.

(e) Information about disabilities and their implications, including information from diagnosticians and, if applicable, appropriate therapists.

(5) The adoption agency may not withhold or misrepresent information, nor may it misrepresent the implications of child information. The adoption agency and its agents must provide to prospective adoptive parents, in accordance with these rules (OAR 413-215-0401 to 413-215-0481), all information obtained about the child.

(6) Post-placement supervision. The adoption agency is responsible for the child until the court has entered the general judgment of adoption. After the child is placed, the adoption agency must provide and document supervision of the home by a social services worker, including all of the following:

(a) A home visit with the family within the first 30 days following placement to establish a helping post-placement relationship. The frequency of contacts, including home visits, office visits, telephone calls, and e-mail, is dependent on the child's age and special needs (defined in OAR 413-215-0406), and the family's adjustment to the child.

(b) Any change in the adoptive family relating to health, finances, or composition that could affect the child.

(c) Providing to the adoptive parents any medical information on a child's birth family received by the adoption agency after the child was placed for adoption.

(d) If the placement appears likely to disrupt, the adoption agency must document its efforts to:

(A) Provide counseling services to preserve the placement; and

(B) Provide or arrange for replacement services, including foster care if needed, if disruption occurs.

(7) Post-legalization services. The adoption agency must make adoption services available to birth parents, adoptive parents, and adopted children after the adoption is finalized. The adoption agency must provide or inform the adoptive parents how to obtain information regarding all of the following:

(a) Counseling services.

(b) Crisis intervention.

(c) Respite care.

(d) Specialized support groups.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0471

Adoption Finalization — Adoption Agency Requirements

(1) For the legal finalization of an adoption, an adoption agency (defined in OAR 413-215-0406) must prepare and promptly provide to the adoptive family or the family's attorney all documents required for filing with the court.

(2) After consenting to the adoption of a minor child, an adoption agency must promptly file with the appropriate court all required documents that are available.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95; Renumbered from 413-220-0080, CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0476

Intercountry Adoptions

In addition to the requirements for adoption agencies in OAR 413-215-0401 to 413-215-0481 other than 413-215-0431(1)–(2), 413-215-0441, 413-215-0456(4)(a)(E), and 413-215-0466, an *adoption agency* (defined in OAR 413-215-0406) approved to provide *intercountry adoptions* (defined in OAR 413-215-0406) must meet all of the following standards with regard to intercountry adoptions:

- (1) Compliance with foreign law.
 - (a) The adoption agency must comply with the laws and regulations of the sending country.
 - (b) The adoption agency must make reasonable efforts to learn and understand legal and procedural adoption requirements in the sending country.
 - (c) The adoption agency must establish written policies and procedures designed to fulfill and comply with the legal requirements, adoption laws, and adoption procedures of the sending country.
 - (d) The adoption agency must train its employees and volunteers about the adoption laws and procedures of the sending country.
- (2) Compliance by foreign representatives. If the adoption agency uses an organization or person in the foreign country to facilitate adoption services within the foreign country, the adoption agency must make reasonable efforts to see that the organization or person meets all of the following requirements:
 - (a) Fully complies with all adoption and other laws and procedures of the sending country.
 - (b) Is licensed or otherwise authorized to provide the contemplated adoption services within the sending country.
 - (c) Does not engage in practices that are not in the best interests of the child or that encourage or facilitate the sale, abduction, exploitation, or trafficking of children.
 - (d) Does not have a pattern of licensing suspensions or other sanctions within the foreign country and has not lost the right to provide adoption services in any jurisdiction for reasons associated with unlawful or unethical service.
 - (e) Provides full disclosure to the adoption agency regarding any suspension, debarment, sanction, criminal charge, or disciplinary action against the organization or person, or any person serving with the organization, related to adoption services or financial dealings within the past ten years.
 - (f) Provides full disclosure to the adoption agency of business activities performed by or engaged in by employees or affiliates of the foreign representative that are inconsistent with the principles of these rules or the Intercountry Adoption Act of 2000, 42 U.S.C. 14901 to 14954.
- (3) Pre-placement determination of compliance. Before a child can be placed for adoption, the adoption agency must determine that the adoption service or person authorized by the sending country has certified that:
 - (a) The child is qualified for adoption and is in the permanent custody of an authorized organization or person in the sending country.
 - (b) The authorized service or person has obtained proof from a competent authority in the child's country of origin that the necessary consents to the child's adoption have been obtained and that the necessary determination has been made that the prospective placement (defined in OAR 413-215-0406) is in the best interests of the child.
 - (c) The child has the proper emigration and immigration permits.
 - (d) The authorized service or person has the child's social and medical history or, if either is not available, has documented adequate reasons why the adoption agency was not able to obtain the information.
- (4) Child information requirements. The adoption agency must use reasonable efforts, or require the authorized organization or person in the child's country of origin to make reasonable efforts, to obtain and provide all available information concerning

a child referred for adoption, if known to the adoption agency or foreign representative, including the all of following:

- (a) The date an authorized authority in the sending country took custody of the child and the reasons why the child is in custody.
- (b) Information concerning the child's history, including a chronology showing the persons and institutions that have had custody of and cared for the child, the nature of care provided, and the reasons for transferring custody.
- (c) Information concerning the child's immediate family, including current status and location of the birth parents (defined in OAR 413-215-0406) and siblings of the child; history of abuse, neglect, or mistreatment of the child; history of alcohol and drug abuse by the birth parents; hereditary conditions; and other risk factors.
- (d) Information concerning the child's cultural, racial, religious, ethnic, and linguistic background.
- (e) The child's medical information, including all of the following:
 - (A) All medical records, including both summaries or compilations of medical records and original records.
 - (B) Information resulting from medical examinations of the child.
 - (C) A history of significant illnesses or medical events, hospitalizations, and changes in the child's condition, growth data, and developmental status at the time of the child's referral for adoption.
 - (f) Videotapes and photographs of the child, identified by the date on which the videotape or photograph was recorded or taken.
 - (g) Specific information regarding health risks in the specific region or country where the child resides.
- (5) An adoption agency must provide the information described in section (4) of this rule to prospective adoptive parents regarding a child referred for adoption as follows:
 - (a) The information must be provided at least two weeks before the earliest of the following:
 - (A) The adoption or placement for adoption.
 - (B) The date on which the prospective adoptive parents travel to the sending country to complete procedures relating to the adoption.
 - (b) To the extent the matter is within its control, the adoption agency may not withdraw the referral of a child until the prospective adoptive parents have had at least one week to consider the needs of the child and their ability to meet those needs, and to obtain medical review of child information. The adoption agency may withdraw the referral earlier if the best interests of the child require a more expedited decision.
 - (c) The information must be provided in both the original language, if available, and in English. The adoption agency must do nothing to discourage prospective adoptive parents from obtaining their own translation of the information.
- (6) An adoption agency must document in its adoption file all of the following:
 - (a) The efforts of the adoption agency to obtain the information.
 - (b) Reasons why the adoption agency was not able to obtain the information, if applicable.
 - (c) All communications made with prospective adoptive parents regarding the information, including contents of, dates, and the manner in which the information was provided to the prospective adoptive parents.
- (7) With regard to post-placement and post-legalization requirements and services, an adoption agency must meet all of the following requirements:
 - (a) The adoption agency must take all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if practicable, in the company of the adoptive parents.
 - (b) Until the adoption is finalized, the adoption agency must provide post-placement reports on a child to the sending country when required by the sending country. When such reports are required, the adoption agency:

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(A) Must inform the prospective adoptive parents of the requirement prior to the referral of the child for adoption; and

(B) Must inform the prospective adoptive parents that they will be required to provide all necessary information for the reports.

(c) For children sent to the United States, in addition to post-placement reports required by the sending country, the adoption agency must require at least one home visit with all persons living in the adoptive home between one and four months after the child's arrival in the United States. Home visits must be documented in a post-placement report that includes all of the following issues:

(A) The status and adjustment of each child in the adoptive home.

(B) The status and adjustment of the prospective adoptive parents and other adoptive family members to each child placed in the home.

(C) A summary of the information obtained concerning the birth parents and the available social, medical, and genetic history of each child placed in the home.

(d) If an adoption or re-adoption (defined in OAR 413-215-0406) is sought in Oregon, the original post-placement report, along with recommendations, must be filed by the adoption agency with the court and a copy forwarded to the department.

(e) The adoption agency must inform the prospective adoptive parents of other available post-placement services and resources, including all of the following:

(A) Additional home visits, office visits, telephone conferences, and other contacts with the personnel of the adoption agency.

(B) Other professionals, organizations, and groups that provide support and information for adoptive parents of children adopted internationally.

(f) When an adoption is not finalized in the sending country, the adoption agency must meet all of the following requirements:

(A) Monitor and supervise the placement to ensure that the placement remains in the best interests of the child.

(B) Inform prospective adoptive parents of the importance of finalizing the adoption in the United States and contractually require the prospective adoptive parents to finalize the adoption in the United States within a specified period after receiving the consent of the adoption agency for adoption.

(C) Advise adoptive parents regarding the means of obtaining proof of citizenship for the child and the process for obtaining a social security number.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95; Renumbered from 413-220-0100, CWP 32-2008, f. & cert. ef. 10-17-08

413-215-0481

Services to Children from the United States Placed in Other Countries

Before making a plan to place a child from the United States with non-relative citizens of another country, an *adoption agency* (defined in OAR 413-215-0406) must make reasonable efforts to actively recruit and make a diligent search for *prospective adoptive parents* in the United States.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 32-2008, f. & cert. ef. 10-17-08

Licensing Residential Care Agencies

413-215-0501

Residential Care Agencies; What Law Applies

(1) Except as provided in section (2) of this rule, a *private child-caring agency* (defined in OAR 413-215-0006) that provides services to children 24 hours a day must be licensed in accordance with and comply with 413-215-0001 to 413-215-0131 and 413-215-0501 to 413-215-0586.

(2) Academic boarding schools (OAR 413-215-0201 to 413-215-0276) and therapeutic boarding schools (413-215-0601 to 413-215-0681) are not subject to 413-215-0501 to 413-215-0586.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0000, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0506

Definitions

When used in OAR 413-215-0501 to 413-215-0586:

(1) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(2) "Care" means services provided to meet the needs of a child, such as food, shelter, clothing, medical care, schooling, protection, and supervision.

(3) "Child" means an unmarried person under 18 years of age.

(4) "Employee" means an individual holding a paid position with a residential care agency.

(5) "Facility" means the physical setting, buildings, administration, staff, equipment, and program of a residential care agency.

(6) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.

(7) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(8) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(9) "Resident" means any child residing in a residential care agency other than an infant who resides with an adolescent parent.

(10) "Residential" means care or treatment services provided on a 24 hour per day basis to children. For the purpose of these rules, "residential care or treatment" does not include services provided in family foster homes or adoptive homes.

(11) "Residential care agency" means a private child-caring agency (defined in OAR 413-215-0006) that provides services to children 24 hours a day.

(12) "Staff" means employees of the residential care agency who are responsible for providing direct care or treatment to residents.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0010, CWP 33-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0511

Physical Plant Requirements

(1) A *residential care agency* (defined in OAR 413-215-0506) may not allow children to have access to, or provide services regulated by these rules (413-215-0501 to 413-215-0586) in, a building unless the building has been certified as meeting all applicable state and local construction-related requirements for a building used as a residential facility, including: the Oregon Structural Specialty Code (see the current version of 837-040-0140), the Oregon Fire Code (see the current version of 837-040-0010 and 837-040-0020), DHS Public Health Division (see the current requirements for buildings in Chapter 333 of the Oregon Administrative Rules), the Oregon Plumbing Specialty Code (see the current version of

918-750-0110 to 918-750-0140), the rules of the State Fire Marshal (see the current requirements for buildings in Chapter 837 of the Oregon Administrative Rules), and the local building, fire, and safety codes.

(2) A residential care agency must ensure that all of the following standards are met:

(a) All buildings where children are present must be smoke-free.

(b) Water temperature and access to water:

(A) A continuous supply of hot and cold water, installed and maintained in compliance with this rule and OAR 413-215-0516, must be distributed to taps conveniently located throughout each building used to provide services or housing for children.

(B) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in each building used to provide services or housing for children.

(C) Each resident (defined in OAR 413-215-0506) who lacks the ability to adjust and control water temperature safely must be directly supervised by a staff (defined in OAR 413-215-0506) member of the residential care agency.

(c) Heating and ventilation. Room temperatures must be maintained within normal comfort range. Buildings must be ventilated and free of excessive heat and condensation and unpleasant odors.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0516

Room and Space Requirements

A *residential care agency* (defined in OAR 413-215-0506) must meet all of the following room and space requirements:

(1) Living area. A separate living room or lounge area must be available for the exclusive use of residents, employees, and invited guests with a minimum of 15 square feet per resident.

(2) Bedrooms. Bedrooms for residents may not be exposed to drafts, odors, or noises that interfere with the health or safety of the occupants. Each bedroom must comply with all of the following requirements:

(a) Be separate from the rooms used for dining, living, multi-purpose, laundry, kitchen, or storage.

(b) Be an outside room, with a window allowing egress from the building.

(c) Have a ceiling height of at least 90 inches.

(d) Have a minimum of 60 square feet per bed.

(e) House no more than 25 residents in one room when a dormitory-style sleeping arrangement is used.

(f) Have permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(g) Have a window covering on each window to ensure privacy.

(h) Contain beds for residents that meet both of the following requirements:

(A) There must be at least three feet between beds, including trundle beds if used; and

(B) Bunk beds, if used, must be maintained to ensure safety of the residents.

(3) Bathrooms.

(a) Bathrooms must be provided and be conveniently located in each building containing a resident bedroom, and must have all of the following:

(A) A minimum of one toilet and one hand-washing sink with mixing faucets for each eight residents.

(B) A self-closing metered faucet, if used, that provides water flow for at least 15 seconds without a need to reactivate the faucet.

(C) Hot and cold running water, as well as soap and paper towels available at sinks, or, other hand-drying options approved by the local health department.

(D) One bathtub or shower for each ten residents.

(E) Arrangements for residents' individual privacy.

(F) A window covering on each window to ensure privacy.

(G) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(H) Adequate ventilation.

(b) Use of wooden racks over shower floors is prohibited.

(c) When impervious shower mats are used, they must be disinfected and dried at least once per day.

(4) Dining area. A separate dining room or area must be provided for the exclusive use of residents, employees, and invited guests. The dining area must have the capacity to seat at least one-half of the residents at one time and must contain a minimum of 15 square feet per resident.

(5) Kitchen.

(a) Kitchens must be used exclusively for storage, food preparation, dish washing, and other activities related to eating and may not, except as provided in OAR 413-215-0536, be used for residents' activities other than eating.

(b) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or utensils are washed or stored must be smooth, washable, and easily cleanable.

(c) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and nonabsorbent, and must be maintained in a clean and sanitary condition.

(d) All equipment used for food preparation must be installed and maintained in a manner that provides ease of cleaning beneath, between, and behind each unit.

(6) Laundry area. Laundry facilities, when provided, must be separate from all of the following:

(a) Resident living areas, including bedrooms.

(b) Kitchen and dining areas.

(c) Areas used for the storage of un-refrigerated perishable food.

(7) Storage. Separate storage areas must be provided for each of the following:

(a) Food, kitchen supplies, and utensils.

(b) Clean linens.

(c) Soiled linens and clothing.

(d) Cleaning compounds and equipment.

(e) Poisons, chemicals, pest and rodent control products, insecticides, and other toxic materials that must be properly labeled, stored in the original container, and kept in a locked storage area.

(f) Outdoor recreational and maintenance equipment.

(8) Outdoor activity area. A usable out-of-doors activity area must be provided that is protected from vehicular traffic and other hazards. The area must be of sufficient size to meet the recreational needs of the residents.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0100, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0521

Resident Furnishings and Personal Items

A *residential care agency* (defined in OAR 413-215-0506) must meet all of the following requirements:

(1) Furniture. Furniture must be provided for each resident (defined in OAR 413-215-0506) including:

(a) A bed, including a frame;

(b) A clean, comfortable mattress and a pillow; and

(c) A private dresser, closet, or similar storage area for personal belongings that is readily accessible to the resident.

(2) Linens. Linens in good repair must be provided or arranged for each resident, including:

(a) A waterproof mattress cover or waterproof mattress;

(b) Sheets and pillowcase;

(c) Blankets appropriate in number and type for the season and the individual resident's comfort; and

(d) Towels and washcloths.

(3) Bedding must be changed when soiled and upon change of occupant.

(4) Personal hygiene supplies. Individual personal hygiene supplies that are appropriate to the child's age, gender, and culture must be made available to each resident, stored in a clean and sanitary manner, and must include:

- (a) A comb;
- (b) Shampoo, or other hair cleansing product;
- (c) A toothbrush;
- (d) Soap;
- (e) Deodorant;
- (f) Toothpaste;
- (g) Toilet paper;
- (h) Menstrual supplies, if appropriate; and
- (i) Other supplies that are appropriate to the child's age, gender, and cultural needs.

(5) Clothing. Adequate and seasonally appropriate clothing must be provided for each resident for the resident's exclusive use.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0130, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0526

New Facility or Remodel

A residential care agency (defined in OAR 413-215-0506) must meet all of the following requirements:

(1) Building plans.

(a) A residential care agency must submit to the Department for approval a set of plans and specifications for each residential care facility operated by the residential care agency at each of the following times:

(A) Prior to construction of a new building.

(B) Prior to construction of an addition to an existing building.

(C) Prior to the remodeling, modification, or conversion of a building.

(D) In support of an application for initial license to operate as a residential care agency.

(b) Plans must comply with all applicable state and local requirements for a building used as a residential facility, including the Oregon Structural Specialty Code (OAR 837-040-0140), the Oregon Fire Code (837-040-0010 and 837-040-0020), DHS Health Services requirements for buildings (Chapter 333 of the Oregon Administrative Rules), the Oregon Plumbing Specialty Code (918-750-0110 to 918-750-0140), the rules of the State Fire Marshal for buildings (Chapter 837 of the Oregon Administrative Rules), and the local building, fire, and safety codes.

(c) Plans must be drawn to scale, and must specify the date upon which construction, modification, or conversion will be completed, if applicable.

(2) Sanitarian approval. The water supply, sewage, and garbage disposal systems must be approved by a sanitarian registered with the Environmental Health Registration Board (see OAR 338-010-0025 to 338-010-0038).

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0531

Environmental Health

A residential care agency (defined in OAR 413-215-0506) must meet all of the following requirements:

(1) The program of the residential care agency must maintain an environment that ensures safety for program staff (defined in OAR 413-215-0506) and clients.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

(a) Food service risk assessment.

(b) Drinking water or waste water assessment.

(c) Vector and pest control, including the use of pesticides and other chemical agents.

(d) Hazardous material management, including handling and storage.

(e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0120, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0536

Food Services

A residential care agency (defined in OAR 413-215-0506) must meet all of the following requirements with regard to food services:

(1) Nutrition and dietary requirements.

(a) A residential care agency must arrange meals daily, consistent with normal mealtimes that occur during hours of operation.

(b) Menus must be prepared in advance in accordance with USDA guidelines and must provide a sufficient variety of foods served in adequate amounts for each child (defined in OAR 413-215-0506) at each meal, adjusted for seasonal changes. Records of menus as served must be maintained in the record of the residential care agency for at least six months.

(c) Drinking water must be freely available to the children served by the residential care agency.

(2) Food selection, storage, and preparation.

(a) All food and drink provided by the residential care agency must be stored, prepared, and served in a sanitary manner.

(b) All employees who handle food served to children must have a valid food handlers card pursuant to ORS 624.570.

(c) Selection of food. All food products served by a residential care agency must be obtained from commercial suppliers, except:

(A) Fresh fruits and vegetables and fruits or vegetables frozen by the residential care agency may be served.

(B) The serving of un-pasteurized juice is prohibited.

(d) Requirements related to milk.

(A) Only Grade A pasteurized and fortified milk may be served to children.

(B) Milk and fluid milk products must be dispensed from a commercially-filled plastic container of not more than one-gallon capacity or from a refrigerated bulk container equipped with a dispensing device approved by the Food and Drug Administration or Oregon Department of Agriculture.

(e) Children may participate in activities in a food-preparation area, other than routine clean up, only while under the supervision of the employees of the residential care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0150, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0541

Safety

A residential care agency (defined in OAR 413-215-0506) must meet all of the following requirements related to safety:

(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The residential care agency must provide fire safety equipment that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The residential care agency must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The residential care agency must have, for each facility (defined in OAR 413-215-0506) it operates, a written emergency plan that includes:

(A) Instructions for evacuation of children and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the staff (defined in OAR 413-215-0506) in case of emergency.

(3) Evacuation drills.

(a) An unannounced evacuation drill must be held monthly under varying conditions to simulate the unusual conditions that occur in the event of fire. For each drill, the residential care agency must document the following information and retain it for a minimum of two years:

- (A) Identity of the person conducting the drill.
- (B) Date and time of the drill.
- (C) Notification method used.
- (D) Staff members on duty and participating.
- (E) Number of occupants evacuated.
- (F) Special conditions simulated.
- (G) Problems encountered.
- (H) Time required to accomplish complete evacuation.

(b) The residential care agency must ensure that all employees and children are aware of the procedures to follow in case of emergencies.

(4) Hazards.

(a) The residential care agency must protect children it serves from guns, drugs, plastic bags, sharps, paint, hazardous materials, bio hazardous materials, and other potentially harmful materials. A residential care agency must have a written policy that addresses potentially harmful materials that are in the building accessible to the children in the program or on the grounds of the program.

(b) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in all buildings serving children. Direct supervision by staff must be provided for any child (defined in OAR 413-215-0506) who does not have the ability to adjust and control water temperature.

(c) Each light fixture must have a protective cover unless it is designed to be used without one.

(5) Transportation. The residential care agency must ensure the following when providing transportation to children it serves:

(a) Driver requirements.

(A) Each employee (defined in OAR 413-215-0506) transporting a child in a motor vehicle must have a current driver license on record with the residential care agency.

(B) The residential care agency may use an employee to provide transportation for children only if the employee is covered by an insurance policy in full force and effect, and in compliance with the standards set by the residential care agency.

(C) The residential care agency must ensure that employees providing transportation are trained in emergency procedures, including behavior management, while in a vehicle.

(D) The residential care agency must ensure that each person who transports a child in a van for 15 or more passengers receives training in the safe operation of that type of vehicle prior to transporting children.

(b) Vehicle requirements.

(A) Each vehicle used to transport a child served by the residential care agency must be covered by an insurance policy in full force and effect.

(B) Each vehicle used to transport a *child* served by the residential care agency must be maintained in safe operating condition.

(C) Each vehicle used to transport a child must have aboard a first aid kit, a fully charged and working fire extinguisher with a rating of at least 2-A:10-BC, and a copy of the medical insurance card of each child being transported.

(D) Each vehicle used to transport a child must be smoke-free.

(E) Children and adults must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0110, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0546

Health Services

(1) A *residential care agency* (defined in OAR 413-215-0506) must obtain all private health record information referred to in this rule in a manner that complies with federal and state law.

(2) Medical history. Within 30 days of a child being placed with a residential care agency, the residential care agency must obtain available medical history and other health-related information on the child, including:

(a) Significant findings of the most current physical examination;

(b) The child's current immunizations, history of surgical procedures and significant health issues or injuries, and past or present communicable diseases;

(c) Any known allergies;

(d) Dental, vision, hearing, and behavioral health;

(e) Documentation that the child has received age-appropriate instruction regarding pregnancy prevention, nutrition, prevention of HIV and AIDS, and general information about the prevention and treatment of sexually transmitted disease; and

(f) Physician or qualified medical professional's orders, including those related to medications, if any.

(3) Female health care. If licensed to serve female children, a residential care agency must provide or arrange for the following health services, as applicable:

(a) Information on maintaining reproductive health.

(b) Prenatal care.

(c) Well-baby care.

(d) Fetal alcohol syndrome.

(e) Accessing child and infant health insurance programs.

(f) Screening for breast, cervical, and other common cancers.

(4) Medical examinations. A residential care agency must safeguard the health of each child it serves by providing for a medical examination by a physician or qualified medical professional at the following intervals:

(a) Three examinations during the first year of the child's life.

(b) One examination at the age of two.

(c) One examination at the age of four.

(d) One examination at the age of six.

(e) One examination at the age of nine.

(f) One examination at the age of 14.

(5) A residential care agency must have established protocols for accessing routine and urgent care for the children in placement with the residential care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0160, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0551

Medication

A *residential care agency* (defined in OAR 413-215-0506) must meet all of the following requirements:

(1) Policy and procedures. The residential care agency must have policies and procedures that cover all prescription and non-prescription medications that address all of the following:

(a) How the medication (defined in OAR 413-215-0506) will be administered.

(b) By whom the medication will be administered.

(c) How the staff (defined in OAR 413-215-0506) of the residential care agency who administer medication will be trained.

(d) How the administration of medication will be documented.

(e) How the administration of medication will be monitored.

(f) How unused *medication* will be disposed of.

(g) The process that ensures that each child's prescription and non-prescription medications are reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non prescription medication" means any medication that does not

require a written prescription for purchase or dispensing and includes the use of any herbal remedies or supplements.

(2) A prescription, signed by a physician or qualified medical professional, is required before any prescription medication is administered to, or self-administered by a child. Medications prescribed for one child may not be administered to, or self-administered by another child or staff. As used in this rule, "self-administration of medication" refers to the act of a resident placing a medication internally in, or externally on, his or her own body.

(3) A written approval, signed by a physician or qualified medical professional, is required for any use of herbal supplements or remedies.

(4) A written order, signed by a physician or qualified medical professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(5) Before a residential care agency permits a child to self-administer prescription medication, self-administration must be recommended by the qualified medical professional, approved in writing by a physician or qualified medical professional, and closely monitored by the staff of the residential care agency.

(6) Medication storage.

(a) Prescription medications that are unused and medications that are outdated or recalled may not be maintained in the facility (defined in OAR 413-215-0506). "Outdated" means any medication whose designated period of potency, as indicated on the label, has expired.

(b) The facility may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications stored in the facility must be kept in a manner that they are inaccessible to children.

(d) Medications requiring refrigeration must be refrigerated and secured.

(e) Medications must be maintained and stored in its original container, including the prescription label.

(7) Medication disposal. Medications must be disposed of in a manner that ensures that they cannot be retrieved, in accordance with all applicable state and federal law.

(8) A written record of all medication disposals must be maintained and must include all of the following:

(a) A description of the prescribed medication and the amount disposed.

(b) The child for whom the medication was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the person disposing the medication, and the initials of an adult witness.

(9) Medication records. A written record must be kept for each child listing all medications, both prescription and over-the-counter, that are administered. The record must include all of the following:

(a) The child's name.

(b) A description of the medication, instructions for use, and the recommended dosage.

(c) Dates and times medication is administered.

(d) A record of missed dosages.

(e) Medication dropped or disposed of.

(f) Method of administration for each medication.

(g) Identification of the person administering the medication.

(h) Any possible adverse reactions to the medication.

(i) Documentation of any medication taken outside the facility to be administered during a home visit or other activity.

(10) Where applicable, the residential care agency must maintain documentation of the continuing evaluation of the child's ability to self-administer a medication.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0554

Extracurricular, Enrichment, Cultural, and Social Activities

The residential care agency (defined in OAR 413-215-0506) must:

(1) Support the child or young adult in his or her interests to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(2) Ensure the child or young adult has ongoing opportunities to participate in at least one age-appropriate or developmentally appropriate activity.

(3) Apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(4) Designate at least one on-site employee to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving participation in age-appropriate or developmentally appropriate activities with respect to any child or young adult placed at the residential care agency. When applying the reasonable and prudent parent standard, the designated caregiver must consider:

(a) The age, maturity, and developmental level of a child or young adult.

(b) The nature and inherent risks of harm.

(c) The best interest of the child or young adult based on information known by the caregiver.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0556

Staff Training

In addition to the orientation requirements in OAR 413-215-0061(4), a residential care agency (defined in OAR 413-215-0506) must meet all of the following training requirements with respect to its staff (defined in OAR 413-215-0506):

(1) Staff of the residential care agency must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:

(a) Behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping children build positive personal relationships and self-control.

(b) If restraint and seclusion are utilized by the residential care agency, which techniques are approved by the residential care agency and how use of these procedures is monitored. The training must be clear that the policy of the residential care agency is that restraint or seclusion is used as an intervention of last resort.

(2) Staff of the residential care agency must receive ongoing training at least annually on all of the following:

(a) Mandatory child abuse reporting.

(b) Procedures for handling environmental emergencies.

(c) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(d) Behavior management.

(3) Staff providing direct care of children of the residential care agency must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

(4) Staff designated as the caregiver authorized to apply the reasonable and prudent parent standard must receive training related to the reasonable and prudent parent standard and age-appropriate or developmentally appropriate activities.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 33-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0561

Minimum Staffing Requirements

A residential care agency (defined in OAR 413-215-0506) must meet all of the following requirements:

(1) Minimum staffing patterns. The residential care agency must establish staff-to-child ratios that will provide adequate supervision and protection for children. The ratios must be adequate for the type of program, location of program, the age and type of children served, physical plant design, location and ability of the supervisor to respond, electronic backup systems, and other means available to ensure a high standard of supervision and protection. The minimum staffing ratios are as follows:

(a) For residents (defined in OAR 413-215-0506) who are under 30 months of age — one direct care staff (defined in OAR 413-215-0506) for each four residents.

(b) For residents who are 30 months of age or older and either less than six years of age or non-ambulatory, one direct care staff for each six residents.

(c) For residents who are six years of age or older, one direct care staff for each seven residents.

(2) Overnight staffing requirements.

(a) A residential care agency must have policies and procedures regarding overnight supervision of residents. The procedures must describe how staff must monitor and ensure the safety of residents during sleeping hours. If the residential care agency houses more than one child (defined in OAR 413-215-0506) to a bedroom or uses dormitory-type sleeping arrangements, the procedure must specifically address those living arrangements.

(b) During normal sleeping hours, the minimum staffing requirement is one awake direct care staff on duty in the facility (defined in OAR 413-215-0506) for each 10 children.

(3) At least one staff member of each shift must have current certification in cardiopulmonary resuscitation and first aid.

(4) Additional staffing requirements for emergency response.

(a) When there is only one employee (defined in OAR 413-215-0506) of the residential care agency on duty in the facility, there must be additional staff immediately available in the event of an emergency, with a maximum response time of 30 minutes. The names of additional staff who are available for immediate response must be listed on the schedule for each time period when only one staff person is on duty in the facility.

(b) One employee who is age 18 or over and capable of taking appropriate action in an emergency must be on site at all times when one or more residents are present on the residential facility premises.

(5) Staffing requirements for reasonable and prudent parent standard. There must be at least one on-site employee designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving participation in age-appropriate or developmentally appropriate activities with respect to any child placed at the residential care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0080, CWP 33-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0566

Separation of Residents

A residential care agency (defined in OAR 413-215-0506) must meet all of the following requirements:

(1) Combining children and adults. Special care must be taken by a residential care agency to provide adequate supervision of children when adults are being served by the residential care agency. Children and adults must be housed in separate bedrooms, except that a child and the child's parent may be housed in the same room if the parent is the child's caretaker. If a person is 18 years of age or older, and is to share a bedroom with a child, the residential care agency must obtain written approval from the Department licensing coordinator.

(2) Co-ed facilities. Special care must be taken by a residential care agency to provide adequate supervision when the program

serves both males and females concurrently. Children's bedrooms for males must be separated from bedrooms for females.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0090, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0571

Referral and Initial Evaluation of Children

(1) Referral. A residential care agency (defined in OAR 413-215-0506) must have a policy that addresses the process by which children are referred to the residential care agency. The policy must include all of the following:

(a) From whom referrals are accepted.

(b) On what basis children are accepted by the residential care agency.

(c) How information necessary to provide for the safety and care (defined in OAR 413-215-0506) of children will be provided to the appropriate care staff (defined in 413-215-0506).

(2) Initial evaluation of a child. A residential care agency must evaluate each child referred to the residential care agency. In conducting the evaluation, the residential care agency must:

(a) Request and review all available reports of the child's past and present behavior, educational status, and physical and behavioral health.

(b) Make a preliminary determination whether the prospective child has disorders, disabilities, or deficits due to mental, emotional, behavioral, or physical problems for which care, supervision, training, rehabilitation, or treatment is needed to reduce a problem, maintain present level of functioning, or clarify the ongoing placement or service needs of the child.

(3) A residential care agency must be prepared to provide to a parent or legal guardian of a referred child suggestions for obtaining resources in the event the child is not accepted by the residential care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0170, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0576

Consents, Disclosures, and Authorizations

(1) Consents. For each child in placement with a residential care agency (defined in OAR 413-215-0506), the residential care agency must ensure that a parent or legal guardian signs a consent that authorizes the residential care agency to undertake each of the following:

(a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the residential care agency is not required to use medical, psychological or rehabilitative procedures, unless the child is old enough to consent to these procedures and does so. The residential care agency must have policies and procedures for this practice, which are reviewed and approved by the child's parent or legal guardian.

(b) To use the behavior management system of the residential care agency, including the point, level, or other behavior management techniques utilized by the residential care agency.

(c) To use restraint or seclusion in the management of the child. The consent must specify the reasons such interventions are used by the residential care agency and how the employees of the residential care agency are trained and supervised in the use of restraint or seclusion.

(d) To restrict the child's contact with persons outside the residential care agency, including visits, telephone communication, electronic mail, and postal mail.

(e) To exclude or limit the child's possession of personal items.

(f) To impose a dress code.

(g) To apply the reasonable and prudent parent standard to determine whether the child or young adult is allowed to participate

in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(2) Disclosures to parent or legal guardian. At the time a residential care agency takes a child into placement, the residential care agency must ensure that each parent or legal guardian of the child receives and acknowledges in writing the receipt of each of the following:

(a) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the residential care agency for any program-initiated room or body search.

(b) A statement concerning the rights of children and parents or legal guardians served by the residential care agency. The statement must be written in a manner that is easy to understand, and the residential care agency must ensure that the child and the parent or legal guardian understand the statement. The statement must explain all of the following:

(A) The child's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian.

(B) The child's right to privacy.

(C) The child's right to participate in service planning.

(D) The child's right to fair and equitable treatment.

(E) The right of the child or guardian to file a grievance if the child or family (defined in OAR 413-215-0506) feels that they are treated unfairly, or, if they are not in agreement with the services provided.

(F) The child's right to have personally exclusive clothing.

(G) The child's right to personal belongings.

(H) The child's right to a free and appropriate education.

(I) The child's right to participate in recreation and leisure activities.

(J) The child's right to have timely access to physical and behavioral health care services

(c) The residential care agency will make any written policy or procedure pertaining to program services available for review by the child, parent, or legal guardian, upon request.

(3) Authorizations.

(a) Written authorizations to exchange information with others must be filled out prior to signatures being requested.

(b) All child-specific visitors must be approved or authorized by the parent or legal guardian, except CASAs and attorneys appointed to represent the child.

(c) Visitation resources must be pre-approved by the child's parent or legal guardian and the identity of these resources verified by the residential care agency.

(d) Activity-specific authorizations must be pre-approved by the child's parent or legal guardian to allow children to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the child's parent or legal guardian.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 33-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0581

Information About Children in Placement with the Agency

(1) Child's case files. For each child a residential care agency (defined in OAR 413-215-0506) accepts for placement, the residential care agency must maintain an individual record that includes a summary sheet containing all of the following information:

(a) The child's name, gender, date of birth, religious preference, and previous address.

(b) The name and location of the child's previous school.

(c) The date of admission to the program.

(d) The status of the child's legal custody, including the name of each person responsible for consents and authorizations.

(e) The name, address, and telephone number of:

(A) The child's parents.

(B) The child's legal guardian, if different than parents, and documentation of his or her legal relationship to the child.

(C) Other family members or other persons identified by the family (defined in OAR 413-215-0506) as significant to the child.

(D) Other professionals to be involved in service planning, if applicable.

(2) Service planning.

(a) All documentation, including but not limited to service plans, daily notes, assessments, progress reports, medication records, and incident reports, must be written in terms that are easily understood by all persons involved in service planning.

(b) Intake documentation. A residential care agency must complete a written intake document containing screening information on the date the residential care agency accepts a child for placement except in the case of an emergency placement, when the intake document must be completed within 48 hours of admission.

(c) Each child must be served according to an individual written service plan developed by staff (defined in OAR 413-215-0506) of the residential care agency and by, whenever possible, the child, the child's family, and other professionals involved with the child or family. This document must outline goals for services and care coordination.

(d) Assessment. A comprehensive assessment must be completed within the first 30 days of placement. This assessment must include relevant historical information, current behavioral observations, any identified needs for services, and a description of how the residential care agency will provide or coordinate services.

(e) Service plan and review.

(A) Within 60 days of placement, a formal service plan must be developed by staff of the residential care agency in conjunction with the child and his or her parents or legal guardians, and any other persons who are actively involved with the family, as appropriate.

(B) The service plan must reflect how the residential care agency will address the child's issues, describe the anticipated outcomes of the placement, and be reviewed and approved by the child and the legal guardian or parent, unless contraindicated.

(C) The service plan must be reviewed by the residential care agency at least quarterly.

(D) Service plans must be revised at any time additional information becomes available indicating that other services should be provided.

(3) Case management.

(a) The residential care agency must document services provided, and track and monitor progress toward the achievement of service plan goals.

(b) Discharge. The residential care agency must identify how a child's progress will be evaluated, and how the determination is made of readiness for discharge or unsuitability for continued stay.

(c) Discharge planning. Discharge planning for children must be a participatory decision-making process between the child, staff of the residential care agency, the parents or legal guardian, and significant others. As used in this rule, "significant others" mean relatives, friends, or interested members of the community.

(d) Discharge instructions. The residential care agency must provide the child and the child's guardian with discharge instructions on or before the discharge date, including current medications, name of the physician or qualified medical professional who prescribed each medication (defined in OAR 413-215-0506), any outstanding medical or other appointments, and other follow-up instructions as needed.

(e) Follow-up services. The residential care agency must identify any transitional or aftercare services or service coordination that will be offered by the program.

(f) Incident reporting. A written description of any injury, accident, or unusual incident involving a child must be placed in the individual child's record.

(4) Financial records. A residential care agency must keep a separate written record for each child itemizing all money received

or disbursed on behalf of the child. The record must include all of the following:

- (a) The date of each receipt and disbursement and the amount of each.
- (b) The source of income.
- (c) The purpose of each disbursement.
- (d) The signature of the person making each entry.
- (e) The signature of the child for each entry.
- (5) Personal possessions records. An individual written inventory must be maintained for each child of all personal possessions belonging to the child. The record must be updated as needed.
- (6) The residential care agency will ensure, in policy and practice, that:
 - (a) Disallowable items are either stored, or returned to the parent or legal guardian; and
 - (b) All money and personal belongings are returned to the child at the time of discharge.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-120-0180, CWP 33-2008, f. & cert. ef. 10-17-08

413-215-0586

Notification to Public Schools

(1) This rule applies if a *residential care agency* (defined in OAR 413-215-0506) intends any of the actions:

- (a) To establish or expand a residential program for children.
- (b) To change the type of educational services provided.
- (c) To change the population of children to be served by an existing program.

(2) Prior to an action covered by section (1) of this rule, a residential care agency must notify the superintendent or school board of the local school district, in writing, three months prior to making the intended change in order for the school district to make a determination of the effect of different, or additional, services upon the facilities and programs of the district.

(3) A residential care agency must send written proof of compliance with ORS 336.575 to the Department licensing coordinator.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 336.575, 418.205 - 418.327

Hist.: CWP 33-2008, f. & cert. ef. 10-17-08

Licensing Therapeutic Boarding Schools

413-215-0601

Therapeutic Boarding Schools; What Law Applies

(1) A *therapeutic boarding school* (defined in OAR 413-215-0606) must be licensed in accordance with and comply with 413-215-0001 to 413-215-0131 and 413-215-0601 to 413-215-0681.

(2) Academic boarding schools (OAR 413-215-0201 to 413-215-0276) and residential care agencies (413-215-0501 to 413-215-0586) are not subject to 413-215-0601 to 413-215-0681.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0606

Definitions

The following definitions apply to OAR 413-215-0601 to 413-215-0681:

- (1) "Boarding" means *care* or treatment services provided on a 24 hour per day basis to children.
- (2) "Care" means services provided to meet the needs of a child, such as food, shelter, clothing, medical care, schooling, protection, and supervision.
- (3) "Child" means an individual under 18 years of age.
- (4) "Employee" means an individual holding a paid position with a therapeutic boarding school.
- (5) "Facility" means the physical setting, property, structures, or equipment of a *therapeutic boarding school*.
- (6) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.

(7) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(8) "Staff" means employees of the therapeutic boarding school who are responsible for providing direct care or treatment to students.

(9) "Student" means a residential client of a therapeutic boarding school.

(10) "Therapeutic boarding school" means an organization or a program in an organization that:

(a) Is primarily a school and not a residential care agency (defined in OAR 413-215-0506);

(b) Provides educational services and care to children for 24 hours a day; and

(c) Holds itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0611

Educational Services

The educational services of a *therapeutic boarding school* (defined in OAR 413-215-0606) must comply with all of the following requirements:

(1) The *therapeutic boarding school* must comply with the minimum requirements for private education institutions as determined by the Oregon Department of Education.

(2) Education services must include at least one qualified teacher for every fifteen students (defined in OAR 413-215-0606).

(3) The therapeutic boarding school must ensure that it has a curriculum that considers the goals of modern education as defined in OAR 581-022-1020 and the requirements of a sound, comprehensive curriculum.

(4) Secondary schools must verify that they have academic standards necessary for students to obtain admission to community colleges and institutions of higher education and receive a high school diploma or GED.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0616

Physical Plant Requirements

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements:

(1) All buildings owned, maintained, or operated by the therapeutic boarding school to provide services to *students* (defined in OAR 413-215-0606) must meet all applicable state and local building, electrical, plumbing, and zoning codes.

(2) Each room used by students must have floors, walls, and ceilings that meet the interior finish requirements of the applicable Oregon Structural Specialty Code (see the current version of OAR 837-040-0140) and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020) and be free of harmful drafts, odors, and excessive noise.

(3) Each room used by students must be adequate in size and arrangement for the purpose in which it is used.

(4) A system providing a continuous supply of hot and cold water must be distributed to taps conveniently located throughout each facility (defined in OAR 413-215-0606).

(5) Water systems serving the property must be installed and maintained in compliance with applicable drinking water regulations (Chapter 333 of the Oregon Administrative Rules) from the Public Health Division of the Department of Human Services.

(6) Heat and ventilation.

(a) Buildings must be ventilated by natural or mechanical means and must be free of excessive heat, condensation, and obnoxious odors.

(b) Room temperature must be maintained within a normal comfort range.

(7) Individual rooms.

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(a) Living area. A separate living room or lounge area must be available for the exclusive use of students, employees, and invited guests.

(b) Bedrooms. Bedrooms for students may not be exposed to drafts, odors, or noises that interfere with the health or safety of the occupants. Each bedroom must comply with all of the following requirements:

(A) Be separate from the rooms used for dining, living, multi-purpose, laundry, kitchen, or storage.

(B) Be an outside room, with a window of at least the minimum size required by the State Fire Marshal and building codes;

(C) Have a ceiling height of at least 90 inches.

(D) Have a minimum of 60 square feet per bed.

(E) House no more than 25 students in one room when a dormitory-style sleeping arrangement is used.

(F) Have permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(G) Have a window covering on each window to ensure privacy.

(H) Contain beds for students that meet both of the following requirements:

(i) There must be at least three feet between beds, including trundle beds if used; and

(ii) Bunk beds, if used, must be maintained to ensure safety of the students.

(c) Restrooms must be provided and be conveniently located, and must have:

(A) A minimum of one toilet for every eight students.

(B) One hand-washing sink with mixing faucets for each toilet. The sink may not be used for the preparation of food or drinks or for dish washing.

(C) Hot and cold running water, soap, and paper towels at each hand washing sink or other hand drying options approved by an environmental health specialist.

(D) Arrangements for individual privacy for users.

(E) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(F) A window covering on each window to ensure privacy.

(G) Adequate ventilation.

(H) Each self-closing metered faucet, if provided, must provide water flow for at least 15 seconds without the need to reactivate the faucet.

(d) Laundry facilities must be separate from:

(A) Kitchen and dining areas;

(B) Student living areas, including bedrooms; and

(C) Areas used for the storage of un-refrigerated perishable food.

(e) Storage areas must be provided appropriate to the size of the facility. Separate storage areas must be provided for:

(A) Food, kitchen supplies, and utensils.

(B) Clean linens.

(C) Soiled linens and clothing.

(D) Cleaning compounds equipment.

(E) Poisons, chemicals, pest control products, insecticides, and other toxic materials, which must be properly labeled, stored in the original container, and kept in a locked storage area.

(F) Outdoor recreational and maintenance equipment.

(f) Food service areas.

(A) Kitchens must have facilities for dish washing, storage, and preparation of food.

(B) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or in which utensils are washed or stored must be smooth, washable, and easily cleanable.

(C) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and non-absorbent and must be maintained in a clean and sanitary condition.

(D) All equipment used for food preparation must be installed and maintained in a manner providing ease of cleaning beneath, around, and behind each unit.

(g) Dining area. A separate dining room or area must be provided for the exclusive use of students, employees, and invited guests. The dining area must have the capacity to seat at least one-half of the students at one time and must contain a minimum of 15 square feet per student.

(h) Classrooms and school buildings must be adequate in size and arrangement for the programs offered.

(i) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light, and ventilation and must not be capable of locking.

(j) Activity area. A usable recreational activity area must be provided that is:

(A) Protected from motor traffic and other hazards; and

(B) Of a size and availability appropriate to the age and the needs of the students served by the therapeutic boarding school.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0621

Student Furnishings and Personal Items

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements:

(1) Furniture. Furniture must be provided for each student (defined in OAR 413-215-0606) including:

(a) A bed, including a frame;

(b) A clean, comfortable mattress; and a pillow; and

(c) A private dresser, closet, or similar storage area for personal belongings that is readily accessible to the student.

(2) Linens. Linens in good repair must be provided or arranged for each student, including:

(a) A waterproof mattress cover or waterproof mattress;

(b) Sheets and pillowcase;

(c) Blankets appropriate in number and type for the season and the comfort of the individual student; and

(d) Towels and washcloths.

(3) Bedding must be changed when soiled and upon change of occupant.

(4) Personal hygiene supplies. Individual personal hygiene supplies that are appropriate to the student's age, gender, and culture must be provided or arranged for each student, and must include:

(a) A comb;

(b) Shampoo, or other hair cleansing product;

(c) A toothbrush;

(d) Soap;

(e) Deodorant;

(f) Toothpaste;

(g) Toilet paper;

(h) Menstrual supplies, if appropriate; and

(i) Other supplies that are appropriate to the age, gender, and cultural needs of the student.

(5) Clothing. Adequate and seasonally appropriate clothing must be provided or arranged for each student for the exclusive use of the *student*.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0626

New Facility or Remodel

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements:

(1) A set of plans and specifications for each boarding facility operated by the therapeutic boarding school must be submitted to the Department and to the State Fire Marshal for approval:

(a) Prior to construction of a new building;

(b) Prior to construction of an addition to an existing building;

(c) Prior to the remodeling, modification, or conversion of a building; and

(d) In support of an application for initial license of a therapeutic boarding school under OAR 413-215-0001 to 413-215-0131 and 413-215-0601 to 413-215-0681.

(2) The required plans must comply with both current Oregon Structural Specialty Codes (OAR 837-040-0140) and local fire and safety codes.

(3) Plans must be drawn to scale and must specify the estimated date upon which construction, modification, or conversion will be completed.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0631

Environmental Health

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements:

(1) The program of the therapeutic boarding school must maintain an environment that ensures safety for program staff and clients.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

- (a) Food service risk assessment.
- (b) Drinking water or waste water assessment.
- (c) Vector and pest control, including the use of pesticides and other chemical agents.
- (d) Hazardous material management, including handling and storage.
- (e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0636

Food Services

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements related to food services:

- (1) Nutrition and dietary requirements.
- (a) A therapeutic boarding school must arrange meals daily, consistent with normal mealtimes.
- (b) Snacks must be available and provided as appropriate to the age and activity levels of students (defined in OAR 413-215-0606).
- (c) Menus must be prepared in advance in accordance with USDA guidelines and must provide a sufficient variety of foods served in adequate amounts for each student at each meal, adjusted for seasonal changes. Records of menus as served must be maintained in the therapeutic boarding school record for at least six months.
- (d) Drinking water must be freely available to the students served by the therapeutic boarding school.
- (2) Food selection, storage, and preparation.
- (a) All food and drink provided by the therapeutic boarding school must be stored, prepared, and served in a sanitary manner.
- (b) All employees who handle food served to students must have a valid food handlers card pursuant to ORS 624.570.
- (c) Selection of food. All food products served by a therapeutic boarding school must be obtained from commercial suppliers, except that:
 - (A) Fresh fruits and vegetables and fruits or vegetables frozen by the therapeutic boarding school may be served.
 - (B) The serving of unpasteurized juice is prohibited.
 - (d) Requirements related to milk.
 - (A) Only Grade A pasteurized and fortified milk may be served to students.
 - (B) Milk and fluid milk products must be dispensed from a commercially filled plastic container of not more than one-gallon capacity or from a refrigerated bulk container equipped with a dispensing device approved by the Food and Drug Administration or the Oregon Department of Agriculture.

(e) Students may participate in activities in a food-preparation area, other than routine clean up, only while under the supervision of the employees of the therapeutic boarding school.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0641

Safety

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements related to safety:

(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The therapeutic boarding school must provide fire safety equipment that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The *therapeutic boarding school* must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The therapeutic boarding school must have, for each facility (defined in OAR 413-215-0606) it operates, a written emergency plan that includes:

(A) Instructions for evacuation of students and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the staff (defined in OAR 413-215-0606) in case of emergency.

(3) Evacuation drills.

(a) An unannounced evacuation drill must be held monthly under varying conditions to simulate the unusual conditions that occur in the event of fire. For each drill, the therapeutic boarding school must document the following information and retain it for a minimum of two years:

(A) Identity of the person conducting the drill.

(B) Date and time of the drill.

(C) Notification method used.

(D) Staff members on duty and participating.

(E) Number of occupants evacuated.

(F) Special conditions simulated.

(G) Problems encountered.

(H) Time required to accomplish complete evacuation.

(b) The therapeutic boarding school must ensure that all employees and students are aware of the procedures to follow in case of emergencies.

(4) Hazards.

(a) The therapeutic boarding school must protect students it serves from guns, drugs, plastics bags, sharps, paint, hazardous materials, bio-hazardous materials, and other potentially harmful materials. A therapeutic boarding school must have a written policy that addresses potentially harmful materials that are in the building accessible to the students in the program or on the grounds of the program.

(b) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in all buildings serving students. Direct supervision by staff must be provided for any student who does not have the ability to adjust and control water temperature.

(c) Each light fixture must have a protective cover unless it is designed to be used without one.

(5) Transportation. The therapeutic boarding school must ensure the following when providing transportation to students it serves:

(a) Driver requirements.

(A) Each employee (defined in OAR 413-215-0606) transporting a student in a motor vehicle must have a current driver license on record with the therapeutic boarding school.

(B) The therapeutic boarding school may use an employee to provide transportation for students only if the employee is covered by an insurance policy in full force and effect, and in compliance with the standards set by the therapeutic boarding school.

(C) The therapeutic boarding school must ensure that employees providing transportation are trained in emergency procedures, including behavior management, while in a vehicle.

(D) The therapeutic boarding school must ensure that each person who transports a student in a van for 15 or more passengers receives training in the safe operation of that type of vehicle prior to transporting students.

(E) Children and adults must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

(b) Vehicle requirements.

(A) Each vehicle used to transport a student served by the therapeutic boarding school must be covered by an insurance policy in full force and effect.

(B) Each vehicle used to transport a student served by the therapeutic boarding school must be maintained in safe operating condition.

(C) Each vehicle used to transport a student must have aboard a first aid kit, a fully charged and working fire extinguisher with a rating of at least 2-A:10-BC, and a copy of the medical insurance card of each student being transported.

(D) Each vehicle used to transport a student must be smoke-free.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0646

Health Services

(1) A *therapeutic boarding school* (defined in OAR 413-215-0606) must obtain all personal health record information referred to in this rule in a manner that complies with federal and state law.

(2) Medical history. Within 30 days of a student (defined in OAR 413-215-0606) starting with a therapeutic boarding school, the therapeutic boarding school must obtain available medical history and other health-related information on the student, including:

(a) Significant findings of the most current physical examination;

(b) The student's current immunizations, history of surgical procedures and significant health issues or injuries, and past or present communicable diseases, within ORS 192.518 to 192.526;

(c) Any known allergies;

(d) Dental, vision, hearing, and behavioral health; and

(e) Physician or qualified medical professional's orders, including those related to medication (defined in OAR 413-215-0606), if any.

(3) A therapeutic boarding school must have established protocols for accessing routine and urgent care (defined in OAR 413-215-0606) for the students in placement with the therapeutic boarding school.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0651

Medication

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements:

(1) Policy and procedures. The therapeutic boarding school must have policies and procedures that cover all prescription and non-prescription medication (defined in OAR 413-215-0606) that address all of the following:

(a) How the medication will be administered.

(b) By whom the medication will be administered.

(c) How the staff (defined in OAR 413-215-0606) of the therapeutic boarding school who administer medication will be trained.

(d) How the administration of medication will be documented.

(e) How the administration of medication will be monitored.

(f) How unused medication will be disposed of.

(g) The process that ensures that the prescription and non-prescription medications of each student (defined in OAR 413-215-0606) is reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non prescription medication" means any medication that does not require a written prescription for purchase or dispensing and includes the use of any herbal remedies or supplements.

(2) A prescription, signed by a physician or qualified medical professional, is required before any prescription medication is administered to, or self-administered by a student. Medication prescribed for one student may not be administered to, or self-administered by another student or staff. As used in this rule, "self administration of medication" refers to the act of a student placing a medication internally in, or externally on, his or her own body.

(3) A written approval, signed by a physician or qualified medical professional, is required for any use of herbal supplements or remedies.

(4) A written order, signed by a physician or qualified medical professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(5) Medication storage.

(a) A prescription medication that is unused and any medication that is outdated or recalled may not be maintained in a facility (defined in OAR 413-215-0606). "Outdated" means any medication whose designated period of potency, as indicated on the label, has expired.

(b) The facility may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications stored in the facility must be kept in locked storage and in a manner that makes them inaccessible to children.

(d) A medication requiring refrigeration must be refrigerated and secured.

(e) Each medication must be maintained and stored in its original container, including the prescription label.

(6) Medication disposal. Medication must be disposed of in a manner that ensures that it cannot be retrieved, in accordance with all applicable state and federal law.

(7) A written record of all medication disposals must be maintained and must include all of the following:

(a) A description of the prescribed medication and the amount disposed.

(b) The student for whom the medication was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the person disposing the medication, and the initials of an adult witness.

(8) Medication records. A written record must be kept for each student listing each medication, both prescription and over-the-counter, that is administered. The record must include all of the following:

(a) The student's name.

(b) A description of the medication, instructions for use, and the recommended dosage.

(c) Dates and times medication is administered.

(d) A record of missed dosages.

(e) Medication dropped or disposed of.

(f) Method of administration for each medication.

(g) Identification of the person administering the medication.

(h) Any adverse reactions to the medication.

(i) Documentation of any medication taken outside the facility to be administered during a home visit or other activity.

(9) Where applicable, the therapeutic boarding school must maintain documentation of the continuing evaluation of the student's ability to self-administer a medication.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0656

Staff Training

In addition to the orientation requirements in OAR 413-215-0061(4), a *therapeutic boarding school* (defined in 413-215-0606) must meet all of the following training requirements with respect to its staff (defined in 413-215-0606):

(1) Staff of the therapeutic boarding school must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:

(a) Behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping students (defined in OAR 413-215-0606) build positive personal relationships and self-control.

(b) If restraint and seclusion are utilized by the therapeutic boarding school, approved techniques and monitoring. The training must be clear that the policy of the therapeutic boarding school is that restraint or seclusion is used as an intervention of last resort.

(2) Staff of the therapeutic boarding school must receive ongoing training on all of the following:

(a) Mandatory child abuse reporting.

(b) Procedures for handling environmental emergencies.

(c) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(d) Behavior management.

(3) At all times, at least one of the staff of the therapeutic boarding school working with students must have received training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0661

Minimum Staffing Requirements

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements:

(1) Minimum staffing patterns. The *therapeutic boarding school* must establish ratios of staff (defined in OAR 413-215-0606) to students (defined in 413-215-0606) that will provide adequate supervision and protection for students. The ratios must be adequate for the type of program, location of program, the age and type of students served, physical plant design, location and ability of the supervisor to respond, electronic backup systems, and other means available to ensure a high standard of supervision and protection. The minimum staffing ratios outside normal sleeping hours are one direct care staff for each 10 students.

(2) Overnight staffing requirements.

(a) A therapeutic boarding school must have policies and procedures regarding overnight supervision of students. The procedures must describe how staff must monitor and ensure the safety of students during sleeping hours. If the therapeutic boarding school houses more than one student to a bedroom or uses dormitory-type sleeping arrangements, the procedure must specifically address those living arrangements.

(b) During normal sleeping hours, the minimum staffing requirement is one awake direct care staff on duty in the facility for each 14 students.

(3) Additional staffing requirements for emergency response.

(a) When there is only one *employee* (defined in OAR 413-215-0606) of the therapeutic boarding school on duty in a facility, there must be additional staff immediately available in the event of an emergency, with a maximum response time of 30 minutes. The names of additional staff who are available for immediate response

must be listed on the schedule for each time period when only one staff person is on duty in a facility.

(b) One employee who is age 18 or over and capable of taking appropriate action in an emergency must be on site at all times when one or more students are present on the residential facility premises.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0666

Separation of Students

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements:

(1) Combining children and adults. Special care must be taken by a therapeutic boarding school to provide adequate supervision of children when adults are being served by the therapeutic boarding school. Children and adults must be housed in separate bedrooms, except that a child (defined in OAR 413-215-0606) and the child's parent may be housed in the same room if the parent is the student's caretaker. If a youth is 18 years of age or older, and is to share a bedroom with a child, the therapeutic boarding school must obtain written approval from the Department licensing coordinator.

(2) Co-ed facilities. Special care must be taken by a therapeutic boarding school to provide adequate supervision when the program serves both males and females concurrently. Student bedrooms for males must be separated from bedrooms for females.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0671

Referral and Initial Evaluation of Students

(1) Referral. A *therapeutic boarding school* (defined in OAR 413-215-0606) must have a policy that addresses the process by which students (defined in 413-215-0606) are referred to the therapeutic boarding school. The policy must include all of the following:

(a) From whom referrals are accepted.

(b) On what basis students are accepted by the therapeutic boarding school.

(c) How information necessary to provide for the safety and care of students will be provided to the appropriate care staff (defined in OAR 413-215-0606).

(2) Initial evaluation of a student. A therapeutic boarding school must evaluate each prospective student referred to the therapeutic boarding school. In conducting the evaluation, the therapeutic boarding school must:

(a) Request and review all available reports of the *student's* past and present behavior, educational status, and physical and behavioral health.

(b) Make a preliminary determination whether the prospective student has disorders, disabilities, or deficits due to mental, emotional, behavioral, or physical problems for which care, supervision, training, rehabilitation, or treatment is needed to reduce a problem, maintain present level of functioning, or clarify the ongoing placement or service needs of the student.

(3) A therapeutic boarding school must be prepared to provide to a parent or legal guardian of a referred student suggestions for obtaining resources in the event the student is not accepted by the therapeutic boarding school.

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327
Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0676

Consents, Disclosures, and Authorizations

(1) Consents. For each *student* (defined in OAR 413-215-0606) in placement with a *therapeutic boarding school* (defined in 413-215-0676), the therapeutic boarding school must ensure that a parent or legal guardian signs a consent that authorizes the thera-

peutic boarding school, if applicable, to undertake each of the following:

(a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the therapeutic boarding school is not required to use medical, psychological, or rehabilitative procedures, unless the child is old enough to consent to these procedures and does so. The therapeutic boarding school must have policies and procedures for this practice, which are reviewed and approved by the student's parent or legal guardian.

(b) To use the behavior management system of the therapeutic boarding school, including the point, level, or other behavior management techniques utilized by the therapeutic boarding school.

(c) To use restraint or seclusion in the management of the student. The consent must specify the reasons such interventions are used by the therapeutic boarding school and how the employees of the therapeutic boarding school are trained and supervised in the use of restraint or seclusion.

(d) To restrict the student's contact with persons outside the therapeutic boarding school, including visits, telephone communication, electronic mail, and postal mail.

(e) To exclude or limit the student's possession of personal items.

(f) To impose a dress code.

(g) To restrict the student's participation in recreational or leisure activities in an appropriate manner, consistent with behavior or safety issues.

(2) Disclosures to parent or legal guardian. At the time a therapeutic boarding school takes a student into placement, the therapeutic boarding school must ensure that each parent or legal guardian of the student receives and acknowledges in writing the receipt of each of the following:

(a) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the therapeutic boarding school for any program-initiated room or body search.

(b) A statement concerning the rights of students and parents or legal guardians served by the therapeutic boarding school. The statement must be written in a manner that is easy to understand, and the therapeutic boarding school must ensure that the student and the parent or legal guardian understand the statement. The statement must explain all of the following:

(A) The student's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by a parent or legal guardian.

(B) The student's right to privacy.

(C) The student's right to participate in service planning.

(D) The student's right to fair and equitable treatment.

(E) The student's right to file a grievance if the student or family feels that they are treated unfairly, or, if they are not in agreement with the services provided.

(F) The student's right to have personally exclusive clothing.

(G) The student's right to personal belongings.

(H) The student's right to an appropriate education.

(I) The student's right to participate in recreation and leisure activities.

(J) The student's right to have timely access to physical and behavioral health care services

(c) The grievance policies and procedures of the therapeutic boarding school.

(d) The therapeutic boarding school will make any written policy or procedure pertaining to program services available for review by the student, parent, or legal guardian, upon request.

(3) Authorizations.

(a) Authorization to disclose information from other service providers must be filled out prior to signatures being requested and be specific to one other provider. Information may only be requested on a need to know basis.

(b) All student-specific visitors must be approved or authorized by a parent or legal guardian.

(c) Visitation resources must be pre-approved by the student's parent or legal guardian and the identity of these resources verified by the agency.

(d) Activity-specific authorizations must be pre-approved by the student's parent or legal guardian to allow students to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the student's parent or legal guardian.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

413-215-0681

Information about Students in Placement with the Therapeutic Boarding School

(1) Case files of students. For each *student* (defined in OAR 413-215-0606) a *therapeutic boarding school* (defined in OAR 413-215-0606) accepts for placement, the therapeutic boarding school must maintain an individual record that includes a summary sheet containing all of the following information:

(a) The *student's* name, gender, date of birth, religious preference, and previous address.

(b) The name and location of the student's previous school.

(c) The date of admission to the program.

(d) The status of the student's legal custody, including the name of each person responsible for consents and authorizations.

(e) The name, address, and telephone number of:

(A) The student's parents.

(B) The student's legal guardian, if different than parents, and his or her legal relationship to the student.

(C) Other family members or other persons identified by the family as significant to the student.

(D) Other professionals to be involved in service planning, if applicable.

(2) Service planning.

(a) All documentation, including but not limited to service plans, daily notes, assessments, progress reports, medication records, and incident reports, must be written in terms that are easily understood by all persons involved in service planning.

(b) Intake documentation. A therapeutic boarding school must complete a written intake document containing screening information on the date the therapeutic boarding school accepts a student for placement, except in the case of an emergency placement when the intake document must be completed within 48 hours of admission.

(c) Each student must be served according to an individual written service plan developed by staff of the therapeutic boarding school and including, whenever possible, the student, the student's family, and other professionals involved with the student or family. This document must outline goals for services and care coordination.

(d) Assessment. A comprehensive assessment must be completed within the first 30 days of placement. This assessment must include relevant historical information, current behavioral observations, any identified needs for services, and a description of how the therapeutic boarding school will provide or coordinate services.

(e) Service plan and review.

(A) Within 60 days of placement, a formal service plan must be developed by staff of therapeutic boarding school in conjunction with the student and his or her parents or legal guardians, and any other persons who are actively involved with the family, as appropriate.

(B) The service plan must reflect how the therapeutic boarding school will address the student's issues, describe the anticipated outcomes of the placement, and be reviewed and approved by the student and the legal guardian or parent, unless contraindicated.

(C) The service plan must be reviewed by the therapeutic boarding school at least quarterly.

(D) Service plans must be revised at any time additional information becomes available indicating that other services should be provided.

(3) Case management.

(a) The agency must document services provided, as necessary, to track and monitor progress toward the achievement of service plan goals.

(b) Discharge. The agency must identify how a student's progress will be evaluated, and how the determination is made of readiness for discharge or unsuitability for continued stay.

(c) Discharge planning. Discharge planning for students must be a participatory decision-making process between the student, agency staff, the parent or legal guardian, and significant others. As used in this rule, "significant others" mean relatives, friends, or interested members of the community.

(d) Discharge instructions. The agency must provide the student and the student's guardian with discharge instructions on or before the discharge date, including current medications, name of the doctor who prescribed each medication (defined in OAR 413-215-0606), any outstanding medical or other appointments, and other follow-up instructions as needed.

(e) Follow-up services. The agency must identify any transitional or aftercare services or service coordination that will be offered by the program.

(f) Incident reporting. A written description of any injury, accident, or unusual incident involving a student must be placed in the individual student's record.

(4) Financial records. An agency must keep a written record for each student, itemizing all money received or disbursed on behalf of the student. The record must include all of the following:

(a) The date of each receipt and disbursement and the amount of each.

(b) The source of income.

(c) The purpose of each disbursement.

(d) The signature of the person making each entry.

(e) The signature of the student for each entry.

(5) The agency will ensure, in policy, that:

(a) Disallowable items are either stored, or returned to the parent or legal guardian; and

(b) All money and personal belongings are returned to the student at the time of discharge.

Stat. Auth.: ORS 409.050, 418.005, 418.327

Stats. Implemented: ORS 409.010, 418.005, 418.327

Hist.: CWP 34-2008, f. & cert. ef. 10-17-08

Licensing Homeless, Runaway, and Transitional Living Shelters

413-215-0701

Homeless, Runaway, and Transitional Living Shelters, What Law Applies

(1) These rules, OAR 413-215-0701 to 413-215-0766, regulate agencies that provide residential services for homeless or runaway youth, pregnant or parenting girls, or other youth working towards independent living.

(2) A *private child-caring agency* (defined in OAR 413-215-0006) that provides residential services for homeless or runaway youth (defined in OAR 413-215-0706), pregnant or parenting girls, or other youth working towards independent living must be licensed in accordance with ORS 418.205 to 418.310 and these rules, as well as OAR 413-215-0001 to 413-215-0131, which set forth the requirements of the Department for licensing all types of private child-caring agencies.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0706

Definitions

As used in OAR 413-215-0701 to 413-215-0766:

(1) "Agency" means a private child-caring agency (defined in OAR 413-215-0006) that operates a shelter, mass shelter, or transitional living program for homeless or runaway youth, for pregnant

or parenting girls, or for other youth under the age of 18 working towards independent living.

(2) "Department" means the Department of Human Services.

(3) "Homeless or runaway youth" means a youth who has not been emancipated by the juvenile court; lacks a fixed, regular, safe, and stable nighttime residence; and cannot immediately be reunited with his or her family.

(4) "Individual service plan" means a plan of services to be provided to a youth, based on the identified needs of the youth, designed to help the youth reach mutually agreed upon goals.

(5) "Mass shelter" means a structure that contains one or more open sleeping areas in which, on a daily basis, only emergency services are provided to homeless or runaway youth, such as a meal and a safe place to sleep overnight.

(6) "Shelter" means a facility operated by a *private child-caring agency* that provides services for a limited duration to homeless or runaway youth.

(7) "Transitional living program" means a set of services offered by a private child-caring agency that provides supervision and comprehensive services for up to 18 months to assist homeless or runaway youth to make a successful transition to independent and self-sufficient living.

(8) "Youth" means an unmarried person under the age of 18.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0711

Governance of the Agency

In addition to the governing board requirements in OAR 413-215-0021:

(1) An *agency* (defined in OAR 413-215-0706) must be directed by a governing board composed of a representative cross-section of the community, including youth, parents, and employees of the agency.

(2) An *agency* must provide training to the governing board designed to orient the members to the goals, objectives, and activities of the agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0716

Client Rights

(1) An *agency* (defined in OAR 413-215-0706) must ensure that youth are actively involved in the design, delivery, and ongoing planning of the services provided by the program.

(2) An *agency* must ensure that nutritional needs are met as appropriate for each youth.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0721

Staffing Requirements

(1) An *agency* (defined in OAR 413-215-0706) must have and follow written policies regarding minimum staffing requirements, including a written staffing plan that indicates the number of paid and volunteer staff in each job category.

(2) During each shift, there must be at least one staff member who has been trained in a non-violent crisis intervention strategy. A volunteer or intern may be used to meet this requirement only if the volunteer or intern has met the training requirements for staff in OAR 413-215-0736.

(3) An *agency* must have a ratio of staff to youth that is sufficient to ensure that youth receive adequate supervision and services.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0726

Staff Development and Training

An *agency* (defined in OAR 413-215-0706) must follow all of the following requirements:

(1) Initial training. Before being alone with a youth or being temporarily the only staff in charge of one or more youth, a staff member must receive the following training or acquire the following knowledge or understanding, as verified by the executive director or the executive director's designee:

(a) Successful completion of the agency's orientation.

(b) Effective understanding of the supervision structure at the shelters of the agency, including the appropriate staff to contact when questions or problems arise.

(c) Effective understanding and knowledge of and compliance with the behavior management policies of the agency.

(d) Recognition and management of the presenting issues of the youth served, including mental health, behavioral, and substance abuse issues.

(e) Instruction in safety procedures and safe use of equipment.

(f) Sanitation procedures.

(g) First aid kit contents and use.

(h) Report writing, including documentation of medication dispensing and critical incident reports.

(i) Certification to provide cardiopulmonary resuscitation (CPR) and first aid.

(j) Completion of training in crisis intervention.

(2) Ongoing training. An *agency* must provide ongoing training for all paid and volunteer staff to increase knowledge, skills, and abilities in each of the following subject areas:

(a) Requirements to report child abuse.

(b) Confidentiality requirements.

(c) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(d) Behavior management.

(3) Staff must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

(4) Staff working with food must possess a food handler's card.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0731

Admissions and Assessments

An *agency* (defined in OAR 413-215-0706) must follow all of the following requirements, except with respect to a mass shelter (defined in OAR 413-215-0706):

(1) The *agency* must provide services to youth according to written policies that list the specific criteria under which youth are accepted for placement.

(2) Assessment. To determine the appropriateness of each youth who has applied for services provided by the agency, the agency must make reasonable efforts to gather all of the following basic background information:

(a) Family history.

(b) Health history, including a history of substance abuse as well as current use of prescription and over-the-counter medication.

(c) Mental health history, including diagnoses, a description of behavior problems, prior evaluations, and treatment history.

(d) Who has legal custody of the youth.

(3) Each assessment must include a statement about whether or not the youth meets the eligibility requirements necessary to be admitted into the program.

(4) Prior to admitting a youth, the agency must provide the youth with an explanation of the available services and the requirements for participation.

(5) After a youth is admitted, the assessment must be the basis for the youth's individual service plan (defined in OAR 413-215-0706).

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0736

Individual Service Planning

An *agency* (defined in OAR 413-215-0706) must follow all of the following requirements, except with respect to a mass shelter (defined in OAR 413-215-0706):

(1) The agency must make services available that will meet the needs of each youth in the program.

(2) The agency must serve each youth according to an individual service plan (defined in OAR 413-215-0706) based on the assessment.

(a) Whenever possible, the *individual service* plan must include the youth and his or her family, staff, and other involved parties.

(b) The program must provide competent and individualized service planning for each youth that includes at least a monthly review of the individual service plan and changes as needed.

(c) The individual service plan must address, at a minimum, the youth's physical and medical needs, behavior management issues, mental health treatment needs, education plans, and any other special needs.

(3) The agency must make reasonable efforts to ensure participation by the youth's family in all aspects of the service and service planning process whenever possible. To the extent such information is reasonably available to the agency, the staff of the agency must:

(a) Contact a parent or legal guardian of the youth early in the process, preferably within 24 hours but no later than 72 hours following the youth's admission into the program.

(b) Make a program orientation available to the youth's family.

(c) Encourage participation by a parent in the program. If the youth's parent cannot participate in the program, the agency must encourage participation by those responsible for the youth's environment prior to admission.

(d) Consider the family's responsibility, needs, and values in the planning and service process.

(e) When appropriate, the agency must review individual service plans and the youth's progress with the family at least on a monthly basis.

(4) Directly or through referral, the agency must make available individual, group, and family counseling by a qualified professional.

(5) The agency must establish and maintain links to community agencies and individuals who can provide required services to youth or their families that may not be directly available from the program. These services must include:

- (a) Alternative living arrangements.
- (b) Medical services.
- (c) Mental health services.
- (d) Educational services.
- (e) Independent living services.
- (f) Other assistance required by youth or their families.

(6) Discharge summary. The agency must prepare a written discharge summary of each youth served by the program and retain this document in the youth's file. The document must include:

- (a) A summary of the youth's participation in the program and the progress achieved.
- (b) Results of evaluations of the youth.
- (c) Condition of the youth.
- (d) The youth's compliance with the program guidelines of the agency.

(e) Recommendations regarding services.

(f) Discharge destination.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0741

Client Files

(1) General requirements. Except with respect to youth in a *mass shelter individual service* plan operated by the agency (defined in OAR 413-215-0706), an agency must maintain an individual file on each youth admitted into the program.

(2) Youth file requirements. An agency must have a file on the premises for each youth currently receiving services from the agency. To the extent such information is reasonably available to the agency, this file must be up to date and include all of the following:

(a) Sufficient information about the youth's family or legal guardian to enable the staff of the agency to contact them at any time.

(b) Custody status of the youth.

(c) An authorization for medical treatment.

(d) A signed consent for the agency to treat the youth with the interventions in use at the program.

(e) A signed acknowledgment that the youth is responsible for requesting their medication at the prescribed times.

(f) The assessment described in OAR 413-215-0731.

(g) The individual service plan required by OAR 413-215-0736.

(h) Documentation about the youth's illnesses and injuries, including the follow up that was provided by the agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0746

Medication Storage and Dispensing

(1) An *agency* (defined in OAR 413-215-0706) must have and follow written policies on the storage, dispensing, and disposal of prescription and non-prescription medication.

(2) Medication storage. All prescription and non-prescription medications must be contained in locked storage in the facility and must be kept in a manner that makes them inaccessible to youth.

(3) Medication dispensing.

(a) Youth are expected to administer their own medication after they have requested their medication from the program staff at the prescribed times.

(b) Except in a *mass shelter* (defined in OAR 413-215-0706), medication, including non-prescription drugs, may not be dispensed unless the medication has been prescribed or authorized by a qualified professional.

(c) Program staff may not dispense medication to a youth in any of the following situations:

(A) In excess of the prescribed or authorized amount.

(B) For disciplinary purposes.

(C) For the convenience of staff.

(D) As a substitute for appropriate treatment services.

(4) Documentation. Staff designated to dispense medications must document each dispensing. The documentation must include all of the following:

(a) The youth's name.

(b) The name of the medication.

(c) The date and time the medication was dispensed.

(d) The dosage given.

(e) The name of the staff member who dispensed the medication.

(5) Disposal of unused or abandoned medication. Designated program staff must dispose of all medication abandoned by a youth or for which the period of potency, as indicated on the label, has passed. Two staff members must be present at and document the disposal of the unused medication, including when and how the medication was disposed.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0751

Health and Hygiene

(1) An *agency* (defined in OAR 413-215-0706) must have and follow policies that ensure the prompt and accurate assessment and care of injuries, illness, and physical complaints of youth.

(2) An *agency* must provide youth with access to a bathroom and a shower.

Stat. Auth.: ORS 409.050, 418.005, ORS 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0756

Grouping

(1) An *agency* (defined in OAR 413-215-0706) must have and follow written policies regarding the grouping of youth.

(2) Except as provided in section (3) of this rule, an agency must place youth in groups based on the following factors:

(a) Age.

(b) Developmental level.

(c) Physical maturity.

(d) Social maturity.

(e) Behavioral functioning.

(f) Cognitive level.

(g) Medical concerns.

(h) Individual needs.

(3) A qualified youth with a disability may be served in the most integrated setting appropriate to the needs of the youth within the context of the program. For purposes of this section:

(a) A "qualified youth" means a youth who can meet the essential eligibility requirements for a group with or without reasonable modification of rules, policies or procedures, or the provision of auxiliary aids and services.

(b) "Integrated Setting" means a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.

(4) Placement with adults. An *agency* may place youth in the same group as emancipated youth or adults only after taking special care to assess and minimize the risk to the youth.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0761

Safety

An *agency* (defined at 413-215-0706) must meet all of the following requirements related to safety:

(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The agency must provide fire safety equipment that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The agency must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The agency must have, for each facility it operates, a written emergency plan that includes:

(A) Instructions for evacuation of youth and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the staff in case of emergency.

(3) Transporting youth. If an agency uses a vehicle to transport a youth participating in a program, the agency must ensure that all of the following requirements are met:

(a) The vehicle is

(A) Properly registered.

(B) Covered by insurance for personal injury and liability.

(C) Maintained in a safe condition.

(D) Equipped with a first aid kit.

(E) Equipped with a fully charged fire extinguisher that is properly secured and not readily available to youth.

(b) Each driver must have an Oregon driver license valid for the vehicle used and must comply with all applicable traffic laws while transporting youth.

(c) Each person in the vehicle rides in a permanent seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

(d) The agency must ensure that each person who transports youth in a van for 15 or more passengers receives training in the safe operation of the type of vehicle prior to transporting youth.

(4) Contraband. An agency must require its staff to confiscate items prohibited by the agency that are found in the possession of a youth. All such items must be disposed of or stored for a youth in a secure location that is inaccessible to youth.

(5) Searches. An agency that conducts a search must have and follow written policies on searches that, at a minimum, meet all of the following requirements:

(a) Require appropriate consent to search a youth, staff, or a visitor.

(b) Require the use of the least intrusive manner possible for a search.

(c) Pat-down searches. Authorize staff to conduct pat-down searches of youth, but only when the agency determines the search is necessary to discourage the introduction of contraband or to promote the safety of staff and other youth. If a pat-down search is used:

(A) The search must be conducted by same gender staff members trained in proper search techniques.

(B) The search must be conducted in the presence of another staff member.

(C) The youth must be given warning of the search.

(D) Prior to the search, the youth should remove all outer clothing, for instance, gloves, coat, hat, and shoes, and empty all pockets.

(E) Once the youth has removed all outer clothing, the staff member conducting the search must then pat the clothing of the youth using only enough contact to conduct an appropriate search.

(F) If anything suspicious is detected during the search, the youth must be asked to identify the item, and appropriate steps should be taken to make the item available for inspection.

(G) If the youth refuses to comply with a requirement of the search, the program must follow established policies to determine if the youth can be refused admission to or discharged from the program.

(d) Prohibit the use of strip searches of youth.

(e) Prohibit the use of body-cavity searches of youth.

(6) Building Requirements.

(a) An agency may not allow youth to have access to, or provide services regulated by these rules (OAR 413-215-0701 to 413-215-0766) in, a building unless the building has been certified as meeting all applicable state and local construction-related requirements for a building used as a residential facility, including the Oregon Structural Specialty Code (see the current version of 837-040-0140), the Oregon Fire Code (see the current version of 837-040-0010 and 837-040-0020), the rules of the Department's Public Health Division (see the current requirements for buildings in Chapter 333 of the Oregon Administrative Rules), the Oregon Plumbing Specialty Code (see the current version of 918-750-0110 to 918-750-0140), the rules of the State Fire Marshal (see the current requirements for buildings in chapter 837 of the Oregon Administrative Rules), and the local building, fire, and safety codes.

(b) An agency must ensure that all of the following standards are met:

(A) All buildings where youth are present must be smoke-free.

(B) Water temperature and access to water:

(i) A continuous supply of hot and cold water, installed and maintained in compliance with this rule, must be distributed to taps conveniently located throughout each building used to provide services or housing for children.

(ii) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in each building used to provide services or housing for youth.

(iii) Each youth who lacks the ability to adjust and control water temperature safely must be directly supervised by a staff member of the agency.

(C) Heating and ventilation. Room temperatures must be maintained within normal comfort range. Buildings must be ventilated and free of excessive heat and condensation and of unpleasant odors.

(c) Bathrooms.

(A) Bathrooms must be provided and be conveniently located in each building containing youth, and must have all of the following:

(i) A minimum of one toilet and one hand-washing sink with mixing faucets for each eight youth.

(ii) A self-closing metered faucet, if used, that provides water flow for at least 15 seconds without a need to reactivate the faucet.

(iii) Hot and cold running water, as well as soap and paper towels available at sinks or other hand-drying options approved by the local health department.

(iv) One bathtub or shower for each 10 youth.

(v) Arrangements for individual privacy of youth.

(vi) A window covering on each window to ensure privacy.

(vii) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(viii) A mirror, permanently affixed at eye level.

(ix) Adequate ventilation.

(B) Use of wooden racks over shower floors is prohibited.

(C) When impervious shower mats are used, they must be disinfected and dried at least once per day.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.310

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

413-215-0766

Environmental Health

An agency (defined at OAR 413-215-0706) must meet all of the following requirements:

(1) The program of the agency must maintain an environment that ensures safety for program staff and clients.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

- (a) Food service risk assessment.
- (b) Drinking water or waste water assessment.
- (c) Vector and pest control, including the use of pesticides and other chemical agents.
- (d) Hazardous material management, including handling and storage.
- (e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

Hist.: CWP 35-2008, f. & cert. ef. 10-17-08

Licensing Day Treatment Agencies

413-215-0801

Day Treatment Agencies, What Law Applies

(1) Except as provided in section (2) of this rule, a *private child caring agency* (defined in OAR 413-215-0006) that provides day treatment services subject to the certificate of approval requirements of 309-032-1120 must:

(a) Be licensed in accordance with and comply with OAR 413-215-0001 to 413-215-0131 and 413-215-0801 to 413-215-0856; and

(b) Comply with OAR 309-032-1100 to 309-032-1230, including the program service requirements.

(2) OAR 413-215-0801 to 413-215-0856 do not apply to a program that provides residential care under 413-215-0501 to 413-215-0586, an academic boarding school (413-215-0201 to 413-215-0276), or a therapeutic boarding school (413-215-0601 to 413-215-0681).

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0806

Definitions

As used in OAR 413-215-0801 to 413-215-0856:

(1) "Clinical supervisor" means a Qualified Mental Health Professional with two years post-graduate clinical experience in a mental health treatment setting. The clinical supervisor, as documented by the provider, operates within the scope of his or her practice or licensure, and demonstrates the competency to oversee and evaluate the mental health treatment services provided by other Qualified Mental Health Professionals or Qualified Mental Health Associates.

(2) "Day treatment" means a comprehensive, interdisciplinary, nonresidential, community-based, psychiatric treatment, family treatment, and therapeutic activities integrated with an accredited education program provided to children with emotional disturbances.

(3) "Day treatment agency" means a *private child caring agency* (defined in OAR 413-215-0006) that provides day treatment services subject to 309-032-1100 to 309-032-1230.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0811

Staff Qualifications and Minimum Staffing Requirements

(1) A *day treatment agency* (defined in OAR 413-215-0806) must utilize teachers licensed in accordance with the requirements of the Teachers Standards and Practices Commission.

(2) A qualified *clinical supervisor* (defined in OAR 413-215-0806) must direct the clinical program and supervise clinical staff.

(3) A day treatment agency must employ mental health service delivery staff who meet the qualifications described at 309-032-1110(70)-(72).

(4) A day treatment agency must have sufficient Qualified Mental Health Professionals (QMHP) and other staff on duty to meet the severity and acuity of children served by the day treatment agency. In no case may the ratio of children to QMHP on duty be more than 12 children for each QMHP.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0816

Physical Plant Requirements

A *day treatment agency* (defined in OAR 413-215-0806) must meet all of the following requirements:

(1) All buildings owned, maintained, or operated by the day treatment agency to provide services to children must meet all applicable state and local building, electrical, plumbing, and zoning codes.

(2) Each room used by children must have floors, walls, and ceilings which meet the interior finish requirements of the applicable Oregon Structural Specialty Code (see the current version of OAR 837-040-0140) and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020) and be free of harmful drafts, odors, and excessive noise.

(3) Each room used by children must be adequate in size and arrangement for the purpose in which it is used.

(4) A system providing a continuous supply of hot and cold water must be distributed to taps conveniently located throughout the facility.

(5) Water systems serving the property must be installed and maintained in compliance with the applicable Department of Human Services, Public Health Division drinking water regulations (Chapter 333 of the Oregon Administrative Rules).

(6) Heat and ventilation.

(a) Buildings must be ventilated by natural or mechanical means and must be free of excessive heat, condensation, and obnoxious odors.

(b) Room temperature must be maintained within a normal comfort range.

(7) Individual Rooms.

(a) Restrooms must be provided and be conveniently located, and must have:

(A) A minimum of one toilet for every 15 children.

(B) One hand-washing sink with mixing faucets for every two toilets. The sink may not be used for the preparation of food or drinks or for dish washing.

(C) Hot and cold running water, soap, and paper towels at each hand washing sink or other hand drying options approved by an environmental health specialist.

(D) Arrangements for individual privacy for users.

(E) Permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(F) A window covering on each window to ensure privacy.

(G) A mirror, permanently affixed at eye level.

(H) Adequate ventilation.

(I) Each self-closing metered faucet, if provided, must provide water flow for at least 15 seconds without the need to reactivate the faucet.

(b) Laundry facilities, when provided, must be separate from:

(A) Kitchen and dining areas; and

(B) Areas used for the storage of unrefrigerated perishable food.

(c) Storage areas must be provided appropriate to the size of the facility. Separate storage areas must be provided for:

(A) Food, kitchen supplies, and utensils.

(B) Clean linens.

(C) Soiled linens and clothing.

(D) Cleaning compounds equipment.

(E) Poisons, chemicals, pest control products, insecticides, and other toxic materials, which must be properly labeled, stored in the original container, and kept in a locked storage area.

(F) Outdoor recreational and maintenance equipment.

(d) Food service areas.

(A) Kitchens must have facilities for dish washing, storage, and preparation of food and must be separate from child-caring areas.

(B) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or in which utensils are washed or stored must be smooth, washable, and easily cleanable.

(C) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and non-absorbent and must be maintained in a clean and sanitary condition.

(D) All equipment used for food preparation must be installed and maintained in a manner providing ease of cleaning beneath, around, and behind each unit.

(e) Classrooms and school buildings must be adequate in size and arrangement for the programs offered.

(f) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light, and ventilation and must not be capable of locking.

(g) A usable recreational activity area must be provided that is protected from motor traffic and other hazards, of a size and availability appropriate to the age and the needs of the children served by the day treatment agency.

(8) Furnishings and personal items.

(a) A day treatment agency must provide appropriate furniture for a learning environment.

(b) Each child must have a storage area available, such as a locker or other separate space to store personal items.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0821

Building Plans for New Facility or Remodel

A *day treatment agency* (defined in OAR 413-215-0806) must meet all of the following requirements:

(1) A set of plans and specifications for each day treatment facility operated by the day treatment agency must be submitted to the Department and to the State Fire Marshal for approval:

(a) Prior to construction of a new building;

(b) Prior to construction of an addition to an existing building;

(c) Prior to the remodeling, modification, or conversion of a building; and

(d) In support of an application for initial license of a day treatment agency not previously licensed under OAR 413-215-0801 to 413-215-0856.

(2) The required plans must comply with both current Oregon Structural Specialty Codes (OAR 837-040-0140) and local fire and safety codes.

(3) Plans must be drawn to scale and must specify the estimated date upon which construction, modification, or conversion will be completed.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0826

Environmental Health

A *day treatment agency* (defined in OAR 413-215-0806) must meet all of the following requirements:

(1) The program of the day treatment agency must maintain an environment that ensures safety for program staff and clients.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

(a) Food service risk assessment.

(b) Drinking water or waste water assessment.

(c) Vector and pest control, including the use of pesticides and other chemical agents.

(d) Hazardous material management, including handling and storage.

(e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0831

Food Services

A *day treatment agency* (defined in OAR 413-215-0806) must meet all of the following requirements related to food services:

(1) Nutrition and dietary requirements.

(a) A day treatment agency must arrange meals daily, consistent with normal mealtimes that occur during hours of operation.

(b) Menus must be prepared in advance in accordance with USDA guidelines and must provide a sufficient variety of foods served in adequate amounts for each child at each meal, adjusted for seasonal changes. Records of menus as served must be maintained in the facility record for at least six months.

(c) Drinking water must be freely available to the children served by the day treatment agency.

(2) Food selection, storage, and preparation.

(a) All food and drink provided by the agency must be stored, prepared, and served in a sanitary manner.

(b) All employees who handle food served to children must have a valid food handlers card pursuant to ORS 624.570.

(c) Selection of food. All food products served by a day treatment agency must be obtained from commercial suppliers, except that:

(A) Fresh fruits and vegetables and fruits or vegetables frozen by the day treatment agency may be served.

(B) The serving of unpasteurized juice is prohibited.

(d) Requirements related to milk.

(A) Only Grade A pasteurized and fortified milk may be served to children.

(B) Milk and fluid milk products must be dispensed from a commercially filled plastic container of not more than one-gallon capacity or from a refrigerated bulk container equipped with a dispensing device approved by the Food and Drug Administration or Oregon Department of Agriculture.

(e) Children may participate in activities in a food-preparation area, other than routine clean up, only while under the supervision of the employees of the day treatment agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0836

Safety

A *day treatment agency* (defined in OAR 413-215-0806) must meet all of the following requirements related to safety.

(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The day treatment agency must provide fire safety equipment that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The day treatment agency must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The day treatment agency must have, for each facility it operates, a written emergency plan that includes:

(A) Instructions for evacuation of children and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the staff in case of emergency.

(3) Evacuation drills.

(a) An unannounced evacuation drill must be held monthly under varying conditions to simulate the unusual conditions that occur in the event of fire. For each drill, the day treatment agency must document the following information and retain it for a minimum of two years:

(A) Identity of the person conducting the drill.

(B) Date and time of the drill.

(C) Notification method used.

(D) Staff members on duty and participating.

(E) Number of occupants evacuated.

(F) Special conditions simulated.

(G) Problems encountered.

(H) Time required to accomplish complete evacuation.

(b) The day treatment agency must ensure that all employees and children are aware of the procedures to follow in case of emergencies.

(4) Hazards.

(a) The day treatment agency must protect children it serves from guns, drugs, plastic bags, sharps, paint, hazardous materials, bio hazardous materials, and other potentially harmful materials. A day treatment agency must have a written policy that addresses potentially harmful materials that are in the building accessible to the children in the program or on the grounds of the program.

(b) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in all buildings serving children. Direct supervision by staff must be provided for any child who does not have the ability to adjust and control water temperature.

(c) Each light fixture must have a protective cover unless it is designed to be used without one.

(5) Transportation. The day treatment agency must ensure the following when providing transportation to children it serves:

(a) Driver requirements.

(A) Each employee transporting children in a motor vehicle must have a valid current driver license on record with the day treatment agency.

(B) The day treatment agency may use an employee to provide transportation for children only if the employee is covered by an insurance policy in full force and effect, and in compliance with the standards set by the day treatment agency.

(C) The day treatment agency must ensure that employees providing transportation are trained in emergency procedures, including behavior management, while in a vehicle.

(D) The day treatment agency must ensure that each person who transports a child in a van for 15 or more passengers receives training in the safe operation of that type of vehicle prior to transporting children.

(b) Vehicle requirements.

(A) Each vehicle used to transport a child served by the day treatment agency must be covered by an insurance policy in full force and effect.

(B) Each vehicle used to transport a child served by the day treatment agency must be maintained in safe operating condition.

(C) Each vehicle used to transport a child must have aboard a first aid kit, a fully charged and working fire extinguisher with a rating of at least 2 A:10 BC, and a copy of the medical insurance card of each child being transported.

(D) Each vehicle used to transport a child must be smoke-free.

(E) Children and adults must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0841

Health Services

A *day treatment agency* (defined in OAR 413-215-0806) must provide oversight of the clinical aspects of health care provided to children and must provide psychiatric on-call consultation at all times.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0846

Medication

A *day treatment agency* (defined in OAR 413-215-0806) must comply with all of the following requirements:

(1) Policy and procedures. The day treatment agency must have policies and procedures that cover prescriptions, herbal remedies, and all non-prescription medications that address all of the following:

(a) How the medication will be administered.

(b) By whom the medication will be administered.

(c) How the staff of the day treatment agency who administer medication will be trained.

(d) How the administration of medication will be documented.

(e) How the administration of medication will be monitored.

(f) How unused medication will be disposed of.

(g) The process that ensures that each child's prescription and non-prescription medications are reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non prescription medication" means any medication that does not require a written prescription for purchase or dispensing.

(2) A prescription, signed by a physician or other qualified medical professional, is required before any prescription medication is administered to, or self-administered by a child. Medications prescribed for one child may not be administered to, or self-administered by another child or staff. As used in this rule "self-administration" refers to the act of a resident placing a medication internally in, or externally on, his or her own body.

(3) A written order, signed by a physician or other qualified medical professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(4) Before a day treatment agency permits a child to self-administer prescription medication, self-administration must be recommended by the day treatment agency, approved in writing by a physician, and closely monitored by the child's guardian or the staff of the day treatment agency.

(5) Medication storage.

(a) Prescription medications that are unused and any medications that are outdated or recalled may not be maintained in the facility. "Outdated" means any medication whose designated period of potency, as indicated on the label, has expired.

(b) The facility may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications must be contained in locked storage in the facility and must be kept in a manner that makes them inaccessible to children.

(d) Medications requiring refrigeration must be refrigerated and secured.

(e) Medications must be maintained and stored in their original container, including the prescription label.

(6) Medication disposal. Medications must be disposed of in a manner that ensures that they cannot be retrieved, in accordance with all applicable state and federal law.

(7) A written record of all medication disposals must be maintained and must include all of the following:

(a) A description of the prescribed medication and the amount disposed.

(b) The child for whom the medication was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the person disposing the medication, and the initials of an adult witness.

(8) Medication records. A written record must be kept for each child listing all medications, both prescription and over-the-counter, that are administered. The record must include all of the following:

- (a) The child's name.
- (b) A description of the medication, instructions for use, and the recommended dosage.
- (c) Dates and times medication is administered.
- (d) A record of missed dosages.
- (e) Medication dropped or disposed of.
- (f) Method of administration for each medication.
- (g) Identification of person administering the medication.
- (h) Any adverse reactions to the medication.
- (i) Documentation of any medication taken outside the facility

by a child during a home visit or other activity.

(9) Where applicable, the day treatment agency must maintain documentation of the continuing evaluation of the child's ability to self-administer a medication.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0851

Requirement to Have Policies and Procedures

A *day treatment agency* (defined in OAR 413-215-0806) must have a written policy that includes the following:

- (1) Hours of operation.
 - (2) Service area.
 - (3) Family expectations and participation requirements.
 - (4) Type of behavioral and affective characteristics of the children served.
 - (5) Psychiatric, therapeutic, or counseling services offered.
- Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

413-215-0856

Educational Services

The educational services of a *day treatment agency* (defined in OAR 413-215-0806) must comply with all of the following requirements:

- (1) The day treatment agency must comply with the minimum requirements for private education institutions as determined by the Oregon Department of Education.
- (2) Education services must include at least one qualified teacher for every fifteen students.
- (3) The day treatment agency must ensure it has a curriculum that considers the goals of modern education as defined in OAR 581-022-1020 and the requirements of a sound, comprehensive curriculum.
- (4) Secondary schools must verify that they have academic standards necessary for students to obtain admission to community colleges, institutions of higher education, and receive a high school diploma or GED.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Hist.: CWP 36-2008, f. & cert. ef. 10-17-08

Licensing Outdoor Youth Programs

413-215-0901

Purpose and Applicability of Rules

(1) Values. The State of Oregon, through the statutorily required adoption of administrative rules for licensing outdoor youth programs, has determined that the services provided by these programs are an important and valuable resource option for children, youth and families and the continued provision of these services is in the State's interest. Application of the rules is intended to recognize the treatment values of the outdoor youth wilderness experience and, to the extent that the required elements of safety and accountability are in place, to facilitate the provision of appropriate wilderness youth treatment programs in Oregon.

(2) Required compliance. OAR 413-215-0001 to 413-215-0131 and 413-215-0901 to 413-215-1031 set forth the Department requirements for licensing private child caring agencies providing outdoor youth programs, subject to Oregon laws governing private child caring agencies, ORS 418.205 to 418.325 and 418.990 to 418.998 and Oregon laws governing outdoor youth programs, 418.205 to 418.246.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; CWP 1-2004, f. & cert. ef. 1-9-04;

Renumbered from 413-210-0800, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-0906

General Provisions

(1) License required. *No private child-caring agency* (defined in OAR 413-215-0006) may operate an outdoor youth program (defined in 413-215-0911) in Oregon without a valid license issued by the Department in accordance with 413-215-0001 to 413-215-0131 and 413-215-0901 to 413-215-1031.

(2) Compliance required. Any agency which provides the services of an *outdoor youth program* must comply with these rules governing outdoor youth programs (OAR 413-215-0901 to 413-215-1031) and 413-215-0001 to 413-215-0131.

(3) Stationary *Outdoor Youth Program* additional license requirement. An *outdoor youth program* that operates as a stationary outdoor youth program (defined in OAR 413-215-0911) must secure an Organizational Camp License as described in OAR 333-030-0005 to 333-030-0130 from the Oregon Department of Human Services, Public Health Division.

(4) Bond required. Each outdoor youth program applying for licensure must file with the Department a Fiduciary Bond in the amount of \$50,000 or 50 percent of the program's yearly budget, whichever amount is less. The Bond must be issued by a surety or insurer that is licensed to do business in the State of Oregon. The Bond must be written and issued on the Surety Bond Form (DHS CF 1066), provided to the outdoor youth program by the Department. The required Bond must be continuous until canceled and must remain in full force at all times to comply with this section. Any claims or potential impairment to the Bond must be reported to the Department within 30 days of the incident or occurrence involving the claim or potential impairment. In the event of impairment to the Bond, the outdoor youth program will be required to obtain additional bonding to satisfy the requirements of this section. The surety or insurer must give the Department at least 30 days written notice before canceling or terminating its liability under the Bond. An action on the Bond may be brought by any person aggrieved by the misconduct of an outdoor youth program required to be licensed under ORS 418.205 to 418.310. As evidence of the Bond, the outdoor youth program must keep a certified copy of the Bond on file with the Department at all times.

(5) Workers' Compensation. An outdoor youth program must comply with all provisions of ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under 656.126. The outdoor youth program must ensure that each of its subcontractors complies with these requirements.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; CWP 1-2004, f. & cert. ef. 1-9-04; CWP 7-2007, f. & cert. ef. 5-1-07; Renumbered from 413-210-0806, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-0911

Definitions

The following definitions apply to OAR 413-215-0901 to 413-215-1031:

(1) "Contraband" means items the possession of which is prohibited by the outdoor youth program such as but not limited to weapons or drugs.

(2) "Debrief" means to interview a person (such as a youth or staff member) usually upon return (as from an expedition) in order to obtain useful information.

(3) "Department" means the Department of Human Services.

(4) "Outdoor living setting" means an outdoor field setting in which services are provided to youth either more than ten days per month for each month of the year or for longer than 48 hours at a location more than two hours from community-based medical services.

(5) "Outdoor youth program" means a program that provides, in an outdoor living setting, services to youth who are enrolled in the program because they have behavioral problems, mental health problems or problems with abuse of alcohol or drugs. "Outdoor youth program" does not include any program, facility or activity operated by a governmental entity, operated or affiliated with the Oregon Youth Conservation Corps, or licensed by the Department as a child caring agency under other authority of the Department. It does not include outdoor activities for youth designed to be primarily recreational.

(6) "Outdoor youth program activity" means an outdoor activity, provided to youth for the purpose of behavior management or treatment, which requires specially trained staff or special safety precautions to reduce the possibility of an accident or injury. Outdoor youth activities include, but are not limited to: hiking, adventure challenge courses, climbing and rappelling, winter

camping, soloing, expeditioning, orienteering, river and stream swimming, and whitewater activities.

(7) "Over the counter medication" means any medication that does not require a written prescription for purchase or dispensing.

(8) "Service plan" means an individualized plan of services to be provided to each youth based on his or her identified needs and designed to help him or her reach mutually agreed upon goals. The service plan must address, at a minimum, the youth's physical and medical needs, behavior management issues, mental health treatment methods, education plans, and any other special needs.

(9) "Sole supervision" means being alone with a youth or being temporarily the only staff in charge of a youth or subgroup of youth.

(10) "Stationary outdoor youth program" means an outdoor youth program which remains in a stationary location that houses youth.

(11) "Wilderness first responder" means a medical training course and certification for outdoor professionals.

(12) "Youth" means a child aged 10 through 17 years of age who may be admitted to or is a participant in an outdoor youth program.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0803, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0916

Administration

(1) Base of operations. An outdoor youth program (defined in OAR 413-215-0911) providing outdoor youth program services in Oregon must have a base of operation or field office in Oregon. The base of operation or field office at a minimum must have the following information immediately available upon the request of the Department licensing coordinator:

(a) Current list of the names of staff and youth in each field group;

(b) Master map of all outdoor youth program activity (defined in OAR 413-215-0911) areas used by the program in Oregon, copies of which must be made available to the Department licensing coordinator, the land managing agency, and local law enforcement and emergency services upon request;

(c) Copies of each group's expeditionary route with its schedule and itinerary, copies of which must be made available to the Department, the land managing agency and local law enforcement and emergency services upon request;

(d) Current logs of communications with each field group away from the base of operations; and

(e) Emergency response plan that is reviewed annually (as described in OAR 413-215-0936(2)(c)).

(2) Youth file requirements. The base of operations for an outdoor youth program must have a file on each youth in the program, which includes:

(a) Legal guardian identification, contact information, and status of child custody;

(b) Emergency contact information for the legal guardian or guardians of the youth which provides for contact with the parent or legal guardian at any time, twenty four hours a day, seven days a week;

(c) Demographics including but not limited to name, gender, date of birth, and previous address;

(d) Eligibility and exclusionary criteria, including the basis for admission of the youth into the program;

(e) Medical forms;

(f) Authorization for medical treatment; and

(g) Legal guardian consent for the outdoor youth program to treat the youth with the specific interventions used by the program and to confiscate contraband (defined in OAR 413-215-0911) found in the youth's possession.

(3) Proof of compliance. An outdoor youth program which operates in Oregon must comply with the federal, state, local, and land managing agency regulations in the operations area and must maintain proof of compliance at the base of operations.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998
Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0809,
CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0918

Consents, Disclosures, and Authorizations

(1) Consents. For each youth in placement with an outdoor youth program (defined in OAR 413-215-0911), the outdoor youth program must ensure that the legal guardian signs a consent that authorizes the outdoor youth program to undertake each of the following:

(a) To provide routine and emergency medical care.

(b) To use the behavior management system of the outdoor youth program, including the point, level, or other behavior management techniques utilized by the outdoor youth program.

(c) If applicable, to use restraint in the management of the youth. The consent for the use of physical restraint must be limited to the requirements outlined in OAR 413-215-0076(8).

(d) If applicable, to use time outs. The consent for the use of time outs must be limited to the requirements outlined in OAR 413-215-0076(10).

(2) Disclosures to parent or legal guardian. At the time an outdoor youth program takes a youth into placement, the outdoor youth program must ensure that each legal guardian of the youth receives and acknowledges in writing the receipt of each of the following:

(a) Information regarding any personal searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the outdoor youth program for any program-initiated pat down searches.

(b) A statement concerning the rights of youth and legal guardians served by the outdoor youth program. The statement must be written in a manner that is easy to understand, and the outdoor youth program must ensure that the youth and the parent or legal guardian understand the statement. The statement must explain the following rights belonging to youth and, in some cases, legal guardians:

(A) Private and uncensored communications by mail, telephone, and visitation, subject to both of the following restrictions.

(i) This right may be restricted only if the provider documents in the individual's record that there is a court order to the contrary, or that in the absence of this restriction, significant physical or clinical harm will result to the individual or others. The nature of the harm must be specified in reasonable detail, and any restriction of the right to communicate must be no broader than necessary to prevent this harm.

(ii) The individual and his or her guardian, if applicable, must be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider must ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible and allow for confidential communication, and that space is available for visits. Reasonable times for the use of telephones and visits may be established in writing by the provider.

(B) The youth's right to reasonable privacy.

(C) The youth's right to meaningfully participate in service planning.

(D) The youth's right to fair and equitable treatment.

(E) The right to be free from unauthorized treatment.

(F) The right of the youth or guardian to file a grievance for any reason, including, if the youth or legal guardians believe that they have been treated unfairly, or, if they are not in agreement with the services provided.

(G) The youth's right to have and wear personally exclusive clothing of their choosing unless the type of clothing has been prohibited in writing on the basis that significant physical or clinical harm would result.

(H) The youth's right to have personal belongings unless they are prohibited by storage limits, or because the item is prohibited in

writing on the basis that significant physical or clinical harm would result.

(I) The youth's right to receive an appropriate education, and if the youth has not yet graduated, to stay on course for graduation.

(J) The youth's right to participate in recreation and leisure activities unless the program restricts the youth's participation in recreation or leisure activities due to serious behavior or safety issues.

(K) The youth's right to have timely access to physical and behavioral health care services.

(L) The right of the youth, or legal guardians, to promptly review the program policies and procedures regarding program services.

(c) An outdoor youth program shall provide a copy of transportation policies and procedures to the legal guardians at the time of admission to the program.

(d) An outdoor youth program will disclose orientation procedures to the client and legal guardians at the time of admission to the program and prior to transporting the youth to the field.

(3) Authorizations. An outdoor youth program must follow the following requirements:

(a) Written authorizations to exchange information with others must be filled out prior to signatures being requested.

(b) All youth-specific visitors must be approved or authorized by the legal guardians, except Department personnel, child abuse investigators, Court Appointed Special Advocates, and attorneys appointed to represent the child.

(c) All other visitors must be pre-approved by the youth's legal guardians.

(d) Activity-specific authorizations must be pre-approved by the youth's legal guardians to allow children to participate in potentially hazardous activities, such as rock climbing, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the youth's legal guardians.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: CWP 7-2013, f. & cert. ef. 10-1-13; CWP 3-2014, f. 1-31-14, cert. ef. 2-1-14

413-215-0921

Participant Clothing, Equipment and Supplies

An *outdoor youth program* (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Participant requirements. Each program participant must have appropriate clothing, equipment, and supplies for each type of outdoor youth program activity (defined in OAR 413-215-0911) and for the weather conditions likely to be encountered.

(2) Clothing, equipment, and supply requirements. Clothing, equipment, and supplies must include at a minimum the applicable items in each of the following subsections:

(a) Sunscreen if appropriate for the environmental conditions generally expected for the area and season.

(b) Insect repellent if appropriate for the environmental conditions generally expected for the area and season.

(c) A commercial backpack or the materials to construct a safe backpack or bedroll.

(d) Personal hygiene items necessary for cleansing.

(e) Appropriate feminine hygiene supplies.

(f) When the average nighttime temperature is expected to be 40 degrees Fahrenheit or higher:

(A) Wool blankets or an appropriate sleeping bag; and

(B) A tarp or poncho.

(g) Shelter from precipitation, appropriate sleeping bag, and ground pad when the average nighttime temperature is expected to be 39 degrees Fahrenheit or lower.

(h) Clothing appropriate for the temperature changes generally expected for the area.

(i) Each youth must be provided a clean change of undergarments and socks at least once a week or an opportunity to wash his or her clothing at least once a week; and all other clothing must be reasonably clean and in good repair.

(3) Denial of clothing, equipment, and supplies. An outdoor youth program must not remove, deny, or make unavailable for any reason the appropriate clothing, equipment, or supplies required by section (2) of this rule.

(4) Monitoring. Field staff are responsible for maintaining the safety and well-being of youth and must monitor each youth to make sure that clothing, equipment, and supplies are maintained in a manner adequate to ensure each youth's safety.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0868, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0926

Water Requirements

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Written policy. An outdoor youth program must have and follow written policy and procedures on water requirements.

(2) Water. Youth must have access to potable water while engaged in hiking. Staff of the outdoor youth program must ensure that youth drink a sufficient amount of water to provide adequate hydration. Staff must encourage youth to consume at least three quarts of potable water a day.

(3) Water caches. When water caches are used, field staff must place each water cache and verify its location in advance of a group's arrival.

(4) Water from a natural source. Water from a natural source used for drinking or cooking must be treated for sanitation to eliminate health hazards. Staff must document what methods were used to sanitize the water.

(5) Electrolytes. Each group must have and use when appropriate a supply of electrolyte replacement, quantities to be determined by group size and environment conditions.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0864, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0931

Nutritional Requirements

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Written policy. An outdoor youth program must have and follow written policy and procedures on nutritional requirements.

(2) Menu. There must be a written menu approved by a qualified dietitian or nutritionist with knowledge of program activity levels, listing the food supplies for each group.

(3) Calories. An outdoor youth program must provide each youth a level of nutrition which will supply the youth's individual caloric need; but no youth may be offered less than 3,000 calories a day. When heat is not available for cooking, an outdoor youth program must provide sufficient food of sufficient caloric value which does not require cooking.

(4) Hygiene procedures. The outdoor youth program must have reasonable hygiene procedures to prevent infection which are consistent with the particular program risk of infection.

(a) Cleansing of hands must occur after each latrine use.

(b) Means of cleansing the hands must be available to youth prior to food preparation and prior to food consumption.

(c) A weekly opportunity for total body hygiene.

(5) Fasting. There must be no imposed fasting.

(6) Monitoring. Field staff are responsible for maintaining the safety and well being of clients and must monitor each youth's food intake to ensure that the youth has adequate nutrition.

(7) Food must not be used for behavior modification purposes, including reward or punishment.

(8) Youth must be permitted a reasonable amount of uninterrupted time for each meal.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0866, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0936

Safety

(1) Written policies and procedures. An outdoor youth program (defined in OAR 413-215-0911) must have and follow written policies and procedures on all of the following:

(a) Equipment Safety Procedures, including appropriate instruction and maintenance of equipment.

(b) Environmental Hazards.

(c) Risk Management Procedures.

(d) Health, nutrition, hydration, and physical stress management.

(2) Emergency plan. An outdoor youth program must have and follow a written emergency plan for disasters, medical emergencies, hostage situations, casualties and missing youth, and other critical incidents identified by the program. The plan must at a minimum include:

(a) Designation of authority and staff assignments;

(b) Plans for evacuation;

(c) An emergency evacuation system that is on standby;

(d) Transportation and relocation of program youth when necessary;

(e) Supervision of program youth after an evacuation or a relocation;

(f) Arrangements for medical care and notification of a program participant's physician and nearest relative, parents, or legal guardian; and

(g) A procedure for a review of the emergency plan by the local law enforcement and emergency services agencies from the area in which the outdoor youth program is operating.

(3) Emergency instruction. An outdoor youth program must instruct youth on what to do in case of an emergency prior to any outdoor youth program activity (defined in OAR 413-215-0911).

(4) Emergency plan response review. In the case of the activation of an emergency plan response, the outdoor youth program must subsequently review the response in the context of the emergency plan to determine if changes need to be made to improve safety and efficiency. If local law enforcement and emergency services agencies have been involved in an emergency response on behalf of an outdoor youth program, the outdoor youth program must invite them to participate in the review of the emergency plan response.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0852, 413-210-0855, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0941

Potential Weapons

(1) Written policy. An outdoor youth program (defined in OAR 413-215-0911) must have and follow written policy and procedures on management of weapons and potential weapons.

(2) Inventory required. Staff of an outdoor youth program must inventory knives, hatchets, other edged tools, or any item which might reasonably pose a danger to self or others and complete a daily count of these items against the inventory.

(3) Supervision required. Staff of an outdoor youth program must have line of sight supervision of a youth who is in possession of and using knives, hatchets, other edged tools, or any item which might pose a danger to self or others.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0870, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0946

Contraband

(1) Written policy. An outdoor youth program (defined in OAR 413-215-0911) must have and follow written policy and procedures on contraband (defined in OAR 413-215-0911).

(2) Confiscation. Staff must confiscate contraband found in the possession of youth in an outdoor youth program and, if stored, secure it in a location inaccessible to youth.

(3) Disposal. It is the responsibility of the outdoor youth program to store or dispose of all contraband not confiscated by or turned over to law enforcement, in accordance with the contraband policy.

Stat. Auth.: ORS 409.050, 418.005, 418.240
 Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998
 Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0880, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-1

413-215-0951

Searches

(1) Written policy. If an outdoor youth program (defined in OAR 413-215-0911) conducts searches of youth or visitors, it must have and follow written policies and procedures. The program must obtain the appropriate consents for searches.

(2) Searches. An outdoor youth program must complete searches in the least intrusive manner possible for the type of search being conducted. The policies and procedures at a minimum must address all of the following:

(a) Pat down searches. An outdoor youth program may conduct pat down searches of youth only when the outdoor youth program judges that it is necessary to discourage the introduction of contraband (defined in OAR 413-215-0911), or to promote the safety of staff and other youth. An outdoor youth program may only conduct pat down searches as follows:

(A) By staff trained in proper search techniques;

(B) By a staff member of the same sex as the youth being searched, and in the presence of another staff member;

(C) The youth must be told he or she is about to be searched;

(D) The youth must be asked to remove all outer clothing (gloves, coat, hat, and shoes) and empty all pockets;

(E) The staff member must then pat the clothing of the youth using only enough contact to conduct an appropriate search;

(F) If the staff detects anything unusual, the youth must be asked to identify the item and appropriate steps must be taken to remove the item for inspection;

(G) If the youth refuses to comply, the executive director or designee must be notified immediately and be responsible to resolve the matter; and

(H) All searches must be documented in writing.

(b) Strip searches. An outdoor youth program may not perform strip searches.

(c) Body cavity searches. An outdoor youth program may not perform body cavity searches.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998
 Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0883, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0956

Transportation

(1) Vehicle. Transportation of youth in an outdoor youth program (defined in OAR 413-215-0911) must be in a vehicle that is:

(a) Properly registered;

(b) Covered by insurance for personal injury and liability;

(c) Driven by a person with a valid driver's license for the type of vehicle who complies with all applicable traffic laws while transporting youth;

(d) Maintained in a safe condition;

(e) Equipped with a red triangle reflector device for use in emergency;

(f) Equipped with a first aid kit; and

(g) Equipped with a fire extinguisher that is properly secured and not readily available to youth.

(2) Proper seating of youth and adults. Youth and adults in an outdoor youth program must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads. An outdoor youth program must take all reasonable steps to assure the safety of youth and adults traveling in off road vehicles.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998
 Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0846, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-0961

Health Services

(1) Required physical examination. Prior to a youth engaging in an outdoor youth program activity (defined in OAR 413-215-0911), an outdoor youth program (defined in OAR 413-215-0911) must review and place in the file a physical examination report for the youth. This information must be shared with the field staff prior to any outdoor youth program activity. The youth's health history must be provided by a physician prior to admission, and this history plus a new physical examination must be recorded on a form provided by the program, which clearly documents the type and extent of outdoor youth program activity in which the youth will be engaged. The examination must cover areas required by the Department and, after the appropriate consents are obtained from the youth or youth's legal guardian, must be completed by a licensed physician, physician's assistant or nurse practitioner, who signs the form.

(a) In addition to any other areas required by the Department, the examination must include a physical assessment based on the climate, temperature, and altitude the youth will be participating in given the participant's age, weight, sex, physical condition, and recent use of drugs or alcohol, if any. The physician must state in the examination report any restrictions on the youth engaging in strenuous exercise based on these or any other factors;

(b) If a youth is currently taking or has been receiving prescribed medication within the past six months, a specific notation must be made on the physical examination form, by the clearing medical professional, which must include clearance for participation in an outdoor, high impact environment and a description of any possible special needs due to use of the medication in the field environment; and

(c) If a youth is in a risk group for strenuous exercise or extreme conditions due to medical issues, written clearance must be noted on the physical examination form, stating that the youth may participate in an outdoor youth program activity, which may:

(A) Occur in altitudes over 5,000 feet;

(B) Include strenuous exercise; and

(C) Expose youth to cold or hot temperatures.

(d) Youth may not participate in an outdoor youth program activity until all blood work and other laboratory work has been received and reviewed by the physician, and the physician has found that the youth is qualified to start the program.

(2) Health information availability. An outdoor youth program must copy the health history and physical exam form and authorization to obtain medical care, maintain the original at the base of operations, and field staff must carry the copy in a waterproof container when the youth is away from the base of operations. All medications must be listed, including dose and frequency.

(3) Appropriate health care. An outdoor youth program must ensure — through staff assignments, training, and program providers — that injuries, illness, or physical complaints by youth will be promptly and accurately assessed; and that appropriate care is provided.

(4) Prompt first aid treatment. An outdoor youth program must provide first aid treatment in as prompt a manner as the location and circumstances allow.

(5) First aid. An outdoor youth program must have a first aid kit with sufficient supplies available at all times. The first aid kit must:

(a) Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used;

(b) Be reviewed with new staff for contents and use;

(c) Be reviewed at least annually with all staff for contents and use; and

(d) Be inventoried after each expedition and restocked as needed.

(6) Field treatment. An outdoor youth program must immediately transport to appropriate medical care any youth with an illness or physical complaint needing care or treatment beyond what can be provided in the field.

(7) Documentation of reports and treatment. An outdoor youth program must document complaints or reports by a youth of illness and injuries in a daily log along with any treatment provided.

(8) Negative consequences. An outdoor youth program may impose no negative consequence on a youth for reporting an injury or illness or for requesting to see a health care professional.

(9) Daily physical assessment. Field staff for an outdoor youth program must monitor and document youth's hydration, skin condition, extremities, and general physical condition on a daily basis.

(10) Weekly physical assessment. A Wilderness First Responder (WFR) or equivalent, an Emergency Medical Technician (EMT), or qualified medical professional must assess each youth's physical condition in an outdoor youth program at least every seven days. The assessment must be documented and shall at a minimum include:

- (a) Heart rate;
- (b) Check of extremities;
- (c) Condition of skin;
- (d) Allergies if any;
- (e) General physical condition;
- (f) Any health issues specific to the individual youth; and
- (g) Provision of appropriate medical treatment if needed.

(11) Medication storage and administration policies and procedures. An outdoor youth program must have and follow policies and procedures on the storage and administration of prescription and non-prescription medication. The policies and procedures must include contingency planning in the case of medications being lost or destroyed in the field.

(12) Medication storage. An outdoor youth program must store prescription and over-the-counter medication under lock and key safeguarded from youth. For medications taken in the field, medication must be in the possession of a staff member and stored at required temperatures.

(13) Documentation of medications. Prescription medication in an outdoor youth program must be issued by a qualified medical professional's valid order that includes the dosage to be given. Senior field staff must administer all medication. Administration of medication must be documented and include:

- (a) The youth's name;
- (b) The name of the medication;
- (c) The date and time;
- (d) The amount of dosage given and whether the youth did not take the medication; and
- (e) The person who administered or assisted in self-administration of the medication.

(14) Medication changes. An outdoor youth program may not stop or change dosage or administration of prescribed medication nor discontinue any prescription without consulting with a qualified medical professional and documenting the consultation and the change.

(15) Disposal of unused medication.

(a) For purposes of this rule, "unused medication" means any medication which has not been used for 60 days, or a medication held by the facility which has been prescribed for a resident who has been released from the facility.

(b) For purposes of this rule, "expired medication" means any medication whose designated period of potency, as indicated on the label, has expired.

(c) An outdoor youth program must return all unused or expired medication to the base of operations and dispose of it so it is not available to youth. A field director or senior field staff must witness and document the disposal of the unused medication.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0815, 413-210-0839, 413-210-0862, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0966

Staff Qualifications and Requirements

(1) Staff written policy requirements. An outdoor youth program (defined in OAR 413-215-0911) must have written policy regarding minimum staff requirements.

(2) Verification. An outdoor youth program must verify qualifications of staff through documentation of minimum requirements for work experience, education, and classroom instruction.

(3) Required staff positions.

(a) An outdoor youth program which provides outdoor youth programming as its primary function must have an executive director. The executive director may also function as the field director if the executive director meets those qualifications. In addition to meeting the requirements in OAR 413-215-0021(3)-(4), the executive director must comply with all of the following:

(A) Be at least 25 years of age.

(B) Have one of the following qualifications at time of hire:

(i) Five years of paid full time experience in the social services or wilderness field with at least one year in a paid administrative capacity.

(ii) A Bachelor's degree and four years of paid full time experience in the social services or wilderness field with at least one year in a paid administrative capacity.

(iii) A Master's degree and three years of paid full time experience in the social services or wilderness field with at least one year in a paid administrative capacity.

(C) Have knowledge and experience demonstrating competence in the performance or oversight of the following essential job functions: program planning and budgeting, fiscal management, supervision of staff, personnel management, employee performance assessment, data collection, reporting, program evaluation, quality assurance, and developing and maintaining community resources.

(D) Demonstrate by his or her conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules.

(E) Have completed the field training as required by OAR 413-215-0981(3).

(b) Field director. An outdoor youth program must have a field director who is primarily responsible for the quality of each outdoor youth program activity (defined in OAR 413-215-0911), coordinates field operation, supervises direct care staff, and manages the field office. The field director must:

(A) Be at least 25 years of age;

(B) Have a minimum of 30 college level semester hours or 45 quarter hours in recreational therapy or in a related field or one year of outdoor youth program field experience;

(C) Demonstrate knowledge and understanding of applicable licensing rules;

(D) Have completed the field training as required by OAR 413-215-0981(3);

(E) Hold a Wilderness First Responder (WFR) certificate or equivalent; and

(F) Have completed an approved course in nonviolent crisis intervention.

(c) Senior field staff. An outdoor youth program must have a senior field staff working directly with each group of program youth. Senior field staff must:

(A) Be at least 21 years of age;

(B) Have an associate degree or high school diploma or equivalent with 30 college level semester hours or 45 quarter hours of study or comparable experience and training in a field related to recreation and outdoor youth program activity;

(C) Have a minimum of forty 24-hour field days of program experience or equivalent experience in outdoor programs documented in the personnel file;

(D) Have completed the field training as required by OAR 413-215-0981(3);

(E) Hold a Wilderness First Responder (WFR) certificate or equivalent; and

(F) Have completed an approved course in nonviolent crisis intervention.

(d) Field staff. Each field staff member of an outdoor youth program must:

- (A) Be at least 21 years of age;
- (B) Have a high school diploma, or its equivalent, or comparable experience directly relevant to assigned outdoor youth program responsibilities;
- (C) Have completed the field training as required by OAR 413-215-0981(3); and
- (D) Be certified to provide cardiopulmonary resuscitation (CPR) and first aid.

(4) Specific Outdoor Youth Program activity training. All staff of an outdoor youth program must have documented training and experience in conducting any outdoor youth program activity he or she is assigned to conduct.

(5) Multidisciplinary team. An outdoor youth program must have a multidisciplinary team of staff or consultants who have knowledge of the physical and emotional demands of the program and are available to program youth and staff upon the recommendation of the field director or senior field staff. The multidisciplinary team must also be available to outdoor youth program staff upon request for consultation regarding the appropriateness of admission of youth. At a minimum, the team must consist of:

- (a) A licensed health care professional (physician, doctor of osteopathy, nurse practitioner, or physician's assistant);
- (b) A treatment professional who is a licensed or certified psychologist, clinical social worker, marriage and family counselor, or professional counselor; and
- (c) If the program does not exclude clients with substance abuse problems, the multidisciplinary team must include a professional who is a Certified Alcohol Drug Counselor or who has demonstrated equivalent experience and training in the field of alcohol and drug abuse counseling.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; CWP 1-2004, f. & cert. ef. 1-9-04; Renumbered from 413-210-0821, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-0971

Staff Health Requirements

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Staff health requirements. The outdoor youth program staff members having responsibility for youth must be free of infectious diseases and must be capable of competently fulfilling all responsibilities reasonably associated with their employment.

(2) Health history questionnaire. As part of orientation, and annually thereafter, staff must complete a health history questionnaire similar to that completed by the youth entering the program. It must include injuries or ailments that might affect the ability to function well in the field, or put other field staff or youth at risk of injury or infection.

(3) Health history questionnaire content. The health history questionnaire must include but not be limited to the following content areas:

- (a) Standard physical health questions, including history of infectious diseases;
- (b) History of physical injuries; and
- (c) History of drug or alcohol abuse or dependence that required residential or outpatient treatment, or that might currently interfere with employment responsibilities.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0824, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-0976

Physical Activity Limits and Requirements

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Physical capability. Physical activity may not exceed the physical capability of a youth. Field staff must monitor the physical capability and condition of each youth to ensure that the outdoor

youth program activity (defined in OAR 413-215-0911) does not exceed the youth's capability.

(a) The program may not assign extremely strenuous exercise at any time.

(b) A youth when hiking may not carry a backpack and other equipment which exceeds their physical abilities.

(c) Staff shall assist youth in ensuring that backpacks are packed in a manner that allows them to be comfortably worn.

(d) Youth shall have breaks prior to becoming weary to avoid risk of injury. Breaks shall be frequent and long enough to recover and return to the outdoor youth program activity.

(e) All youth in a group shall hike at the speed at which the slowest member is capable.

(2) Environmental conditions. Staff of the outdoor youth program must consider environmental conditions including but not limited to temperature, humidity, and precipitation, when planning an outdoor youth program activity so as to minimize the risk of harm (such as heatstroke, frostbite, and hypothermia) to participants.

(3) Acclimation to environment. Staff must closely monitor youth for acclimation to the elevation and temperature of the environment for the first 72 hours of each youth's stay in the program to ensure safe assessment of fitness.

(a) Staff must monitor and document each youth's physical assessment at least three times per day, and more often if the youth is exhibiting signs of exhaustion or fatigue. Youth physical assessment must meet the same criteria as described in OAR 413-215-0961(10).

(b) Staff shall assess each youth's level of overall fitness, and readiness mentally and physically to engage in more demanding exercise during this time period.

(4) Log. There must be a common daily log, which is signed and dated by the participating senior staff daily. The log must:

(a) Contain information on health problems, accidents, injuries, illnesses, medications used, behavioral problems, and unusual occurrences; and

(b) Include notation of environmental factors such as weather, temperature, and terrain.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0858, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0981

Staff Training

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Written policies, procedures, and training curriculum. An outdoor youth program must have written policies, procedures, and training curriculum regarding minimum requirements for orientation, field training, and ongoing training.

(2) Orientation. Each employee must complete orientation before having any contact with clients or prospective clients (youth or their legal guardians). The orientation training must include at a minimum:

(a) Outdoor youth program mission and goals, including admissions criteria and services provided.

(b) Personnel structure of the outdoor youth program, including an organizational chart and job descriptions which accurately reflect the responsibilities of staff positions involved in the care and management of youth, and the management and supervision of field staff;

(c) Overview of the quality improvement program, including the critical incident program;

(d) Risk management procedures and safety precautions;

(e) Instruction in behavior management policies and procedures of the outdoor youth program, including de-escalation and the use of physical restraint, if applicable;

(f) Instruction in physical assist policies and procedures of the outdoor youth program;

(g) Review and discussion of all other policies relevant to field staff responsibilities, such as clothing, nutrition, vehicle use,

communication methods, cooking and camping equipment, and their use; and

(h) Emergency plan.

(3) Field training. Each field staff must receive a minimum of seven days of field training and must be assessed by the field director or designee for each of the following minimum required field skills before assuming sole supervision of youth:

(a) Water, food, and shelter procurement, preparation, and conservation.

(b) "Leave No Trace Principles" for outdoor youth program activity (defined in OAR 413-215-0911). For purposes of this rule, "Leave No Trace Principles" mean wilderness and land use ethics which are designed to minimize the impact of visitors to back country areas. The principles include: Plan Ahead and Prepare, Travel and Camp on Durable Surfaces; Pack it in, Pack it Out; Properly Dispose What You Can't Pack Out; Leave What You Find; and Minimize Use and Impact of Fire.

(c) Recognition and management of the presenting issues of the youth served, including mental health and substance abuse issues.

(d) Instruction in safety procedures and safe use of fuel, fire, and life protection equipment.

(e) Sanitation procedures related to food, water, and waste.

(f) Special instruction to ensure proficiency in each specific outdoor youth program activity for staff who conduct and staff who supervise an outdoor youth program activity.

(g) Wilderness medicine, including health issues related but not limited to:

(A) Acclimation.

(B) Exposure to the environment and environmental elements.

(C) Signs, symptoms, and treatment of water intoxication and dehydration.

(D) Foot blisters.

(E) Diarrhea.

(F) Recognizing differences between symptoms of a health concern and behavioral issues.

(G) Bites and Stings.

(H) Allergic reactions.

(I) Gender specific health issues.

(h) First aid kit contents and use.

(i) Basic navigation skills including understanding of contour maps, use of compass, and navigation using the positions of sun, moon, and stars to determine direction.

(j) Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations.

(k) Critical incident prevention, identification, and response.

(l) Knowledge of and ability to implement the emergency plan of the outdoor youth program.

(m) Report writing, including development and maintenance of logs, journals, and incident reports.

(n) Other skills as required by the outdoor youth program.

(4) Sole supervision. No staff member of an outdoor youth program may provide sole supervision of program youth prior to:

(a) Successful completion of orientation and field training; and

(b) Documented assessment by a senior field staff member of:

(A) Effective understanding of the supervision structure of the outdoor youth program, who is responsible, and to whom staff can refer questions or problems; and

(B) Understanding, knowledge, and compliance with the behavior management policies of the outdoor youth program.

(5) Ongoing training. An outdoor youth program must provide ongoing training for field staff to maintain and upgrade their skills.

(6) Documentation of training. An outdoor youth program must document the training received by each staff member and volunteer in their personnel file. For each training session, the documentation shall include the name and qualifications of the person providing the training, date of training, training content, and the number of hours of the training.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0830, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0986**Youth Staff Ratios**

An *outdoor youth program* (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Youth staff ratio policy. The outdoor youth program must have written policy and maintain documentation of program compliance on youth staff ratios.

(2) Group size. For a field group, the number of participants may not exceed twelve youth (defined in OAR 413-215-0911).

(3) Staffing ratio. Each group of two or more youth must be staffed as follows:

(a) By at least two staff members, one of whom must be a senior field staff member;

(b) There must be at least one staff member to every three youth;

(c) Where the gender of a group is mixed, there must be at least one female staff and one male staff member;

(d) There must be a minimum of five years difference in age between a direct care staff member and the youth for whom the staff member has sole supervision; and

(e) Volunteers and interns may not be included in the staff youth ratio unless they meet the qualifications required of staff.

(4) Wilderness first responder (WFR). At least one staff member per group must have a current Wilderness First Responder (WFR) Certificate or equivalent.

(5) Nonviolent crisis intervention training. At least one staff per group must be trained in nonviolent crisis intervention.

(6) Field staff training.

(a) There may not at any time be more than one staff member who has not completed all field training.

(b) Where there are four or more youth, at least two staff members must have completed all field training.

(7) Stationary Outdoor Youth Program staffing ratios.

(a) There must be at least one staff member to every three youth while a stationary outdoor youth program (defined in OAR 413-215-0911) is engaging in an outdoor youth program activity (defined in 413-215-0911), whether at or away from the stationary camp.

(b) A stationary outdoor youth program when not engaged in an outdoor youth program activity at the stationary camp is exempt from the one staff member to every three youth staffing ratio. Staff youth ratios must be established to provide supervision and protection for youth and must be adequate in relationship to the type of program, location of program, age and type of youth served, physical plant design, location and ability of supervisor to respond, backup systems, or any other means to assure a high standard of supervision and protection:

(A) There must be at least one staff member to every ten youth during the time youth are awake and present in the program.

(B) There must be at least one staff member on duty to every fourteen youth during sleeping hours. If staff is sleeping, there must be at least one staff member on duty to every seven youth during sleeping hours.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0827, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-0991**Age Grouping**

An *outdoor youth program* (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Minimum Age. A participant in the outdoor youth program must be at least ten years of age.

(2) Grouping. The outdoor youth program must have policy and documentation regarding age grouping. An outdoor youth program may place youth in groups only after taking into consideration these factors: the age, developmental level, physical maturity, social maturity, behavioral functioning, cognitive level, diagnosis (if any), and individual needs of each youth.

(3) Placement of youth age 10 years through 12 years. An outdoor youth program may place youth ten years of age through twelve years of age only in a program component designed for this age group, unless the outdoor youth program has been granted an exception by the Department licensing coordinator.

(4) Placement with adults. If the outdoor youth program serves adults age eighteen years of age or older, it may place youth in the same group as adults only after taking special care to assess and minimize the risk to the youth.

(5) Placement decisions. An outdoor youth program must make placements of youth in groups to maximize each youth's functioning and minimize the possibility of exploitation. In making the placement decision in section (4) of this rule or in deciding to request an exception to place a youth age ten years of age through twelve years of age in an older group, an assigned staff member with documented experience placing youth in groups and who is familiar with the outdoor youth program must:

(a) Base the placement on the factors listed in section (2) of this rule;

(b) Document the basis for the decision and the appropriateness of the placement in the youth's service plan; and

(c) Review the therapeutic appropriateness of the decision every week after the placement, document whether the decision remains appropriate, and make any changes indicated.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCEF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0818, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-0992

Referral and Initial Evaluation of Youth

(1) Affirmative duty to gather sufficient information. An outdoor youth program (defined in OAR 413-215-0911) has an affirmative duty to make reasonable efforts to gather sufficient information to determine the appropriateness of the youth for the outdoor youth program.

(2) Referral. An outdoor youth program must have a policy that addresses the process by which youth are referred to the outdoor youth program. The policy must include all of the following:

(a) From whom referrals are accepted and whether the program has any type of relationship with the source of referral, including payment for any services provided by the source of the referral to the program.

(b) On what basis youth are accepted by the outdoor youth program.

(c) How information necessary to provide for the safety and care of youth will be provided to the appropriate care staff.

(3) Exclusionary policy.

(a) An outdoor youth program must have a written policy that describes any exclusionary criteria for the program.

(b) The outdoor youth program must exclude or have a written policy and must document in the youth's service plan describing how the program will provide safe and effective treatment specific to each of the following:

(A) Youth with current risk of fire setting behaviors.

(B) Youth with active psychosis.

(C) Youth with current risk of suicide.

(D) Youth with current risk of harm to self or others.

(E) Youth with any significant mental health diagnosis.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: CWP 7-2013, f. & cert. ef. 10-1-13

413-215-0996

Program Services

(1) Admissions assessments. An outdoor youth program (defined in OAR 413-215-0911) must perform an admission assessment on each youth.

(a) Admissions process. An assigned staff member with documented experience in the area of admissions screening and assessment, who is familiar with the outdoor youth program, must com-

plete an individual admissions assessment for each youth prior to enrollment.

(b) Admissions to be based on admissions assessment. The outdoor youth program must base admission of each youth on the individual admissions assessment. The assessment must be the basis for the youth's individual service plan. The assessment must include the following components:

(A) Social history including home, community, and environment;

(B) Health history, including current prescriptions and over the counter medication (defined in OAR 413-215-0911);

(C) Psychological history, including behavior problems, aggression, substance abuse, family dynamics, prior evaluations, and any previous treatment;

(D) For a youth with indications of a mental health diagnosis, the assessment must include a determination by a licensed, certified, or registered mental health professional whether the outdoor youth program is appropriate and how the program activities will address the youth's needs, or whether another type of mental health treatment is indicated for the youth before the youth enters the field portion of the outdoor youth program.

(i) If the program has reasonable grounds to believe that a youth for whom admission is sought has a mental health diagnosis, the program must require the submission of an evaluation, completed not more than 90 days previously, of the youth's mental health condition by a clinical psychologist or psychiatrist.

(ii) The evaluation described in subparagraph (i) of this paragraph and other available evaluations and relevant documentation must be reviewed by a qualified mental health professional who must describe in writing how the treatment to be provided at the outdoor youth program is appropriate for the identified mental health diagnosis. This description must include how the activities of the program will address the needs of the youth and relate to the youth's service plan.

(E) For a youth with indications of substance abuse, the assessment must include a determination by a professional in chemical dependency whether detoxification is indicated for the youth before the youth enters the field portion of the outdoor youth program.

(c) Consultation and additional information. If after a review of the components required by the Admissions Assessment, there is any question as to the appropriateness of admission of a youth, the assigned staff member must consult with the Multidisciplinary Team and document the decision. If the information available about the youth is inadequate for the determination of appropriateness for the outdoor youth program, the outdoor youth program must require additional necessary information which may include evaluations by consulting professionals.

(d) Evaluation of appropriateness of admission. Each admissions assessment must include a summary evaluation of the appropriateness of the admission of the youth into the outdoor youth program.

(e) Field entry.

(A) An outdoor youth program must conduct an interview and orientation with each youth before the youth leaves for the field portion of the program away from the main base of operations.

(B) The field director or senior field staff assigned to the youth's field experience must conduct an interview with the youth prior to entrance into the field; and

(C) The medically trained field staff assigned to the youth's field experience must conduct a review of the youth's health history and physical examination report.

(2) Service planning. Each youth must be served according to an individual service plan (defined in OAR 413-215-0911), developed by the outdoor youth program staff and including, whenever possible, the program director, child-care workers, other involved professionals, the youth, and his or her family. The program must make every effort to secure the participation of the legal guardians in planning, and, if they do not participate, must document the reasons why. An outdoor youth program has an affirmative responsibility to provide competent individualized service planning for

each youth to include ongoing evaluation and change as needed. Service planning time lines must be as follows:

(a) Initial service plan. An outdoor youth program must write the initial service plan based on the admission assessments, all referral documents, and the youth's individual needs on or before admission, and provide a copy to the senior field staff upon the youth's entry into the outdoor youth program.

(b) Updated service plan. Within 14 days of the date the youth enters the field, the outdoor youth program must write an updated service plan based on field observations and additional information received (family information, medical reports, and youth disclosures). If a youth has a significant mental health diagnosis, the service plan must specify how and by whom the treatment related to the diagnosis will be addressed.

(c) Monthly review. The outdoor youth program must review and update the service plan monthly, and document the review. Changes in the service plan must be promptly shared with the youth and the youth's legal guardian.

(d) Discharge summary. The discharge summary must include a written summary of the youth's participation and progress achieved, results of evaluations, conditions of the youth, interactions of youth and staff, briefings and debriefings, compliance with program policies and procedures, and recommendations. The discharge summary must be retained in the youth's file and a copy provided to the youth's legal guardians.

(3) Areas of emphasis in the service plan and planning process. It is the intent of the Department that an outdoor youth program must make every reasonable effort to ensure participation by the youth's family in all aspects of the service and service planning process. To that end, the outdoor youth program staff must:

(a) Encourage parent participation in the intake process;

(b) If the youth's parent or legal guardian cannot participate in the intake process, ensure participation in the intake process by those responsible for the environment in which the youth resides prior to placement with the outdoor youth program;

(c) Support the family and those responsible for the environment in which the youth lives during intervention activities, including alternate suggestions for any youth not accepted at intake;

(d) Consider the family's responsibility, needs, and values in the planning and service process;

(e) Provide an orientation procedure for the youth and his or her family;

(f) Ensure that information regarding significant events in the youth's family is passed on to appropriate staff members;

(g) Review service plans, activities, and progress with the family monthly; and

(h) Ensure that the educational needs of the child are an integral part of the service plan. Youth who have not graduated from high school must have access to an appropriate education that affords sufficient transferable credits for the youth to stay on course to graduate.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0812, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1001

Critical Incident Program

(1) Quality improvement program. An outdoor youth program (defined in OAR 413-215-0911) must have a written quality improvement program which identifies and defines critical incidents, includes a response to each type of critical incident, and includes procedures for the review of critical incidents.

(2) Critical incident training. An outdoor youth program must train staff in critical incident prevention, identification, and response.

(3) Documentation of critical incidents. The outdoor youth program staff must document each critical incident as follows:

(a) Record each incident in the common daily log and complete an incident report immediately following the incident;

(b) Categorize each incident as to type and seriousness;

(c) Record the results of staff debriefing of each critical incident; and

(d) Management must document review of each critical incident report within 24 hours of receipt.

(4) Review of critical incidents. An outdoor youth program must have procedures for review of critical incidents which include management and board review of critical incidents and a process for deciding if revisions to program policy and procedures, operations, or training are warranted for quality improvement.

(5) Documentation of critical incident review. An outdoor youth program must document in writing the process and results of its review of critical incidents and resulting program quality improvements if any and must provide this information to staff.

(6) Near miss. An outdoor youth program must review any near miss and determine whether to respond to it as if it were a critical incident in accordance with this rule. For purposes of this rule, "near miss" means:

(a) A close call;

(b) A potentially dangerous situation where safety was compromised but that did not result in injury; or

(c) An unplanned and unforeseen event after which those involved express relief that the incident ended without harm.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0860, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-1006

Field Outdoor Youth Program Activities

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Written description. There must be a written description of each field outdoor youth program activity (defined in OAR 413-215-0911) and a schedule, including a detailed itinerary.

(2) Staff briefing. The executive director, field director, or designee must brief staff entering the field. The briefing at a minimum must include:

(a) The planned route, terrain, time schedule, weather forecast, and any potential hazards;

(b) Any procedures unique to that field experience; and

(c) Youth background and any potential problems.

(3) Itinerary. Field staff must carry map routes, anticipated schedules, and times when a group is in the field.

(4) Supervision. The field director or designee must conduct and document supervisory evaluation of each youth and staff in a field group at least every seven days, either in person or through Department approved procedures. If the planned itinerary is longer in duration than three weeks, the field director or designee must make onsite visits at minimum increments of three weeks.

(5) Staff debriefing. The field director or designee must debrief (defined in OAR 413-215-0911) staff after they return from the field.

(a) An outdoor youth program must document the debriefing of staff (whether individual or group) received by each staff member in his or her personnel file.

(b) For each debriefing session, the documentation must include the name and qualifications of the person providing the debriefing, the date of the debriefing, any performance issues, and the length of time of the session.

(6) Youth debriefing. The field director or designee must debrief youth after returning from the field. The debriefing must at a minimum:

(a) Include a written summary of the youth's participation and progress achieved;

(b) Be provided in written form to the youth's parents or guardian; and

(c) Legal guardians and youth must be given the opportunity and encouraged to submit a written evaluation of the outdoor youth experience, to be maintained by the outdoor youth program.

(7) Documentation. An outdoor youth program must document results of the evaluation of the conditions of the youth, interactions of youth and staff, briefings, debriefings, and compliance with pro-

gram policies and procedures, and include them in the youth's record and discharge summary.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0833, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1011

Communication

(1) For purposes of this rule, a "Global Positioning System receiver" means a receiver which receives signals from a network of 24 satellites known as the Global Positioning System (GPS) and identifies the receiver's location: latitude, longitude, and altitude to within a few hundred feet.

(2) Communication and support system. An outdoor youth program must maintain a communication system that includes the use of Global Positioning System receivers, two way radio communication, and cell phone communication; or follows the applicable land managing agency requirement and includes:

(a) Reliable communication between each group and the base of operations; and

(b) A back up plan for re-establishing communication to be implemented in the event regular communication fails.

(3) Communication requirements. An outdoor youth program must have a reasonable communication plan which is sufficient to provide routine and emergency care and takes into consideration individual youth needs and terrain considerations.

(a) There must be oral communication between each field group and the base of operations on a regularly scheduled basis according to program procedures, unless special documented arrangements have been made;

(b) In no case may the absence of oral communication between a field group and the base of operations exceed 72 hours, unless the Department has approved an exception for alternate program procedures for communication; and

(c) In no case may a field group be more than one hour away from the ability to make contact with emergency services.

(4) Emergencies. The base of operations support personnel for an outdoor youth program must have immediate access to emergency telephone numbers, contact personnel, and procedures for an emergency evacuation or critical incident requiring emergency medical support.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0836, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1016

Work

In compliance with child labor laws, an outdoor youth program (defined in OAR 413-215-0911) may as a constructive experience give youth non-vocational work assignments, which are age appropriate and within the youth's capabilities. The primary purpose of work may not be to substitute for paid labor for the benefit of the outdoor youth program, nor may it be to discipline youth.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0841, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1021

Animals and Pets

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) Animals and pets must be free from disease and cared for in a safe and clean manner.

(2) An outdoor youth program must take reasonable measures to assure that youth are not exposed to danger from animals.

(3) All domestic animals and pets must be vaccinated against rabies. Documentation of the vaccination against rabies must be available in the responsible employee's personnel file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0843, CWP 28-2008, f. & cert. ef. 10-17-08

413-215-1026

Solo Experiences in Outdoor Youth Programs

If an outdoor youth program (defined in OAR 413-215-0911) conducts individual or separate components for youth (solo experiences) as part of the therapeutic process, the program must have and follow written policies and procedures. The policies and procedures at a minimum must require all of the following:

(1) Individual solo plan. Each youth participating in a solo experience must have a plan which includes goals, methods, techniques, time frames, and takes into consideration the maturity, health, and physical ability of the youth.

(a) The youth must be instructed on the solo experience and individual plan including expectations, restrictions, communication, environment, and emergency procedures;

(b) Each youth must have and receive instruction on a back-up plan in case the primary plan does not work; and

(c) A designated staff member must be responsible for coordination and implementation of the plan.

(2) Environmental requirement. Staff must be familiar with the site chosen to conduct solo experiences and must pre-investigate the site to ensure the terrain is appropriate for the skill level of the youth and that hazardous conditions are considered. Staff must make arrangements for medication, food, and water drops if needed.

(3) Supervision. Plans for supervision must be in place during the solo experience, including the assignment of a staff member responsible for the supervision of the solo participant, and procedures for placement, supervision, and observation of the participant. Supervision must include communication systems, visual checks, and regular checks of the youth's emotional and physical condition.

(4) Emergency procedures. In addition to the requirements of the Emergency Plan section of these rules (OAR 413-215-0936), solo emergency plans must include but are not limited to: instructing the youth on the safety and emergency procedures, establishing an effective system for emergency communication available at all times, instruction of other youth on how to respond if the emergency notification system is put into use, and a check-in system should an emergency occur.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0849, CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

413-215-1031

Behavior Management

An outdoor youth program (defined in OAR 413-215-0911) must comply with all of the following requirements:

(1) If the policies of an outdoor youth program allow for disciplining a youth or group of youth for actions of one youth, the organization's policies and procedures for behavior management and discipline must clearly prescribe the circumstances and safeguards under which disciplining the group is allowed.

(2) If a youth refuses or is unable to hike, a contingency plan must be developed based on Department approved policies and procedures. The contingency plan must ensure that if the group is split, there is proper staff coverage for each group, and communication between the groups is maintained.

(3) Physical assist.

(a) "Physical assist" means action by staff members to physically aid, support, or redirect youth who are not resisting. A physical assist includes staff leading youth along the trail, moving the youth to his or her campsite by gently pulling on a backpack strap, guiding him or her by the hand or elbow, or placing a hand on the youth's back. The youth may not want to be physically assisted but he or she does not offer resistance.

(b) Appropriate use of a physical assist occurs when staff members physically aid, support, or redirect youth who are not physically resisting. If a youth resists reasonable staff direction, staff must assess whether the use of physical restraint is warranted

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based on the written nonviolent physical restraint policy of the outdoor youth program. An intervention becomes a physical restraint when the youth resists, has “dug in his or her heels”, and is propelled or held still against that resistance. Staff members must comply with all applicable physical restraint regulations, including OAR 413-215-0076.

(4) Time out.

(a) For purposes of this rule, “time out” means imposed separation of a youth from any group activity or contact as a means of behavior management.

(b) An outdoor youth program may use time out only when a youth’s behavior is disruptive to the youth’s ability to learn, to participate appropriately, or to function appropriately with other youth or the activity.

(c) The outdoor youth program must designate a staff member to be responsible for visually observing the youth at random intervals at least every fifteen minutes.

(d) If the duration of a time out exceeds one hour, or there is visual separation of the youth, the outdoor youth program must write an incident report in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the youth being placed in time out, and staff’s attempts to help the youth avoid time out. The youth’s legal guardians must be provided with a copy of the documentation of each time out under this subsection within 72 hours.

(e) The outdoor youth program must reintroduce a youth to the group in a sensitive and non-punitive manner as soon as control is regained.

(f) If there are timeouts equaling more than 3 hours within a 24 hour period, the executive director or designee must conduct a review to determine the suitability of the youth remaining in the

outdoor youth program, whether modifications to the youth’s plan are warranted, and whether staff need additional training in alternative therapeutic behavior management techniques. The outdoor youth program must take appropriate action as a result of the review.

(g) Time outs may be assigned by staff or self imposed.

(h) Youth may not be physically restrained because the youth leaves an assigned time-out.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; Renumbered from 413-210-0872,

CWP 28-2008, f. & cert. ef. 10-17-08; CWP 7-2013, f. & cert. ef. 10-1-13

DIVISION 310

FINANCIAL MANAGEMENT

Erroneous Payments Based on Error or Fraud

413-310-0200

Purpose

These rules describe SOSCF’s procedures for handling payments made by SOSCF which are in error or result from fraudulent acts committed by service providers and subcontractors of service providers contracting with SOSCF, persons working under personal service contracts with SOSCF, or SOSCF employees.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 293.235 - 293.245

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-2000, f. & cert. ef. 9-6-00