



**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 1**

**PROCEDURAL RULES**

**413-001-0000**

**Notice of Interested Parties**

(1) Proposed Rule Action:

(a) In order to provide interested persons a reasonable opportunity to be informed and, if they wish, to comment, the State Office for Services to Children and Families (SOSCF) will give notice of SOSCF's intent to adopt, amend or repeal any administrative rule, except temporary rules promulgated pursuant to ORS 183.335(5);

(b) SOSCF will routinely send notices of proposed rule actions to:

(A) All SOSCF offices and the Department of Human Resources;

(B) Persons on SOSCF's mailing list as established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule;

(C) Anyone who requests such notices selectively;

(D) Secretary of State, for publication in the Secretary's Bulletin at least 21 days prior to the effective date;

(E) Associated Press and United Press International;

(F) Other persons, agencies or organization SOSCF believes to have an interest in a particular rule or rule action.

(c) SOSCF Central Office will send copies of the proposed rule to interested parties as requested.

(2) Fees. When copies of rules or proposed rules are mailed, SOSCF may charge fees to defray costs of one or more of: Maintenance of mailing lists; materials; or printing, handling or mailing of materials.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 183.335

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

## 413-001-0005

### Model Rules of Procedure

The State Office for Services to Children and Families hereby adopts the September 9, 1995 version of the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedure Act.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 183.335

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

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**Oregon Administrative Rules  
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**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 10**

**CLIENT RIGHTS**

**Confidentiality of Client Information**

**413-010-0000**

**Purpose**

The purpose of these rules is to describe the conditions under which information about clients can be shared and to whom the information can be given without an order of the court.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119 & 419A.255

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

**413-010-0010**

**Definitions**

- (1) "Client": means any person receiving services from the agency, including parents, legal guardians, or legal custodians of an unemancipated minor client.
- (2) "Court Appointed Special Advocate (CASA)": A trained supervised volunteer, appointed by a judge to represent the best interest of a child who is under the jurisdiction of the court.
- (3) "Legally Emancipated": A person under 18 years of age who is married or has been emancipated by the court in accordance with the requirements of ORS 109.510 to 109.520.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

## **413-010-0020**

### **Client Records**

(1) Client records are any official agency records which identify an individual or family who has applied for services or has received services from SOSCF. Client records include any writing or recording of information including automated records and printouts, handwriting, typewriting, printing, photostating, photographing, magnetic tapes, videotapes or other documents.

(2) General information, policy statements, statistical information or information about the actions of SOSCF employees are not confidential client information unless such information is identified with an individual client or family.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

## **413-010-0030**

### **Protection of Information**

(1) Client information may be used by the agency and shall be used only for purposes directly connected with the administration of the agency's programs. Regulations prohibit other use of client information, records or reports unless:

- (a) Required by federal/state law or regulation;
- (b) Ordered by a judge;
- (c) Authorized by these rules; or,
- (d) Requested in writing by the client or his/her representative.

(2) Access to records shall be supervised by the branch manager or designee. SOSCF may require a reasonable period of time, usually seven calendar days, to prepare a record for review and may require persons requesting access to a file to make appointments.

(3) Individuals, agencies or organizations who exchange or receive confidential information about clients from SOSCF, are expected to preserve the confidential nature of the communication. Assurance must be given that the information will only be used for the purpose for which it was made available. Copies of information from client records that are stamped "Confidential" shall not be copied or shared with others without the prior permission of SOSCF.

(4) Copies of client information used for ad hoc consultation (e.g., case staffing, citizen reviews) and not needed for the permanent file of the consultant, shall be promptly destroyed.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

**413-010-0040****Access to Client Records**

(1) A person having access to SOSCF records has the freedom to look at, obtain copies, and make use of the information contained in the record, with the exception of the following:

- (a) Information about adoptive placements and sealed adoption records;
- (b) The identity or identifying information of a person reporting suspected child abuse;
- (c) Information in a report of the investigation of a child abuse report may be withheld from a client when a protective services or criminal investigation is still in process;
- (d) Information from records sealed by a court order of expunction;
- (e) Confidential information provided to SOSCF in good faith on the basis that the information will not be disclosed. This includes reports from treatment facilities, medical, drug and/or alcohol, psychiatric and psychological treatment reports that are provided to SOSCF and marked confidential, as well as information provided in confidence by private citizens. Unless SOSCF receives permission to release such information, the client shall only be informed that SOSCF has such information and advised to contact the source of the information.

(2) Since SOSCF records are often multi-person records, a person entitled to access a record shall not have complete access to a particular case file if it contains confidential information about others (e.g., ex-spouse, other relatives, half-siblings, etc.).

(3) A client 18 years of age or older, or a client under 18 who is legally emancipated, is entitled to review information about himself or herself unless the information is restricted by law, by court order or by these administrative rules.

(4) When the child is receiving services on a voluntary basis, a parent having legal custody or a legal guardian may review the same information about their dependent child under age 18 as a client may see about himself or herself.

(5) When a child is in the legal custody of the agency based on a court order, the following shall apply:

(a) A guardian ad litem (GAL) or a court-appointed special advocate (CASA) shall be given access to any information about the child that an adult client may see about himself or herself;

(b) A parent or guardian may have the same information about their child as a parent having legal custody unless:

(A) The child objects; or

(B) SOSCF as legal guardian believes that sharing the information will be harmful to the child or to the person caring for the child.

(c) Unless ordered by the court to release the information, SOSCF may withhold from a parent or guardian the identity and address of the person caring for the child if SOSCF has reason to believe such action is necessary to protect the safety of the child or the person caring for the child.

(6) An attorney may have access to records when written authorization is provided by the person entitled to access.

(7) When the juvenile court confirms that a person is the attorney of record in a juvenile court proceeding, the attorney may have access to the records without the written authorization of the client.

Stats. Implemented: ORS 109.119 & 419A.255

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

## **413-010-0050**

### **Disclosure of Information**

SOSCF staff who are responsible for providing or administering client services shall release information from client files in accordance with OARs 413-010-0060 through 413-010-0140.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

## **413-010-0060**

### **Adoption Records**

(1) No identifying information shall be released to anyone regarding the birth parents of a child who is placed for adoption. It is the intent of this rule to protect from release any information about a child placed for adoption which will link the child to the birth family or the birth family to the child. The whereabouts and new identity of a child shall not be revealed to anyone seeking information about the child by his or her birth name.

(2) When an adoption is finalized, the records are sealed and can only be opened by court order. Only the SOSCF central office adoption staff have access to the files. The adoption manager or designee may approve the release of non-identifying information from the files to the child or to the adoptive parents or their designee to provide information about the child's early history or familial history.

(3) Identifying information from adoption files may be given to an adult adoptee or adult genetic sibling (age 21 or older) and to a birth parent when they have met the legal requirements of the Voluntary Adoption Registry as specified in ORS 109.425 to 109.500 and OARs 413-130-0300 to 413-130-0350.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425, 109.500, 109.440 & 419A.255

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

## **413-010-0070**

### **Expunged Records**

When a SOSCF record or part of a record has been sealed or marked as expunged, no information can be released about the individual from the record or part of the record except to fulfill administrative requirements (such as audits, preparation for legal action, etc.) or upon an order of the court.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255 & 419A.260

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

## **413-010-0080**

### **Reporter of Abuse**

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

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.025

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

## **413-010-0090**

### **Child Abuse Reports and Records**

- (1) Each report of suspected child abuse will be immediately reported to a law enforcement agency.
- (2) SOSCF shall 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;
  - (f) A non-abusing parent, foster parent or other non-abusing person responsible for the care of the child;
  - (g) A court-appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect.
- (3) A report, record, or findings of an assessment of child abuse shall not be disclosed until the assessment is completed, except for the reasons stated in subsections (5)(a) and (b) of this rule. An assessment will not be considered completed while either a protective service assessment or a related criminal investigation is in process. SOSCF is responsible for determining when the protective service assessment is completed. The district attorney determines when a criminal investigation is completed.
- (4) Records or findings of completed child abuse assessments shall 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;
  - (b) A court-appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;
  - (c) A citizen review board established by SOSCF 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. When providing information to a citizen review board, SOSCF will expect that the board will inform participants of their statutory responsibility to keep the information confidential, and will maintain records in an official, confidential file.
- (5) Records or information from records of abuse and neglect assessments may be disclosed to other interested parties if SOSCF determines that the person or organization has a need to know the information based on one or more of the following criteria:
- (a) Disclosure is necessary in order to 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, SOSCF will release only the information needed to accomplish the service, administrative procedure, or action as specified in OAR 413-010-0050;
  - (b) SOSCF may disclose information in order to prevent abuse and neglect, to assess reports of abuse and neglect or to protect children from further abuse or neglect.

Stat. Auth.: HB2004

Stats. Implemented: ORS 419B.010, 419B.015, 419B.020, 419B.035, 419A.255, 419A.100 & 419A.102

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 3-1996, f. & cert. ef. 7-1-96

## **413-010-0100**

### **Prior Approval**

The director of SOSCF may give prior approval to a person or organization to review records for the purpose of research. The researcher must agree to maintain the confidentiality of individual clients. Copies of SOSCF records cannot be taken from official files and no identifying information about a specific client may be included in the report(s) of the research.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

## **413-010-0110**

### **Reasons for Disclosure**

When it is in the best interest of the affected child; unless specifically forbidden by statutes, these rules, or by court order; SOSCF may disclose information in order to administer child welfare programs and provide services. Reasons for disclosure include providing information to:

- (1) Juvenile or tribal court proceedings involving the jurisdiction, custody, placement, supervision or provision of services to a child.

(2) A social service agency, service provider or agent of SOSCF for the purpose of arranging appropriate services for the affected child and the child's family, e.g., homemakers, intensive family service workers, 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, child protection teams, etc.

(3) A member of a legislative body: The request for disclosure must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator so long as there is neither physical inspection nor copying of client's records by that representative. Information available to the representative shall be the same as that available to the client. A written release must include:

(a) The identity of the person(s) or organization to whom disclosure is to be made;

(b) The identification of the client record or portion thereof to be disclosed;

(c) Statement of when the authorization for disclosure expires;

(d) Request for disclosure must be authorized by the agency director or designee, regional or branch manager.

(4) The Support Enforcement Division when information is needed in order to locate children or absent parents, and to establish support for children in substitute care.

(5) Auditors and quality control staff from SOSCF, the Secretary of State's Office, the Department of Administrative Services, or the Department of Health and Human Services who require information to complete audits or program reviews.

(6) Other divisions of the Department of Human Resources that need information to determine a client's eligibility for services or for administration of their own programs.

(7) A law enforcement officer or a district attorney's office needing information for a child abuse assessment or criminal investigation or civil or criminal proceedings connected with administering the agency's child welfare programs.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

## **413-010-0120**

### **Investigation of Other Crime**

(1) Except as authorized by OAR 413-010-0110(7), SOSCF employees shall not give law enforcement officers any information on clients from case records, conversations, or sources obtained because the person is or has been a client of the agency.

(2) The branch manager or designee may give a client's current address to law enforcement officers when all the following are true:

(a) The law enforcement officer provides the name and SSN 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 felons is within the law officer's official duties, and the request is made in the proper exercise of those duties.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

### **413-010-0130**

#### **Public Disclosure**

(1) Under certain circumstances information from client records may be released to the public. These circumstances include the following:

(a) If a client knowingly and voluntarily signs a release authorizing SOSCF to disclose information about himself or herself to which the client has access;

(b) In a client grievance the findings of a citizen review committee may be disclosed to the public, at the discretion of the agency when the aggrieved client has directly or indirectly disclosed information to the public and the client refuses to authorize the release of the findings, and the public interest warrants a response. The decision to release information for this purpose shall be made by the director or deputy administrator of SOSCF or their designee;

(c) If in the professional judgment of the worker, information about a child indicates that the child presents a clear and immediate danger to another person or society, information shall be provided to the proper authorities and the person or entity in danger. (The decision to release information in these circumstances will be made in consultation with a supervisor.)

(2) A public announcement may be made when:

(a) A child in SOSCF's legal custody has been abducted, or is missing and believed to be abducted, in danger of harm or a threat to the welfare of others. In such situations, the information disclosed by SOSCF shall be limited to that which is necessary to identify, locate, or apprehend the child. That information may include the child's name, description, and information concerning any risks the child may pose to himself or herself or to the public;

(b) SOSCF determines that providing public recognition is in the best interest of a child who is in the legal custody of the agency in order to secure essential services for a child or for the recognition of a special achievement;

(c) Documents or information in client records have already been lawfully disclosed to the public by SOSCF.

(3) When there is a death or serious injury of a child in the legal custody of SOSCF, the name and photograph of the child may be disclosed.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

### **413-010-0140**

#### **Use of Client Information by Service Providers or Agents of State Office for Services to Children and Families**

(1) Social service agencies, courts, foster parents, service providers (including medical providers), or agents of SOSCF

providing services to a SOSCF client at the request of the agency are subject to SOSCF rules on confidentiality.

(2) Confidential information about SOSCF clients that is given to a provider or agent by the agency shall only be used for the purpose for which it was made available. In no instance shall the information be redisclosed without the specific and written consent of the agency.

(3) Confidential information about current or former SOSCF clients obtained while providing services which were authorized by the agency shall only be used to provide services to the client. Identifying information about a SOSCF client shall not be used for publicity, research, nor any other purpose that is not related to the authorized delivery of services to the clients unless specific and written consent is given by SOSCF with the authority to consent to the release of information.

(4) When copies of confidential information are released the material must be stamped: "Confidential not to be redisclosed." Disclosure or redisclosure of SOSCF client information, as discussed in this section must be specifically approved in writing by the appropriate person as follows:

(a) A SOSCF manager must approve if the affected client is or was at the time served:

(A) A child for whom SOSCF is the legal custodian or guardian or was the legal custodian or guardian at the time the services were authorized by SOSCF;

(B) A child served by SOSCF in accordance with an Interstate Compact or other interstate agreement; or

(C) A child evaluated or provided services in conjunction with an assessment by SOSCF of a protective service report regardless of the child's legal status at the time.

(b) A parent/legal guardian must approve if a child received services based on a written voluntary consent, or verbal consent of a parent or legal guardian.

(c) Adult clients or their authorized representative must give consent to the release of information about themselves.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.255

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

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

#### **413-010-0200**

#### **Purpose**

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

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

**413-010-0210****SOSCF Responsibilities**

SOSCF through staff, contracted providers of care and other agents, will assert and protect the rights of children in the legal custody of SOSCF 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 SOSCF 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 SOSCF cannot freely or objectively advocate for the child's rights.

Stat. Auth.: HB 2004

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, SOSCF 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, SOSCF 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.: HB 2004

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 SOSCF 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.: HB 2004

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 State Office for Services to Children and Families (SOSCF) recognizes the importance of preserving the family ties and relationships of children who have been placed in the legal custody of SOSCF. These rules are in accordance with ORS 109.119 through 109.123, and establish policy regarding the involvement of relatives in visitation and case planning for children who are in the legal custody of SOSCF.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119 - 109.123

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

## **413-010-0310**

### **Definition**

"Relative" for the purpose of this rule is a grandparent, sister, brother, aunt or uncle who is related by blood, adoption or marriage to a child in SOSCF's legal custody.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119 - 109.123

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

## **413-010-0320**

### **Providing Information for Case Planning**

SOSCF recognizes that the relatives of a child in the legal custody of SOSCF generally have a special interest in the welfare of the child and often have important information that should be considered in planning for the child. Relatives who express an interest in a child have a right to provide information about the child's background and to make recommendations for the child's future.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119 - 109.123

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

## **413-010-0330**

### **Communication and Visitation**

Relatives have a right to communicate and visit with a child in SOSCF's legal custody within reasonable guidelines as set by the child's service plan and by the direction of the court.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119 - 109.123

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

## **413-010-0340**

### **Placement With a Relative is Not a Right**

Placement of a child with a relative will not be considered the right of a relative unless the relative has established legal rights to the child in a court of competent jurisdiction. However, SOSCF will protect a child's right to live with his or her immediate or extended family except when there is indication that family members will not adequately provide for the child's welfare. In determining either the temporary or permanent placement of a child, SOSCF will consider placement with relatives in preference to persons the child does not know if there is reason to believe that the child's relatives will be able to provide appropriate care, stability and security for the child.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119 - 109.123

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

## **Rights of Persons Who Have a Child-Parent Relationship**

### **413-010-0360**

#### **Purpose**

(1) The State Office for Services to Children and Families (SOSCF) has established rights for persons who are authorized by the agency to fulfill the day-to-day parental role for children in the legal custody of SOSCF. These rights apply to foster parents and relatives who do not have a legal parental relationship to the child as set forth in SOSCF policy I-A.4.3, Identifying Legally Recognized Parental Relationships.

(2) This statement of rights includes courtesies required by good practice, terms from SOSCF/Foster Parent contracts, expectations of SOSCF adoption procedures and rights established by Oregon statutes. These procedures do not establish permanent rights to a child, as the advisability of such action must be determined on an individual basis, and established through legal action.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119

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

### **413-010-0370**

#### **Definition**

"Child-Parent Relationship" is a relationship in which a person having physical custody of a child is supplying the child with food, clothing, shelter and incidental necessities, and providing the child with necessary care, education and discipline, and which relationship continued on a day-to-day basis, through interaction, companionship, interplay and mutuality, fulfills the child's physical needs.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119

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

**413-010-0380****Policy**

(1) All foster parents and relatives who are authorized to provide care for a child in SOSCF's legal custody are entitled to the following rights:

- (a) To be fully informed of their rights and responsibilities and of agency policies and court procedures which affect their relationship with the child;
- (b) To be informed of the child's background and the child's physical and mental functioning in order that appropriate care and protection can be provided;
- (c) To be involved in the development of the plan for a child placed with them;
- (d) To receive training available to foster parents, as well as guidance and support to deal appropriately with each child placed with them;
- (e) To work with the child in accordance with the service plan;
- (f) To provide information and recommendations about the child's need for placement and permanency to the local Citizen Review Board or the Substitute Care Review Committee;
- (g) To have information maintained by the agency about them kept as confidential as possible within statutory requirements for public records;
- (h) To have access to all information maintained by the agency about them within a framework of agency rules and procedures which take into consideration others' rights to privacy, and to correct errors in those records;
- (i) To receive notice at least 10 working days prior to the removal of a child except in emergency situations or circumstances beyond SOSCF's control;
- (j) To be fully informed regarding service grievance procedures (see SOSCF policy I-A.5.1, Grievance Review);
- (k) To be assessed to determine their suitability as a potential adoption resource for a child for whom adoption is the goal.

(2) Under ORS 109.119, a relative or foster parent who has established emotional ties creating a child-parent relationship with a child may qualify to petition or file a motion for intervention with the court in order to request custody, guardianship, right of visitation, or other generally recognized right of a parent or person in loco parentis. However, for foster parents the statute limits this right to situations where the child-parent relationship has continued over a period exceeding 18 months.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.119

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

**Grievance Review****413-010-0400**

**Purpose**

These rules prescribe the standards and procedures for reviewing and resolving client and contract provider grievances. These rules do not apply to matters subject to the contested case procedures of ORS Chapter 183.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

**413-010-0410****Definitions**

- (1) "Agency" means the State Office for Services to Children and Families, a division of the Department of Human Resources.
- (2) "Citizen Review Committee" means any body composed of public members appointed by the agency to assist in the implementation of these rules.
- (3) "Client" means any person receiving services from the agency including parents, legal guardians, or custodians of an unemancipated minor client.
- (4) "Contract Provider" means any person or organization under contract or agreement with the agency providing services to a SOSCF client.
- (5) "Director" means the director of the State Office for Services to Children and Families, Department of Human Resources.
- (6) "Formal Grievance Review" means resolution of a grievance by the procedures described in OARs 413-010-0450 and 413-010-0460.
- (7) "Grievance" means a complaint about:
  - (a) The substance or application of any rule, written or unwritten policy or practice of the agency affecting a client or provider;
  - (b) Any decision or action directed toward a client or provider by the agency or any of the agency's employees or agents.
- (8) "Informal Grievance Review" means resolution of a grievance by the procedures described in OAR 413-010-0440.
- (9) "Representative" means a person who is authorized by a client or provider to receive confidential information from the agency and to act on behalf of the client with respect to a grievance. A representative includes, but is not limited to an attorney, relative, foster parent association member, friend or legal guardian. A representative may participate in any of the steps of the process.
- (10) "Timelines" means the procedural timelines outlined in OARs 413-010-0400 through 413-010-0490. SOSCF will make every effort to meet the procedural timelines outlined in these rules. In the event set timelines cannot be met for good reason, extension of the time frames will be negotiated between the party and the agency.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

## **413-010-0420**

### **Right to Review**

It is the policy of the State Office for Services to Children and Families that:

- (1) Clients have a right to a review of any action or decision affecting them.
- (2) Contract providers have the right to a review of any action or decision of the agency which violates a condition or term of the contract or agreement.
- (3) Each client or provider will be informed of SOSCF's grievance procedure at the time the decision has been made that services will be provided or a contract is signed with a provider. The service worker will give each voluntary client a copy of the CF 304 and PAM 1531 (You and SOSCF). All other clients (protective services and court-ordered clients) shall receive a copy of their service plan and PAM 1531 (You and SOSCF).
- (4) When a person notifies the agency that he/she has a grievance, they will be assisted in setting a meeting with the service worker/corrections counselor and that person's supervisor. Information in PAM 1551, "Grievance Procedures for Clients and Providers," shall be given to the client or provider.
- (5) No client or provider shall be subjected to reprisal for seeking review of a grievance.
- (6) These grievance procedures shall be administered in such a manner as to protect the confidentiality of client records, (OARs 413-010-0000 through 413-010-0140).
- (7) However, if the client/provider or any agent of the client/provider chooses to disclose his or her version of case information to the media or community members who would otherwise not be involved, then the local SOSCF manager may choose to use those parts of the case record that are not third\* party to refute the client/provider's statements. Third party information can be used only when the client/provider has signed a release of information, and approval has been given by the party from whom the confidential information was received. See OAR 413-010-0040(1)(e).

\*Third party information would include psychological and psychiatric evaluations, police reports, references, alcohol and drug evaluations or reports, and reports from mental health professionals.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

## **413-010-0430**

### **Grievances Not Subject to These Rules**

- (1) No grievance may be reviewed or resolved through the grievance procedures set forth in these rules (OAR 413-010-0400 through 413-010-0490) if the client or provider is entitled to a contested case hearing, their case is presently being adjudicated or the client/provider has initiated court action or filed notice of intent to file tort claim.
- (2) No grievance may be reviewed or resolved through the grievance procedures set forth in these rules (OAR 413-010-0400 through 413-010-0490) if the subject matter of the grievance should be or has already been decided by a judge.

(3) No grievance may be reviewed or resolved through the grievance procedures set forth in these rules (OAR 413-010-0400 through 413-010-0490) if the subject matter of a provider's grievance is a term or condition included in a contract or agreement with the agency.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

## **413-010-0440**

### **Informal Grievance Review**

(1) To request an informal grievance review the client or provider need only inform the supervisor or their service worker.

(2) Within one week of request for an informal grievance review, the client/provider will be contacted to schedule a meeting at an agreed-upon time involving the worker, the supervisor, client or provider. Focus will be on defining the problem, identifying the desired outcome, and establishing a plan for resolution. Every effort will be made to resolve the grievance through this informal discussion. In some branches the supervisor and the branch manager may be the same person.

(3) If the matter cannot be resolved, the branch manager shall participate in a further discussion with the client or provider to resolve it. This discussion will be scheduled as soon as possible at a mutually agreed-upon time. If the client or provider remains dissatisfied following this discussion, the client or provider shall be informed within five working days in writing of the decision by the branch manager and of the steps necessary to initiate a formal grievance review, as described in OAR 413-010-0450.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

## **413-010-0450**

### **Formal Grievance Review**

(1) The request for a formal grievance review must be made, in writing, by the client, the provider, or their representative. Such a request shall include a statement of the problem and the desired resolution and a consent for the public release of information by the agency if the client publicly shares information about the case. The request shall be addressed to the regional manager responsible for supervision of the employee or agents involved in the grievance.

(2) The regional manager or designee shall:

(a) Contact the client or provider and arrange for an appointment to review the grievance with the client/provider, their representative, if any, and, if appropriate, the assigned service worker and supervisor(s).

(b) Obtain a summary of the issues raised through the informal grievance review and a copy of the client's written request for a formal grievance review.

(c) Send to the client or provider written notice stating the date, time, and location of the review at least 10 working

days pror to the scheduled review.

(d) Reschedule the review at the earliest available time if requested by the client, the provider, or representative or if any of the necessary participants are unable to attend.

(e) Conduct the formal grievance review according to the procedures described in rule 413-010-0460.

(3) The regional manager shall make a decision in accordance with the procedures described in OAR 413-010-0460.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

## **413-010-0460**

### **Conduct of Formal Grievance Review**

(1) The formal grievance review must be scheduled within 10 calendar days of receipt of the written request for formal grievance review.

(2) The formal grievance review must be held within 30 calendar days of receipt of the written request for review, unless the client or provider requests a delay of the review, or the manager reschedules the review pursuant to OAR 413-010-0450(d).

(3) The formal grievance review shall be held at the SOSCF office closest to the client's home or provider's facility or business during normal working hours unless a different time or location is requested by the client or provider and approved by the regional manager.

(4) The review shall be audio tape recorded and the audio tape recording shall be preserved until the grievance is resolved or for one year, whichever is longer.

(5) The review will be conducted as informally as possible consistent with the need for orderly and complete presentation and resolution of the grievance.

(6) The rules of evidence and civil procedure are not applicable to formal grievance reviews. However, in reviewing and resolving a grievance, the manager shall consider only information that concerns the actual grievance.

(7) The regional manager shall prepare a written decision within 10 working days after the review and send a copy (by certified mail) to the client/provider, the assigned service worker, the supervisor, the branch manager and the director. The written decision shall be in the following format:

## **State of Oregon**

### **STATE OFFICE FOR SERVICES TO CHILDREN AND FAMILIES**

#### **1. Date of Review**

**2. IN THE MATTER OF THE GRIEVANCE OF:**

**3 Persons participating in review:**

**4. Issue:**

**5. Written materials and comments relied upon:**

**6. Findings of Fact:**

**7. Conclusion:**

**8. Decision:**

**9. Notification that the matter may be appealed to the director and a statement of the procedures for requesting such appeal.**

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

**413-010-0470**

**Appeal to the Director**

- (1) If the client/provider is dissatisfied with the regional manager's decision of the grievance, the client/provider may request the director, or deputy administrator in the director's absence, to review the regional manager's decision.
- (2) A written request by the client/provider for review must be presented to the director within 30 calendar days of the client's/provider's receipt of the regional manager's decision, and must contain a statement of the client's/provider's reasons for dissatisfaction with the regional manager's action.
- (3) The director shall send a written acknowledgment to the client/provider that the request for review has been received. This will be done within 10 working days of the receipt of the request for review.
- (4) A citizen review committee shall be appointed by the director to review the written decision of the regional manager. They may review the tape recordings of the grievance review, interview interested parties, obtain pertinent portions of client/provider records, and obtain such additional information as they deem appropriate. The written findings and recommendations of the citizens review committee shall be sent to the director within 20 working days of the appointment to review the appeal.
- (5) The director shall review the written decisions of the regional manager and the findings and recommendations of the citizens review committee. The director may also review the tape recordings of the grievance reviews and may take such other action to investigate the matter as the director deems appropriate.
- (6) The director shall reach a decision and shall prepare a written report of his/her decision within 10 calendar days of receipt of the findings and recommendations of the citizens review committee. The director shall give copies of the decision to the client/provider, the regional manager, the citizen review committee, the branch manager, the service worker and the supervisor.
- (7) The decision of the director is final, and is not appealable. The decision of the director is not an order under the Administrative Procedures Act.

(8) The agency shall review the recommendations of the citizens review committee and incorporate suggested changes in policy and practice when feasible and when determined to improve services to clients and families.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

## **413-010-0480**

### **Judicial Review**

These rules do not create a contested case subject to judicial review under ORS 183.482. However, nothing in these rules shall affect any rights of a client/provider under state or federal law to seek independent redress of grievances in the courts.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 183.481

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

## **413-010-0490**

### **Cost and Attorney Fees**

This process is meant to be set up in a way which precludes the need for an attorney; however, if the client/provider chooses to use an attorney, then the client/provider is responsible for any expenses or attorney fees which the client/provider may incur in presenting or resolving a grievance under these rules.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.005

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 20**

**CASE MANAGEMENT**

**Voluntary Agreements**

**413-020-0000**

**Purpose**

These rules establish the conditions under which a parent or legal guardian may enter into a "Voluntary Placement Agreement" or a "Voluntary Custody Agreement" to have a child (a person under 18 years of age) receive substitute care and treatment from SOSCF.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.015 & 418.312

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

**413-020-0010**

**Types of Agreements**

(1) Parents or legal guardians may receive substitute care and treatment for their child from SOSCF by signing a voluntary agreement. The parents or legal guardians agree to participate actively in making plans and decisions for the child, to visit and financially support the child to the fullest extent possible, and to work actively toward early and successful family reunification.

(a) "Voluntary Child Placement Agreement" (CF 499). Under this type of agreement, the parents or legal guardians do not give SOSCF legal custody of the child. They retain legal guardian authority, and are obligated to continue to exercise and perform all parental duties and legal responsibilities except those delegated to SOSCF by the signed agreement. Under ORS 418.312, it is appropriate to place a child in substitute care/treatment after a parent/legal guardian signs a "Voluntary Child Placement Agreement" if the following conditions exist:

(A) The sole reason for placement is the need to obtain services for the child's emotional, behavioral or mental disorder or developmental or physical disability; and

(B) The parents/legal guardians are unable to provide for the level of skilled care or treatment that the child requires, but are able and willing to maintain a parental relationship and involvement with the child and assist in the care and treatment of the child; and

(C) The family has not had a history of abuse or neglect, and their child is not an adjudicated delinquent under supervision in the Oregon Youth Authority system.

(b) "Voluntary Custody Agreement" (CF 1005). Under a "Voluntary Custody Agreement," the parent or legal guardian gives SOSCF the legal custody of the child and SOSCF assumes designated parental duties and responsibilities in certain circumstances and conditions as permitted under ORS 418.015, and as stipulated in the signed agreement. Under ORS 418.015, it is appropriate to place a child in substitute care/treatment after a parent/legal guardian signs a "Voluntary Custody Agreement" if 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; or

(B) The child needs to be removed temporarily from the home as a result of problems in the relationship between parents and child and a placement of limited duration in conjunction with intensive services, is likely to reunite the family and prevent further family dysfunctioning; or

(C) The parents/legal guardians are unable to fulfill parental responsibilities, maintain a supportive relationship with the child, and be a significant positive influence in the treatment and maintenance services provided to the child, as required by (a)(B) of this rule; or

(D) The child is allegedly abused, neglected or abandoned and the parent or caretaker acknowledges this fact and is acting in the best interest of their child by requesting a placement through signing a "Voluntary Custody Agreement."

(2) The following situations are inappropriate for placement by either a "Voluntary Child Placement Agreement" or a "Voluntary Custody Agreement"

(a) A child is allegedly abused, neglected or abandoned and the age of the child, the family history, or severity of the current abuse indicates that a voluntary custody agreement would not provide the child with adequate protection; or

(b) It is known or suspected that the parents/legal guardians of the child intend to move out-of-state after placement of the child; or

(c) A child refuses to remain at home solely due to parent-child conflict; or

(d) The parents/legal guardians request removal of the child because of inability to tolerate or control the child's behavior, and the child and family members are unwilling to participate in an intensive services plan focused on reunification of the family; or

(e) The parents/legal guardians have a demonstrated history of failure to work cooperatively with the State Office for Services to Children and Families and/or the persons or private agency providing care and treatment to meet the child's needs.

(3) The process of SED Referral for parents using the "Voluntary Child Placement Agreement" is specific for these parents only and must include the following steps:

(a) Worker informs the parent(s) that they may enter into a nonadversarial support agreement (rather than court-ordered support) with SED to discharge their support obligations;

(b) If the parent(s) expresses willingness to enter into a child support with SED, the worker will supply the parent with the form CF 496, "Referral for Voluntary Child Placement Agreement";

(c) Each parent with responsibility for the child will complete the form and return it to the worker. The worker forwards the form, along with a signed copy of the "Voluntary Child Placement Agreement," form CF 499, to:

John Ellis, Assistant Administrator

Department of Justice

Support Enforcement Division

1495 Edgewater NW, Suite 170

Salem, OR 97304

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.015 & 418.312

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

#### **413-020-0020**

##### **Legal Consent**

(1) Only a parent who has legal custody or a person who has legal guardianship of a child may sign a "Voluntary Custody Agreement," SOSCF 1005, or a "Voluntary Child Placement Agreement," CF 499, to legally consent to the voluntary placement of the child with the State Office for Services to Children and Families.

(2) An Indian child who is a member of an Indian tribe, or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe may be accepted into a voluntary placement in accordance with SOSCF's administrative rules on the placement of Indian children. When a child is subject to these rules, the child must be more than 10 days old and the consent must be given before a judge of appropriate jurisdiction. See OAR 413-070-0240 for detailed requirements.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.015 & 418.312

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

#### **413-020-0030**

##### **Time-Limited Placements**

(1) Continuation of a "Voluntary Child Placement Agreement" or "Voluntary Custody Agreement" must be reviewed and approved by both the SOSCF Substitute Care Review Committee and the Juvenile Court within 180 days of the signing of the initial agreement.

(2) With the approval of the SOSCF Substitute Care Review Committee and the Juvenile Court, a new agreement may be signed, and shall be valid for a maximum of one year.

(3) Any child under a voluntary agreement requiring substitute care/treatment beyond 18 months must have SOSCF Administrative and Juvenile Court approval before a new agreement is signed.

(4) All children who are in a voluntary placement will be scheduled for the same SOSCF and court reviews as a child who is court-committed to the legal custody of the agency. A hearing will be held 18 months from the date of placement and every one year thereafter to determine the appropriateness of the child's continued need for placement. See OAR 413-040-0100 through 413-040-0170, (SOSCF policy I-B.3.2.1) for Citizen Review Board review requirements.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.015 & 418.312

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

## **413-020-0040**

### **Required Reviews**

(1) The federal regulations under PL 96-272 and ORS 418.312 require that all children placed in substitute care/treatment under a "Voluntary Child Placement Agreement" or a "Voluntary Custody Agreement" must have a Juvenile Court review within 180 days of the child's placement to determine if continuing the substitute care/treatment placement is in the child's best interest.

(2) The SOSCF caseworker will present the following reports and documents to the Juvenile Court for review and action. A copy of:

- (a) The "Initial Court Report and Case Review," CF 147A;
- (b) The "Six Month's Service Plan - Administrative Review," CF 147B;
- (c) The "Voluntary Child Placement Agreement," CF 499, or "Voluntary Custody Agreement," CF 1005;
- (d) The current service agreement between the parent and service worker;
- (e) The "Parental Request for Continuation of Voluntary Placement," CF 498; and
- (f) The "Request for Judicial Determination," CF 497.

(3) The SOSCF Administrative Review will evaluate the reasonable efforts made by the family and SOSCF to reunite the child and family, or meet the continuing need for services for the child's disability on a voluntary basis; the parent(s) financial support, visitation, other parental involvement with the child and participation in the child's activities; and whether or not continuing voluntary placement is appropriate.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.015 & 418.312

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

## **413-020-0050**

### **Termination of Voluntary Agreement**

(1) SOSCF shall release a child from substitute care placement if the parent or guardian who consented to the placement notifies the agency of their desire to terminate the voluntary agreement. The parent or guardian shall confirm in writing the request for termination of the agreement and shall confirm that they have legal custody of the child before the child is released by the agency.

(2) If the parent/legal guardian is not acting in the best interests of the child, or is acting against the professional advice of the care/treatment provider or SOSCF, and the child continues to be dependent for care and support on a public or private child caring agency, SOSCF may petition the court for legal custody of the child.

(3) If a parent/legal guardian has requested the termination of the voluntary agreement and the child is in imminent danger, or there is reason to believe the child's welfare is in jeopardy, the child shall be taken into protective custody and the court petitioned for legal custody.

(4) Eligible children under the Indian Child Welfare Act, who are in Voluntary Placement with SOSCF, are subject to OAR 413-070-0240. Paragraph (5) specifically states that an Indian child shall immediately be released to a parent/Indian custodian upon withdrawal of a voluntary consent. It also states what notification to the court and other actions are required when return to the parent/Indian custodian would place the child in imminent danger or harm.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.015, 418.312 & 419C.080

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

## **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 State Office for Services to Children and Families' (SOSCF) 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 agency staff and its agents; and
- (3) Specify requirements to be met when this authority is exercised.

(NOTE: Conditions under which a parent or legal guardian may enter into a "Voluntary Placement Agreement" or a "Voluntary Custody Agreement" are addressed in policy I-B.1.3, "Voluntary Agreements," OAR 413-020-300 through 413-020-325.)

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.640 & 418.312

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

### **413-020-0110**

#### **Definitions**

(1) "Guardian" means a person or agency having the powers and responsibilities of a parent to make binding decisions for a child, including the authority to:

- (a) Authorize surgery for the child;
- (b) Authorize enlistment in the armed forces;
- (c) Consent to the child's adoption when the child is in the permanent custody of the agency;
- (d) Make other decisions of substantial legal significance concerning the child; but
- (e) A guardian is not a conservator of the child's property or estate.

(2) "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 pursuant to ORS 419B.233 and 419B.331.

(3) "Permanent Custody" means legal custody of a child:

- (a) Who has been permanently committed to the agency by the juvenile court after parental rights have been terminated under ORS 419B.527;
- (b) Who has been released and surrendered to the agency by the parents under ORS 418.270.

(4) "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 agency to provide a residence and day-to-day care for a child who is in the legal custody of the agency.

(5) "Service Worker" means the agency staff person assigned primary responsibility for a child served by the agency.

(6) "Voluntary Custody" means legal custody given to the agency, by written agreement, by a parent or legal guardian of a child.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.640 & 418.312

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

## **413-020-0120**

### **Responsibility of Staff to Secure a Legal Consent**

Whenever the legal consent of a parent or guardian is needed for a child in the care and custody of State Office for Services to Children and Families, the service worker shall secure the consent of the person authorized to approve the

proposed service or activity. Relevant information shall be provided the authorized person to assure the agency's authority to consent, the need for and advisability of the service or activity, and whenever feasible, the concurrence of parents and/or physical custodians.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.640 & 418.312

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

### **413-020-0130**

#### **SOSCF Authority in Voluntary Custody Placements**

(1) When a parent or guardian of a child gives SOSCF voluntary custody of a child, the parent or guardian will remain guardian of the child and will retain the authority to consent to actions addressed in OAR 413-020-0150 unless they are specifically assigned to the agency in the Voluntary Custody Agreement. Specifically, the parent or guardian retains sole authority to:

- (a) Authorize non-emergent surgery for the child;
- (b) Consent to the child's marriage;
- (c) Authorize the child's enlistment in Armed Forces or Job Corps; and
- (d) Make other decisions of substantial legal significance concerning the child.

(2) When a child is in the voluntary custody of SOSCF, the agency or the physical custodian will exercise the authority of a legal custodian as assigned in the Voluntary Custody Agreement.

(3) In the event the parent or legal guardian is unavailable or unwilling to fulfill the responsibilities of a guardian, SOSCF will petition the Juvenile Court and request authority to provide essential services to the child.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.640 & 418.312

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

### **413-020-0140**

#### **Exercise and Delegation of Legal Custodian Authority**

Where SOSCF has legal custody of a child through a Voluntary Custody Agreement, a court order, or a Release and Surrender Agreement, the agency will exercise its authority through agency staff and through delegation to other persons as follows:

(a) Physical Custodian.

(A) The agency will delegate to the child's physical custodian its authority to consent to:

(i) The child's registration in regular curriculum in public school;

- (ii) Making or changing the child's schedule of classes in school;
- (iii) The child's absence from school;
- (iv) The child's participation in school and extracurricular activities;
- (v) Purchase of school insurance for the child;
- (vi) The child's participation in school meals program;
- (vii) Routine medical care and dental care; including vaccinations and immunization; routine examinations and lab tests;
- (viii) Short term intercounty travel;
- (ix) Application for workers permits or releases; and
- (x) School pictures, except those listed in OAR 413-020-0140(b)(A)(v).

(B) The agency delegates the foregoing responsibilities to the physical custodian by this administrative rule. This delegation shall continue as long as the child is in the legal custody of SOSCF and resides with the physical custodian. Any exception to this rule shall be given in writing to the child's custodian and a copy will be maintained in the child's case record.

(b) Service Worker or Supervisor.

(A) The child's service worker or supervisor will exercise the agency's authority to give consent for:

- (i) School testing;
- (ii) Access to academic or school behavioral records;
- (iii) Participation in outdoor school;
- (iv) Psychiatric or psychological evaluation, or outpatient psychiatric or psychological treatment for the child; and
- (v) Photograph(s) taken for publicity purposes or media promotions that may draw attention to the individual.

(B) In addition, the service worker or supervisor may exercise the agency's consent authority to any action to which the physical custodian may consent.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.640 & 418.312

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

## **413-020-0150**

### **Exercise and Delegation of Guardian Authority**

Where the agency has legal custody of a child through a court order in which the agency has specifically been given guardianship, or a Release and Surrender Agreement, the agency will exercise its authority through agency staff as follows;

(a) Branch Manager.

(A) The branch manager will exercise the agency's authority to consent to the following actions with respect to children served by that branch office:

- (i) Emergency medical care and/or surgery;
- (ii) Major medical and surgical procedures that are not extraordinary or controversial;
- (iii) Admission to a state training center for the retarded, or to any state hospital or a private hospital for purpose of psychiatric treatment;
- (iv) Enlistment of a child in the Armed Forces or the Job Corps;
- (v) Marriage;
- (vi) Registration in special schools;
- (vii) Application for driver's training, permits and license;
- (viii) Interstate travel and international travel;
- (ix) Examination by law enforcement agency (e.g., polygraphs, interrogations without a warrant, etc.).

(B) Branch managers may exercise SOSCF's consent authority to any action to which a service worker or supervisor may consent.

(b) Adoption Manager. The adoption manager will exercise SOSCF's authority to consent to the adoption of a child who is in the permanent custody of the agency.

(c) Assistant Administrators.

(A) The agency's authority to consent to the following actions for a child in its legal custody will be exercised only by the responsible assistant administrator, or in his/her absence, another assistant administrator, the deputy administrator or the director:

- (i) Abortion, except when a young woman 15 years of age or older exercises her statutory right to consent to her own abortion;
- (ii) Extraordinary or controversial medical or surgical procedures, such as organ transplants, kidney dialysis, open heart surgery, or any procedure involving substantial life threat;
- (iii) Any medical or surgical procedure to which a legal parent or guardian of the child or the child is opposed;
- (iv) Sterilization under ORS Chapter 436, but only when such procedure is necessary to protect the child's life.

(B) Assistant administrators, the agency's deputy administrator and the director may exercise the agency's authority to consent to any action to which branch managers may consent.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.640 & 418.312

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

**413-020-0160**

## **Actions Not Authorized**

- (1) No agency officer or employee will consent to educational planning which is defined as the responsibility of a surrogate parent.
- (2) No agency officer, employee, or agent will exercise the agency's authority to give consent to the purchase of or ownership of a motor vehicle by a child in legal custody of the agency. This prohibition does not prevent a child in the legal custody of the agency from exercising the right to purchase or own a motor vehicle on his or her own account.
- (3) No agency officer or employee shall co-sign or counter-sign any purchase contract for a child in the agency's custody.
- (4) No agency officer or employee will accept responsibility or serve as conservator of a child's property or estate.
- (5) No agency officer, employee, or agent shall consent to the sterilization of a child, except pursuant to ORS Chapter 436, and to save the child's life.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.640 & 418.312

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

## **413-020-0170**

### **General Provisions**

- (1) SOSCF 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.
- (2) Whenever agency staff exercise the agency's authority to authorize actions described as the responsibility of a legal guardian under these rules, SOSCF staff shall:
  - (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 SOSCF, make reasonable efforts to consult the child's legal parent(s) or guardian(s) about the action proposed and consider the parent(s) or guardian's 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;
  - (d) Prepare a brief written record of the circumstances of the action consented to whenever SOSCF 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.
- (3) In any case where agency staff consider it necessary or appropriate, they may notify the juvenile court, and/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 agency's custody.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.675

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

## Physical Behavior Management

### 413-020-0200

#### Purpose

These rules prescribe guidelines on caring for children in the legal custody of the State Office for Services to Children and Families (SOSCF) in certified foster homes who require physical intervention to ensure their health and safety. These children are behaviorally reactive to stressful situations in ways that pose a continuing serious threat to themselves, others or property. Age-related behavior which may temporarily endanger a child and requires physical intervention to ensure the child's safety (i.e., a two and one half-year-old who suddenly attempts to dart into a busy street, or children who may require limited physical containment to prevent a recognized pattern of behavioral escalation which would predictably lead to unsafe behavior if allowed to go unchecked) does not fall within the intended meaning of these rules. These procedures govern the use of physical and mechanical restraints for children.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96

### 413-020-0210

#### Definitions

- (1) "Agency-Approved Training" applies only to the following: Oregon Intervention System, Professional/Practical Assault Response Training (PART©). Agency-approved trainings use techniques that have been researched and approved by the Mental Health Developmental Disabilities Services Division and the State Office for Services to Children and Families, and have withstood legal challenges from the standpoint of civil and human rights. Alternative physical behavior management techniques may not be used unless an exception is granted and the technique is prior-authorized by the agency, in writing, after review of civil and human rights standards.
- (2) "Anger/Child Management Techniques" are treatment approaches designed to reduce anxiety/stress and/or support the acquisition of increased self control in the child.
- (3) "Behavior Intervention Plan" is a written plan, developed by the planning team, of support and training services for a child covering a 12-month period which addresses the child's support needs. The behavior intervention plan will be maintained in the child's case record and the provider's case file for the child, and reviewed at a minimum of six-month intervals.
- (4) "Behavior Management Specialist" is an individual who has knowledge/training in behavioral theory, experience conducting functional analysis of behavior, experience developing and implementing written positive/non-aversive behavior intervention plans, and an understanding of communication systems and team process.
- (5) "Designated Behavior Intervention Consultant" means an individual with a working knowledge of the principles of positive behavior support and has been trained in the development of behavior intervention plans and the training referral process.

(6) "Incident Report (CF 983)" means a written report of any injury, accident, acts of physical aggression requiring restraint, or unusual incident involving a child that poses a serious physical threat to themselves, others or property. The Physical Restraint Incident Log, (CF 984) may only be used with prior authorization by the planning team.

(7) "Mechanical Restraint" is any object or apparatus, device or contraption applied or affixed to the child to limit movement, and includes, but is not limited to handcuffs, leg irons, soft restraints or Posey Strait Jacket.

(8) "Physical Restraint" means restricting the movement of a child, or restricting the movement or normal function of a portion of the child's body as described in agency-approved training methods, by forcefully and involuntarily depriving the child of free liberty to move about. Simple physical redirection, such as hand on back to redirect or briefly holding the upper arm(s) or clasping of the hand, should not be considered physical restraint.

(9) "Planning Team" means a team composed of the service worker, certifier, a branch manager or designee, designated behavior management consultant or a behavior management specialist, the primary caregiver, and a minimum of one of the following: the child's legal guardian or biological parent, other family members likely to have direct involvement with the child, advocates, school personnel, or other service providers, i.e., therapist, physician, personal care nurse, and when appropriate, the child. The child, when appropriate, will be consulted concerning who else they want on the team.

Stat. Auth.: OL 1993, Ch. 676

Stats. Implemented: OL 1993, Ch. 676

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96; SCF 8-1997, f. 8-12-97, cert. ef. 8-25-97

## **413-020-0220**

### **Policy**

Many children in the care and custody of SOSCF have a variety of physical and mental impairments. In order to treat and support these children, child care providers must be skilled in behavior intervention techniques and conflict resolution. Children requiring physical restraint must have a behavior intervention plan that is developed with sensitivity and compassion relevant to their needs. Providers using a physical restraint shall be certified in agency-approved training, or possess a current appropriate exception.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-020-0230**

### **Behavior Intervention Plan**

(1) For children who have demonstrated a serious threat to themselves, others or property, a behavior intervention plan shall be developed by the planning team using the CF 1009. This plan shall address the care/treatment needs of the child. The service worker, primary care giver and other members of the planning team will develop the plan. The supervisor for the worker must sign off on the plan. At a minimum, this plan shall be reviewed at six month intervals. For these children, a behavior intervention plan shall address action to be taken on the part of the provider including physical restraint, should the planned interventions fail to prevent unsafe behavior.

(2) Documentation of Behavior Intervention Plan Review. A team of people involved in the child's life (planning team) will meet to review the Behavior Intervention Plan after six months of implementation. A roster of attendance will be

dated and signed by the participants. The provider or service worker will document any needed changes in the plan. Copies of the new plan (if amended) will be sent to team members. The service worker and/or provider needs to initiate and schedule this team review process. For children with physical limitations, the child's service worker will request a written order from the physician ordering any physical restraint technique that can be safely utilized for his/her patient. Behavior Intervention Plan Reviews will be filed in the child's case record.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96

## **413-020-0240**

### **Physical Restraint**

(1) A physical restraint may be used only by providers or agency staff who have been trained in agency-approved techniques, and only in emergency situations to prevent a child from inflicting immediate and serious harm upon himself/herself or others, or property; or to safely transport a child. Physical restraint that results in injury to the child requires immediate notification to the branch CPS Unit. A physical restraint shall only be used for health and safety reasons under the following circumstances:

(a) As part of the child's Behavior Intervention Plan that:

(A) Is intended to lead to less restrictive means of intervening in and altering the behavior for which the physical restraint is used;

(B) Has identified the specific physical intervention techniques which have been recommended by the planning team;

(C) Restricted to techniques consistent with agency-approved intervention methods;

(D) Has been approved in writing by the service worker and branch manager/designee. The continued need for physical intervention is reviewed and documented at a minimum of every six months by the service worker and provider, and the professional(s) who recommended use of the technique; and

(E) Is documented by the foster parent on the CF 983, "Physical Restraint Incident Report," or the CF 984, "Physical Restraint Incident Log," but no longer than 24 hours after the physical restraint has taken place. (Use of the CF 984 must be prior authorized by the Planning Team.) The original of the report shall be forwarded within five working days of the incident to the child's assigned service worker with the provider keeping a copy and a copy sent to the certifier for filing in the confidential section of the foster home record. In addition, verbal notification must be made by the foster parent to the agency within a maximum of 72 hours; or

(b) As an emergency measure to assist a child in regaining self-control to prevent injury to himself/herself or others or severe property destruction, but only after alternative crisis diffusion and anger/child management techniques have been applied; or

(c) Is a health-related protection prescribed by a physician, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for protection during the time that a medical condition exists;

(d) In emergency situations, without a Behavior Intervention Plan, shall:

(A) Be documented by the foster parent in writing on the CF 983, "Physical Restraint Incident Report," as soon as possible, but no longer than 24 hours after the physical restraint has taken place. The original of the report shall be

forwarded within five working days of the incident to the child's assigned service worker with the provider keeping a copy and a copy sent to the certifier for filing in the confidential section of the foster home record. In addition, verbal notification must be made by the foster parent to the agency within a maximum of 72 hours;

(B) Be used only until the child is calm and able to demonstrate reasonable control; and

(C) Prompt the service worker to schedule a planning team meeting if used more than three times in a six month period.

(2) Provider Training:

(a) SOSCF foster care providers who reasonably anticipate needing to apply physical intervention as part of a child's ongoing behavior intervention plan may be evaluated for training in agency-approved intervention techniques. The need for training shall include an evaluation of the overall foster home dynamics, care taker motivation and/or ability, and a review of the causes of the identified child's behavior. Evaluations for training may only be done by SOSCF staff (service worker and certifier). After the development of a Behavior Intervention Plan, a personal care nurse shall document the need for and recommend training. Requests for training of foster parents shall be directed to the foster/adoptive parent trainer. Branches may coordinate with regional foster/ adoptive parent trainers for training. Documentation verifying such training shall be maintained in the foster parent's certification file.

(b) Persons certified by an agency-approved trainer in agency-approved training, or holding an appropriate exception, should maintain the certification as defined by the standards of the training.

(3) Physical Injury Avoidance. Physical restraint shall be designed to avoid physical injury to the child and to minimize physical and psychological discomfort.

(4) Incident Report.

(a) The incident report shall include:

(A) The name of the child to whom the restraint was applied;

(B) The date, location, type and duration of restraint and of entire incident;

(C) The name of the provider and/or witnesses or persons involved applying the restraint; and

(D) A description of the incident including precipitating factors, preventive techniques applied, description of the environment, description of any physical injury resulting from the incident, follow-up recommendations and agencies notified.

(b) A copy of the incident report shall be sent within five working days of the incident to the child's service worker;

(c) The service worker will provide a response to the incident report received to the provider within five working days.

(E) Any incident resulting in physical injury to the child shall cause immediate notification to the branch CPS Unit.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96

**413-020-0250**

**Mechanical Restraints**

(1) Providers shall not use mechanical restraints on children in care other than car seat belts or normally acceptable infant safety products, unless recommended by the planning team as part of the behavior intervention plan and an exception is granted by the branch manager.

(2) A mechanical restraint used as part of a medical procedure shall be ordered by a physician and reviewed by a planning team and at a minimum of every six months for children in foster care. Physician's orders will be filed in the child's case record with a copy given to the provider.

(3) Branch managers must authorize in writing the use of all mechanical restraints.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96

## **413-020-0260**

### **Safety**

The purpose of a restraint is to reduce the risk of injury. The safety of the child, provider or agency staff involved is of utmost importance. If a provider feels there may be some danger or potential for injury to himself/herself when interacting with a child, the provider shall immediately review the need for restraint per the guidelines of agency-approved training.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-020-0270**

### **Exceptions**

(1) **Criteria for Exception.** If there is a lack of resources (i.e., training, appropriate consultation, funding) an exception may be granted to a foster parent by a branch manager. The granted exception must implement the standards required in these rules, or result in alternative services, methods, concepts or procedures that meet or exceed the standards of these rules.

(2) **Exception Request.** The service worker or provider requesting an exception shall submit, in writing, a request to the appropriate branch manager which contains the following:

(a) The section of the administrative rule from which the exception is sought;

(b) The reasons for the proposed exception;

(c) The alternative practice, service, method, concept or procedure proposed by the planning team;

(d) A description of the child/guardian's opinion and participation in requesting the exception;

(e) A plan and timetable for compliance, to be reviewed at six-month intervals, with the section of the rule from which the exception is sought.

(3) Notification. The branch manager shall notify the regional manager and the provider of the approval or denial of the exception within 10 working days of receipt of the request.

(4) Written Approval. An exception may be implemented only after written approval from the branch manager.

(5) Appeal Application. An appeal of a denial of an exception request shall be made within 10 working days of the receipt of the denial. Appeal of the denial of an exception request shall be made in writing to the regional manager, whose decision shall be final.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96

## **Eligibility Determination - Intake**

### **413-020-0300**

#### **Purpose**

(1) These rules define the minimum expectations for receiving and responding to referrals as well as determining eligibility for services. The process of determining eligibility is called intake and includes the tasks of screening and assessment.

(2) These rules require that as referrals or requests for services are received a response will be made, with the least possible delay, as to the agency's intention to provide or not provide service. Additional eligibility requirements for Child Protective Service (CPS) assessment expectations are specified in I-B.2.2.1 and I-B.2.3.2; for eligibility requirements for Preventive/Restorative Services, see I-B.2.3.1; for Substitute Care eligibility, see I-B.2.3.3; and for Brief Services, See I-B.2.4.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746-751, 419B.005-045, 109.610 & 640.112

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

### **413-020-0310**

#### **Intake**

Intake is the process of case entry into SOSCF and involves determining eligibility for SOSCF services. Intake is a two step process of screening and assessment:

(1) Screening. Screening is the process of determining appropriateness of further assessment. If a client does not appear to be eligible for SOSCF services after screening, then the intake is closed and the client may be referred elsewhere for services. If the screening indicates that a client seems appropriate for services, then the case proceeds to assessment. For CPS cases, screening involves all the procedures necessary to validate a referral as a report of abuse or neglect. It includes receipt of referral; exploring the appropriateness of the referral with the reporter considering state law, Oregon Administrative Rules (OAR), and SOSCF policy; reviewing agency records, making collateral contacts as necessary;

and validating the referral as a report of child maltreatment.

(2) **Assessment.** Assessment is the process of collecting facts and drawing conclusions that determine eligibility for SOSCF services, suggesting the proper course of action to correct the behaviors and problems at issue in a case. A face-to-face contact shall be made as part of the assessment process:

(a) With the child and parents when the screening indicates they may be appropriate for protective services and a CPS assessment is initiated;

(b) With the client family when they have requested or been referred for services and the screening indicates they may be eligible for services.

(3) For CPS cases, assessment involves an investigative processes designed to gather information which indicates whether or not child abuse/neglect is present. This includes an assessment of risk to the child, as well as an evaluation of information and evidence relative to a particular incident of child abuse/neglect. When a CPS case is "confirmed" or "validated" (i.e., there is reasonable cause to believe that a child has been abused or neglected per I-B.2.3.2), the assessment is the process used to determine the factors and causes underlying the child's maltreatment and is the first step of SOSCF's offer of help to a family.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746-751, 419B.005-045, 109.610, 640.112

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

#### **413-020-0320**

##### **Source of Referral or Request**

Services for a child or family may be initiated in a variety of ways such as:

(1) A child or family requests services;

(2) A community agency, an acquaintance or relative requests service on behalf of a family;

(3) A person reports suspected child abuse or neglect;

(4) Another county or state requests services;

(5) A juvenile court orders or requests services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746-751, 419B.005-045, 109.610 & 640.112

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

#### **413-020-0330**

##### **Determination Required**

A screening of all referrals, requests for service or reports of suspected abuse shall be made to determine if the person(s) is eligible and appropriate for service. A review of available information shall be made to determine:

- (1) If there is any immediate danger to the child(ren);
- (2) Urgency, timing and type of response needed;
- (3) A risk assessment;
- (4) The family's level of functioning and emotional capacities;
- (5) The family's need for available services;
- (6) The family's eligibility for a SOSCF program; and
- (7) The legal basis for providing services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746-751, 419B.005-045, 109.610 &, 640.112

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

### **413-020-0340**

#### **Time Frames for Eligibility Determination**

On all incoming referrals or requests for service, activities necessary to determine if the family is eligible and appropriate for services shall be undertaken without delay.

- (1) Screening. All referrals should be screened for eligibility and appropriateness the day they are received.
- (2) Assessment:
  - (a) An eligibility determination, including an assessment, shall be initiated within the same working day for all emergency requests, and within seven calendar days of the date of inquiry or referral for all non-emergent requests.
  - (b) Face-to-face contact shall be made to evaluate the child's safety as soon as possible in emergency situations, and within seven calendar days for other CPS reports. (Exceptions to these time frames must be approved in writing by the branch manager and noted in the case record.)
  - (c) An eligibility determination, including assessment, shall be completed as soon as possible and recorded within 30 days of referral or request for services.
  - (d) If additional time is needed for assessment due to a concurrent law enforcement investigation, distrust by or instability of the family, need for evaluations, the unavailability of the family, etc.; the assessment period may exceed the above time frames by up to 30 days. Such an extension must be approved in writing by the supervisor and filed in the case record.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 751, 419B.005 - 045, 109.610 & 640.112

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

### **413-020-0350**

## Screening Child Abuse Reports

- (1) All reports of suspected child abuse and neglect shall be screened and evaluated to determine eligibility for protective services assessment (Ref. I-B.2.3.2), urgency and scope of response.
- (2) The reporter of suspected child abuse or neglect shall be interviewed to gather a description of the nature and extent of the problem and level of risk to child. (Information to be gathered includes but is not limited to: the nature of the incident(s) of maltreatment including severity, evidence, and corroboration; chronicity and frequency of the maltreatment; the child's age, current location, and condition; information about the family and the victim; parental ability to protect the child and the perpetrator's access to the child; relationship of the reporter to the child/family and how he/she became aware of the problem; and other factors which create a risk of harm to the child and provide information about how to best proceed with the assessment.
- (3) The reporter should be informed of the statute assuring immunity for liability for reports made in good faith. The reporter should also be told that SOSCF will maintain their anonymity, unless the case goes to court and his/her testimony is required.
- (4) Reporters shall be encouraged to identify themselves. When a reporter will not give his/her name, but nevertheless there appears to be sufficient evidence to believe a child is at risk of harm and that the report may have validity, SOSCF must investigate the report.
- (5) The reporter should be assisted in giving all relevant information about the victim, family, incident, etc. Reporters shall be informed that SOSCF will attempt to contact him/her in regard to the agency's contact with the client. If the reporting person or agency has a therapeutic relationship with the client and/or client's family, he/she should be included in a multidisciplinary evaluation of the problem, and case staffings as indicated.
- (6) If the referral is not eligible for Protective Services or other SOSCF services, the reporting person may be referred to an outside resource if appropriate and available.
- (7) If the screening of the referral indicates that a child is eligible for protective services, i.e., it is likely that a child is at risk of harm and the caretakers are unwilling or unable to protect the child, a CPS assessment shall be initiated.
- (8) The worker must immediately notify the appropriate local law enforcement agency when a referral is determined to be a report of suspected child abuse or neglect (ORS 419B.020).

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746-751, 419B.005-045, 109.610 & 640.112

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

## 413-020-0360

### Requests for Divorce Custody Studies

SOSCF is not required to perform custody studies in divorce cases. SOSCF's general policy is not to make such investigations. However, under specific circumstances, the local office, with approval of the regional manager, can make such investigations.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746-751, 419B.005-045, 109.61 & 640.112

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

**413-020-0370****Requests from Minors**

When a minor requests services, the problem may be reviewed, but services cannot be provided without parental consent unless the request pertains to exceptions under law:

(1) Statutory Exceptions. Even in the following exceptions, the worker shall attempt to obtain the minor's permission to talk to the parents or guardian, and secure consent for the services requested:

(a) When a minor alleges child abuse (ORS 419B.005 419B.045);

(b) When a minor 12 years of age or older is seeking information, and/or referral pertaining to diagnosis or treatment of any venereal disease (ORS 109.610);

(c) When a minor age 15 years or older requests a referral directly to a physician or clinic for termination of a pregnancy (ORS 109.640);

(d) When a minor parent requests services in considering surrender of their parental rights for purposes of adoption (ORS 109.112);

(e) When a minor has been declared an emancipated minor.

(2) No Exception. The parent(s) or legal guardian shall be notified and give written approval in all cases prior to referring a pregnant unmarried minor under 15 years of age directly to a clinic or physician for termination of a pregnancy. (See I-B.1.4, Guardian and Legal Custodial Consents.)

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746-751, 419B.005-045, 109.61 &, 640.112

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

**Child Protective Services Assessment****413-020-0400****Values**

The Child Protective Services Assessment process is intended to reflect the commitment of SOSCF to assess reports of child abuse and neglect from a child-centered and family-focused perspective. It provides a framework for intervention which utilizes collaborative relationships with families and community members to meet children's safety needs.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.005, 419B.010, 419B.015, 419B.020, 419B.045, 419B.150, 419B.160 & 419B.171

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 2-1996(Temp), f. & cert. ef. 4-1-96; SCF 7-1996, f. & cert. ef. 9-27-96

**413-020-0405****Purpose**

The following administrative rules provide procedures for assessing reports of child abuse and neglect. These procedures supplement requirements for handling referrals and for determining eligibility for SOSCF services (OAR 413-020-0300 through 0370) and for CPS services (OAR 413-030-0100 through 0130). In specific instances the caseworker's judgment may suggest departing from these procedures; such departures must be approved by the supervisor and documented on the CF 307 for the case file. There shall be no deviations from those procedures mandated by statute.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.005, 419B.010, 419B.015, 419B.020, 419B.045, 419B.150, 419B.160 & 419B.171

Hist.: SCF 2-1996(Temp), f. & cert. ef. 4-1-96; SCF 7-1996, f. & cert. ef. 9-27-96

**413-020-0410****Definitions**

- (1) "Assessment Narrative Format" is the guideline for documentation of casework activities and information gathered during an assessment of a child abuse and neglect referral, including disposition and a safety plan, if indicated. (Refer to Attachment A, "Assessment Only" narrative format.)
- (2) "Child Protective Services (CPS) Assessment" is the part of the case process which assesses a report of suspected child abuse or neglect on the part of a child's caretaker in order to determine the presence or potential of abuse or neglect, evaluates the severity of risk of harm to a child, implements services to assure children's safety, and provides support to the family, with consideration of the family's culture. Every reasonable effort will be made to engage the family in the planning for the safety of their children.
- (3) "Child Safety Assessment" is a model for decision making which assumes that child abuse and neglect result from an imbalance of family abilities and risk factors. A child safety assessment is also a process of gathering and analyzing information about specific ability/risk factors to determine the potential of abuse or neglect and the direction for service planning.
- (4) "Child Safety Plan" is the outcome of a Child Safety Assessment which has determined that a risk of child abuse or neglect exists. It encompasses specific tasks, behaviors, agreements or activities by family, agency and/or community members which reduce the identified risks and provide safety for the child.
- (5) "Emergency Protective Custody" refers to removal of a child from the custody of the child's parents or caretaker prior to filing and adjudication of a juvenile court petition. Emergency protective custody occurs when a police officer, juvenile court counselor, or SOSCF worker takes custody of a child without a court order, where the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare (ORS 419B.150). Emergency protective custody can also occur pursuant to a "temporary" custody order issued by the juvenile court.
- (6) "Family Decision Making Services" are family-focused interventions facilitated by professional staff members and designed to build and strengthen the natural care-giving system for the child. These may include family group conferences, family unity meetings, family mediation or other professionally recognized models to family support and family preservation that include extended family and rely upon the family to make decisions about planning for its children.
- (7) "Family Preservation Services" are typically services designed to help families alleviate crises that might lead to out-of-home placement of children; maintain the safety of children (and other family members) in their own homes; support

families preparing to reunite or adopt; and assist families in obtaining services and other supports necessary to address their needs in a culturally sensitive manner. The safety of the child will not be compromised by the use of such services.

(8) "Family Support Services" are primarily community-based preventive activities designed to alleviate stress and promote parental competencies and behaviors that will increase the ability of families to successfully nurture their children; enable families to use other resources and opportunities available in the community; and create supportive networks to enhance child-rearing abilities of parents and help compensate for the increased social isolation and vulnerability of families.

(9) "Immediately" means to direct one's attention, without delay, to the issue at hand.

(10) "Multi Disciplinary Team (MDT)" is a county investigative/assessment team for child abuse. Pursuant to ORS 418.747 (1), the team shall include, but not be limited to, law enforcement personnel, child protective service workers, district attorneys, school officials, health department staff and personnel from the courts.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.005, 419B.010, 419B.015, 419B.020, 419B.045, 419B.150, 419B.160 & 419B.171

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 2-1996(Temp), f. & cert. ef. 4-1-96; SCF 7-1996, f. & cert. ef. 9-27-96

## **413-020-0420**

### **Initiating the Assessment**

While the assessment policy is presented in a recommended order of procedures, the sequence may be changed to accommodate individual circumstances:

(1) **Assessment Process.** The process is initiated by the screening of a report (refer to SOSCF policies I-B.2.1 and I-B.2.3.2) alleging that a child is a victim of abuse or neglect per ORS 419B.010. An assessment/investigation of a report of suspected abuse or neglect is required by ORS 419B.010. The assessment/investigation gathers information to determine the likelihood of abuse or neglect having occurred to a child and/or the probability of abuse or neglect occurring in the future. It includes efforts to assure that the child's immediate safety needs are met.

(2) **Contacting and Working with Other Agencies.** To assure appropriate response to reports of abuse, each SOSCF branch office will have in place interagency agreements with law enforcement agencies, schools, the juvenile department, the health department, hospitals and MDT's that prescribe each organization's responsibilities.

(3) **Emergency Reports.** No child shall be denied immediate attention if circumstances place the child at high risk of harm. Reference may be made to the "Screening Guidelines" and CF 955A, "Child Abuse and Neglect Risk Factor Checklist." Reports which contain any of the following factors should be considered emergency reports requiring an immediate plan for intervention and safety by SOSCF and/or law enforcement:

(a) Non-accidental injuries or abusive behavior, or reports of prior abuse to children four years of age or younger (injuries need not be visible);

(b) A young child under six years of age or a child with disabilities or other special needs who is currently left unsupervised/or inadequately supervised for any period of time to the extent that the child's immediate needs may go unnoticed or unmet, or a child left in the care of another child(ren) too young to protect him/her, or a child engaged in dangerous activities;

(c) Serious physical injuries which create a substantial risk of death, disfigurement or impairment. Serious injuries include: fractures, subdural hematoma, dislocation, sprains, internal injuries, burns and inflicted injuries such as extensive welts, bruises, lacerations and abrasions. Special consideration shall be given to preschool or disabled

children;

(d) Serious illness or life-threatening medical conditions including suicidal ideation and medically fragile, drug-exposed infants for which the parent is unwilling or unable to obtain medical advice or treatment. Maltreatment or neglect such as failure to thrive, malnutrition, poisoning or ingestion of noxious substance;

(e) Cruel, unconscionable, intimidating or terrorizing acts or statements, including deliberate threats to the child's life, intimidating acts with firearms or animals, or other threats which may reflect a real and immediate potential for harm to the child's well-being, including grossly inappropriate discipline;

(f) Current allegations of sexual abuse, where the alleged perpetrator has access to the alleged victim.

(4) Non-Emergency Reports. A face-to-face contact with the child and parents shall be made within seven calendar days of assignment for field assessment for non-emergency reports. (Exceptions to this timeline require supervisory approval and must be documented using form CF 307 or the assessment narrative format.)

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.005, 419B.010, 419B.015, 419B.020, 419B.045, 419B.150, 419B.160 & 419B.171

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 2-1996(Temp), f. & cert. ef. 4-1-96; SCF 7-1996, f. & cert. ef. 9-27-96

## **413-020-0430**

### **Completing CPS Assessments**

The assessment shall be completed within 30 days. Exceptions to this timeline require supervisory approval and must be documented in the space provided on the CF 307.

(1) Review Relevant Records. Review relevant records, both paper and electronic maintained by SCF for historical information on the family and/or child(ren).

(2) Contact the Reporter. Contact the reporter if the report is unclear or incomplete.

(3) Contact Law Enforcement Immediately. Law enforcement shall be contacted immediately by either the screener or the caseworker per ORS 419B.015 and in accordance with protocols of the local multidisciplinary team. Coordinate assessment/investigation tasks when appropriate. Obtain a criminal record, if possible. Inquire if there is a history of domestic violence involving family members. Law enforcement involvement may include the following:

(a) Law enforcement involvement in the assessment phase depends upon the nature of the report of abuse or neglect, whether an officer is available to assist, and on the protocols developed by the local multidisciplinary team. SOSCF/LEA coordinated assessment/investigation is preferable in all cases where both agencies will need to interview a child;

(b) The worker shall request the assistance of a law enforcement officer in the following situations:

(A) When the report suggests that a crime may have been committed in accordance with the protocols of the local multidisciplinary team. SOSCF is responsible for the child safety assessment. LEA is responsible for collecting evidence to use in subsequent judicial proceedings;

(B) When it appears the SOSCF worker would be in danger;

(C) When there is reason to believe the family will not allow the worker to observe the alleged victim and/or other children in the home;

(D) When it appears a child may need to be taken into temporary protective custody.

(c) The SOSCF caseworker maintains case management responsibilities and responsibility for the child safety decisions in all situations regardless of the position of other multidisciplinary team members;

(d) In a joint SOSCF/LEA investigation, the SOSCF worker is responsible for:

(A) Providing consultation to the officer regarding the dynamics of abusive/neglectful families;

(B) Determining the validity of the abuse/neglect report;

(C) Determining if protective social services are needed by:

(i) Completing a child safety assessment to determine imminent danger and risk of future abuse;

(ii) Engaging the family in the development of a safety plan; and

(iii) Involving "family support" and "family preservation" services as appropriate;

(iv) Assisting in determining the need for protective custody and child placement.

(4) Notify Parents of Intent to Interview. Notify parents of intent to interview alleged victim and engage them in the assessment unless notification compromises child safety or a criminal investigation.

(5) Interview and Observe the Child or Children.

(a) When the child is contacted at his/her home and the parents are not present the interview may proceed only if the worker determines there is an immediate need to evaluate the child's safety. The caseworker may enter the home if there is reasonable cause to believe that a child's health or safety is endangered by conditions of dwelling, or a child is inadequately supervised;

(b) The primary caretaker shall be notified the same day their child has been interviewed. Exceptions must be approved by a supervisor;

(c) All interviews should assure privacy and be structured according to SOSCF recommended protocols;

(d) Children shall be interviewed independent of their caretakers if the caretaker is the alleged abuser or if the presence of the caretaker may impede the interview;

(e) When allegations of physical abuse exist the child(ren) named in a report shall be observed and interviewed if developmentally able;

(f) Disrobe a Child for Observation of Injuries or Neglect. If disrobing a child is necessary, the worker must use discretion. Consideration should be given to having a worker of the same gender present and/or a support person present for child comfort and worker liability if disrobing is necessary. Parental consent and assistance should be sought whenever practical and possible;

(g) Photograph/Document Injury.

(A) Any law enforcement agency or the State Office for Services to Children and Families (SOSCF) may photograph or cause to have photographed any child subject of the investigation for purposes of preserving evidence of the child's condition at the time of the investigation. Copies of the photograph should be labeled with the case name, child's name, date and should be included in the SOSCF record;

(B) The caseworker shall not photograph the child if verbal or physical resistance is expressed by the parents, child or other caretaker(s);

(C) Injuries and hazardous environments shall be documented in the assessment narrative by photographs, written description and/or illustrations.

(h) Interview Children at School.

(A) In certain circumstances it may be advisable that SOSCF interview the child at school. The circumstances or allegations which may prompt the decision to interview a child at school include, but are not limited to:

(i) Bruises or injuries inflicted by the parents or caretakers;

(ii) Unusual punishment;

(iii) Sexual abuse;

(iv) Abandonment;

(v) Child is fearful of returning home.

(B) ORS 419B.045 outlines requirements for investigations that are conducted on school premises:

(i) The school administrator shall first be notified that the assessment/investigation is to take place, unless the school administrator is the subject of the assessment/investigation. The worker shall go to the office of the child's school, provide identification to the appropriate school personnel, inform them that she/he is conducting a child abuse assessment/investigation, and provide them with the name of the child to be interviewed;

(ii) The worker shall identify him/herself and their purpose, and shall request appropriate school personnel to have the child brought to an office or other location where the child can be interviewed in private and without interruption. In addition, ORS 419B.045 provides that the SOSCF or LEA "shall be advised of the child's handicapping conditions, if any, prior to any interview with the affected child";

(iii) The worker and/or police officer shall interview the child out of the presence of any other person, unless in the worker or the police officer's discretion, the presence of a school employee or some other person would facilitate the interview with the child. ORS 419B.045 clarifies that "the school administrator or school staff member designated by the administrator may, at the investigator's discretion, be present to facilitate the investigation";

(iv) If the situation arises where it is not advisable for a school official to be present, but the school official insists, the worker shall confer with SOSCF management staff to discuss postponement, obtaining the assistance of LEA or seeking a court order;

(v) School personnel shall be informed that parental notification shall be the responsibility of the State Office for Services to Children and Families or law enforcement as per ORS 419B.160(3). If the investigation is a joint SOSCF and LEA assessment/investigation, how and by whom the parents shall be notified is part of the decision-making of the investigative team. Every effort is to be made to notify the parent(s) before the time the child normally arrives home from school;

(vi) Further action will be discussed with the child at the conclusion of the interview;

(vii) The school shall be informed that the interview has been completed. If the child is taken into temporary protective custody, the school shall be notified. The worker must use discretion in providing confidential information, however, sufficient information should be given to the school personnel about the child's situation to enable them to provide support and assistance;

(viii) If the officials of a private school refuse to allow the assessment/investigation to take place on school property, the caseworker shall contact SOSCF management staff, seek the assistance of a law enforcement officer or obtain a court

order. Written protocol shall be developed between SOSCF and county private schools as to the assessment/investigation of allegations of child abuse and neglect.

(6) Secure a Medical Examination. Secure a medical examination, as necessary, for medical diagnosis to determine treatment needs or to reassure the child and family.

(a) If there is evidence of trauma, arrangements shall be made to transport the child to a medical facility. The caseworker shall make every attempt to help the parent or guardian understand the need for medical evaluation and/or treatment. Parents may be requested to take the child to a medical facility. The worker may accompany the parent to a medical facility and shall request that the parent sign a DHR 2100, "Authorization for Release of Information;"

(b) If the parent refuses to secure necessary medical examination and/or treatment and the worker suspects that physical evidence of abuse is present, the worker should contact LEA immediately and seek a juvenile court order;

(c) A child 12 years of age or older may refuse the examination per ORS 419B.020 if the sole purpose of the physical exam is to preserve physical evidence of sexual abuse;

(d) Assessments of medical neglect must include consultation with a health care professional prior to completion of an assessment. If there is any indication of a life threatening condition, or of a deteriorating condition which may become life threatening, the consultation must occur immediately. Procedures are to be in place to insure the availability of immediate consultation when needed;

(e) Psychiatric or psychological evaluations of parents or children should be considered as part of the protective services assessment when necessary to complete case planning. This is particularly true in cases where there has been unusual or bizarre forms of punishment, mental illness, suicidal ideation, and/or markedly unusual or bizarre child or parental behaviors which are indicative of emotional problems.

(7) Interview and Observe Siblings. If one child within a family appears to be a victim of child maltreatment, other siblings or children living in the household shall be interviewed and observed as well. Exceptions to this standard shall be documented in the assessment narrative. An interview of children who have lived in the home recently shall be considered.

(8) Interview the Child's Parents or Caretaker. Interview the child's parent(s) or caretaker(s), including the alleged abuser, the same day as the child, if possible.

(a) The goals of the initial interview with the parent(s) or other caretaker(s), as well as with the children, are:

(A) To assess the validity of the abuse/neglect allegation and the future risk to the child(ren);

(B) To assess the family's emotional and functional capacity, including their ability to protect the child from immediate danger, violence between the caretakers and the family's need for emergency or crisis services;

(C) To engage the family and mutually develop a safety/ service plan.

(b) Both parents are to be interviewed in person, if they are the caretakers of the children. If the caretaker is other than the parent, they should be interviewed as well. It is recommended that each person be interviewed individually, as well as together. If at all possible, the interview with the primary caretaker is to take place the same day as the interview with the child. Usually the non-offending spouse is interviewed prior to the alleged abuser. SOSCF will interview the alleged abuser when he/she is the victim's parent, to complete the gathering of information necessary for risk assessment and the formulation of a safety plan. When law enforcement is involved in the assessment/investigation, SOSCF and LEA will coordinate the interviews with the alleged offender. In any case, every effort shall be made to complete a CPS assessment within 30 days. Consultation with the supervisor is advised.

(A) The worker shall present identification to the family at the beginning of the interview;

- (B) The reason for the interview is to be clearly stated. The family is to be informed of SOSCF's responsibility to assess reports of suspected abuse and the availability of services. The report shall be explained and each allegation described. Those responsible for the child are to be given an opportunity to respond to each allegation;
- (C) The caseworker should observe other indicators of abuse or neglect during the interview/assessment process. Should additional concerns become apparent, these shall also be addressed as part of the current risk assessment;
- (D) The focus of the interview shall be on the safety of the child(ren). This will include identification of risks, family strengths and supports, and the ability of the parents/caretakers to provide minimally sufficient care. If significant risk is identified, the caseworker shall begin to gather background information from the family and identify legal parents and extended family for their possible contribution to a safety plan. The assessment factors on the CF 955, "Risk Assessment Continuum" are to be points of reference when gathering information. The worker is to observe the interactions between the parents/caretakers and the child(ren), and between the parents/caretakers themselves, including any indications of domestic violence or its effects. If at all possible, at the conclusion of the interview, the caseworker should share his/her initial impressions and intentions with the family. This information is to be included in the "Assessment Narrative Format";
- (E) The interview process must reflect consideration of the family's culture. Documentation of this consideration shall be provided in the "Assessment Narrative Format";
- (F) When the information gathered in the interview/ assessment process is insufficient to conclude that the child is safe, the parents should be asked to provide names of persons from whom the worker can obtain additional information. The worker should request that the parent(s) sign a release of information to enable the agency to contact physicians, mental health providers, schools, etc. SOSCF may proceed to make collateral contacts without parental permission or a court order during the assessment phase, however particular providers may insist upon a court order or a signed release of information;
- (G) The identity of the referral source is not to be revealed by SOSCF except by court order (ORS 419B.035);
- (H) If the juvenile court is to be involved in the case, the court process must be explained to the parents. Either the court or the caseworker is to inform the parents of their right to have an attorney and of the process to obtain court-appointed representation;
- (I) Active efforts will be made to identify legal and putative parents within 30 days of placement. Information will be recorded on the CF 418, "Father Questionnaire," and filed in the case record. (Refer to I-A.4.3, Identifying Legally Recognized Parental Relationships);
- (J) The caseworker shall provide to the family his/her name and phone number;
- (K) SOSCF shall inform the client of the agency grievance procedure and refer to, or provide the pamphlet, CF 1551, "When You Have a Disagreement with SOSCF," to the family;
- (L) When there are reasonable grounds to suspect that the child may be a victim of abuse or neglect, and the caseworker is denied access to the child or his/her residence, the assessment will still proceed. The following actions should be considered:
- (i) If the nature and extent of the allegations are such that there is probable cause to suspect current or imminent danger to a child's life or health, the police shall be requested to take the child into temporary custody. A temporary custody order can be obtained from the local juvenile court if time allows (ORS 419B.020);
  - (ii) When parents are uncooperative in giving information and will not allow access to the child, the caseworker will consult with the supervisor and/or the district attorney or juvenile department to discuss proceeding with juvenile court action;
  - (iii) Caseworkers shall persist in their attempts to gain cooperation from the family.

(9) Interview Collateral Sources of Information. Interview collateral sources of information such as professionals (doctor, nurse, teacher, counselor, minister, etc.) or individuals who may have first-hand knowledge of the reported incident or family circumstances. This includes family members living outside the home.

(a) Collateral contacts (including letters, telephone calls and personal interviews) as necessary should be made with relatives, neighbors, physicians, school personnel, public health nurses or others who might be able to clarify and supplement the information contained in the report and provide the caseworker with a better understanding of the child's condition and/or the family functioning. This information should be gathered throughout the assessment as the circumstances require. Collateral contacts are not entitled to confidentiality beyond what is accorded to the case record itself;

(b) Caseworkers will involve the parents and respect their confidentiality. Accordingly, caseworkers will attempt to obtain a signed DHR 2100 from the parents before securing information from the collateral contact. Where consent is not given, attempts should still be made to secure the information. If an agency or professional is unwilling to share information with the State Office for Services to Children and Families, and the parents are unwilling to sign a consent to disclosure form, the worker should consult the district attorney to request a court order to obtain the required records.

(10) Evaluate the Safety Needs of the Child/Children.

(a) The factors on the CF 955, "Risk Assessment Continuum," shall be used as the reference document to help assess the risk of harm to a child's health or safety. Family resources and capabilities shall be considered in conjunction with risk factors;

(b) In collaboration with the family, determine the needs of the children and develop a safety plan if indicated. Family decision-making meetings may assist in this process. To maintain a child in his/her home, services which would provide immediate protection should be considered, such as Family Preservation Services, Family Support Services, use of foster care prevention funds or removal of the alleged abuser by utilizing a Juvenile Court Restraining Order as per ORS 419B.190. If no such reasonable efforts may be effective, protective custody and placement shall be considered;

(c) If imminent danger to the child exists, or the child's condition or surrounding appear to jeopardize the child's welfare, an immediate determination shall be made regarding the need for emergency protective custody. Extended family members shall be contacted, when possible, in an effort to prevent removal and shall be considered a placement resource prior to shelter care as per "Placement Expectation," SOSCF policy I-E.3;

(d) SOSCF staff, to assure safe placement of a child, may request criminal history information from the local Multi-Disciplinary Team on any person who is part of the household where the agency may place or has placed a child who is in SOSCF's custody (ORS 418.747(5));

(e) The caseworker may take a child into emergency protective custody when the child is in an imminently dangerous environment and law enforcement assistance is not available. When there is resistance, the caseworker will not take the child into custody, but shall wait for law enforcement assistance and/or obtain an order of temporary custody from the juvenile court;

(f) If the parent or caretaker of an abused or neglected child requests temporary protective custody for their child, and the agency agrees that protective custody is necessary, the SOSCF caseworker may take custody without police assistance. The parent shall be requested to sign a CF 1005, "Temporary Voluntary Custody Agreement" (see SOSCF policy I-B.1.3);

(g) Under ORS 419B.171, whenever a child is taken into temporary custody without a court order, the person taking the child into custody must promptly file a brief written report with the court or a counselor in the county. 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 shall 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. The information to be included is presented in ORS 419B.171. This written report is separate from a juvenile court petition. Local procedures are developed for compliance with this statute.

(11) Notify the Parents/Caretakers. Notify the parents/caretakers (including the non-custodial parent) in writing pursuant to ORS 419B.020 and ORS 419B.160 when LEA/SOSCF staff place children in protective custody.

(12) Initiate the Filing of a Juvenile Court Petition. Initiate the filing of a juvenile court petition, when necessary, for child protection. Consultation with the supervisor is required except in cases where delay would place the child(ren) at risk of harm.

(13) Determine the ICWA Status. Determine the ICWA status by completing the CF 1270 for all children on whom a petition is filed, and notify the tribe if appropriate. (Refer to SOSCF policy I-E.2.1.)

(14) Whenever possible, supervisory consultation will occur in the following circumstances:

- (a) Report indicating potential danger to the worker;
- (b) Decision to remove a child from parental care;
- (c) Decision to return or leave a child in the home where abuse or neglect occurred;
- (d) Disposition determination in unclear cases;
- (e) Initiation of court action;
- (f) Decision to close a case.

(15) Determine the Validity of the Report. In collaboration with law enforcement, when appropriate, determine the validity of the report, and document the disposition findings on the CF 307. The definitions of child abuse contained in OAR 413-030-0120 (SOSCF policy I-B.2.3.2) shall be used as the basis for disposition of the report:

- (a) "Founded" means reasonable cause to believe that abuse/ neglect occurred;
- (b) "Unfounded" means no evidence of abuse or neglect was identified or disclosed;
- (c) "Unable to determine" means some indications of abuse/ neglect exist, but there is insufficient data to confirm whether or not abuse or neglect occurred.

(16) Contact the Referral Source/Reporting Party. Make a concerted effort to contact the referral source/reporting party to inform them in regard to whether SOSCF has contacted the client and concluded an assessment.

(17) Record Assessment Activities. Using the "Assessment Narrative Format," record a factual chronology of the assessment activities, risks to the child, family's abilities, a safety plan (if applicable) and the assessment disposition of the CF 307 or CF 307A

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.005, 419B.010, 419B.015, 419B.020, 419B.045, 419B.150, 419B.160, 419B.171, 418.747(5) & HB2604 (1993)

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 2-1996(Temp), f. & cert. ef. 4-1-96; SCF 7-1996, f. & cert. ef. 9-27-96

### **Investigation of Suspected Medical Neglect - Infants**

**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 State Office for Services to Children and Families' 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 State Office for Services to Children and Families (hereafter referred to as SOSCF) will designate a SOSCF 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 State Office for Services to Children and Families 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, SOSCF'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.: HB 2004

Stats. Implemented: PL98-457

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

## 413-020-0610

### Definitions

(1) "Designated Consultant Neonatologist" means a neonatologist whose services are available to SOSCF to review medical information and consult with SOSCF and other experts deemed necessary in cases of suspected medical neglect.

(2) "Designated Hospital Liaison" means an individual(s), usually the hospital administrator, designated by each respective hospital to assist SOSCF with coordination, consultation, and prompt notification of suspected cases of medical neglect.

(3) "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.

(4) "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.

(5) "Medical Neglect" means the failure to provide adequate medical care, including the withholding of medically

indicated treatment from disabled infants with life-threatening conditions.

(6) "Medical Neglect Investigator" means SOSCF staff designated and trained to provide consultation and complete investigations of alleged medical neglect reports.

(7) "Medically Indicated Treatment" means treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's reasonable medical judgment will be most likely to be effective in ameliorating or correcting all such life-threatening conditions. 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.

(8) "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.

(9) 'Tertiary Care Center' is a hospital with facilities and medical staff to perform very complex medical procedures and have teaching programs in nursing, pharmacology and/or medicine.

(10) "Withholding of Medically Indicated Treatment" means the failure to respond to the infant's life-threatening conditions.

Stat. Auth.: HB 2004

Stats. Implemented: PL98-457

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 SOSCF 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.: HB 2004

Stats. Implemented: PL98-457

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, SOSCF 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.: HB 2004

Stats. Implemented: PL98-457

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 State Office for Services to Children and Families, 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, SOSCF 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. SOSCF 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 SOSCF 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.: HB 2004

Stats. Implemented: PL98-457

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

## **413-020-0650**

### **Annual Information Update**

Each local SOSCF 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 State Office for Services to Children and Families of cases of suspected medical neglect. The branch managers shall update this information annually.

Stat. Auth.: HB 2004

Stats. Implemented: PL98-457

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 30**

**CASE MANAGEMENT - PROGRAM ELIGIBILITY**

**Preventive/Restorative Eligibility**

**413-030-0000**

**Purpose**

These rules outline the eligibility criteria for providing Preventive/Restorative Services.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-030-0010**

**Program Description**

Preventive/Restorative Services are services provided by SOSCF staff to eligible families. The extent of services to individual families may vary according to need, severity, and available resources. These services include:

- (1) Determining the nature and severity of family problems;
- (2) Developing service plans to resolve specific problems;
- (3) Assisting families to obtain appropriate social services;
- (4) Providing supportive counseling in conjunction with community services;
- (5) Providing family treatment to a limited number of families as a means of preventing family breakdown;

(6) Arranging for SOSCF services in accordance with service plans such as Sex Abuse Treatment, Intensive Family Services, Day Treatment, Parent Training, Homemaker Service, Housekeeper Service and Supportive/Remedial Day Care.

(7) Permanent Placement Services include the placement of children in substitute care families in which the child's relationship to the family has culminated in adoption or legal guardianship.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-030-0020**

### **Eligibility Criteria For Preventive/Restorative Services**

(1) All families with a child(ren) under 18 years of age residing in the family home at the time of request for services shall be eligible to receive services when both a "critical outcome" to be prevented and a "problem indicator" are present. A child will be considered residing with the family even though the child may have left the home temporarily without change of legal custody:

(a) Critical Outcomes to be Prevented. There must be strong indications that at least one of the following critical outcomes will likely occur if the present problems continue without correction:

(A) A child or unborn child will be the subject of protective services;

(B) A child will require placement or replacement in substitute care;

(C) A minor child will become a parent or emancipate without being able to meet minimal adult expectations;

(D) A handicapped child will, upon reaching adulthood, remain dependent on others for self-care and/or maintenance due to failure to develop the child's potential for restoration, education or self-care;

(E) The success of SOSCF permanent placement will be jeopardized.

(b) Problem Indicators.

(A) Parental Care:

(i) There is a lack of physical, mental or emotional capability, interest or knowledge necessary to provide basic physical care and/or emotional nurturing of the children;

(ii) A parent or child in the family is threatening to leave the home as a result of family stress;

(iii) One or more of the children is experiencing rejection, scapegoating or isolation within or outside the family;

(iv) There is distress over a pregnancy;

(v) A parent expresses an interest in having one or more of the children placed away from home;

(vi) Parents who are recipients of a SOSCF permanent placement are requesting help to maintain family functions.

(B) Child Behavior or Condition:

- (i) A child appears appropriate for psychiatric referral as indicated by a Mediceck screening test or professional evaluation;
- (ii) A child is diagnosed as having a disability that can be expected to continue indefinitely, and constitutes a substantial handicap due to such circumstances as retardation, cerebral palsy, epilepsy, birth defect, injury or chronic illness;
- (iii) A child permanently placed by SOSCF is experiencing adjustment problems;
- (iv) A child lacks social adaptation to the degree the child has been or will likely be excluded from participating in educational, recreational or social development programs for children;
- (v) A child is exhibiting negative behavior as result of a crisis, such as hospitalization, death of a family member, the witnessing of a family tragedy, chronic illness, etc.;
- (vi) The child's behavior is out of control, may endanger self or others or is socially unacceptable (e.g., acts of defiance, truancy, running away, promiscuity, sexual deviance; etc.);
- (vii) A minor child has become pregnant;
- (viii) A child or parent expresses interest in child placement away from home.

(2) Families with Children in a Substitute Care. Families whose child(ren) is currently receiving substitute care from SOSCF shall be provided Preventive/Restorative Service when other minor children remain in the home, and the family meets the conditions for Preventive/Restorative Services.

(3) After Substitute Care Placement. A family with a child returning home from substitute care placement (excluding Trial Home Visits) are eligible for Preventive/Restorative Services.

(4) Child(ren) Living with Relatives. A child(ren) placed or living with a relative and who meets conditions for Preventive/Restorative Services is eligible for Preventive/Restorative Services when SOSCF does not have voluntary or court-ordered custody of the child. Such cases do not come under the requirement of Public Law 96-272, "**The Adoption Assistance and Child Welfare Act of 1980.**"

**NOTE:** When voluntary or court-ordered custody is held by SOSCF, the case is to be determined eligible for substitute care services.

(5) After Protective Services. Families meeting conditions for Preventive/Restorative Services after assurance that danger to the child(ren) has been eliminated are eligible for Preventive/Restorative Services.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-030-0030**

### **Eligibility for Preventive/Restorative Services Ends**

Eligibility for Preventive/Restorative Services Ends when:

- (1) The parent and/or agency indicates the service objectives have been achieved; or
- (2) The parents express their wish to withdraw their request for agency services or their whereabouts become unknown;  
or

- (3) The agency determines services are no longer appropriate or effective; or
- (4) A decision has been made to proceed under another program service classification or the case responsibility is accepted by another community service resource; or
- (5) A court and the agency have determined court-ordered service or supervision is no longer necessary.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **Child Protective Service Eligibility**

### **413-030-0100**

#### **Purpose**

(1) Child Protective Services (CPS) is a specialized social service program that Oregon's State Office for Services to Children and Families provides on behalf of children who are abused, neglected, exploited or abandoned, or who are at substantial risk of child maltreatment by a person responsible for that child's welfare. The aim of protective services is to protect children by assisting their parents or the person responsible for that child's welfare to resolve problems which underlie child maltreatment. Child Protective Services is concerned with identification, treatment and prevention of child abuse and neglect.

(2) The goals of Child Protective Services are:

- (a) To assure the child's welfare and safety through various protective strategies;
- (b) To maintain family unity insofar as reasonable;
- (c) To reduce those factors, causes and stresses which led to the abuse or neglect;
- (d) To support and encourage cognitive, emotional, and behavioral adjustment which results in family maintenance or reunification; and
- (e) To expedite permanent plans when it is determined that the child cannot safely return to the home.

(3) ORS 418.740 (1)(a)-(f) defines conditions of child abuse which must be reported to SOSCF or law enforcement. These rules further clarify those definitions and describe the eligibility criteria for SOSCF Child Protective Services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.740-775, 418.015 & 184.805

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

### **413-030-0110**

#### **Definitions**

(1) "Abuse" includes, but is not limited to, abuse by a person including any employee of a residential facility or any staff person providing out-of-home care, who is responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term encompasses both acts and omissions on the part of a responsible person.

(2) "A Person Responsible for a Child's Welfare" includes the child's parent, guardian, foster parent, an employee of a public or private residential home or facility or other person legally responsible under state law for the child's welfare in a residential setting, or any staff person providing out-of-home care, i.e., child day care, family day care, group day care, and center-based day care, and, at state option, any other settings in which children are provided care.

Stat Auth: HB 2004

Stats. Implemented: ORS 418.740-775, 418.015 & 184.805

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

## **413-030-0120**

### **Program Eligibility**

(1) All reports of suspected child abuse and neglect shall be received and evaluated for type of response needed (Per ORS 419B.010, ORS 418.747, ORS 419B.005-.020).

(2) A child and parents are eligible for and shall receive Protective Services when:

(a) SOSCF receives a report, or a SOSCF caseworker has reasonable cause to believe that a child is being abused, neglected, exploited and/or abandoned, and the child's physical or emotional well-being would be seriously threatened if external social services were not provided; and

(b) A child's parents or a person responsible for that child's welfare are unwilling or unable to provide, either through their own efforts, or through the use of available community resources, the care, guidance, and protection a child requires for safety, healthy growth and development as evidenced by one or more of the following:

(A) Physical Abuse: Physical abuse is injury to a child which, regardless of motive, is inflicted or allowed to be inflicted by non-accidental means. Physical abuse includes but is not limited to any injury which could not reasonably be the result of the explanation given, and/or any injury which is the result of discipline or punishment. Examples of injuries which may result from physical abuse include:

(i) Head Injuries;

(ii) Bruises/Cuts/Lacerations: A discoloration, breakage or tear of skin tissues;

(iii) Internal Injuries: Injury which may not be visible from the outside;

(iv) Burns/Scalds: Reddening, blistering or charring of the tissue through application of heat: fire, chemical substances, cigarettes, matches, electricity, scalding water, friction, and others.

(v) Injuries to Bone, Muscle, Cartilage, Ligaments: Fractures, dislocations, islocations, sprains, strains, displacements, hematomas, and others;

(vi) Poisoning: Introducing into the body, unless under medical direction, any substance which temporarily or permanently impairs the functions of one or more organs or tissues. This includes the inappropriate use of controlled substances, prescription medications, over-the-counter medications, and alcoholic beverages. Poisoning also includes the reckless and/or negligent use, during pregnancy, of substances which are toxic to the fetus and result in the birth of

an infant with addictions or physical or neurological impairments;

(vii) Shock: Electrical shock;

(viii) Death.

(B) Neglect: Neglect is failure, whether intentional or not, to provide and maintain adequate food, clothing, shelter, medical care, supervision and protection, and/or nurturing. However, any child who is under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the child or the child's parents or guardian shall not, for this reason alone, be considered a neglected or maltreated child. Neglect includes but is not limited to the following types:

(i) Inadequate Food: The failure to provide a basic diet to maintain age-related physical and social activities and to prevent, based on nutritional deficiencies, significant or continuing illnesses, disease, developmental delay or impairment of physical and mental functioning;

(ii) Inadequate Clothing: The failure to provide, maintain and use adequate clothing and footwear which are appropriate to the climatic and environmental conditions;

(iii) Inadequate Shelter: The failure to provide and maintain adequate shelter and protection from weather elements and from environmental hazards in the dwelling unit and on the property;

(iv) Medical Neglect: A refusal or failure to seek, obtain and/or maintain those services for necessary medical, dental or mental health care. Includes withholding medically indicated treatment from disabled infants with life threatening conditions.

(v) Lack of Supervision and Protection: Failure, whether intentional or otherwise, to provide supervision, care, guidance and protection, thus placing the child at risk of physical or mental injury;

(vi) Desertion: The parent or caretaker leaves the child with another person and fails to reclaim the child. This includes parental failure to provide information about his/her own whereabouts, provision of false information about his/her whereabouts, or failure to establish a legal guardian or custodian for the child.

(C) Sexual Abuse and Sexual Exploitation: Sexual abuse is any incident of sexual contact including but not limited to rape, sodomy, incest and sexual penetration with a foreign object, as those acts are defined in ORS Chapter 163. Sexual abuse regardless of explanation, includes all of those contacts and interactions in which a child is used to sexually stimulate or gratify another person and includes but is not limited to:

(i) Exposing oneself before a child;

(ii) Exposing the genitals of the child;

(iii) Kissing a child in an intimate manner;

(iv) Nonphysical activities such as sexual harassment, invasive, or coercive verbal or visual suggestions or stimulation to engage now or later in sexual activities;

(v) Touching and fondling;

(vi) Sexually exploiting the child by forcing/allowing/permitting or encouraging the child to watch pornographic material or sexual activities.

(D) Sexual exploitation includes all those activities defined in ORS Chapter 163, ORS 167, ORS 167.002, ORS 163.665, and ORS 163.670, such as contributing to the sexual delinquency of a minor, engagement of a child in various behaviors or poses for pornographic materials, and permitting or allowing a child to engage in prostitution;

(E) **Threat of Harm:** Threat of harm includes all activities, conditions and persons which place the child at substantial risk of physical or sexual abuse, neglect or mental injury;

(F) **Mental Injury:** Mental injury is the result of cruel or unconscionable acts and/or statements made, threatened to be made or permitted to be made by the caretaker(s) which have a direct effect on the child; or caretaker failures to provide nurturance, protection or appropriate guidance. The caretaker behavior, intentional or unintentional, must be related to the observable and substantial impairment of the child's psychological, cognitive, emotional and/or social well-being and functioning;

(G) **Abandonment:** Abandonment is parental behavior showing an intent to permanently give up all rights and claims to the child.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.740-775, 418.015 & 184.805

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

### **413-030-0130**

#### **Eligibility for Protective Services Ends**

Eligibility for Protective Services ends when:

- (1) It is determined that the report is not a "confirmed" case of child maltreatment; or
- (2) The assessment of the report did not confirm sufficient evidence to take the matter before a juvenile court to receive legal authorization for services beyond assessment and the parents will not agree to voluntary protective services which extend beyond the assessment; or
- (3) The factors and stresses leading to the abuse/neglect of the child have been reduced to the point that the physical or emotional well-being of the child(ren) is no longer seriously threatened with harm; or
- (4) Juvenile Court wardship and temporary SOSCF custody is established; the child is placed in substitute care; the parental barriers to return home are so substantial or severe that it is unlikely that the child will be able to return home without intensive services or termination of parental rights is a high probability.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.740-775, 418.015 & 184.805

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

### **Substitute Care Eligibility**

### **413-030-0200**

#### **Purpose**

- (1) The Substitute Care Program encompasses all of the care and treatment programs of the State Office for Services to Children and Families (SOSCF) providing 24-hour a day care.

(2) SOSCF is solely responsible for determining if a child in the legal custody of SOSCF will be placed or continued in substitute care placement in accordance with statutes, SOSCF administrative rules, agency procedures and placement practice guidelines. These rules specify the minimum criteria for the substitute care classification and placement under any type of substitute care program licensed or certified by SOSCF. Additional criteria are outlined in rules for specific substitute care programs (see I-E.4.1 Shelter Care; I-E.4.2 Family Foster Care; I-E.4.2.1 Family Group Homes; I-E.4.3 Group Care; and I-E.4.4 Independent Living Subsidy Program).

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272, PL 95-6081, ORS 418.015, 418.315 & 419B.331-.349

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

## **413-030-0210**

### **Eligibility Criteria for Substitute Care Placement**

To be eligible for initial and continuing substitute care placement the child must meet all of the following criteria:

(1) Legal Basis. SOSCF must have a current legal basis for placement:

(a) Temporary custody under ORS 419.B.165; or

(b) Legal custody of the child through a juvenile court order; or

(c) A voluntary custody agreement in accordance with I-B.1.4; or

(d) A voluntary placement agreement in accordance with policy I-B.1.3; or

(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 SOSCF's legal custody and placement services are first initiated.

(3) Reasonable Efforts. The agency believes reasonable efforts have been made to prevent placement and to alleviate the barriers that keep the child from the child's own home. This includes an assessment of appropriate treatment and supportive services and providing such services when available through SOSCF or by referral to other community resources.

(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(s) or guardian are not available to care for the child due to death, abandonment, desertion, incarceration, institutionalization, or catastrophic illness; or

(b) The child is at significant risk of abuse or neglect; or

(c) The child is in the permanent custody of SOSCF for adoption planning; or

(d) The child has a severe disabling condition requiring skilled care that the family cannot provide even with the assistance of community resources but SOSCF 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.: HB 2004

Stats. Implemented: PL 96-272, PL 95-6081, ORS 418.015, 418.315 & 419B.331-.349

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

## **413-030-0220**

### **Eligibility After Age 18**

(1) Eligibility for substitute care services shall cease at age 18 unless the person continues to meet both the eligibility criteria outlined earlier in 413-030-0210 and in this section of the rules. Under the following conditions SOSCF 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; or

(b) Enrolled in a special education program as called for in an Individual Educational Plan (IEP); or

(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 regional administrator or designee.

(2) In no instance shall a person receive substitute care services from SOSCF after his or her 21st birthday.

Stat. Authority: HB 2004

Stats. Implemented: PL 96-272, PL 95-6081, ORS 418.015, 418.315 & 419B.331-.349

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

## **Adoption Program Eligibility**

## **413-030-0300**

### **Purpose**

These rules 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, courtesy placement supervision of a child placed in Oregon by an out-of-state adoption agency, and home studies completed for the court of independent adoption petitioners.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305-310 & 418.270-285

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

## **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 shall be classified as adoption from the time the placement is approved until the adoption is completed or disrupted. (See I-G.1 and I-G.4.)
- (2) Children receiving courtesy supervision for an adoptive placement initiated in another state through the Interstate Compact; and
- (3) Children who are the subject of an Independent Adoption assigned by Central Office or by the branch office to be completed at the request of the court.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305-31 &, 418.270-285

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

## **413-030-0320**

### **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;
- (4) When supervision of an adoptive placement provided as a courtesy service for an adoption agency in another state is no longer needed; and
- (5) The report is submitted to the court for an independent adoption home study.

Stat Auth: HB 2004

Stats. Implemented: ORS 109.305-310 & 418.270-285

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 40**

**CASE MANAGEMENT - SERVICE PLANS**

**Service Plans**

**413-040-0000**

**Purpose**

The purpose of these rules is to define the minimum requirements for developing and maintaining a service plan. The service planning process requires that the worker and family identify the key problem issues facing the family, determine the objectives to be achieved and agree upon the action to be taken.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-040-0005**

**Definitions**

(1) "**Family Decision Meetings (FDM)**" are family focused interventions designed to build and strengthen the natural care-giving systems for the child. These may include Family Group Conferences; Family Unity Meetings; Family Resource Meetings; Family Mediation; or other professionally recognized interventions that rely upon the family and extended family to collaborate in decisions for their children. The primary goal of the FDM process is to increase child safety and to maintain the child's attachments to the primary caregivers whenever appropriate.

(2) The difference between Family Decision Meetings and other types of meetings with families is: there is an emphasis on the family's unique plans for their child(ren); they collaborate, rather than just participate in the meeting. It is also

essential that the professionals in the meeting have direct involvement with the child and are not just members of a committee.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-040-0010**

### **Developing a Service Plan**

(1) The initial service plan shall be developed and carried out through a process which assures that the client/family will have to relate to the fewest persons necessary to provide services.

(2) In all cases a minimum of one face-to-face client interview shall be made in order to develop the service plan. When a service plan is in effect, contact with the client/family shall be maintained as prescribed in the service plan with at least one face-to-face contact made per month. These shall be recorded in accordance with the CF 187 Narrative Recording Guidelines.

(3) Family members (including children who are old enough) to whom the social service plan is primarily addressed shall be given an opportunity to participate in its development, and to discuss their options in participating in the plan. All service plans developed must be available to the parents. Please note the Family Decision Meeting option listed in section (6) of this rule.

(4) The parent or guardian shall participate in developing and reviewing services planned when the service is directed toward specific behavior problems of a minor unless the service pertains to an exception in statute. (See I-B.2.1 for the statutory exemptions, i.e., diagnosis and treatment of venereal disease of children 12 years of age and older; referral of minors 15 years of age and older for pregnancy termination; surrender of parental rights by minors; services to minors who are legally emancipated.)

(5) In all cases an evaluation shall be made to determine if a family or family member is entitled to special handling under the Indian Child Welfare Act or the Refugee Act. (See I-E.2.1 and I-E.2.2.)

#### **(6) The Family Decision Meeting (FDM):**

(a) The Family Decision Meeting is a recommended tool to enhance the service planning process. Its use shall be considered in each case where there is the likelihood of involuntary services, including substitute care placement of the child(ren). This consideration and the associated decision shall be recorded in the case file. The participation of family members and other persons should be voluntary. Family members should be prepared prior to the meeting to increase the likelihood of a safe and productive meeting.

(b) Families, or individuals, may be excluded from the FDM process if there are significant concerns about increasing the danger to the children or other family members through the use of the meeting. Violent or abusive family members may need to be excluded and a support system for victimized children and adults may need to be established. Cases involving incest, domestic violence, or severe physical assault, where the perpetrator has not successfully completed treatment, are examples of situations where special arrangements should be made. A routine screening for these types of situations should occur prior to the meeting. Excluded persons, however, may contribute letters or other written statements that address the purpose of the meeting, i.e., to determine a placement for a child, etc.

(c) When safety cannot be assured, a meeting should not be held. Consultation with agency experts who are knowledgeable about the use of FDM's in high risk situations is highly recommended. Families, or individuals, may also be excluded at the request of the district attorney if a criminal investigation or prosecution would be hindered by such a

meeting. A FDM is also not appropriate if all known legal parents and grandparents affirm that they do not wish to participate in this type of meeting.

(7) A service plan shall be revised and recorded in accordance with sections (1) through (6) of this rule at any time there is a substantial change in a service objective or the planned services.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-040-0020**

### **Time Frames for Service Plan Development**

(1) Preventive/Restorative and Protective Services. A social service plan shall be developed within 30 calendar days after the completion of the written assessment. An exception is made in instances when the extended assessment is required and approved by the supervisor. In those instances the service plan shall be developed within 30 days of completing the extended assessment. A new or revised service plan shall be developed with families within 30 calendar days following a child's return home from substitute care.

(2) Substitute Care. A social study and a service plan (as required by PL 96-272) shall be developed within 60 calendar days from the date of placement.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-040-0030**

### **Review Requirements**

(1) Frequency of Reviews. A review of the service plan must be completed by the worker:

- (a) When a plan has been in effect for six months from the date of the last plan;
- (b) Whenever the program classification is changed.

(2) The service plan review shall include:

- (a) A face-to-face interview with the parent(s) or family covering a review of the objectives of the plan;
- (b) A determination of the progress toward achieving each objective;
- (c) A determination of any further services to be provided by the agency;
- (d) Consideration of the use of a Family Decision Meeting;
- (e) The necessary service plan revisions when further services are planned; and

(f) Recording in accordance with policy I-I.2, Narrative Recording.

(3) If the parent(s) or pertinent family member(s) is not available to participate in a service plan review, an explanation shall be recorded in the case record.

(4) Supervisory Review:

(a) Supervisory review is required in each case where no significant progress toward achieving the service plan objectives has been made during a three month period and further services are planned. The service worker shall be responsible for submitting these cases to the supervisor for review. The purpose of the review will be to assist the worker in reviewing:

(A) All available resources;

(B) Alternative service strategies; and to

(C) Evaluate whether services should be continued;

(b) Supervisors shall review all cases which have received continuous services for a 12 month period;

(c) The supervisor shall document completion of a review by entering "Reviewed" plus date and initials on the respective service plan narrative.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

#### **413-040-0050**

##### **Purpose**

[Hist.: SCF 6-1997(Temp), f. 7-14-97, cert. ef. 7-15-97]

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

#### **413-040-0060**

##### **Definitions**

[Hist.: SCF 6-1997(Temp), f. 7-14-97, cert. ef. 7-15-97]

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

#### **413-040-0070**

##### **Service Agreement**

[Hist.: SCF 6-1997(Temp), f. 7-14-97, cert. ef. 7-15-97]

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

## **413-040-0080**

### **Letter of Expectation**

[Hist.: SCF 6-1997(Temp), f. 7-14-97, cert. ef. 7-15-97]

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

## **413-040-0090**

### **Service Agreement/Letter of Expectation Not Required**

[Hist.: SCF 6-1997(Temp), f. 7-14-97, cert. ef. 7-15-97]

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

## **Substitute Care Placement Reviews**

## **413-040-0100**

### **Purpose**

These rules outline the required review process to place and maintain a child who is in the legal custody of the State Office for Services to Children and Families (SOSCF) and is not placed with a parent.

Stat. Auth.: HB 2004

Stats. Implemented: PL96-272; Title IV-E, ORS 419A.090-419A.122, 419B.440-.476 & 419C.623-.656

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

## **413-040-0110**

### **Definitions**

- (1) "Least Restrictive Substitute Care" means the most family-like setting available.
- (2) "Local Citizens' Review Board" is a board of not less than three nor more than five members appointed by the juvenile court to review the cases of all children in the custody of SOSCF and placed in an out-of-home placement (ORS 419A.090-419A.094 et seq).
- (3) "Release and Surrender Agreement" is a voluntary agreement used to transfer guardianship and control of a child from a parent to SOSCF, to allow SOSCF to place a child for adoption and to consent to an adoption. The release and surrender agreement does not terminate the parents' rights, nor relieve the parent of legal responsibility to support the child, nor terminate the child's right of inheritance. However, the agreement gives SOSCF guardianship responsibility

for the child until age eighteen, unless the child is legally adopted, or the parent revokes the agreement, or the court of competent jurisdiction relieves SOSCF of guardianship responsibility.

(4) "Substitute Care" for purposes of 96-272 substitute care refers to a child(ren) in the legal custody and care of the State Office for Services to Children and Families and who is in an out of home placement with someone other than their birth parent or legal guardian.

(5) "Termination of Parental Rights" means that pursuant to ORS 419B.500 through 419B.530 or the statutes of another state, a court of competent jurisdiction has entered an order terminating the rights of the parent or parents. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419.A.200).

Stat. Auth.: HB 2004

Stats. Implemented: PL96-272; Title IV-E, ORS 419A.090-419A.122, 419B.440-.476 & 419C.623-.656

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

## **413-040-0120**

### **Branch Substitute Care Committee**

(1) Each SOSCF branch will have a Substitute Care Committee consisting of a panel of appropriate persons, one of whom is not in line of supervision to the case. Community members, foster care providers, and juvenile department staff will also be included in the committee. Every effort will be made to include a minority person(s) as a standing member of the Committee. Each committee will include at least one non-SOSCF member, such as a juvenile department staff member, foster care providers or other service providers. Parents and extended family may be invited and encouraged to participate whenever possible and appropriate.

(2) The Branch Substitute Care Review Committee will:

- (a) Review within 30 days every child that is initially placed, returned to, or placed in more restrictive substitute care;
- (b) Complete the six-month administrative reviews for all cases in counties that do not have a Local Citizens' Review Board;
- (c) Complete administrative reviews in addition to the review of the Local Citizens' Review Board if required by the branch manager.

(3) Substitute Care Committee Responsibilities. The Committee will:

- (a) Assist in developing a plan using information provided by the family's worker, the child's parents, the child and other staff and providers who offer information and observations;
- (b) Determine and approve the appropriateness of and necessity for the foster care placement and that the plan is workable;
- (c) Make a recommendation as to the most appropriate level of placement and availability of resources in close proximity to the child's parents. The committee will then document its recommendations.

(4) Citizen Review Board Recommendations. The State Office for Services to Children and Families will implement recommendations of a local Citizens' Review Board as the agency deems appropriate. SOSCF will give notification to the Board of any recommendations which SOSCF does not intend to implement. This notification will be given within 17 days of receipt of the CRB recommendations. SOSCF will send copies of this notification to parents and foster

parents who received the CRB recommendations.

Stat. Auth.: HB 2004

Stats. Implemented: PL96-272; Title IV-E, ORS 419A.090-419A.122, 419B.440-.476 & 419C.623-.656

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

### **413-040-0130**

#### **Administrative Reviews for Public Law 96-272 and ORS 419A.090 Et Seq.**

(1) Administrative Reviews will be held on:

- (a) All children in the legal custody of SOSCF; and,
- (b) Residing outside of their parental home(s); and
- (c) Placed in paid or unpaid substitute care or adoptive placement.

**Note:** Exceptions to the Administrative Review Requirements are children in:

- (A) The State Hospital; or
- (B) Fairview Hospital; or
- (C) Independent Living; or
- (D) A nursing home; or
- (E) The Deaf or Blind School.

(2) 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 Citizen Review Board review conducted in accordance with ORS 419A.090 through 419A.128; or
- (b) The Branch Substitute Care Committee in the absence of a review by a Local Citizen Review Board when the parent(s) is invited; or
- (c) A hearing, held no earlier than five months after placement when a CF 147B form or a comprehensive court report is presented to the court at the hearing and the court relieves the CRB of its responsibility to review the case pursuant to ORS 419A.106 (1) (b);
- (d) A court hearing following the initial dispositional hearing and meeting the requirements for a CRB Administrative Review can substitute for a CRB if held within six months of the scheduled CRB review;
- (e) A dispositional hearing held within 60 days prior to the date the Administrative Review is due in those counties where local Citizen Review Boards operate; or up to six months if approved by the court and the Citizen Review Board;
- (f) A dispositional hearing held prior to the date the next Administrative Review due date in those counties where Branch Substitute Care Committees operate. Required documentation supporting the six month review will include:
  - (A) The Substitute Care, Six Month Review (CF 147B form) for narration of case information; and

(B) A signed recommendation of the findings of the Citizens' Review Board (to be attached to the 147B Narrative Section of the case record); or

(C) A court order with language to the effect that a dispositional hearing was held in place of an administrative review.

Stat. Auth.: HB 2004

Stats. Implemented: PL96-272; Title IV-E, ORS 419A.090-419A.122, 419B.440-.476 & 419C.623-.656

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

## **413-040-0140**

### **Dispositional Review Hearings by the Court**

A dispositional review hearing will be requested by the SOSCF worker and held no earlier than nine months and no later than eighteen months following every child's placement when SOSCF has custody, and every one year thereafter as long as the child remains in substitute care. The dispositional hearing will:

- (1) Be conducted by a juvenile court; another court of Competent Jurisdiction; or by an authorized tribal court; and,
- (2) Result in a court order reflecting the appropriateness of the child's continued placement and a determination of the future status of the child (including, but not limited to) whether the child shall:
  - a) Be returned to the parent; or
  - (b) Be continued in substitute care for a specified period; or
  - (c) Be placed for adoption; or
  - (d) Be continued in foster care on a permanent or long-term basis because of the child's special needs or circumstances.
- (3) Written evidence of a dispositional hearing having taken place will include:
  - (a) A written report filed by the worker in accordance with ORS 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 ORS 419B.400 through 419B.452); and,
  - (b) A dispositional order. A court hearing may be counted as a dispositional review hearing when the following conditions are met:
    - (A) The child has been in care at least nine months;
    - (B) An updated CF 147B is presented at the hearing or attached to the court report.

Stat. Auth.: HB 2004

Stats. Implemented: PL96-272; Title IV-E, ORS 419A.090-419A.122, 419B.440-.476 & 419C.623-.656

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

## **413-040-0150**

### **Parent's Rights (When SOSCF Does the Administrative Review)**

(1) All legal custodians and parents must be invited and encouraged to participate in the six-month review. Copies of the six-month review must be provided 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.

(2) Other individuals who will be invited to attend the six-month review 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).

(3) Case records must contain documentation that written advance notice of the following changes were provided to parents:

- (a) Changes in the child's placement;
- (b) Changes in visitation.

(4) Parents shall be advised in writing that they have recourse through the following process should they not agree with changes in placement or visitation:

- (a) A conference with branch staff; or
- (b) An administrative hearing.

(5) The local SOSCF office shall provide information to the Local Citizens' Review Board and the juvenile court to assure that parents and other significant persons will be notified by the board or court of scheduled review hearings.

Stat. Auth.: HB 2004

Stats. Implemented: PL96-272; Title IV-E, ORS 419A.090-419A.122, 419B.440-.476 & 419C.623-.656

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

### **413-040-0160**

#### **Administrative Review and Dispositional Hearing Requirements for Exceptional Situations**

(1) Responsibility for CRB Reviews when more than one branch or state is involved with the case. Branches will meet the Administrative Review requirements for children in placements as follows:

- (a) For substitute care placements inside and outside of Oregon, the branch having legal jurisdiction is responsible.
- (A) Information about the child placed out-of-state will be requested for the review from the supervising state; and
- (B) The Oregon social service worker will compile information for the review on family members residing in Oregon

and receiving SOSCF services.

(b) For non-finalized adoptive placements on fully free children, the supervising branch is responsible.

(2) Review Requirements for Hospitalized Children and Children on Runaway. Administrative reviews must be held for the following children:

(a) Children returned to care from the State Hospital or Fairview:

(A) The review must be held within 30 days of a child's return to care if the review would have been due during the child's hospitalization, with the exception of;

(B) Children placed directly from the hospital into a nursing home, without a prior substitute care placement. Compliance with PL 96-272 is not required.

(b) Children on the run:

(A) The first scheduled review must be held when the child has been on runaway status less than six months;

(B) Additional reviews are not required if the child remains on the run.

(3) Dispositional Hearing Requirements for Children Hospitalized, On the Run and in Adoptive Placements:

(a) Hearings must be held on schedule by the branch having legal jurisdiction for children in the following situations:

(A) Children on runaway status of less than six months;

(B) Children in the State Hospital;

(C) Children in official adoptive placements that have not been finalized when the first 18-month hearing has not been held. Placement can be considered as an adoptive placement when there is a letter of designation in the case record from Central Office Adoption Unit declaring the home as an adoptive home;

(D) Children in court-sanctioned permanent foster care placements when the first 18-month hearing has not been held. The permanency of the placement must be substantiated by a court order specifically naming the permanent foster parent.

(b) When an adoptive placement is disrupted, the two-year hearing must be held within 60 days of the disruption if the dispositional hearing was otherwise due during the placement, and:

(A) The child was not moved directly into another adoptive placement; and

(B) The family decides they will not adopt but intend to keep the child, thereby changing the child's status from adoption to foster care; or

(C) The finalization of the adoption is delayed beyond a reasonable time or postponed and there is a question about the permanency of the child's placement.

Stat. Auth.: HB 2004

Stats. Implemented: PL96-272; Title IV-E, ORS 419A.090-419A.122, 419B.440-.476 & 419C.623-.656

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

### **Interstate Compact on the Placement of Children**

## **413-040-0200**

### **Overview**

(1) The purpose of the Interstate Compact on the Placement of Children (ICPC) is to guarantee that children placed across state lines will receive the same legal protection and social services as they would if they were to remain in their home state. The Compact also guarantees that children shall be returned to their home state should the need arise, and that states are financially and legally responsible for their children.

(2) The Interstate Compact on the Placement of Children was adopted into law by the 1975 Oregon legislature. (Refer to ORS 417.200.) All states are members including the District of Columbia and the Virgin Islands.

Stat. Auth.: HB 2004

Stats. Implemented: ORS. 417.200-417.260

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

## **413-040-0210**

### **Definitions**

(1) "Compact Administrator" means the director of the State Office for Services to Children and Families who is designated by law as the public authority to carry out the provisions of the Compact.

(2) "Compact State" means all states including the District of Columbia and the Virgin Islands.

(3) "Deputy Compact Administrator" means the person appointed by the Compact Administrator as the coordinator to assure compliance with the law.

(4) "Receiving State" means the compact state into which a child is brought or sent.

(5) "Sending State" means the compact state and any office or employee of that state, or any court, private agency or individual in that state who sends, brings or causes a child to be placed into another state.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **413-040-0220**

### **Who Must Use Interstate Compact**

Any officer or employee of a state, a court, private agency, or individual who arranges placement of child into another state must use the compact.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **413-040-0230**

### **When to Use Interstate Compact**

(1) Placements Subject to the Compact. The Interstate Compact on Placement of Children applies when any child is placed, brought or sent into another state. This includes:

- (a) Placements with parent(s) or relative(s) when the parent or relative is not making the placement. (See ORS 417.200, ART VIII, for Limitations.) Children in the jurisdiction of the court are subject to compact law;
- (b) Placements in a foster home, group home, residential treatment facility or institution. Children being placed in out-of-state residential treatment facilities must first be screened by the Target Problem Child Committee;
- (c) Placements in an adoptive home.

(2) Placements Not Subject to the Compact:

- (a) Placements made by a parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or a child's non-agency guardian are not subject to the compact. The person making the placement must have legal custody of the child and place the child with a relative. SOSCF staff are prohibited from being party to placing a child without use of the compact;
- (b) Placements made into a medical or mental health facility or boarding school are not subject to the compact.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **413-040-0240**

### **Financial and Medical Responsibility**

(1) The sending state is financially responsible for a child placed or sent into another state. The sending state is also responsible for the child's medical coverage, if applicable. Children for whom SOSCF arranges placement out-of-state must be in the custody of the State Office for Services to Children and Families in order for:

- (a) The office to pay for maintenance or medical care, if needed. The financial and medical plan for an Oregon child will accompany the out-of-state referral; (Form CF 1044)
- (b) The office to pay for the child's return to Oregon.

(2) Medical coverage is based on the child's individual eligibility status and medical resources available in the receiving state. A Title XIX and Title IV-E eligibility form, CF 1044, shall accompany all interstate applications.

(3) Children in the custody of an individual, court or private agency are the financial responsibility of that individual, court or private agency.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **413-040-0250**

### **Jurisdiction - Termination**

The sending state must retain jurisdiction and financial responsibility for the child until the Compact Agreement is legally terminated. Termination may occur under the following circumstances:

- (1) The child is returned to the sending state.
- (2) The child is legally adopted, or the adoption has disrupted.
- (3) The child becomes self-supporting or reaches the age of majority.
- (4) The receiving state authorizes the sending state to terminate its jurisdiction over the child. The receiving state's deputy compact administrator is the only person with the authority to give the approval to terminate the compact.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **413-040-0260**

### **Penalty**

Violation of the Interstate Compact on the Placement of Children is a Class A Misdemeanor. In addition to liability for any such punishment or penalty, such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit or other legal authorization held by the sending agency which empowers or allows it to place or care for children.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **413-040-0270**

### **Sending a Child Out of Oregon**

- (1) When referring a child(ren) for placement into a resource outside the State of Oregon, information as identified below must be submitted to the ICPC office;
- (2) The SOSCF branch must determine if a child is eligible for Title IV-E Foster Care (ADC-FC) when the placement is being considered with a relative who may need financial assistance for the child. The relative's home must meet the out-of-state's criteria for certification before payment can be made. The information will be submitted to the ICPC office on

an SOSCF form, CF 1044, along with:

(a) Three typed, printed and signed copies of the CF 100A, "Interstate Compact Placement Request"; and

(b) Three copies of:

(A) The court order or commitment order establishing jurisdiction over the child;

(B) The social summary on the child, CF 147, a report to the court and a psychological evaluation;

(C) The CF 1044, "Title IV-E Eligibility Financial/Medical Plan";

(D) A cover letter outlining SOSCF's needs.

(3) The Oregon Interstate Compact Office reviews the referral for ICPC compliance, signs as the sending state administrator and forwards the material to the receiving state compact office. The referral will be processed within 10 working days of receiving a complete referral.

(4) The receiving state compact office requests a home study and/or foster care licensing study from their local agency. (The national time frame for finishing this study is 30 days.) The home study will include a recommendation regarding placement.

(5) The home study will be sent to the receiving state's compact office after completion. The receiving state's ICPC Deputy Administrator will review the home study and will sign an approval or denial of the request.

(6) Upon receipt of the home study and/or licensing study and the signed, approved application, CF 100A, the ICPC Deputy Administrator forwards a copy of the request to the sending party.

(7) Once the interstate application is approved, the child can be placed. After the child is placed, the sending party shall complete and mail three copies of the ICPC 100B to the sending state's ICPC Deputy Administrator indicating the date of placement. This form will start supervision by the receiving state.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **413-040-0280**

### **Transportation Procedures**

(1) If payment for transportation of a child in the custody of SOSCF is needed, the SOSCF branch office will contact the Oregon ICPC Deputy Administrator for assistance.

(2) Payment for Placement. The ICPC office will pay for:

(a) A one way ticket for the child;

(b) A round trip ticket for the escort;

(NOTE: If the placement involves more than one child(ren), and/or escorts, additional tickets may be purchased.)

(c) Car rental, meals and items bought for the children and shipment of belongings, on a case-by-case decision;

- (d) Transportation per diem costs will be reimbursed at the current contract rates;
  - (e) A one night stay if the travel requires more than 10 hours. The branch is responsible for additional overnight expenses;
  - (f) (In adoption cases only.) One pre-adoption visit once ICPC has been approved. If the pre-adoption visit is to be made in-state, the ICPC can pay in-state rates only and can pick up one to five days at the in-state rate. (Call the ICPC Deputy Administrator prior to contact with the resource.)
- (3) Arrangement for travel is to be made only after the ICPC authorization number is received. Away Travel is the authorized carrier. Expenses will be reimbursed using the form CF 228, "Travel Expenses." Receipts must be submitted for any expenses other than per diem.
  - (4) In case of placement disruption, contact the Oregon ICPC Deputy prior to making travel arrangements.
  - (5) Transportation expenses incurred when children are sent to other states without ICPC consultation/approval will be the responsibility of the sending branch.
  - (6) In custody cases where children are being returned to non-offending custodial parents, the Oregon ICPC office will assist in returning the child to the resident state as long as jurisdiction has not been established in Oregon. Jurisdiction includes temporary custody.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **413-040-0290**

### **Requests to Place a Child into Oregon**

- (1) Requests for home studies and placement of a child into Oregon shall be received and reviewed by the Oregon ICPC Deputy Administrator and forwarded to the appropriate SOSCF branch, court, private agency or residential treatment center.
- (2) The SOSCF branch will conduct a home study and/or licensing study within 30 days of receiving the request. In addition to the suitability of the home, factors such as need for financial assistance, special education and availability of medical or psychological services shall be considered.
- (3) After the study is completed, three copies must be forwarded to the Oregon ICPC office.
- (4) The Oregon ICPC Deputy Administrator will review the study and make a determination approving or not approving the placement based on information contained in the report and case record.
- (5) Two copies of the study, along with two copies of the interstate application (CF 100A), must be sent to the sending state's Interstate Compact Office. One signed copy of the approval and study will be sent to the sending party.
- (6) The Oregon ICPC office is notified of the child's placement into Oregon by receipt of the ICPC 100B form. A copy of this form is sent to the supervising party/agency to inform them of the placement and to start the supervision.
- (7) The supervising party/agency shall submit progress reports (three copies) to the Oregon ICPC Deputy Administrator as requested by the sending state.

(8) Termination of interstate services shall not take place until the receiving state's ICPC concurs with closure as outlined in OAR 413-040-0250 of this document.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

### **413-040-0300**

#### **Requests That By-Pass the Oregon ICPC Office**

Requests that are received by the SOSCF branch office directly from another state party/agency will be sent to the Oregon ICPC Deputy Administrator for review and handling. No action will be taken unless approval is given by the Oregon ICPC Deputy Administrator. Branch studies should not be sent directly to the requesting party/agency.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

### **413-040-0310**

#### **Independent and Private Agency Adoptions**

When a child is placed out of or into Oregon by a parent or a private licensed adoption agency for purposes of adoption, the Interstate Compact law applies. Independent and private agency adoptions will be processed within a 10 day time frame from the time of receipt into the ICPC office of the compact placement referral. Referrals for compact placement shall be sent to the Oregon ICPC office containing three copies of the following:

(1) The ICPC 100A. The 100A shall contain:

(a) The name, date and place of birth of the child;

(b) The identity and address or addresses of the parents or legal guardian;

(c) The name and address of the person, agency or institution with which the sending agency proposes to send, bring, or place the child;

(d) Indication as to where the adoption is to be finalized.

(2) A full statement of the reasons for such proposed action and evidence of the authority to which the placement is proposed to be made.

(3) Affidavit of Intents to consent for adoption, if the child is yet to be born, or, once the child is born, final surrenders or consents from both of the birth parents and medical information on the child.

(4) The adoption medical report form containing social and medical information regarding both the birth parents. (CF 246)

(5) An affidavit regarding the birth father's rights, or surrenders as mentioned above.

- (6) The tribal releases if the birth parents have Native American heritage.
- (7) The home study, if already completed. If not completed, information as to who will do the study.
- (8) The complete address of the Receiving State's Compact Administrator.
- (9) The legal father's consent, if there is a legal father. In cases of surrogacy, ICPC need only be done if there is a legal as well as a biological father.
- (10) Proof of Oregon residency.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

### **413-040-0320**

#### **Intercountry Adoptions**

When a child is placed from a foreign country into a state other than Oregon by a private agency licensed in Oregon, the following procedures apply:

- (1) If the Oregon agency takes custody of the child, the ICPC process applies and must be followed.
- (2) If the Oregon 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, there is no need for the ICPC process.
- (3) The Oregon agency may be asked to assure that if the placement disrupts they will take custody of the child. This may be done through the ICPC process or by letter, depending upon the needs of the receiving state.
- (4) Oregon licensed agencies must comply with the receiving state's laws and requirements regarding an intercountry adoption.
- (5) If Interstate Compact has been invoked, the adoption agency shall submit the ICPC 100B to close the compact once the adoption is finalized.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

### **413-040-0330**

#### **Communications**

All communication concerning the Interstate Compact on the Placement of Children shall proceed through: The Deputy Administrator; Oregon Interstate Compact on the Placement of Children; State Office for Services to Children and Families, 500 Summer Street NE, 2nd Floor, Salem, OR 97310-1017; Telephone (503) 945-5671

Stat. Auth.: HB 2004

Stats. Implemented: ORS 417.200-417.260

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

## **Interstate Services for Delinquent Juveniles**

### **413-040-0370**

#### **Purpose**

The purpose of these rules is to describe the Interstate Compact on Juveniles, of which all states are members. The Compact enables states to deal with runaway youth and also provides a means for juvenile offenders to be supervised in other states. The definition of who is a juvenile depends upon the laws of the state from which the juvenile comes.

Stat. Auth.: HB 2004

Stats. Implemented: 417.010-417.180

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

### **413-040-0380**

#### **Definitions**

(1) "Absconder" means any juvenile on formal probation from the court or under commitment to a juvenile training school who leaves his/her approved place of residence without permission.

(2) "Deputy Compact Administrator" is the staff person appointed by the director as the general coordinator of activities and having the responsibility to develop rules and policies to carry out the terms and provisions of the compact.

Stat. Auth.: HB 2004

Stats. Implemented: 417.010-417.180

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

### **413-040-0390**

#### **Administration of the Compact**

(1) The Deputy Compact Administrator shall provide interpretation of the compact and coordination of all referrals or requests to:

(a) Permit out-of-state supervision of a delinquent juvenile who should be sent to some other state when eligible for parole or probation;

(b) Provide for the return of absconders and escapees to the states they left;

(c) Provide for return of runaways to their home states who have not as yet been adjudged delinquent;

(d) Extradite a juvenile who has committed a serious criminal offense and fled to another state before the court took jurisdiction; (Oregon adopted this provision but it is only binding between the other states which adopted it also);

(e) Return juveniles to Oregon when Compact placement fails.

(2) Communications. All communications concerning the Interstate Compact on juveniles are to be sent through: Interstate Compact on Juveniles; State Office for Services to Children and Families, 500 Summer Street NE, Salem, Oregon 97310; Telephone (503) 945-5671

(3) Funding. Application for the use of the Compact Funds should be directed to the Deputy Compact Administrator, only after all other possible resources have been fully explored and exhausted. Other resources might include parents, relatives, courts, fraternal organizations, or other public and private agencies.

(4) Compact Request. To initiate an Interstate Compact request for out-of-state placement and supervision, the following must be submitted to an Interstate Compact Office:

(a) Three copies of social, court, or institutional summary;

(b) Three copies of Court Order or Commitment Order;

(c) Three copies of Rules of Parole or Rules of Probation;

(d) Three copies of the Application for Compact Services (CF 29), and three copies of the Memorandum of Understanding and Waiver (CF 42). (In the case of probation, the Memorandum of Understanding and Waiver must be signed by the judge.)

(5) Forms for Implementing the Compact. The Association of Juvenile Compact Administrators developed a series of forms which must be used in compact cases. These include:

(a) CF 32 Form A, Petition for Requisition to Return a Runaway Juvenile;

(b) CF 34 Form I, Requisition for Runaway Juvenile;

(c) CF 33 Form B, Order of Detention;

(d) CF 36 Form II, Requisition for Escapee or Absconder;

(e) CF 38 Form III, Consent for Voluntary Return by Runaway, Escapee or Absconder;

(f) CF 29 Form IA, Application for Compact Services;

(g) CF 39 Form IV, Parole or Probation Investigation Request;

(h) CF 41 Form V, Report of Sending State Upon Parolee or Probationer Being Sent To Another Jurisdiction;

(g) CF 42 Form VI, Memorandum of Understanding and Waiver (Parolee or Probationer).

Stat. Auth.: HB 2004

Stats. Implemented: 417.010-417.180

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

## **HIV Testing of Children in SOSCF Custody and HIV Confidentiality**

**413-040-0400****Policy**

HIV testing is an intrusive medical procedure which can have serious social consequences. SOSCF will subject children in its custody to this procedure only if it is medically indicated. When a child in SOSCF custody is tested for HIV, informed consent procedures shall be followed and the results of the test held in strictest confidence.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-040-0410****Definitions**

(1) "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.

(2) "Counseling" means group and individual counseling, emotional support groups, one-on-one emotional support, AIDS education, and/or information services.

(3) "High Risk Group" 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.

(4) "HIV" is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.

(5) "HIV Infection". People who have been tested and found to have the antibody are referred to as having HIV infection. Persons with HIV infection have a very high chance of developing AIDS within the next 10 years following the positive test result. These people are capable of transmitting the virus through risk behaviors, as described below.

(6) "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.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-040-0420**

### **HIV Antibody Testing**

(1) For children and youth in SOSCF 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 SOSCF 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). Adults require up to six months to seroconvert to HIV antibody positive after being infected.

(4) SOSCF shall not license any private child-caring agency whose admission criteria include a mandatory HIV test.

(5) SOSCF shall not contract with any service provider whose admission criteria include a mandatory HIV test.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **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, SOSCF may grant medical consent and authorize medical treatment. Children 13 years of age or older should be included in this planning and also consent. SOSCF must have a medical statement that the HIV test is necessary for care and treatment before ordering or arranging for a test. If SOSCF 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 SOSCF 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) The regional manager may consent to the test for the child over the child's objection (413-010-0410(4)(a)(C)); or

(b) The worker may petition the court to order the child to be tested.

(4) SOSCF staff are responsible to assure that informed consent is obtained when children in SOSCF custody are to be given an HIV test. If the medical provider does not obtain the informed consent, SOSCF 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. SOSCF 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.: HB 2004

Stats. Implemented: HB 2004

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

## **413-040-0440**

### **Counseling**

A child being referred for HIV antibody testing must be referred for pre- and post-test counseling.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-040-0450****Confidentiality**

(1) Many of SOSCF 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 Health Division 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 SOSCF's child welfare services, SOSCF 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 regional office representative, and should include input from the physician, county Health Department who ordered the test, or the HIV Program of the Health Division.

(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 SOSCF learns from any source that a child is HIV positive, the above procedures must be followed.

(6) Pursuant to Health Division Rule 333-012-0270, if SOSCF possesses information that an adult client or other person associated with a case is 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 person or a court order.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 433.045

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 50**

**SUPPORTIVE SERVICES**

**Housekeeper Services**

**413-050-0000**

**Purpose**

The mission of the State Office for Services to Children and Families is "Helping Children and Families." Children are best protected and nurtured when families are strong. The purpose of these rules is to help meet basic needs of families to maintain and strengthen the family so children can be maintained in their own homes whenever possible.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

**413-050-0010**

**Service Description**

Regular housekeeping services are those tasks carried out within the home which are generally held to be routine and necessary to maintain the functioning of a family and which are performed by persons who are not members of the immediate household. Those tasks, by this definition, include, but are not necessarily limited to:

- (1) Routine housecleaning and related chores;
- (2) Laundry;
- (3) Food preparation and dish washing;

(4) Twenty-four-Hour Emergency Service. There are temporary emergency circumstances wherein "live-in" arrangements are included under the housekeeping definition. Such 24-hour emergency service must be deemed as necessary to keep the family together and would include providing all routine household functions, including child care, usually when the only capable family members are temporarily absent or incapacitated.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

### **413-050-0020**

#### **Eligibility**

(1) Payment for housekeeping services rendered will be made only on behalf of:

(a) Families who are current recipients of ADC, SSI, or are within the 0-79% State Median Income range; or

(b) Foster children (both IV-E and GA-FC) who are in the care and custody of SOSCF, living in the care of a foster family.

(2) Service Criteria. Housekeeping Services may be authorized when services are deemed to offer an adequate solution to the following conditions:

(a) Incapacity or short-term absence (usually not exceeding seven days) of the parenting persons who are unable to fulfill the routine, necessary household duties, due to such conditions as chronic or acute illness, severe emotional stress, physical handicap, complication of pregnancy, medically prescribed rest and childbirth. The need and duration of need related to physical conditions shall be confirmed verbally or in writing by the attending physician unless the degree of incapacity is obvious (person is physically immobile);

(b) Certain unusual requirements for care of ill or handicapped children which preclude the carrying out of routine, necessary housekeeping duties by the parenting person and such care and duration of care is verified by the child's attending physician.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

### **413-050-0030**

#### **Eligible Children Served Jointly With Other DHR Divisions**

(1) The Senior and Disabled Services Division (SDSD) will be responsible for authorization and payment of Housekeeper Services when the service is to support and sustain the SSI parent in an Alternate Community Care Plan. This would apply when the parent is physically unable to provide essential care to himself or herself and would, without Housekeeper Services, require placement in a nursing home or other medical institution. Authorization and payment of Housekeeper Services for SDSD cases is subject to the availability of funds. In such cases:

(a) The SDSD case manager will be responsible for developing, establishing and monitoring the Alternate Care Plan and

determining the appropriateness for Housekeeping Services as an adjunct of an Alternate Community Care Plan, and for parent/s who are disabled;

(b) The SOSCF worker will be responsible for all other social service planning and service implementation for the family as may be needed to assure the well-being of the children;

(c) Both SDSD and SOSCF agree that coordination at either the worker or supervisor level is required to carry out such joint provision of services. SDSD will not authorize housekeeper payments for an SSI/ADC case, or SSI parent/SSI child case, without coordinated planning with SOSCF.

(2) SOSCF will be responsible for authorization and payment for Housekeeper Services when it is not an addition to an Alternate Care Plan.

(3) All housekeeper situations pertaining to a child who is eligible in his or her own right for SSI, other than that covered in subsection (1) (a) of this rule, is the responsibility of SOSCF.

(4) An allowance to the AFDC recipient for food and shelter costs for a "live-in" housekeeper is available through the Senior and Disabled Services Division. Such payment is initiated through the SDSD case manager.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

#### **413-050-0040**

##### **Authorization of Service**

(1) SOSCF Housekeeping Services are to be authorized in advance of rendering the services.

(2) Under emergency conditions or other unusual circumstances housekeeping services may be provided for up to, but not exceeding, three working days prior to authorization. An "emergency" exists when the physical or emotional well-being of any family member would be endangered as a result of the time required to secure prior authorization. "Other unusual circumstances" are those deemed by prudent judgment to be reasonable explanations why a prior request for service was not made.

(3) Authorization Period. Each authorization for service is to be for a specific duration based on a reasonable estimate of the need, not to exceed 90 days for regular housekeeping or 6 months for disabled parents of children, and 7 days for emergency 24-hour services. Extensions are permissible with supervisory written approval.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

#### **413-050-0050**

##### **Policies Governing Payment**

(1) Payment rates are based on the minimum established by the Federal Wage and Hour Regulations. Payment may be made for regular housekeeping services for up to 40 hours per week. Overtime is paid at time and a half for each work

hour above 40 hours per week, not to exceed a maximum of 10 hours per week overtime. Overtime is calculated by determining the hours worked for each sequential 7 day period beginning with the first day worked. All hours worked over 40 for the week is overtime regardless of hours worked for any one day.

(2) Payment rates per day for 24-hour emergency live-in services shall be negotiated by the family and shall not exceed a maximum cash payment equal to 10 hours per day.

(3) Exceptions to Maximum Payment Rates will be allowed under the following conditions:

(a) When part of the housekeeper's authorized responsibilities include use of his/her own car for purposes essential to maintaining the family, such as grocery shopping, reimbursement can be made at a standard rate for state employee mileage reimbursement. The agency assumes no liability incurred as a result of the housekeeper's use of his/her own car;

(b) Where the local rates for housekeeping services are generally higher than the maximums established in this rule, and to the extent competent housekeepers are not available for SOSCF services, a higher rate may be established by the branch manager. The branch manager shall notify staff in the local area affected, and the program manager, of increased rates;

(c) Exceptions to the maximum rate on a case basis may be made by the branch manager taking into consideration the local housekeeping budget constraints and the justification of such exception.

(4) Social Security taxes will be withheld from vendor payments. The agency will pay the employer's share.

**Exception:** When payment for housekeeping services is made to a commercial firm, such as Homemakers International (Upjohn) or a private agency, the Social Security process of withholding and paying Social Security taxes are made by the firm or agency.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **Family Resource Worker Services**

### **413-050-0100**

#### **Purpose**

These rules define and describe family resource worker (FRW) services; set forth the methods by which they are provided; and define the general limitations and requirements.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

### **413-050-0110**

#### **Services Family Resource Workers Provide**

The major responsibility of the family resource worker is to provide an intensive support to the social service effort in order to improve the parents' homemaking skills and child care knowledge and practices, and to sustain the household functioning at a time of crisis. These services shall include:

(1) Services Related to Parent Functioning:

- (a) Teaching and demonstrating the basic physical and emotional care of children;
- (b) Teaching and demonstrating practical ways to care for children with special physical needs;
- (c) Teaching aspects of family hygiene and nutrition;
- (d) Reinforcing the instruction and training given to parents by parent trainers when families are referred for both homemaker service and parent training.

(2) Services Related to Personal, Social, and Emotional Needs of the Family:

- (a) Providing appropriate emotional support to parents;
- (b) Carrying out special assignments with the service worker related to other therapeutic interventions with parents or child.

(3) Service Related to Evaluation and Diagnosis of Family Strengths, and Issues of Concern:

- (a) Assisting the service worker in identifying parenting, emotional or developmental strengths and concerns;
- (b) Reporting to the service worker indications of treatment progress in areas of parenting, emotional growth, social maturity, and general family functioning.

(4) Services Related to Home Management. Family resource worker service is not interchangeable with housekeeper service. The family resource worker is not a provider of household tasks but a teacher of those functions. This service includes:

- (a) Managing time and organizing the home;
- (b) Economizing, budgeting and buying;
- (c) Housekeeping and related chores.

(5) Individual Care Services. The family resource worker provides individual care only when they are trained to provide the skills required and when such skills are needed on a time limited basis until other arrangements can be made.

- (a) Caring for children and their environment when the parent is temporarily disabled and special skills are required;
- (b) Providing (non-nursing) support for medical services to a parent;
- (c) Performing home management functions when the parent(s) is/are unable.

(6) Services Family Resource Workers Do Not Provide. A family resource worker does not give nursing care, medical treatments, or administer oral or injectable medications. Also, general housekeeping and/or babysitting functions are by themselves considered an inappropriate use of a family resource worker's time.

(7) How Service is Provided. The service is provided in one of two ways:

- (a) Through contracting with a family resource worker service agency (FRW); or

(b) Through using SOSCF's own staff.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

### **413-050-0120**

#### **Eligibility**

(1) Criteria. Family resource worker service may be provided only to those families receiving SOSCF services, including foster parents, for whom family resource worker service is appropriate.

(2) Family Conditions Which Make Family Resource Worker Service Appropriate:

(a) When the parent or parents in the home are unable to provide adequate care for children because of physical or mental illness, physical handicaps or other disabilities;

(b) When there are indications of neglect and it is anticipated that with consistent help in parenting, placement of the children may be averted;

(c) When the parent or parents are inexperienced or of limited intelligence, and need training and demonstration of child care, nutrition, budgeting and housekeeping skills;

(d) When a parent requires relief from other duties and care of the other children in the family as a result of the ill or handicapping condition of a child requiring specialized medical treatment and/or special care;

(e) When foster children need emergency care because of a child's illness or because a foster parent is ill and needs assistance with the care of children and household management;

(f) When a child(ren) can be returned home from substitute care with the support of a family resource worker in the child's home;

(g) When youth need home management training upon entering the SOSCF independent living program.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

### **413-050-0130**

#### **Service Priorities**

(1) Priority shall be given to families in which the service is in support of time-limited objectives to improve family functioning or maintain a family in a crisis. Normally, the service is not intended to provide long-term maintenance for a family.

(2) Incoming cases will be prioritized based on the following:

(a) Priority 1: Children who are at imminent risk of abuse or neglect. This includes any child at risk of neglect or of physical, emotional, or sexual abuse in his/her own home as substantiated by specific, reliable information which generates concern for the child's immediate safety;

(b) Priority 2: Children who are at risk of out of home placement, replacement or whose return home is imminent. This includes:

(A) Any child in his/her own home who is at risk of out-of-home placement due to conditions such as parental illness of a catastrophic nature, incarcerated parents, physically or mentally disabled child, physically disabled parents, intellectually limited parents, or parents needing assistance in coping with the child's behavior;

(B) Any child currently in foster care whose placement is jeopardized by a temporary disability, dysfunction or crisis in the substitute care situation;

(C) Any child whose return home from substitute care could be affected with the help of a family resource worker.

(c) Priority 3: Children who are not at imminent risk of abuse, neglect, out-of-home placement or replacement. This includes any child in a family which provides minimally adequate parenting and which periodically falls below community standards;

(d) Priority 4: Children in a family who meet appropriate conditions for provisions of family resource worker services, but demonstrate none of the needs described in the preceding priorities for service.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0140**

### **Families Inappropriate for Referral**

Parents who have demonstrated the inability to change or to learn new behaviors by virtue of their long-term conduct or clinically diagnosed condition. Exceptions can be made in permanent planning cases when determined appropriate for service.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **Supportive/Remedial Day Care**

## **413-050-0200**

### **Purpose**

The purpose of these rules is to define key terms, describe eligibility criteria and rate payment policies related to the State Office for Services to Children and Families Supportive/Remedial Day Care program. Expenditures by SOSCF

under these rules are subject to the availability of state or federal funds, as applicable, and are subject to immediate curtailment by SOSCF if the necessary state or federal authorizations or funding are curtailed.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0210**

### **Definition**

"Authorized Absence" means the temporary absence from the facility by a child who is expected to return to care.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0220**

### **Eligibility Criteria**

(1) SOSCF may purchase Supportive/Remedial Day Care Services for children under 13 years of age who are receiving Preventive/Restorative services, Child Protective Services, Substitute Care, or Adoption Services when the child(ren)'s physical, social, mental or emotional needs are not being met and day care will reduce the need for substitute care placement.

(2) Supportive/Remedial Day Care is to be used in the following priority order:

(a) When a child would be able to remain at home as an alternative to substitute care, or to return home from substitute care through specialized day care planning;

(b) When a foster care or adoptive placement is in jeopardy due to a foster or adoptive parent's illness, or there is a need for temporary respite due to extreme care demands of the child;

(c) When a parent is unable to meet the child's needs due to extreme physical or emotional stress

(d) When a child's physical, social, mental, or emotional development is being retarded or is at risk due to lack of proper care or stimulation.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0230**

### **Service Authorization**

(1) Case Record Documentation:

- (a) The service worker must review the appropriateness of day care service as a component of the total service plan. The day care service must be part of a coordinated, goal oriented, time limited casework plan to reduce the need for substitute care;
- (b) The case record must document how the service will support or assist in achieving the service plan objectives. The use of day care services must be approved by the service supervisor;
- (c) Each service is to be coded per IIS code sheet showing the relationship to prevention of substitute care.

(2) Limits of Eligibility:

- (a) The maximum time SOSCF will authorize Supportive/Remedial Day Care for any one child is eight hours a day, five days a week;
- (b) The use of the day care service shall be reviewed by the service worker and supervisor at least once every three months. The service authorization may be extended for three months at a time to assist in meeting the service goal to a maximum of 12 months;
- (c) The service may be used more than 12 months only to prevent imminent foster care or prevent shelter care. Extension past 12 months shall be reviewed and approved by the branch Substitute Care Review Committee;
- (d) If all allocated funds are expended, service workers are to document unmet needs and notify the branch manager. The branch manager will then notify the regional manager of the unmet need.

(3) Select a Provider:

(a) Day Care Home or Center. SOSCF shall assist the parent in evaluating day care providers in order to select the provider which most closely matches the needs of the child and the family. The family should participate in selecting the provider but the service worker shall make final determination based on the needs of the child and goals of the case plan.

(b) In-Home Care:

(A) SOSCF does not license or contract with in-home day care providers. Therefore, prior to authorizing in-home care the service worker shall:

- (i) Determine if the person is known to SOSCF using the Central Provider and Client Index; and
- (ii) Determine that the provider is at least 18 years of age and is willing and able to provide the quantity and quality of care needed by the child(ren). Valid reasons for not using a person include, but are not limited to: conviction of child abuse, a founded child abuse referral, behavior which may have a detrimental effect on a child, or physical or mental problem which would adversely affect a child; and
- (iii) Obtain a provider number (see IIS User's Guide, Provider Subsystem); and
- (iv) Explain to the provider the CF 977, "Payment Policies and Procedures."

(B) In-Home Care may be authorized when:

- (i) A child, who is ordinarily in day care purchased by SOSCF, is ill. This is limited to no more than five days of care in one calendar month and shall not exceed the number of hours per day already authorized; or
- (ii) A handicapped child requires care and no out-of-home day care is available or can be developed; or

(iii) The plan for in-home care does not exceed the cost of out-of-home day care.

(C) The in-home care provider will be paid at the minimum wage.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

#### **413-050-0240**

##### **Payment Process**

SOSCF payment is subject to SOSCF established eligibility conditions described in these rules.

(1) SOSCF will pay only for day care authorized by SOSCF.

(2) If a child is in day care when the service plan is made, payment shall be made only from the date the service is authorized.

(3) SOSCF will make payments for temporary absences if requested by the provider, subject to the following requirements and limits:

(a) The provider must use the same policy for both SOSCF and non-SOSCF families;

(b) The child must be expected to continue in day care with the same provider after the absence;

(c) SOSCF will not make payment for absence(s) exceeding a total of five days in any calendar month; and

(d) Absence days, or portions thereof, will include only the time(s) for which care has been authorized by SOSCF.

(4) SOSCF payment will only be made to a day care provider who is certified or registered by the Child Care Division of the Employment Department.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

#### **413-050-0250**

##### **Payment Authorization**

(1) Complete a "Supportive/Remedial Day Care Payment Authorization/Termination Notice" (CF 116) and a "Plan/Service Authorization" (CF 308). Distribute the CF 116 and input information from the CF 308 into IIS.

(2) Invoices (See the Integrated Information System (IIS) User's Guide, Client Subsystem.):

(a) A "Day Care Invoice" (CPO 350FI-A) will be generated automatically and mailed to the provider from SOSCF Central Office when information from the CF 308 has been input no later than the seventh working day prior to the end of the service month;

(b) If information from the CF 308 has not been input within the above stated time, or a supplemental payment is to be made, branch staff shall send a CF 283, "Supplemental Client Invoice-Day Care," to the care provider;

(c) Checks are written up to the amount authorized. Authorization should be input into IIS prior to service provision whenever possible. The worker will be notified of a discrepancy between authorization and billing amounts by Central Office Accounting Services":

(A) If the provider billed SOSCF for additional care that was authorized but not input, the branch must prepare a CF 283, "Supplemental Invoice." Complete the invoice for the difference to be paid showing the unit, rate, and amount. SOSCF staff shall sign the provider's name and their own name and mail it to Accounting Services, Central Office;

(B) If the provider did not bill SOSCF for additional care that was authorized but not input, the branch must send a CF 283 to the provider to complete and mail to Accounting Services, Central Office;

(C) A CF 308 must also be completed to authorize additional service. For additional service the "Type of Service" code is DSUP for out-of-home providers and DISP for care provided in the child's home.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

#### **413-050-0260**

##### **Payment Revision or Plan Closure**

(1) When a child is no longer in care or the client becomes ineligible prior to the projected end date, the service worker must notify the provider and the client that SOSCF will no longer pay for care. This is done by sending a copy of the most recent CF 116 with the termination section completed.

(2) When a child who is ordinarily in day care purchased by SOSCF is ill an additional payment may be made to a substitute provider.

(3) Any time there is an overpayment the worker must initiate overpayment and/or fraud procedures. See Policy III-B.1.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

#### **413-050-0270**

##### **Billing Method**

(1) SOSCF payments for day care are made by check to the provider on behalf of the client after all care for the month has been given. The invoice is to be submitted to SOSCF Central Office by the provider for payment.

(2) Family day care providers must bill at an hourly rate (with the exception that they may bill at a daily rate for before and/or after school care) not to exceed the total authorized.

(3) Center and group home providers may bill at an hourly, daily, weekly, or monthly rate not to exceed the total

authorized.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0280**

### **Determining Day Care Rates for Payment**

(1) SOSCF will pay the provider's standard rate for all children or the SOSCF maximum rate (see OAR 413-050-0290), whichever is less. The allowable rate shall be entered on the CF 116, "Supportive/Remedial Day Care Payment Authorization/Termination Notice."

(2) The provider shall not ask for, or accept, directly or indirectly, any additional payment for care provided to a SOSCF eligible family unless there is a written agreement between SOSCF and the provider. (See CF 116A, "Request for an Exception.")

(3)(a) When the infant rate has been authorized for a child and the child reaches 30 months of age, the rate must be revised. Service workers are responsible for making this change effective no later than the first of the month after the child reaches 30 months of age;

(b) The service worker shall send the provider a revised CF 116, and revise the Type of Service and authorized amounts on the CF 308 and input into IIS.

(4)(a) Although there are no special day care rates for children who are physically, developmentally and/or emotionally disabled, when a child 30 months of age or over functions below chronological age, SOSCF may authorize up to the infant rate for the care of the identified child.

(b) The service worker, with supervisory approval, must document in the case record why the infant rate is being authorized for a child 30 months or older. Documentation must include the following:

(A) That effort was made to locate a resource at the SOSCF non-infant rate; and

(B) Description of the specific problem which requires services above those covered by the non-infant rate.

(5) Rates charged to SOSCF for day care services may not exceed rates charged for comparable services to non-SOSCF children:

(a) Donations and subsidies of cash or in-kind services may be used to reduce charges which would otherwise be made for day care services;

(b) Such donations and subsidies must be used to reduce charges for all children in care unless the donor specifies in writing that the donation is to be used for either a specific family or category of families;

(c) Separate records shall be kept by the provider for all donations and subsidies received and disbursed.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0290**

### **Maximum Rates**

(1) The maximum rates the State Office for Services to Children and Families pays for Supportive/Remedial Day Care are determined annually and will be furnished upon request.

(2) In-home Care: Minimum wage for care in a child's own home is governed by the state minimum wage law. It may not be negotiated. Overtime at one-and-one-half times the regular rate must be paid for all hours worked in excess of 40 hours in a work week (seven sequential days). Overtime shall not be paid to a provider who lives in the child's home.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0300**

### **Exceptions**

(1) Specific exceptions to any section of these rules may be granted for good and just cause by SOSCF. The exception must be requested in writing and show how the intent of the rule will be met.

(2) No exception will be granted which may jeopardize the health, safety, and well-being of any child in care.

(3) All exceptions must be approved by the person designated by SOSCF administration and be on file in the case record. The granting of an exception shall not constitute a precedent for any other provider or client.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **Special Medical Services Provided by SOSCF**

## **413-050-0400**

### **Purpose**

The purpose of these rules is to describe the special medical services provided by the State Office for Services to Children and Families (SOSCF).

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

**413-050-0410****Payment for Medical Services for Administrative Exams and Other Medical**

- (1) The State Office for Services to Children and Families has two separate medical budgets. Medical expenditures can be authorized from "Administrative Exams" or from "Other Medical."
- (2) "Administrative Exams" and "Other Medical" expenditures must be authorized by the local SOSCF 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 licensed medical service providers. The medical service provider must be a licensed physician, psychiatrist, psychologist, dentist, optician, registered clinical social worker, a licensed medical facility or other medical provider who is enrolled by the Office of Medical Assistance Programs (OMAP) for participation in the Medicaid Program (Title XIX). Such providers must have an assigned active provider number from OMAP to receive payment for their services. (See exception procedures for unlicensed or non-registered consultants or trainers in SOSCF policy I-C.4.2.1 (6).)
- (4) Payment for "Administrative Exams" and "Other Medical" expenditures will be at the current published rate for the fee code billed.
- (5) Parents and any medical insurance available to the child are resources for payment of exams or evaluations.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

**413-050-0420****Administrative Exams Payments**

"Administrative Exams" are provided to children in SOSCF's care and custody who are or potentially are eligible for Title XIX. Expenditures are federally matchable and will be paid through OMAP. 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 cases to determine if out-of-home placement is an appropriate case plan. "Administrative Exam" payments may be authorized regardless of whether placement is made; or
- (2) Casework planning for Title XIX 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. These may be authorized in lieu of an examination in the above circumstances.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

**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 SOSCF's care and custody by court order or Voluntary Placement Agreement either in or out of substitute care, or parent who is ineligible for Title XIX and there are no other resources available. (Exception: therapy for Title XIX children may be paid out of "Other Medical" when not available through Mental Health.) Payment will be authorized only if funds are available as determined by the branch manager. "Other Medical" is only to be used if the service is not available through Mental Health or OMAP as a Medicaid service. Payments from "Other Medical" may be made in the following situations:

- (1) Psychological and psychiatric evaluations for non-Title XIX eligible children.
- (2) Drug and alcohol assessments for non-Title XIX eligible children who:
  - (a) Are in a protective service case to determine a child's need for placement, regardless of whether placement is made; or
  - (b) Are children either in or out of substitute care for casework planning.
- (3) A one-time emergency medical need for children in the custody of SOSCF and have been returned home. This is limited to children of low-income families not eligible for medical services through AFS.
- (4) Therapy for children in substitute care. Therapy must be recommended by a licensed psychiatrist or psychologist who evaluated the child. Funding availability must be determined by the branch manager when therapy is not available from the local mental health clinic. Payment for individual therapy is limited to eight sessions. Payment for further sessions may be authorized if a progress report establishes the need to continue.
- (5) 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 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.
- (6) 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 SOSCF. "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.
- (7) Evaluations of parents when required by SOSCF 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 receiving public assistance from AFS.
- (8) Parent/child Interaction evaluation.
- (9) 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.: HB 2004

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

#### **413-050-0440**

##### **Medical Services "Permanent Planning"**

In cases designated permanent planning, SOSCF 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 authorized in writing by the Permanent Planning Unit prior to the services being provided.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

#### **413-050-0450**

##### **Medical Consultation and Training for Staff**

(1) Consultation and training for SOSCF staff on health services problems will be paid upon approval of the regional manager or designee. The consultant or trainer is not required to be licensed or registered, nor to have an assigned provider number from OMAP.

(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.: HB 2004

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

### **Family Violence Prevention Program**

#### **413-050-0500**

##### **Policy**

The State Office for Services to Children and Families believes in the necessity to provide crisis services to victims of domestic violence, including but not limited to crisis lines and emergency safe shelter. SOSCF contracts with domestic violence programs for these services. SOSCF also believes in the involvement of providers and community representatives in decision-making for the program.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 108.610-108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0510**

### **Definitions**

- (1) "Agency" means the State Office for Services to Children and Families, Department of Human Resources.
- (2) "Domestic Violence Fund" means the fund within the State Office for Services to Children and Families Account of the State General Fund to receive money from the Marriage License Fee, the Criminal Fine Assessment Account and other related state and federal funds as available.
- (3) "Family Violence" or "Domestic Violence" 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. Emotional abuse is included in this definition.
- (4) "Family Violence Prevention Program" means the program within the State Office for Services to Children and Families funded by the Domestic Violence Fund and other related funds as available to provide shelter and related services to victims of domestic violence.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 108.610-108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0520**

### **Domestic Violence Fund**

The State Office for Services to Children and Families shall use the Domestic Violence Fund to contract with private, non-profit or public agencies for programs designed to prevent, identify or treat family violence. These programs shall include crisis lines, emergency shelter, and other related services. SOSCF shall follow contracting procedures outlined in Oregon Administrative Rule 413-330-0200 through 413-330-0360 to award contracts for these services and shall keep the location of shelter programs confidential.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 108.610-108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

## **413-050-0530**

### **Advisory Committee**

- (1) There shall be an advisory committee to the State Office for Services to Children and Families for the Family Violence Prevention Program. The committee shall consist of eleven representatives, five from contracted domestic violence programs, one representative of the statewide domestic violence coalition, two from SOSCF, one from Adult and Family Services Division, and two from the community-at-large. Members shall be elected and serve terms in

accordance with the by-laws established by the advisory committee.

(2) SOSCF shall consult the advisory committee on SOSCF's ongoing administration of the Family Violence Prevention Program and any proposed change affecting the program's operation.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 108.610-108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 1-29-95

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**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 435.205-235

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

## **Family Treatment Services**

## **413-060-0100**

### **Purpose**

These rules define the eligibility and priority requirements for family treatment services.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-060-0110**

### **Definitions**

(1) "Family Treatment Service" means the services SOSCF provides to families under the titles "Intensive Family Services" and "High Impact Services." These services are to be limited to an average of three months and be based on family systems theory and practice. The goals of family treatment services are to correct family problems in order to prevent reoccurrence of child abuse or neglect, to ameliorate family relationship problems in order to prevent placements and to reunite families. It is one of the agency's services which meets the requirement of Public Law 96-272 to make reasonable efforts to prevent the placement of children in substitute care and reunite families.

(2) "High Impact Service" means family treatment services provided solely by SOSCF staff in caseloads which average eleven families. This service includes treatment counseling and case management functions.

(3) "Intensive Family Services" means family treatment services provided both through contracts with providers and by SOSCF staff. This service includes treatment of families in caseloads averaging 8.3 families. It does not include case management functions. This service is generally used in family situations when the problem requires more intensive work than can be done with High Impact Services.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-060-0120**

### **Eligibility for Services**

To be eligible for either High Impact Service or Intensive Family Service:

(1) The family must be a recipient of services in one of the four SOSCF programs: Child Protective Service, Preventive/Restorative Service, Substitute Care or Adoption Service.

(2) The family's child(ren) must reside in the home or be in the process of being reunited with the family.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-060-0130**

### **Families Inappropriate for Service**

Family treatment service can be helpful for most families. Because of the limits on the availability of these services, the following types of situations are considered inappropriate:

- (1) Families whose problem is primarily related to the securing of: material services such as housing, food, or shelter; physical restoration or rehabilitation services; or vocational training;
- (2) Families in which the parents' degree of mental retardation would prohibit their functioning in treatment;
- (3) Families in which it is not possible for the parent(s) and child to be seen together;
- (4) Families in which the primary need is for parenting education and skill building such as is provided through the Parent Training service.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-060-0140**

#### **Priorities for Services**

Family treatment services will be prioritized as follows:

- (1) Families in imminent danger of placement of a child in a substitute care home or facility.
- (2) Families whose child(ren) is returning from substitute care placement.
- (3) Foster or adoptive families with a child who is in imminent danger of disrupting.
- (4) Families with children in potential danger of placement.
- (5) Other families with identified family relationship problems.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-060-0150**

#### **Obtaining Services**

The availability of these services is not adequate to serve all appropriate families. Discretion of the local SOSCF management staff is allowed in the selection of families to receive family treatment services. These discretionary judgments will be made on the basis of the service priorities (see OAR 413-060-0140) and the availability of the service.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **Parenting Program/Parent Training Services**

### **413-060-0200**

#### **Purpose**

The purpose of these rules is to describe the parenting program which is designed to improve and strengthen parenting knowledge or skills. Persons providing this service may be referred to as parent trainers, parenting consultants, parenting educators or parenting specialists. These rules refer to them as parenting consultants.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-060-0210**

#### **Target Groups**

The parenting program is designed to serve two general populations of families:

- (1) Families with infants, young children, or adolescents living at home where there is evidence or high risk of child neglect/abuse or childhood behavior problems.
- (2) Families with infants, young children, or adolescents living outside the home where there is evidence or high risk of child neglect/abuse or childhood behavior challenges and a return-home plan is intended.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-060-0220**

#### **Eligibility and Priorities for Services**

- (1) Eligibility. A family receiving SOSCF preventive/restorative service, child protective services or substitute care services is also eligible for parenting program services if working with the parents would assist in returning a child home, or in permanent planning cases where returning the child home is the desired outcome. In addition, the family must meet all of the following criteria:
  - (a) There must be concrete and observable issues of concern regarding parenting and/or the parent has requested service;
  - (b) The issues to be addressed are due to a deficit in parenting knowledge or skills rather than unresolved family or individual issues. In some cases parent training may be postponed if other factors contributing to family difficulties are so severe as to preclude the usefulness of the parenting program. Such issues include:
    - (A) Unmet basic needs for food, shelter, clothing;

(B) Marital discord;

(C) Alcoholism or drug abuse.

(c) Decisions regarding serving families in 413-060-0220(b) will be made on a case-by-case basis.

(2) Ineligibility. Families in which the parenting program is unlikely to be helpful and therefore ineligible include:

(a) Parents who are psychotic, severely depressed or personality disordered to the extent that the skills being taught could not be utilized or would render the parents poor group participants;

(b) Parents who have committed sex offenses against children and who have not successfully completed a treatment program;

(c) In each of the above general descriptions, exceptions can be made by mutual agreement by contractor or SOSCF parent consultant and caseworker. Specialized groups or individualized sessions may be arranged.

(3) Priorities for Service. Priority consideration shall be given to families in which:

(a) A child(ren) is in immediate risk of being removed from the home and is actively being considered for substitute care placement as indicated in the service plan;

(b) A child residing in substitute care could be returned home sooner if parent functioning were improved;

(c) A child(ren) is in potential danger of substitute care (high-risk of placement exists but consideration of placement has not been actively pursued);

(d) Parent/child problems exist but there is no consideration of substitute care at this time.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-060-0230**

### **Service Format**

(1) Individual Training (may be in home). Parenting consultants may provide individual training for those parents unable to participate in a group for reasons of scheduling, location or inappropriateness of a group setting.

(2) Group Training for Parents. There are two types of group training. Parents may be enrolled in one or both groups:

(a) Parent/child interaction groups (labs) focus on providing parents and children opportunities to learn and practice positive and therapeutic ways of interacting with one another. Child development, behavior management, anger management, and communication will be covered prior to or in tandem with the interaction groups;

(b) Parenting Program/Support Groups. These groups do not include group participation for the children. The group content may include didactic training in child development, behavior management, anger management, taking care of yourself (building self-esteem) and communication. Support groups which afford time for parents to personalize curriculum content and to discuss personal issues are included in this category.

(3) Child Care. Group day care for children whose parents attend parenting program sessions is provided to the extent

possible within funding limits. Refer to SOSCF policy I-D.5.1, "Managing the Parenting Program," Procedures section (3)(c) for details on budget accessing procedures.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-060-0240**

### **Child Care and Transportation**

In order that families may participate in the parenting program, the agency may provide limited aid to participants through assistance with child care and transportation. This aid will be made available according to the local need and with existing resources in the respective communities.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **Family Sex Abuse Treatment**

## **413-060-0300**

### **Purpose**

OAR 413-060-0300 through 413-060-0370 set forth the nature of the SOSCF Family Sexual Abuse Treatment Program, the eligibility requirements for participation in the program, and the process for assessing and collecting treatment fees.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 163.355-163.465 & 137.540

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

## **413-060-0310**

### **Definitions**

- (1) "Court" means any Oregon district or circuit court dealing with adult offenders or any juvenile court, including county courts having juvenile jurisdiction.
- (2) "Family Member" means any person who is related by blood or marriage or is co-habiting as a family member and is acting in the role of a parent or sibling.
- (3) "Perpetrator" means any person who has been charged with, convicted of, admitted to, or is known by State Office for Services to Children and Families to have committed sexual abuse as described in ORS 163.355 to ORS 163.465.

(4) "Sexual Abuse" means any sexual contact, including but not limited to rape, sodomy, incest, and sexual penetration with a foreign object as defined in ORS Chapter 163. It includes exhibitionism, touching and fondling for sexual stimulation or gratification, and sexual exploitation through pornography or prostitution.

(5) "SOSCF" means the State Office for Services to Children and Families of the Oregon Department of Human Resources.

(6) "Victim" means any child upon whom an abuse described in ORS 163.355 to ORS 163.465 has been committed.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 163.355-163.465 & 137.540

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

## **413-060-0320**

### **Program Purpose and Goals**

SOSCF's Family Sexual Abuse Treatment program provides coordination of legal services, case planning and treatment services for victims of family sexual abuse, affected family members and the perpetrator of abuse. The purpose of the program is to assure that the efforts of agencies and professionals involved in the investigation and prosecution of the crime, in planning services for the victim and non-offending family members and those providing treatment services are coordinated and conducted in a manner that is constructive for the victim of abuse. The goals of the program are to:

- (1) Bring about the resolution of the victim's trauma;
- (2) Protect the child from further victimization in the least traumatic manner;
- (3) Reach an understanding and control of the perpetrator's sexual deviancy (i.e., abnormal sexual behavior);
- (4) Resolve dysfunctional interpersonal relationships between family members including perpetrators when appropriate;
- (5) Provide a support system for family members;
- (6) Ensure community education regarding the identification and prevention of sexual abuse; and
- (7) Provide statistics and information about the problem of family sexual abuse in Oregon.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 163.355-163.465 & 137.540

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

## **413-060-0330**

### **Treatment**

- (1) Within resources available, the program will, at SOSCF's discretion, provide group treatment sessions for victims and other family members. Treatment groups will be led by SOSCF staff or by authorized volunteers and professionals in the community.

(2) The purpose of the group treatment sessions is to resolve mental, emotional, and behavioral problems resulting from sexual abuse and to prevent further sexual abuse within the family.

(3) Treatment will be held on a regular basis. An attempt will be made to provide the treatment in a geographical area reasonably accessible to the participants.

(4) Family treatment sessions may also be conducted as appropriate.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 163.355-163.465 & 137.540

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

### **413-060-0340**

#### **Eligibility for SOSCF Treatment**

SOSCF will determine which victims and family members and perpetrators will be accepted for SOSCF provided treatment based on the availability of treatment staff and SOSCF's assessment of whether or not the individual is amenable to treatment.

Stat.y Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 163.355-163.465 & 137.540

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

### **413-060-0350**

#### **Reports to the Court**

SOSCF will neither require nor enforce attendance at the treatment meetings. If the court has ordered a person to attend SOSCF group meetings, SOSCF will notify the court, in writing, if the person's attendance is a problem, if treatment has been terminated due to lack of progress or if the person has successfully completed the treatment.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 163.355-163.465 & 137.540

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

### **413-060-0360**

#### **Termination of Treatment**

(1) SOSCF will terminate its treatment of the victim or other family members:

(a) When, in the opinion of SOSCF, the participant fails to make progress in the treatment program; or

(b) When, in the opinion of SOSCF, the participant has satisfactorily completed the treatment program.

(2) The criteria SOSCF will use to evaluate the participant's progress in or completion of the treatment program include, but are not limited to the following:

(a) There has been regular attendance at treatment sessions;

(b) The perpetrator accepts complete responsibility for the sexual abuse, demonstrates an understanding and respect for the rights and needs of other family members, demonstrates an understanding and control of the sexually abusive behavior, and accepts financial responsibility for his family's treatment;

(c) Family members understand that the perpetrator is totally responsible for the sexual abuse, are able to recognize the casual factors resulting in sexual abuse, and are able to protect the victim from further sexual abuse;

(d) The victim understands that he or she is not responsible for the sexually abusive behavior of the perpetrator and reaches resolution of the trauma resulting from the sexual abuse.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 163.355-163.465 & 137.540

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

## **413-060-0370**

### **Treatment Fees and Payment**

(1) As authorized by Oregon statutes, SOSCF will request through the presentence investigator and/or probation office that the perpetrator be ordered, as part of his/her sentence or as a condition of probation, to pay for the treatment provided by SOSCF to the victim, other family members or the perpetrator.

(2) SOSCF will provide the presentence investigator and/or probation officer with the anticipated cost of treatment. The amount charged by SOSCF for each individual in treatment is \$112 per month. This cost is based on four treatment sessions being held per month. When therapy is provided jointly by both SOSCF and non-SOSCF therapists, SOSCF will claim only its proportionate share of the treatment costs.

(3) When the presentence investigator or probation officer indicates that the monthly cost of treatment results in a hardship for the perpetrator, the victim or other family members, SOSCF branch staff may support the presentence investigator's or probation officer's recommendation to the court that the payment schedule be extended over a longer period of time. SOSCF will not support a recommendation to waive or reduce the treatment cost for any reason without prior approval by the SOSCF regional administrator or his/her designee.

(4) SOSCF will inform the court regarding the payment procedure SOSCF prefers the perpetrator to use in paying for the cost of SOSCF provided treatment.

(5) SOSCF will notify the perpetrator's probation officer or the court in writing when the perpetrator fails to make a regular court ordered monthly payment to SOSCF for the cost of treatment provided by SOSCF.

(6) SOSCF will recommend to the court through the presentence investigator or probation officer that the perpetrator not be released from probation until the full cost of the treatment provided by SOSCF has been paid.

(7) Juvenile courts, including county courts having juvenile jurisdiction, are authorized by ORS 419B.385 to order an adult perpetrator who is the parent or legal guardian of the victim, as well as a juvenile perpetrator to pay the cost of providing treatment to the victim. When juvenile courts order payment of treatment costs, SOSCF may recommend that the same payment system as described in this rule be used.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 163.355-163.465 & 137.540

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 70**

**SUBSTITUTE CARE**

**Multiethnic Placements**

**413-070-0000**

**Purpose**

These rules describe the procedures which the State Office for Services to Children and Families will follow in family recruitment and in the temporary and permanent placement of children, in order to assure that placements reflect and respond to the diverse needs of children. To ensure the best interests of children, SOSCF will consider the physical, mental and emotional condition, sibling status, and family and community expectations in making placement decisions. Issues of race, culture, language and national origin may only be weighted as a factor in an individualized plan that clearly demonstrates that such consideration is in the specific child's best interest.

Stat. Auth.: HB 2004

Stats. Implemented: Multiethnic Placement Act of 1994, Title VI of Civil Rights Act of 1964

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

**413-070-0010**

**Definitions**

(1) "Community of Origin" means the combination of the geographic community, cultural heritage, birth family, extended family, and significant other individuals and experiences in a child's life prior to the time the child becomes subject to temporary or permanent placement.

(2) "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 is transmitted from one generation to another.

(3) "Ethnicity" means identification with a group of people classed according to common racial, national, tribal, religious, language, or cultural origin or background.

(4) "Family" means any one or more adults maintaining a home or homelike relationship and having the ability to nurture, provide and care for, and meet the needs of a child or children.

(5) "ICWA" means the **Indian Child Welfare Act**. 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 reflect the unique values of Indian culture.

(6) "Multiethnic Placement Act of 1994" means federal legislation which provides policy guidance on the use of race, color or national origin as considerations in adoption and foster placements.

(7) "Race/Culture of Origin" means American Indian/Alaskan Native, Asian/Pacific Islander, African American, Hispanic Culture, White.

(8) "Same Race" means one or both parents are the same race or ethnicity as the child.

(9) "Title VI of Civil Rights Act of 1964" means federal legislation which states that no person in the United States shall; on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Health, Education, and Welfare.

(10) "Transracial Placement" means the placement of a child of one race or ethnicity with a family of another race or ethnicity.

Stat. Auth.: HB 2004

Stats. Implemented: Multiethnic Placement Act of 1994, Title VI of Civil Rights Act of 1964

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

## **413-070-0020**

### **Policy**

(1) One of the missions of the State Office for Services to Children and Families is to strengthen families and protect children. The goal of finding temporary as well as permanent homes for children whose families are unable to care for them reflects the intent of this mission. SOSCF believes the family is the best place for a child to grow and a well planned placement provides an opportunity for children to experience stability, nurturing and structure.

(2) SOSCF believes that the special needs of each child must be considered in the process of placement. In selecting a placement for a child, the overriding concern is the individual child's needs and his or her best interest. All relevant factors must be taken into account at the time of the initial and all subsequent placements including at least the following: birth parent(s) wishes, child's attachment to caretakers, community of origin, medical, emotional and educational needs, religious background, sibling ties.

(3) SOSCF shall endeavor at all times to recruit and have available to receive temporary and permanent placements families which reflect the diversity of the population of children available for placement and which are capable of meeting the needs of children.

(4) SOSCF shall recruit and approve families and place children without discrimination of any kind based on race, ethnicity, cultural heritage, or other identifying factors. All children shall be placed in a family which is sensitive to and able to meet each child's individual and special needs.

(5) SOSCF personnel and other individuals participating in the selection of families for placement and in the placement of children shall include individuals who are competent to address the needs of the child or children, and such individuals shall reasonably deliberate and document the reasons for each placement decision.

Stat. Auth.: HB 2004

Stats. Implemented: Multiethnic Placement Act of 1994, Title VI of Civil Rights Act of 1964

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

## **413-070-0030**

### **Training**

The State Office for Services to Children and Families will provide training to assure compliance with Title VI of the **Civil Rights Act of 1964** and the **Multiethnic Placement Act of 1994**.

Stat. Auth.: HB 2004

Stats. Implemented: Multiethnic Placement Act of 1994, Title VI of Civil Rights Act of 1964

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

## **413-070-0040**

### **Procedure**

(1) Emergency Foster Care Placements. When a child needs to be placed due to an emergency, efforts shall be made to place the child with shelter or foster parents who can effectively communicate with the child, and who are culturally sensitive to the child's race, ethnicity and cultural heritage.

(2) Foster Care Placements. If immediate reunification with the family is not possible, the child's service worker shall carry out the following steps within 60 days of the placement:

(a) Seek the cooperation of the legal parent(s) in contacting relatives and other possible placement resources. Document and clearly identify in writing contacts made of all resources for placement and the reasons the resources were not used;

(b) Record the family history to include identification of specific cultural and language considerations, and develop a list of extended family members for possible placement resources, including both maternal and paternal relatives, godparents, tribal families and significant persons. Suggested sources of information can include, but are not limited to:

(A) Legal parents of the child(ren);

(B) Extended family member(s) or family friend(s) and family documents;

(c) The child's placement shall be made in accordance with the policy set forth in OAR 413-070-0020. If relatives or members of the community of origin are available in accordance with such policy, they shall receive preferential consideration for the placement;

(d) In any case, when a temporary placement is made to a family which does not speak the child's language or otherwise respond to the special needs of the child, SOSCF shall make continuing efforts to find another placement and shall simultaneously make reasonable efforts to strengthen the skills of the custodial family so that it can be more responsive to the needs of the child. Placement efforts may be discontinued on approval of the branch manager with the standard for such approval being the best interests of the child and on the basis of reasonable deliberation and documentation of the reasons for such decision.

### (3) Adoptive Placements:

(a) In selecting an adoptive family for a child, the State Office for Services to Children and Families shall focus on the long-term, best interests of the child on a case-by-case basis;

(b) The child's placement shall be made in accordance with the policy set forth in OAR 413-070-0020.

Stat. Auth.: HB 2004

Stats. Implemented: Multiethnic Placement Act of 1994, Title VI of Civil Rights Act of 1964

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

## 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 State Office for Services to Children and Families in adhering to the letter and spirit of the Act.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

### 413-070-0110

#### Legislative Authority

These rules are promulgated pursuant to the statutory authority. granted to the State Office for Services to Children and

Families in HB 2004.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## 413-070-0120

### Definitions

To ensure total compliance, it is important to remember that when proceedings involving an Indian child invoke this Act, terms including, but not limited to foster care, termination of parental rights, pre-adoptive and adoptive placement have the meaning stated in the Act, not the meaning as established by Oregon law.

- (1) "Act" or "ICWA" means the **Indian Child Welfare Act**.
- (2) "Adoptive Placement" is the permanent placement of an Indian child for adoption and includes any action which results in a decree of adoption. Such action includes voluntary relinquishment of a parent's rights.
- (3) "Agency" means the State Office for Services to Children and Families (SOSCF).
- (4) "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 nationally known Indian programs that have placement resources available for Indian children.
- (5) "Extended Family" is defined by the law or custom of the Indian child's tribe. In the absence of law or custom, it shall be 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.
- (6) "Foster Care Placement" is any action removing or which could result in the removal of a child from his/her parent or Indian custodian (such as court-ordered supervision in the home) for placement in foster care or institution or with a guardian, where the parent(s) or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.
- (7) "Indian" is 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 §1606**.
- (8) "Indian Child" is any unmarried person under age eighteen who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
- (9) "Indian Child's Tribe" is 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.
- (10) "Indian Custodian" is 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.
- (11) "Indian Organization" is 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.
- (12) "Indian Tribe" is 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 §1606**, and any tribe whose federal relationship has been terminated by congressional action.

(13) "Involuntary Proceeding" is any action removing a child from a parent/Indian custodian and such parent/Indian custodian cannot have the child returned upon demand.

(14) "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.

(15) "Parent" is any biological parent or parents of any Indian child or any Indian person who has lawfully adopted an Indian child. This includes adoption by tribal law or custom. It does not include unwed fathers where paternity has not been established or acknowledged.

(16) "Pre-Adoptive Placement" is the temporary placement of an Indian child after termination of parental rights in a foster home or institution prior to or instead of an adoptive placement. This definition includes, but is not limited to, the following: placement of the child in a foster home prior to the selection of an adoptive family; placement of a child in a foster home which becomes the child's adoptive home once the child is legally free; and placement of the child in an adoptive home which is used as a foster home until the child is legally free.

(17) "Reservation" means Indian country as defined in **18 USC §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.

(18) "Secretary" means the Secretary of the Interior.

(19) "Termination of Parental Rights" is action which results in the termination of the parent-child relationship.

(20) "Tribal Court" is 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.

(21) "Voluntary Proceeding" is any action in which a parent/Indian custodian has voluntarily given custody of his/her child to another and such voluntary action does not prohibit the parent/ Indian custodian from regaining custody of the child at any time.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## **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 SOSCF 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;

(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 (runaway, beyond control, etc.), are covered by the Act.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## 413-070-0140

### Agency Authority

Once it is found that an Indian child is involved, and the tribe or tribes which have an interest have been determined, the authority of the agency must be established. In some instances, the agency 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.

**NOTE:** In Oregon, only the Warm Springs and the Burns Paiute Tribes have such exclusive jurisdiction; however, it is important to check to see if other tribes have reassumed jurisdiction.

(2) Tribal Court Ward. The agency has no authority in cases involving an Indian child who is a ward of a tribal court. Agency staff shall ask the child's parents/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 service worker shall contact the tribal court to determine whether the child is a ward of that court. If so, except as follows, the agency 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 agency 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.: HB 2004

Stats. Implemented: 25USC §1901

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

**413-070-0150****Emergency Removals**

(1) The agency can 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 an Indian reservation where the tribe has exclusive jurisdiction over child custody matters; (In Oregon, at present, only the Warm Springs and Burns Paiute tribes have such jurisdiction.) and,

(b) The child is in danger of imminent physical damage or harm.

(2) Whenever a child is taken into protective custody, agency staff shall inquire as to the child's racial or ethnic background, unless circumstances do not permit such routine inquiry. (In such cases, once the child is taken into protective custody, the service worker shall take the required steps to determine racial/ethnic category, 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, agency staff shall 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 Indian, efforts shall 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 shall 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 agency shall return the child to his or her parent, or the service worker shall initiate an expeditious transfer of jurisdiction to the appropriate Indian tribe. If termination of an emergency removal or placement is not possible, the agency shall 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 affiliation(s) and last known address of the Indian child;

(b) The name and address of the child's parent(s) and/or Indian custodian(s), if any, and tribe. If unknown, the agency shall provide a detailed explanation of efforts made to locate them;

(c) If known, whether the residence or domicile of the parent(s), Indian custodian(s) or child is on or near a reservation, and which reservation;

(d) A specific and detailed account of the circumstances which led the agency to conclude that the child would suffer imminent physical damage or harm;

(e) A specific plan of action the agency is following, including services provided, to restore the child to his/her parent(s) or Indian custodian(s), 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 service worker shall, in consultation with the child's parent(s) and tribe, if known, explore available placement resources which meet the placement requirements in OAR 413-070-0220.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## **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 service worker shall 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 agency shall 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 service worker shall 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 service worker 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/or 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 agency 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 his/her own familial residence except when to do so would result in serious physical or emotional harm;

(H) Providing that where the Indian child is of sufficient age, he or she 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.: HB 2004

Stats. Implemented: 25USC §1901

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

## **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 shall be made in every case which involves or could involve changes in custody to determine whether the case involves an Indian child. Agency staff shall routinely request racial/ethnic data of parents or guardian by reading aloud from the intake form the racial/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, agency staff shall consider the following in determining a child's Indian heritage:

(A) A thorough review of all documentation in the file (including contact with previous caseworkers, if any);

(B) Close observation of the child's physical characteristics and the physical characteristics of parents, as well as other siblings or relatives accompanying the child;

(C) Consultation with relatives/collaterals providing information which suggests the child/parent may be Indian;

(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 shall contact the agency ICWA Specialist to determine if:

(A) The birth place of the child/parent, or the current/former residence of the child/parent is known to be a common residence of Indian families;

(B) The surname of the child/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 service worker must determine the tribe in which the child is a member or eligible for membership. Agency staff shall ask the child's parents or custodian tribe(s) the child may be affiliated. If this inquiry does not provide the necessary information, agency staff shall, 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 the Act, the child must be:

- (a) An unmarried person under the age of eighteen; and
- (b) A person who is either: a member of an Indian tribe, or eligible for membership in an 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. If the tribe does not respond, agency staff shall contact the tribe by telephone. The service worker may 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 service worker must ascertain whether the child is eligible for membership and is the biological child of a member of an Indian tribe. To do this, the service worker shall:

- (A) Ask the child (if old enough to respond);
- (B) Ask the parent(s) or relatives, including in-laws, as appropriate;
- (C) Ask the tribe.

(5) BIA Assistance. If the tribe does not respond to a letter sent "Return Receipt Requested" and cannot be reached by phone, the service worker shall write or call the Bureau of Indian Affairs Area (local) Office for assistance.

(6) Out-of-State Tribes. When an Indian child is a member of or eligible for membership in a tribe located in another state, the Act still applies and all applicable provisions, including provisions governing notification of the tribe, must be followed.

(7) 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 service worker 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;

(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.

(8) Enrollment of Indian Clients. If the child is not a member of his or her tribe, but is applying to become a member, the service worker shall proceed as though the child is a member and follow the requirements of the Act. Agency staff shall 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/membership.

(9) ICWA Not Applicable. Once determined, tribal status should 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 nor eligible for membership is not subject to the requirements of the **Indian Child Welfare Act**. In such cases, agency staff shall:

(a) Document in the case record steps taken to determine the child's Indian/tribal ancestry and the tribe's written statement declaring the child ineligible for membership;

(b) Incorporate in any court hearing the tribe's written statement declaring the child ineligible for membership.

(10) 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 agency shall respect the child's right to participate in the culture of origin in case planning, particularly if such child is identifiably Indian by physical features and/or social relationship.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## **413-070-0180**

### **Tribal-State Agreement**

These rules may be superseded by an agreement signed between the state and a particular tribe. Such agreement shall be available in the Director's Office of the State Office for Services to Children and Families.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## **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/Indian custodian and initiation of court proceedings, the agency's records shall 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 parents' behavior and have not worked.

(2) In making such a determination, agency staff shall 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.: HB 2004

Stats. Implemented: 25USC §1901

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

### **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 agency must demonstrate to the court by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that the child's continued custody with the child's parents 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 agency as petitioner must show the court by evidence beyond a reasonable doubt, including the testimony of one or more qualified expert witnesses, 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 agency recognizes that persons with the following characteristics 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;
- (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.

This list is not meant to be exhaustive or limited in any fashion. The service worker should enlist the assistance of the Indian child's tribe or the ICWA Specialist in locating persons qualified to serve as expert witnesses. The BIA is also required to provide this assistance.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## **413-070-0210**

### **Involuntary Proceedings**

(1) Notice. Except for emergency placements made pursuant to OAR 413-070-0200, agency staff shall not request a court proceeding to authorize foster care placement of an Indian child until the following time frames have been observed:

(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/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;

(c) Not less than fifteen days after the receipt of the notice by the Secretary of the Interior.

(2) The service worker shall be responsible for providing notice to the parties listed below, and for notifying the court of the agency's 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 shall always receive notice. An Indian custodian, if any is involved, should also receive notice;

(b) Notice to Tribe. Whenever an Indian child's parent or Indian custodian are entitled to notice, then the tribe is entitled to notice also. 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 shall be sent to all potential tribes since the court can permit intervention by more than one tribe;

(c) Notice to BIA. If the identity or location of a potentially interested Indian party to the proceeding cannot be determined, agency staff shall notify the local Bureau of Indian Affairs Office which is given fifteen days to locate and notify that party.

(3) Service of Notice. Notice can be given by personal service (handing it directly to the person), if possible, but shall 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 all hearings, motions, etc., related to the case, 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 the tribal court if no agent has been designated) of every proceeding affecting their tribal member shall be given. Notice shall contain, at a minimum, the following:

(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 parent(s) or Indian custodian(s) to participate and the Indian child's tribe to intervene in the proceeding;

(E) A statement that if the parent(s) or Indian custodian(s) 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(s) or Indian custodian(s) 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 parent(s) or Indian custodian(s) 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(s) or Indian custodian(s);

(J) A statement that since child custody proceedings are usually conducted on a confidential basis, tribal officials should keep confidential the information contained in the notice concerning the particular proceeding and not reveal it to anyone who does not need the information in order to exercise the tribe's rights under the Act.

(b) Agency staff shall 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.: HB 2004

Stats. Implemented: 25USC §1901

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

## **413-070-0220**

### **Placement of Indian Children**

(1) General. Agency staff shall make a diligent attempt to find a suitable placement within priorities described below 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 service worker shall contact the child's tribe to see if the tribe has established by resolution an order of placement preference different from those described below and/or has any placement resources.

(3) Foster or Preadoptive Placements:

(a) In any foster care or preadoptive placement of an Indian child, the child shall 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, agency staff shall follow the placement priorities below 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 agency shall, 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 preadoptive placement is to be moved from one placement setting to another; or, if the foster family moves (requiring a change in placement) the placement preferences outlined above must be followed, unless the child is returned to the parent or Indian custodian from whose custody the child was originally removed. The service worker shall notify the parent and/or 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 parent(s) voluntarily consent to the termination of their parental rights, a biological parent or prior Indian custodian may petition for a return of custody. In voluntary relinquishments, the service worker shall notify the parent and/or Indian custodian by registered mail at their last known address of the disruption in the adoption and their right to petition for a return of custody. The notification to the parent of the right to petition shall 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 prior to such return custody, any subsequent placements shall 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 agency may elect to notify the parent and/or Indian custodian of their right to petition the court for a return of custody.

(7) **Records of Placement:**

- (a) The agency shall maintain a written record of each placement of each Indian child and of efforts to comply with the preferences listed above. This record shall be maintained on forms separate from the court report and shall contain, at a minimum, the petition or complaint, all substantive orders entered during the proceeding, and the complete record of the placement determination;
- (b) Where the placement does not meet the preference priorities set out above, the efforts to find suitable placement within those priorities shall be recorded and documented in detail. Documentation shall 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 agency shall make available records of every foster care, preadoptive and adoptive placement of each Indian child maintained by the agency.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## 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 his or her biological parents' tribal affiliation 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 his or her tribe or for information determining any rights or benefits associated with tribal membership. Where the Secretary has an affidavit requesting anonymity from the biological parent(s) of the Indian person, the Secretary shall certify whether the person is entitled to enrollment under criteria established by the tribe.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## 413-070-0240

### Voluntary Proceedings

(1) SOSCF Can Accept Voluntary Placements. The agency can accept voluntary custody of any Indian child based upon consent of the Indian parent or Indian custodian, but shall 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 agency files a petition with the juvenile court pursuant to ORS 419B.100.

(2) Court Hearing on Consent. The service worker shall request a hearing in circuit court to obtain a voluntary consent. The service worker shall assure before the proceeding occurs that the court hearing will be recorded and that the parent/Indian custodian's written consent 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;
- (b) Fully explained in English, or interpreted into a language understood by the parent/Indian custodian.

(3) Content of Consent Form. The consent form signed by a parent/Indian custodian who voluntarily agrees to placement shall, 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/Indian custodian;
- (e) The name and address of the prospective parents, if known, for substitute care placements;
- (f) The name and address of the person or agency through whom 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 agency requests anonymity, the service worker shall 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 service worker shall contact the ICWA Specialist who will:

- (a) Contact the tribe to determine if a tribal system exists for keeping child custody matters confidential;
- (b) Meet with the parent and service worker 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;
- (c) Should a parent still request anonymity, the ICWA Specialist or service worker shall tell the parent that the agency may not be able to guarantee that such request will be followed, but that it will be taken into consideration. The service worker 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 shall be placed according to the preference priorities outlined in OAR 413-070-0220;

(b) Withdrawal of Consent. The parent/Indian custodian may withdraw consent either orally or in writing at any time. If consent is withdrawn no reason need be stated, no evidence produced, and no hearing need be conducted. The service worker shall:

- (A) Except as provided in subsection (c) of this section, immediately return the child to the parent/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 service worker believes that returning custody of the child to the parent/Indian custodian would place the child in imminent danger or harm, the following should occur:

- (A) Service worker shall immediately initiate further proceedings before the juvenile court and secure an order from the court authorizing the agency to retain custody of the child;
- (B) Where court proceedings for protective custody are initiated and the child is not returned to a parent upon withdrawal of consent, the service worker shall notify the child's tribe of this decision;
- (C) All rules regarding involuntary proceedings shall be 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, preadoptive or adoptive placement, such placement shall 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 wishes to consent to the

termination of his or her parental rights, and free the child for adoption, the service worker:

- (A) Shall arrange to have relinquishment documents signed which meet the requirements of sections (1), (2), and (3) of this rule;
- (B) Shall 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 could 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 shall 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. Again, no reason nor evidence is needed. The placing agency, when notified, must return the child to the parent/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 custodian;
- (d) Protective Service Custody. If the parent voluntarily withdraws his or her consent to termination of parental rights, and the agency believes the child should not be returned to parental custody, the service worker can initiate a protective service custody proceeding with the court in order for the agency 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 agency shall notify the parent/Indian custodian and the tribe;
- (f) Adoption Vacated or Set Aside. Whenever a final decree of adoption has been vacated or set aside, or the adoptive parent has voluntarily consented to the termination (relinquishment) of his or her parental rights, agency staff shall send a registered letter to the parent/Indian custodian stating the parent 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.: HB 2004

Stats. Implemented: 25USC §1901

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

## **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.: HB 2004

Stats. Implemented: 25USC §1901

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.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC §1901

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

## **Placement of Refugee Children**

### **413-070-0300**

#### **Purpose**

These rules prescribe conditions which must be met for the State Office for Services to Children and Families to remove a refugee child from home and sets criteria for the establishment of a Refugee Child Welfare Advisory Committee.

Stat. Auth.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

### **413-070-0310**

#### **Definitions**

On Laws 1985(1) "Affected family members" means natural and legal parents, extended family members, and any person within the fifth degree of consanguinity to the child.

(2) "Agency" means the State Office for Services to Children and Families (SOSCF).

(3) "Child's Home" means the home from which the child is removed under the provisions of ORS 419B.150.

(4) "Extended family" means a "family member" ordinarily recognized as a parent by the custom of the refugee child's culture. In the absence of such custom, "extended family" means a person 18 years of age or older who is the refugee 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.

(5) "Fear of persecution" means an apprehension or awareness, based on external objective facts, that the person will suffer persecution upon return to the person's country.

(6) "Parent" means the natural or legal parent of the child. "Parent" does not include unwed fathers where paternity has not been established or acknowledged.

(7) "Persecution" means that harm or suffering will be inflicted upon the person in order to punish the person for

possessing a particular belief or characteristic. "Persecution" does not include that harm and suffering that is inflicted on persons generally by reason of civil or military strife in a country.

(8) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(9) "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, or membership in a particular group or political opinion. A "refugee child" includes a child who has been admitted to the United States as a refugee under the provisions of the **Refugee Act of 1980** or the child of a parent who has been admitted to the United States as a refugee under the provisions of the **Refugee Act of 1980**.

(10) "Refugee Community Resources" is 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.

Stat. Auth.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

## 413-070-0320

### Placement of Refugee Children

(1) When it appears to the agency that a child who may be taken into custody under ORS 419B.150 is a refugee child, the agency 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 agency may consider: information from extended family members, refugee community resources, the RCWAC, federal immigration and refugee agencies and agency records.

(2) The agency shall not remove a refugee child pursuant to 419B.150 unless:

- (a) Removal is necessary to prevent imminent serious emotional or physical harm to the child, and
- (b) Reasonable efforts to alleviate the harm by provision of remedial or preventive services have failed or are not practical in an emergency situation.

(3) When the agency has taken a refugee child into custody under 419B.150, the agency will make diligent efforts to locate the child's affected family members for the purpose of placing the child according to order of preference whenever possible.

(4) When making any placement decision involving a refugee child under ORS 419B.150, the State Office for Services to Children and Families and the juvenile court shall consider the child's culture and tradition. Unless shown to be inappropriate and inconsistent with the best interests of the child, the agency and juvenile court shall place the child with the following in order of preference:

- (a) Biological parents;
- (b) Extended family members;
- (c) Persons with knowledge and appreciation of the cultural heritage of the child.

(5) A determination not to follow the order of placement preference shall be based on grounds that such placement is inappropriate and inconsistent with the best interests of the child for one or more of the following reasons:

- (a) Informed request of either of the biological parents, consistent with the stability, security and individual needs of the refugee child;
- (b) The extreme medical, physical or psychological needs of the child.

Stat. Auth.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

### **413-070-0330**

#### **Notice**

(1) In addition to court notice of a hearing, as is provided in 419B.175(4), the agency will notify all affected family members and the Refugee Child Welfare Committee of the pendency of the petition.

- (a) The notice will be written in language understandable to the recipient;
- (b) The notice will contain the child's name; complaint or reason a petition was filed; time, place and purpose of the hearing.

Stat. Auth.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

### **413-070-0340**

#### **Petition**

(1) Within one working day of the removal of a refugee child, the State Office for Services to Children and Families must file a petition with the juvenile court.

- (2) The agency must include in its petition in addition to the material required under ORS 419B.242 the following:
  - (a) Specific and detailed account of the circumstances which led the agency to conclude that the child was in imminent danger of serious emotional or physical harm;
  - (b) Specific actions the agency is taking or has taken to alleviate the need for removal;
  - (c) Assurance that the agency has complied with placement preferences;
  - (d) Assurance that the agency 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.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

### **413-070-0350**

#### **Judicial Determination**

No refugee child shall 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) Preventative or remedial services provided by the State Office for Services to Children and Families have failed to alleviate the need for removal; and
- (2) Return to the home will likely result in psychological or physical damage to the child.

Stat. Auth.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

### **413-070-0360**

#### **Record of Care**

- (1) The State Office for Services to Children and Families shall maintain a case record for each refugee child in its care containing:
  - (a) The name, age, former residence, legal status, health records, sex, race and accumulated length of time in foster care;
  - (b) The name, former residence and health history of each parent and other information relating to the parent's ability to care for the child in the parent's home;
  - (c) The date of the child's intake and placement in substitute care or adoption and the name, race, occupation and residence of the person with whom the child is placed;
  - (d) The date of the removal of any child to another home and the reason for removal;
  - (e) The date of termination of guardianship;
  - (f) The history of each child until the child reaches 18 years of age, is legally adopted or is discharged according to law;
  - (g) Documentation of the agency's reasonable efforts to reunite the child with family, compliance with placement order of preference, placement in the least restrictive setting possible and placement close to the child's own home; and
  - (h) Documentation of the child's status as a refugee child which will include the date and source of information concerning the child's refugee status;
  - (i) Any required demographic information.
- (2) All information contained in the child's case record is confidential.

Stat. Auth.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

## **413-070-0370**

### **Annual Report of Care**

(1) The State Office for Services to Children and Families shall publish annually a report on refugee children in its care. The report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in foster care and other demographic information deemed appropriate. The report shall also state the extent to which the agency has complied with this Act and shall include descriptions of the methods of compliance.

(2) The annual report shall be sent to all members of the RCWAC no later than 60 days past the end of the calendar year.

Stat. Auth.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

## **413-070-0380**

### **Refugee Child Welfare Advisory Committee**

In cooperation with refugee communities, the agency shall establish an advisory committee known as the Refugee Child Welfare Advisory Committee (RCWAC).

(1) Purpose. The committee will assist and advise the agency in:

- (a) Participation in and review of the agency's implementation of Chapter 358, Oregon Laws 1985;
- (b) Identification, development and certification of foster family homes that meet requirements for placement of refugee children with an emphasis on locating refugee homes;
- (c) Developing training programs for agency employees to insure the availability of culturally sensitive social work.

(2) Confidentiality. Each person appointed to the committee shall be subject to all confidentiality requirements and penalties as if they were an employee of the agency.

(3) Records Access. In addition to access to records of the juvenile court, members of the committee shall have access to agency records which are pertinent to the care of an individual refugee child who is receiving care from the agency under the provisions of this rule.

(4) Cooperative Working Agreement. The agency shall work jointly with the committee in the development and implementation of written operating agreements at the regional level which will specify all local procedures, duties and tasks necessary for the committee to fulfill its purpose described above.

(5) Appointments. A maximum of 14 members will be appointed for a one-year term and will serve at the pleasure of

the deputy administrator of SOSCF.

(6) **Scheduled Meetings.** The full advisory committee shall meet at least once every three months. Special meetings may be held in order to carry out the required tasks of the committee.

(7) **Compensation.** Members of the advisory committee shall receive no compensation for their services. Members of the advisory committee other than members in full-time public service may be reimbursed by the State Office for Services to Children and Families 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.: HB 2004

Stats. Implemented: Ch. 358, Oregon Laws 1985

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

## **Psychotropic Medication Management**

### **413-070-0400**

#### **Purpose**

These rules establish procedures for foster parents and the State Office for Services to Children and Families staff to follow when a child in the custody of the agency, placed in foster care, is administered psychotropic medication. For children who have been prescribed a psychotropic medication, requirements pursuant to ORS 418.517 are specified.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 3-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

### **413-070-0410**

#### **Definitions**

(1) "Medical History" is a child's record, kept in the agency's automated information system and collected on the "Health Information" form, CF 310, that consists of names of health providers, known medical problems, immunizations and prescribed medications.

(2) "PRN" pro re nata, i.e., as needed.

(3) "Psychotropic Medication" is 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.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

**413-070-0420****Policy**

Children who are in the care and custody of the State Office for Services to Children and Families and placed in foster care by SOSCF shall have their health care needs attended to. It is the intent of the agency that such children be cared for in a safe manner and that, when possible, the child's parent(s) or guardian be made aware of the child's medical status. In the event that a child is prescribed a psychotropic medication, the need for the prescription shall be reviewed by a physician on an ongoing schedule to be determined by the prescribing physician.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

**413-070-0430****Documentation**

The foster parent shall keep a record of the child's medical history while in the foster home. These records shall be kept current and organized in a manner that clearly shows the medical needs of the child. The child's medical history belongs to the child and his/her legal custodian, and therefore shall be sent with the child to the next care provider upon leaving the foster home. A copy of the child's medical history shall be kept in the medical section of the child's case record.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

**413-070-0440****Requirements for All Psychotropic Medications**

- (1) Psychotropic medications shall be prescribed by a physician through a written order.
- (2) All psychotropic medications shall be:
  - (a) Properly labeled as specified per the physician's written order;
  - (b) Kept in a secured, locked container and stored as prescribed (medication requiring refrigeration shall be kept under refrigeration in a locked box); and
  - (c) Recorded on an "Individual Child's Medication Log", CF 1083 or other log. The log shall include:
    - (A) The name of the child;
    - (B) The brand and/or generic name of the medication, including the prescribed dosage and prescribed frequency of administration;

(C) Times and dates of administration or monitored self-administration of the medication;

(D) The name or initial of the foster parent or respite care provider administering the medication or monitoring the self-administration.

(3) PRN orders shall not be allowed for psychotropic medications.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-070-0450**

### **Disclosure Requirements for the Agency Regarding Children 14 Years of Age and Older in Foster Care**

Pursuant to ORS 109.675, a child 14 years of age or older 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 physician, licensed psychologist, nurse practitioner or licensed clinical social worker. If a child 14 years of age or older in the custody of the agency is known by the agency to be diagnosed or treated for any mental or emotional disorder or chemical dependency within seven working days of receiving notice from the foster parents the agency shall:

(1) Ask the child whether he or she consents to disclosure of information regarding the prescription of a psychotropic medication; and

(2) Ask the child to whom the disclosure shall be given; and

(3) Document on the CF 1085, placed in the legal section of the child's case file, the child's consent or refusal of consent to disclosure of information regarding the prescription of a psychotropic medication, and to whom such disclosure may or may not be made.

(4) If there is a question regarding the competence of the child to make an informed decision with respect to disclosure, the following must be documented in writing in the child's file:

(a) An attempt was made to explain to the child the meaning and intent of consenting to disclosure of treatment; and

(b) A determination was made that the child was unable to understand the meaning and consequences of their decision to consent to disclosure; and

(c) The determination of the child's competency to consent to disclosure was not linked to the diagnosis precipitating the prescription for psychotropic medication.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-070-0460**

### **Notification Timelines for the Foster Parent**

For any child in the custody of the State Office for Services to Children and Families, placed in a foster home, foster parents shall notify the branch office within one working day of any new prescription for psychotropic medication.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

#### **413-070-0470**

##### **Notification Content for the Foster Parent**

The notification from the foster parent to the branch shall contain:

- (1) The name of the prescribing physician;
- (2) The name of the medication;
- (3) The dosage administration schedule prescribed; and
- (4) The reason the medication was prescribed.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

#### **413-070-0480**

##### **Notification Timelines for the Branch Office**

The branch, within a timely manner, not to exceed seven working days of notification by the foster parent, or of obtaining consent from applicable children 14 years of age or older, shall provide written notification to:

- (1) The child's parent or guardian, if whereabouts is known;
- (2) The parent or guardian's attorney, if known to the branch;
- (3) The child's attorney, if known;
- (4) The child's court-appointed special advocate.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

#### **413-070-0490**

## Notification Content for the Branch Office

The notification shall contain:

- (1) The name of the prescribed psychotropic medication;
- (2) The prescribed dosage;
- (3) The dosage recommended by the drug's manufacturer or the United States Food and Drug Administration;
- (4) The reason the medication was prescribed;
- (5) The expected benefit of the medication;
- (6) The side-effects of the medication; and
- (7) Notice of the right to petition the juvenile court for a hearing if there is an objection to the use of the prescribed dosage of the medication.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517 & 109.675

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 80**

**SUBSTITUTE CARE - TYPES OF SERVICES**

**Shelter Care**

**413-080-0000**

**Purpose**

These rules define the program requirements unique to shelter care placements and are in addition to the expectations for all substitute care placements.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-080-0010**

**Definition**

"Shelter Care" means a home or other facility certified or licensed by SOSCF as suitable for safekeeping of a child who is taken into temporary custody pending the investigation and disposition of juvenile court jurisdiction or to provide emergency services for children in the legal custody of SOSCF.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-080-0020****Eligibility for Shelter Care**

The State Office for Services to Children and Families may place a child in a certified shelter home or licensed shelter care facility and compensate the care provider at the appropriate shelter care rate if the child's circumstances meet one of the following criteria:

- (1) The child would be in danger if allowed to remain at home until a regular placement can be arranged.
- (2) The child has problems which cannot be adequately assessed while at home, and close and objective observation of the child's day-to-day behavior is needed in order to evaluate the reasons for the behavior and to determine the child's need for care and treatment.
- (3) A child whose substitute care placement has failed or has been temporarily disrupted and must have an interim placement while arrangements are made for another regular placement. SOSCF will not use shelter care for this purpose if the child can be transitioned directly into a regular placement.
- (4) A Family Shelter Home is appropriate for any child who meets the criteria for family foster care placement.
- (5) A Professional Shelter Care Center is appropriate for children who need:
  - (a) More intensive supervision and skilled behavior management than family shelter care provides and who require an assessment to determine whether or not a child should be returned to his/her family or placed in substitute care;
  - (b) Emergency 24-hour care where family shelter care is not available nor appropriate;
  - (c) Treatment planning for a child apart from his/her family.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-080-0030****Length of Stay Constraints**

Planning for children in shelter care shall receive top priority. A child shall not remain in shelter care longer than necessary as determined by the branch, and shall not exceed the maximum time frame listed below:

- (1) Family Shelter Care. When emergency family shelter care placements are made, the provider will be paid at the established family shelter care payment rate not to exceed 14 days.
- (2) Professional Shelter Care. The maximum length of stay in a professional shelter care center will be 56 days unless the regional administrator or designee approves an exception.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## Family Foster Care

### 413-080-0100

#### Purpose

These administrative rules describe family foster care services and define the criteria for appropriate foster care placements. These rules are in addition to OAR 413-030-0200 through 413-030-0220 which define the eligibility criteria for placement of a child in any kind of substitute care, including family foster care.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### 413-080-0110

#### Program Description

Family foster care services provide substitute family care for a child when the child's own family cannot provide care, or when adoption is either not in the best interest of the child or not yet possible.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### 413-080-0120

#### Program Components

(1) The child will receive care in a family home that has met the standards for certification as a foster home set forth in the administrative rules 413-200-0100 through 413-200-0230.

(2) Social services, including treatment and supportive services when appropriate, will be provided by SOSCF per OAR 413-040-0010.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### 413-080-0130

#### Children for Whom Family Foster Care is Appropriate

(1) Children with normal developmental needs and some children with special needs or problems are appropriate for family foster care. Family foster care should be utilized for children who can be maintained in a regular family setting.

(2) Family foster care may be used for a child who is unable to fit into regular family living, but can benefit from family life that has been adapted to the child's needs. Placement of such a child in family foster care is dependent upon locating foster parents who have the skill and stamina to care for the child. Children placed in foster care with the following behaviors or attitudes shall have a written care plan, or clear guidelines of care, provided to foster parents. Such children include, but are not limited to:

- (a) A child with severe health impairments or developmental disabilities requiring specialized medical and physical care who can benefit from family life;
- (b) Children with diagnosed impairments who can receive day or outpatient treatment;
- (c) Youth with emotional/behavioral problems who need care following residential treatment and are able to live in the community with special help;
- (d) A teen mother who requires both parental guidance for herself and assistance with learning to parent her child;
- (e) Delinquent children in the custody of SOSCF who can benefit from close family supervision;
- (f) A child whose emotional/behavioral problems are so disturbing that they require extraordinary support, so that a family or community is unable to cope with the behavior;
- (g) A child or adolescent who cannot accept parental care and guidance;
- (h) A child who requires a regulated environment integrated with social treatment services and training.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-080-0140**

### **Types of Family Foster Care**

(1) SOSCF has four types of family foster care services. Each varies in the type of child served, and in the expectations of the child, the child's parents and/or family and the foster parents. The foster care service types are:

- (a) "Family Shelter Care" provided to a child who is in need of protection due to a crisis in the child's own home because of abuse or neglect, or for a child who is in SOSCF's legal custody and in need of care including, but not limited to, the following reasons: another placement failed, the child ran away, respite care;
- (b) "Regular Foster Care" provided on a planned basis for a child in the legal custody of SOSCF who is not related to the foster parents;
- (c) "Relative Foster Care" provided to a child in SOSCF's legal custody by a relative. SOSCF payment of foster care to a relative is limited to children who are eligible for federally matched foster care (Title IV-E/ADC-FC; (see policy I-E.6.1), or an Indian child in a relative placement. Relatives who do not receive foster care payments are not required to be certified as a foster home, but they must meet the requirements outlined in OAR 413-200-0100 through 413-200-0230;

(d) "Family Group Home Care" provided by foster parents who have been selected and contracted with SOSCF to provide a therapeutic group living situation for four or more youth. Services provided include individual and group counseling, as well as an enriched family living environment (see policy I-E.4.2.1).

(2) Family foster care may be either a reimbursed or non-reimbursed service. Non-reimbursed care, medical care only, and reimbursed care may be appropriate in the following situations:

(a) Reimbursed Care. Generally foster care is a reimbursed service and the rate is one of SOSCF's standardized reimbursement rates (see policy I-E.5.1.1). Rates that are higher than the standard rates are individually determined following the rules for special rates (see policy I-E.5.1.2). A rate that is less than the standard rate may be paid for a child in an adoptive placement or in any other foster care placement if the foster parents agree to the lower rate;

(b) Medical Services Only. Children who are appropriate for medical services only are:

(A) A child in a legal risk placement where the foster parents have indicated they do not wish to receive a foster care maintenance payment;

(B) A child in a supervised adoptive placement;

(C) An older youth who is nearly self-supporting; or

(D) A child who is temporarily away from the foster home due to hospitalization, trial home visit or runaway.

(c) Non-reimbursed Foster Care/Non-reimbursed Relative Foster Care. The foster parents of children in non-reimbursed foster care receive no compensation from SOSCF for the child's care, and the child does not receive Medicaid services based on the child's eligibility for foster care. The child's expenses are either covered by the foster parents own resources, by a public assistance program or by the child's own resources.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.470

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

## **413-080-0150**

### **Duration of Foster Care**

Oregon Statutes and Public Law 96-272 require that SOSCF develop and implement a permanent plan for each child that eliminates the need for legal custody to SOSCF and extended placement in foster care. A child is eligible for foster care until the child can be safely returned to the parent or legal guardian, or until the child is placed in an adoptive home according to SOSCF policy I-F.2 "Determining the Adoptability of a Child," or an alternate permanent plan is developed.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **Residential Care and Treatment**

**413-080-0200****Purpose**

Residential care and treatment is 24-hour care and treatment in private agencies, RES-MED programs, youth care centers and professional group homes. This rule governs the use of residential care and treatment programs for children in SOSCF's legal custody or children whose parents have signed a voluntary placement or custody agreement.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-080-0210****Residential Care and Treatment Placements**

Residential care and treatment placements shall be made only after all other resources for meeting the child's needs in a family environment, either in the child's own home or a substitute home, have been explored or exhausted. Resources to consider are counseling, Intensive Family Services, referral to another agency for family services, Homemaker Services, Parent Training and the big brother/sister program. Foster home placement is not a prerequisite for placement in a residential care and treatment program.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-080-0220****Criteria**

Children recommended for placement in residential care must be unable to function within the family because their emotional, behavioral or physical disability and/or their abusive, assaultive and disruptive behavior requires care and treatment in a regulated environment providing planned treatment and living experiences which will enable them to make changes necessary to live in a family setting or independently in the community.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-080-0230****Children Inappropriate for Residential Care and Treatment**

Children who are inappropriate for residential care and treatment include:

- (1) Those children whose needs can be met in a family setting.
- (2) Children whose interpersonal relationships within a sibling group could better be preserved in another setting.
- (3) Children whose behavior or mental and emotional disabilities, while representing serious problems for the family or the community, would be better served by the development of a service plan with the family that permits the child to remain at home.
- (4) Children for whom placement in another substitute care resource is more appropriate, but is temporarily not available in the community.
- (5) Children whose diagnosed mental and/or emotional disorder has been determined to require psychiatric hospitalization or placement in a JCAHO accredited psychiatric facility in order to protect self and others.
- (6) Children whose demonstrated ability to function in the Independent Living Program indicates that it is a better resource.
- (7) Children whose problems, circumstances or social history indicates that available residential care and treatment resources could not assist the child, or that the child and/or the community could not be protected during the placement.
- (8) Children whose placement history clearly shows that continued use of residential care and treatment placements will not be of further benefit.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-080-0240**

### **Resource Referrals**

Written referrals to group care facilities shall follow the uniform Residential Care Referral Outline (CF Form 97). Referral material regarding the child and family may be provided by juvenile department, Oregon Youth Authority or mental health workers if that individual knows the child and family well. The assigned SOSCF worker shall be responsible for sending the referral to the provider.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-080-0250**

### **Treatment Plans**

(1) Within 30 days after admission to a residential care and treatment program, a written treatment plan shall be jointly developed by the SOSCF service worker and the provider, involving the child and parent(s). The treatment plan must be specific in the changes or growth needed, the activities and techniques planned to achieve the desired results and a plan for aftercare. The provider shall furnish a copy of the treatment plan to the SOSCF service worker which shall be filed in the case record.

(2) Treatment plans shall not be revised without the involvement of all major parties, (i.e., SOSCF service worker, provider, the child and parent(s)).

(3) Every treatment plan for a child in group care shall be reviewed by the service worker and provider a minimum of every 90 days, or more often as the case may warrant. This review shall include a face-to-face contact with the child and the provider.

(4) A written progress report shall be prepared by the provider following every review and a copy shall be sent to the assigned service worker for inclusion in the case record.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-080-0260**

#### **SOSCF's Service Worker's Role**

(1) The SOSCF service worker shall, whenever possible, involve the child's parent(s) in the placement process including their participation in pre-screening interviews, treatment planning and identification of appropriate aftercare resources to be utilized once treatment is completed at the provider program. The SOSCF worker shall assure that the child is physically placed with the residential care and treatment program after acceptance of the child into the program.

(2) When a child is placed in a residential care and treatment program, the service worker shall continue to work with parents, other members of the family as appropriate and other resources in relation to children remaining in the home. Other SOSCF services to families shall be used as appropriate.

(3) The service worker shall work cooperatively with the residential care and treatment program staff in relation to planning for the child.

(4) The service worker shall assist in arranging parent visitation with the child that is agreeable to provider, child and parent.

(5) The service worker shall begin the development of a specific aftercare plan for the child and family upon placement of the child in the residential care and treatment program. The details of the aftercare plan shall be shared with the residential care and treatment provider at each treatment plan progress review meeting.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-080-0270**

#### **Intake and Placement Disagreements**

(1) When a disagreement with a residential care and treatment provider occurs with regard to acceptance of a child into the provider's program, discharge of the child from the program or the services the child and family are receiving, the service worker shall contact the supervisor/branch manager or the regional resource consultant in the branch's regional

office for assistance in resolving the matter. Issues of abuse and neglect involving the residential care and treatment program must be reported to the SOSCF branch serving the area where the program is geographically located. (Refer to policy II-A.2.1, Response to Assessment of Child Abuse Reports in Private Child Caring Agencies and Private Residential Schools.)

(2) After review of the worker's concerns, the regional resource consultant or supervisor or branch manager shall contact the provider's staff, or if necessary, the provider's program director to resolve the problem.

(3) If the issue(s) cannot be resolved, the regional resource consultant or supervisor or branch manager shall contact the assigned central office program analyst to request their involvement.

(4) After review of the issue(s) and the regional resource consultant or supervisor or branch manager's efforts to resolve the matter, the program analyst shall contact the provider's program director or program's board of directors to negotiate a solution.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 90**

**SUBSTITUTE CARE - PAYMENTS**

**Maintenance and Treatment Payments**

**413-090-0000**

**Purpose**

These rules govern the payment for maintenance and treatment services for all the State Office for Services to Children and Families substitute care placements with certified/licensed providers of care that are funded by the agency.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-090-0010**

**Payments - General Guidelines**

(1) Foster Care:

(a) Payment by SOSCF to foster parents for a child's room, food, clothing, incidentals and cash allowance (known as the board rate for children in foster care) will be made on a monthly basis, or prorated for portions of a month, after the period during which care has been provided. It will include the day the child enters the home, but exclude the day the child leaves the home. Costs of special care or service in accordance with a written SOSCF service plan may also be provided if essential for the child's well being and if specifically authorized by SOSCF;

(b) Standard foster care rates based upon the age of the child are established by the State Office for Services to Children

and Families subject to the availability of funds and are uniformly applied throughout the state. The current rates are available at each SOSCF office upon request.

(2) Group Care: Payment by SOSCF to purchase of care providers will be made as stipulated in signed contracts.

(3) Payments Prohibited:

(a) Payment will not be made for two simultaneous 24-hour out-of-home care services, such as foster care, relative care, family group homes, residential treatment at the same time;

(b) Neither payment nor utilization credit will be given for duplicate simultaneous contracted treatment services, such as day treatment and residential treatment;

(c) Payment by SOSCF will not be authorized for the care of children in a home or facility supported by public funds and maintained only as a secure facility under the jurisdiction of a juvenile court;

(d) Any exceptions to these rules must be approved in writing by the director, or if for a Target Problem Child, by the Target Problem Child Committee. Exceptions will be considered only when federal funds will not be claimed.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.470

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

#### **413-090-0020**

##### **Payment Prior to Placement**

(1) Payment or utilization credit may be made to a purchase of care provider beginning on the agreed upon admission date if the facility is required to reserve a space for the child. Payment for a reserved space shall be limited to seven consecutive days unless there is further delay due to the actions of SOSCF. Payments exceeding the seven-day limit must be approved by the responsible SOSCF branch manager.

(2) Purchase of care providers who receive a fixed level monthly payment shall be given utilization credit for services provided under this section.

(3) In the event the child is currently in care and public funds are being expended for that care, then no payment can be made for the reserved space.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

#### **413-090-0030**

##### **Payment for Temporary Absences**

(1) Temporary absences include:

(a) Branch authorized absences for home visits, vacations and special activities;

(b) Runaway: When there is agreement between SOSCF and the provider to return the child to the placement within seven consecutive days;

(c) Hospitalization: (Hospitalization for medical treatment under Title XIX is not a maintenance or board and room payment.) When 24-hour medical care is required for a short period of time and the provider continues to exercise child caring responsibilities in anticipation of the child's return.

(2) Continued payment may be made to a provider during a child's temporary absence when:

(a) The plan is for the child to return to the care of the same provider; and

(b) No other provider is receiving a maintenance payment for the child during the period of the absence.

(3) Program Payment Limitations:

(a) Family Foster Care:

(A) Payment may be authorized by the service worker for up to seven days after a child is temporarily absent from the foster home;

(B) Authorization for payment after a child is absent for more than seven days must be approved by the branch manager.

(b) Purchase of Care and Family Group Homes:

(A) Routine home visits to parents or foster parents, which do not exceed four days, do not require special authorization;

(B) Absences of five days or more may be approved for payment if:

(i) The provider's contract is fully utilized (family group homes are exempted);

(ii) SOSCF authorizes the payment no later than the last day of the month in which the absence occurs;

(iii) SOSCF certifies that payment is necessary to ensure a vacancy will be held open in the provider's facility for the child's return.

(C) Absences of five days or more may be approved as follows:

(i) Absent 5 to 14 days, service worker approves;

(ii) Absent over 14 days, service worker and branch manager approve;

(D) Planned Visits to Another Provider. It is the responsibility of the purchase-of-care provider to reimburse the visiting resource at a reasonable rate agreed upon by both parties. SOSCF may not make maintenance payment to two providers at the same time;

(E) A purchase of service client invoice must be completed in accordance with SOSCF billing procedures.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-090-0040**

## **Payments During Adoptive Supervision**

(1) A foster care payment shall not be authorized when a child is free for adoption and placed in a home designated by the adoption manager as the child's adoptive placement. See administrative rules 413-130-0000 through 413-130-0130 for the eligibility requirements of the Adoption Assistance Program.

(2) SOSCF will not make foster care payments to foster parents who plan to adopt the child when a child's status changes from foster care to adoptive placement or from a legal risk adoptive placement to an official adoptive placement. A reasonable period of time shall be allowed to determine adoption assistance eligibility. If an application for adoption assistance is in process, foster care payments may continue to be paid for a maximum of 90 days. Exceptions to the 90 day time limit shall be limited to administrative delays or error. Exceptions require the review and approval of both the branch manager and the adoption manager.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0050**

### **Family Foster Care Out-of-State Payment Rates**

(1) Oregon foster families who move out-of-state with a foster child placed by the State Office for Services to Children and Families will continue to receive SOSCF's foster care payment rate for a period not to exceed 90 days. For placement of children to continue, foster parents are required to become certified as soon as possible in the state in which they reside.

(2) Out-of-state foster homes, licensed or certified (provisional or regular) by the responsible agency in the other state for placement of Oregon children, will be paid at the other state's rate.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **Special Rates**

## **413-090-0100**

### **Purpose**

These rules provide guidelines for a monthly payment to caregivers that is in addition to the basic standard rate for children in foster care. This payment is for services to children in the care and custody of the agency who have special needs inconsistent with their ages.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-090-0110****Definitions**

- (1) "Activities of Daily Living (ADL)": Personal functional activities required by an individual for continued well-being including eating/nutrition, dressing, personal hygiene, mobility, toileting, and behavior management.
- (2) "Agency": The State Office for Services to Children and Families (SOSCF) of the Oregon Department of Human Resources.
- (3) "Alternate Caregiver": Any person who is charged with supervision of the special needs child other than the certified foster parent with whom the child was placed by the agency.
- (4) "Caregiver": The person who has been certified as a foster parent responsible to provide care for a child who is a ward of the court and/or under agency custody.
- (5) "Child": An individual under 21 years of age, placed under SOSCF supervision.
- (6) "Delegated Nursing Procedure": Routine and skilled nursing procedures identified in OAR 851-045-0011 (Standards for Registered Nurse Teaching and Delegation to Unlicensed Person) that can be safely assigned to an unlicensed person to perform.
- (7) "Direct Educational Costs": Costs prior authorized by the agency that are incurred by the caregiver that include educational services not eligible for payment by the local school district, educational services required to maintain this child in the home provided by a private resource, transportation to educational services excluded as part of the child's Individual Education Plan and/or planned recreation which is part of the treatment plan. Also, one of the three fiscal categories used by SOSCF to track special rate payments to foster parents.
- (8) "Direct Maintenance Costs": Costs to maintain the child in a foster home as a result of increased daily supervision and/or direct costs essential to a child's care plan goals. (Title IV-E Maintenance definition: Maintenance payments directly related to a child's special needs to cover the cost of (and cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to the child, and reasonable travel to the child's home for visitation.) Also, one of the three fiscal categories used by SOSCF to track special rate payments to foster parents.
- (9) "Extraordinary Needs": Physical, mental, behavioral, emotional or educational needs inconsistent with the age of the child.
- (10) "Foster Care": The condition wherein a child is placed in a foster home by the agency.
- (11) "Personal Care Services": One-on-one medically oriented services for children with documented physical or mental impairments whose supportive care needs require a registered nurse assessment care plan, and periodic care plan review to allow the child to live safely in the most independent, least restrictive living situation. Also, one of three fiscal categories used by SOSCF to track special rate payments to foster parents.
- (12) "Physician's Order": A written order by a physician that states personal care services are required to meet the child's care needs.
- (13) "Registered Nurse": An individual licensed and registered to practice nursing.
- (14) "Relative": The child's parents, step-parents, adoptive parent(s), spouse of any blood relative previously listed, siblings, step-siblings, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, and

grandparents. (OAR 413-100-0020).

(15) "RN Assessment and Care Plan": A registered nurse assessment of a child's needs and a Care Plan which indicates the care, treatments, and procedures that are to be provided by the caregiver to meet the child's needs.

(16) "Special Need": A trait or impairment peculiar to a child that requires extraordinary care or attention.

(17) "Special Rate": A supplemental payment for children in foster care that is determined by direct maintenance costs, and/or direct educational costs, and/or personal care services. Special rates help to maintain the child in foster care by compensating caregivers providing care, supervision and/or other services identified to address the child's extraordinary physical, mental, behavioral and/or emotional needs.

(18) "Special Rate/Personal Care Services Foster Care Authorization": A form completed by a service worker to request an additional monthly reimbursement to the foster parent, based on the care needs identified by the registered nurse and those direct costs unique to the individual child.

(19) "Special Rate Review Committee": A committee of agency staff representing the region or branch that may include a registered nurse and foster parents.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0120**

### **Policy**

(1) Children with special needs have requirements that produce additional costs and services on the part of the foster parents. The agency's foster parents are entitled to be reimbursed for their extra costs and services.

(2) These additional costs and services make up the child's special rate payment. The agency tracks them by three fiscal categories; direct maintenance costs, (Title IV-E), direct educational costs, (General Fund), and personal care services, (Title XIX).

Stat. Auth.: HB 2004

Stats. Implemented: Title IV-E, Title XIX

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

## **413-090-0130**

### **Special Rate Eligibility Requirements**

To be eligible for a special rate a child must meet all the following conditions:

(1) All foster care policy related to child and foster parent eligibility must be met.

(2) All prior resources for achieving objectives, including the child's own resources, those available from family and/or friends, community resources and other agency resources must have been explored by the branch and been found insufficient or inappropriate to meet the identified needs.

(3) A determination regarding eligibility for Personal Care Services. This includes checking for Supplemental Security Income (SSI) eligibility, and whether the child has a documented, diagnosed physical or mental impairment.

(a) To be eligible for Personal Care Services a child must:

(A) Be eligible for Medicaid, either funded from the state general fund or Title XIX; and

(B) Have care needs which exceed the norm for the child's age which can be met through the Personal Care Services Program.

(b) To initiate the provision of Personal Care Services, a registered nurse must assess the child's Personal Care Service needs, develop a Care Plan based on a documented physical and/or mental impairment, secure the physician's signed prescription of the Personal Care Services to be provided, evaluate the competency of the caregiver, and recommend the number of hours per month of care required to meet the Care Plan.

(4) The child must have a basic foster care maintenance payment.

(5) The child's primary caregivers must be certified foster parents:

(a) If Personal Care services are to be provided, the child's foster parent(s) must be evaluated by a registered nurse and have written verification of competency to provide the care authorized in the child's RN Care Plan.

(b) It is the responsibility of the foster parent to select alternate caregivers who are knowledgeable of the specific care needs of the child and who understand and can follow the child's care plan.

(6) The child's Special Problem Code(s) must be entered on the agency's Integrated Information System.

(7) The child must have one or more physical and/or mental impairments that may include, but are not limited to, the following needs or conditions:

(a) Non-ambulatory inconsistent with their age and need individual care, such as lifting, bathing, toileting, feeding, dressing, etc.;

(b) Enuresis or encopresis inconsistent with their age, necessitating extra laundry such as clothing, bed linen (including protective mattress coverings), or diaper changing;

(c) Special diets prescribed in writing by a physician;

(d) Special treatment such as exercise or other physical therapy. Such services must be part of the written prescribed medical treatment plan;

(e) Medical supervision and/or care;

(f) Twenty-four hour supervision for their own protection and/or the protection of others;

(g) Aggressive, acting-out behavior which causes excessive damage to their own or their foster parents' property; i.e., destruction of bed linen, furnishings, furniture, and other household equipment;

(h) Special treatment prescribed by a physician or clinic that can be provided by foster parents with or without supplementary training and/or supervision;

(i) Extremely withdrawn and/or depressed behaviors which require frequent reassurance, attention, and/or stimulation;

(j) Underdeveloped personal habits and growth requiring intensive provision of day-to-day learning experiences by the foster parent(s) in keeping with the child's abilities;

- (k) Developmental delays requiring skilled care;
- (l) Aggressive, acting-out, abusive and disruptive behavior;
- (m) Delinquent behavior;
- (n) Extreme school problems which require excessive foster parent involvement.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

### **413-090-0140**

#### **Periodic Review of Eligibility Requirements**

- (1) The child's eligibility for a special rate shall be reviewed by the child's service worker and supervisor at intervals of six months or less from the effective date of the agreement. With justifying documentation to the branch manager, the child's service worker and supervisor shall make recommendations to continue, change, or terminate the special rate payment.
- (2) Foster parents shall be notified by the agency of any intended rate changes prior to agency authorization of the Special Rate/Personal Care Services Foster Care Authorization form. The agreement shall be forwarded to the foster parent within 30 days of authorization.
- (3) The Personal Care review requirement is to assure the RN Care Plan is appropriate and meets the child's needs. At a minimum, reviews will include:
  - (a) Periodic Review. At least every 180 days, the registered nurse and the child's caseworker will reevaluate the assessment and RN Care Plan and make changes, if appropriate;
  - (b) Physician's Order. At least annually, the child's physician prescribing the continuation or revision of Personal Care Services must evaluate the child's care need and have face-to-face contact with the child.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

### **413-090-0150**

#### **Cost Determination**

- (1) Direct maintenance educational and medically related transportation costs will be determined by the worker based on direct costs to maintain the child in the home:
  - (a) Direct maintenance costs (Title IV-E eligible) are:
    - (A) Diet - specify type (cost above regular diet);

(B) Laundry services - bedding and linen replacements (cost per load times the number of loads);

(C) Relief Care - (Number of hours times the rate) foster parent away (i.e., baby sitter). Relief care in foster homes with multiple children must be proportionately distributed among the children in the home unless relief care is specifically provided for individual children. Describe the reasons for relief care;

(D) In-Home Assistance - i.e., paid staff to assist in the non-medically related care of the child; describe reason (number of hours times the rate);

(E) Transportation - (only related to child - parental visits) (rate times the number of miles);

(F) Supervision - Costs not eligible for personal care services to maintain the child in the home;

(G) Other - (must come under definition of Title IV-E foster care maintenance payment). Social Security Act, Sec. 475(4), Title IV-E maintenance definition: "Payments to cover the cost of (and cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation."

(b) Direct costs (State General Funds) eligible are:

(A) Education services provided by a private resource and necessary to the maintenance of the child in the home; (Allowed only if not eligible to be paid by the local school district.)

(B) Transportation related to education services which has been excluded as a part of the cost of the child's Individual Education Plan;

(C) Medical-related transportation that has been verified by Adult and Family Services Agency of the Department of Human Resources as not qualifying for payment according to their medical policy (AFS Volume #VIII);

(D) Planned recreation which is part of the treatment plan for physically or mentally impaired children.

(2) Personal Care Services payment amounts will be determined by the worker based upon such Personal Care services to the child prescribed by a physician and described in the RN Assessment and Care Plan. Personal Care Services (Title XIX eligible) include:

(a) Basic personal hygiene, including bathing, hair grooming, nail care, foot care, dressing/undressing, and skin care;

(b) Toileting, including bowel and bladder care required for the total toileting process, helping to and from the bathroom, diapering and bedpan routine;

(c) Ambulation and transfer, including repositioning and assistance with or without mechanical aids;

(d) Feeding and eating with or without mechanical aids, including assurance of adequate fluid intake and preparation of special diets;

(e) Behavior management, in conjunction with a diagnosis from a qualified professional contained in the "Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised (DSM-III-R)," including problems related to adaptation, judgment, behavioral demands on others and incomplete socialization;

(f) Administration of prescribed and over-the-counter medications, including dispensing, observing for reactions, and assuring prescriptions are refilled when necessary;

(g) Standby Assistance. Standby assistance is being available to help the child with personal care tasks that cannot be scheduled for a child who cannot be left alone;

(h) Nighttime Care Needs. Nighttime Care is the time required to assist a child to sleep through the night;

(i) Supportive Services. Supportive services are those tasks authorized on the RN Care Plan that are not Activities of Daily Living, but are required to meet the child's identified goals, such as: preparation of a special diet, household assistance essential to the child's health and comfort, travel to medical appointments, and shopping for a child's health care or nutritional needs;

(j) Routine and Skilled Nursing Procedures. Nursing procedures are procedures related to Activities of Daily Living which can be delegated by a registered nurse to a person who is not a nurse. Procedures include mobility, care of unstable fracture/new cast; feeding, feeding per nasogastric tube; bladder, catheter care; bowel, care of colostomy or ileostomy; skin and nails, care of non-healing wounds, nail care for diabetics; behavior, maintenance and care for child requiring soft restraints; oxygen/ ventilator, administration; tracheostomy/suctioning, sterile care of stoma, suctioning; medications, injections, finger stick or other blood sugar tests; heart monitor supervision;

(k) Development of RN Care Plan. Based on the assessment, the RN will develop a Care Plan which identifies the child's impairment-related problem(s) and provides instructions for the care required:

(A) The registered nurse will enter on the assessment form a recommendation for the number of hours required monthly to meet the care plan. Any recommended hour change requires registered nurse acknowledgment by initial or signature next to the change;

(B) The caseworker, after discussion with the RN, will recommend to the Special Rate Review Committee a rate based upon the number of hours of Personal Care Services per month recommended by the registered nurse.

Stat. Auth.: HB 2004

Stats. Implemented: Title IV-E, Title XIX

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

## **413-090-0160**

### **Costs Reimbursable by SOSCF**

(1) The agency will reimburse costs by the foster parent(s) for extraordinary services and supplies that are required on a daily, weekly, monthly or other continuing basis. The costs are separated into three areas; those costs which are reimbursable to the state under Title IV-E eligible federal guidelines, (CF 172A, Part A), costs paid with state general funds (CF 172A, Part B), and Title XIX eligible federal guidelines, (CF 172A, Part C).

(2) Supervision costs above standard maintenance costs may be paid according to a combination of Title IV-E and Title XIX allowable costs.

(3) Supervision costs above standard maintenance costs may only be paid if the following conditions are met:

(a) A narrative is required for Title IV-E eligible supervision. An RN Assessment and Care Plan must be completed for Title XIX eligible supervision. Supervision provided for by Title IV-E funding must be for behaviors other than those behaviors provided for by Title XIX (personal care behavior management). Either or both must:

(A) Document the behaviors and direct care and supervision needs the child has that are beyond the normal requirements for a child of a similar age;

(B) Describe the necessary interventions and services the foster parent(s) must provide for each special need, including expected outcome which, if not achieved, would require that the child would need placement in a higher cost care program;

(C) Describe the foster parents' skill and experience which enable them to provide appropriate care for the child's special needs and behaviors.

(b) Authorization for any exceptions to the above rules/procedures or payment amounts is required by a regional manager or designee signature.

Stat. Auth.: HB 2004

Stats. Implemented: Title IV-E, Title XIX

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

## **413-090-0170**

### **Costs Not Compensated by SOSCF**

Direct costs not compensated are:

- (1) Kindergarten;
- (2) Day care;
- (3) Clothing;
- (4) Regular school transportation;
- (5) Special needs which may be paid for through the agency's "One-Time Payment for Special Needs," policy I-E.5.2.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0180**

### **Reimbursement Requirements**

Requirements for Special Rate payment include:

- (1) Billing. Billing for the service will be submitted on the agency's approved reimbursement form.
- (2) Periods of Absence. The agency will not pay providers for services not provided. (See policy I-E.5.1, OAR 413-090-0030)
- (3) Employer/Employee Relationship. There is not an employer/employee relationship between the agency and the providers, or the provider's relief worker(s), authorized to receive reimbursement through the Special Rate Program.
- (4) Special Rate/Personal Care Services Foster Care Authorization Form. A caregiver can only be paid an amount above the standard family foster care rate for services authorized on the Special Rate/Personal Care Services Foster Care Authorization form, CF 172A.
- (5) Foster Parent Contract. When a certified foster parent is under contract with a licensed child caring agency to serve a

child(ren) in their home, the agency may not enter into a separate contract with them to provide services to the same child.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0190**

### **Payment Authorization**

(1) Payment of a special foster care rate may be made only after:

(a) The branch/region Special Rate Review Committee has:

(A) Reviewed the methods used to arrive at the special rate amount;

(B) Considered the amounts paid for services provided that may apply to more than one child; i.e., respite care, in-home assistance, laundry, transportation, etc.;

(C) Considered the equitability of rates for similar types of children.

(b) The agreement (CF 172A) is authorized by the signatures of the caseworker, foster parent(s) and supervisor. Exceptions must additionally be authorized by the Special Rate Committee chairperson and regional manager or designee;

(c) The required payment information has been entered on the agency's integrated information system.

(2) A change in the foster care provider or revision of the special rate which produces a different rate than previously paid is a new special rate and as such requires a new agreement.

(3) Children placed in foster homes outside the branch having custody and requiring a special rate must have an agreement completed by the branch having custody. The branch where the child is placed, if asked, is responsible to participate in assessing the child's needs and in completing the agreement. Agreement authorization shall be completed in the branch having custody.

(4) Effective Date: The special rate is effective from the date of branch authorization. For special rate services provided prior to the date of the authorizing signature, the regional manager or designee may make the effective date of the agreement retroactive up to 90 days prior to the signature date.

(5) End Date: The maximum period of time for a special rate agreement is 12 months. A special rate may be authorized for a lesser period as determined by the regional manager or designee. If a special rate agreement expires and is not renewed before the next regular scheduled payment date, foster care payment will revert to the basic maintenance rate.

Stat. Authority: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0200**

## **Exceptions and Variances**

(1) Exceptions and variances consist of:

(a) Costs that are not in these rules; or

(b) Costs that exceed \$500 per month.

(2) Requests for exceptions and variances must be made in writing by the caseworker to the branch manager. Requests must state the reason(s) specific requirements of these rules cannot be met or met only in modified form, and state the requested additional amount of time needed.

(3) Requests for exceptions and variances must be approved by the branch manager.

(4) The granting of an exception shall not constitute a precedent for any other provider or client.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0210**

### **Termination of Special Rate**

The Special Rate will be terminated when the child no longer meets the Special Rate eligibility requirements.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0220**

### **Procedural Manual**

All procedures and forms for the implementation of the Special Rate Program are contained in each State Office for Services to Children and Families.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **Payments for Special and/or Extraordinary Needs**

## **413-090-0300**

## **Purpose**

These rules describe how one-time payments may be used to benefit children in the custody of the State Office for Services to Children and Families (SOSCF) who are in foster care, family and professional shelter care, residential group care and children in non-paid placement such as the Oregon State Hospital.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0310**

### **Definition**

"Payment for Special and/or Extraordinary Needs" means a payment for specific services or supplies which are essential to the child's substitute care and no other resource exists to cover the essential service or supply. This payment is unrelated to and independent of the regular monthly foster care payment. The payment for the child's special or extraordinary need shall not be ongoing in nature and is available only on a limited or one-time basis.

Stat. Auth: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0320**

### **Policy**

(1) Payments for Special and/or Extraordinary Needs shall be limited to the amounts stated in this rule whenever possible. Requests shall state a specific amount.

(2) Exceptions to these rules may be made by the branch manager in individual situations. Exceptions must be made prior to purchase and confirmed in writing in the case file.

Stat. Auth.: HB 2004

Stats. Implemented: Title IV-E

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

## **413-090-0330**

### **Clothing**

(1) It is the responsibility of the agency to make certain that clothing needs of children going into or placed in out-of-home 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 SOSCF will be dressed similar to other children living in the community, but purchases are dependent upon funds available to SOSCF.

(2) Unless an individual exception has been made by the branch manager, clothing purchases may be authorized only after:

(a) All 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 purchase of clothing;

(c) Shelter Care: Payment for an emergency wardrobe may be made when all resources have been utilized and it is determined that sufficient clothing is still not available.

(d) Ongoing Care:

(A) The service payment to providers includes a clothing replacement allowance. When a child is placed in ongoing care, the placement worker is to review the monthly payment for the child with the provider and explain that they are expected to use the clothing allowance included in the service payment for replacement of clothing. 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 wearable clothing, including clothing purchased for the child while in substitute care, is to go with the child. The child is not eligible for another initial placement wardrobe;

(C) New wardrobes are not to be purchased for a child in adoptive placement, 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 be provided a supplemental wardrobe when they leave care temporarily and later return to out-of-home care. A supplemental wardrobe requires an exception.

(e) Maximum Clothing Allowances:

(A) Emergency:

(i) Maximum Amount -- \$75.00;

(ii) When -- Shelter Care;

(iii) Required Approval -- Supervisor.

(B) Initial Wardrobe:

(i) Maximum Amount -- \$125.00 (including shelter care);

(ii) When -- Ongoing Placement;

(iii) Required Approval -- Supervisor.

(C) A supplemental wardrobe authorization:

(i) Maximum Amount -- \$125 (including shelter care);

(ii) When -- Subsequent ongoing, placement, after being returned home from previous substitute care placement;

(iii) Required Approval -- Supervisor.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-090-0340**

### **Transportation**

(1) The agency may pay for non-medical transportation based upon current SOSCF mileage rates paid to case-work staff. Reasonable travel to the child's home for visitation is a Title IV-E allowable expense. All other transportation expenses shall be billed to General Fund:

(a) Visitation: When family visitation is a part of the service plan, the foster parent may be reimbursed for providing transportation to and from these visits. When the child is in a residential care and treatment facility and the written treatment plan includes visitation with parent(s) or relative(s), the cost of such visits are expected to be shared by the branch, service provider and child's family. Direct case-by-case negotiations with the provider and the child's family, to determine branch cost, shall be in advance of the visits;

(b) School: When the child is in family foster care and the school district does not provide transportation, the foster parents may be reimbursed for mileage transporting the child to school, or for city bus passes where available and appropriate;

(c) In-state transportation by airline for children may be approved only if the cost of the air fare does not exceed all the actual costs of transporting the child by car.

Stat. Auth: HB 2004

Stats. Implemented: Title IV-E

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

## **413-090-0350**

### **Educational Costs**

(1) Basic school costs are to be paid by local school districts.

(2) No educational costs listed below are Title IV-E eligible. The following are allowable school costs which may be approved by the branch if sufficient funds are available:

(a) Rental of musical instruments:

(A) Maximum Amount -- \$75.00;

(B) When -- School Year;

(C) Required Approval -- Supervisor/Designee.

(b) High School graduation costs:

(A) Maximum Amount -- \$45.00;

(B) When -- When Needed;

(C) Required Approval -- Supervisor/Designee.

(c) Vocational school fees and equipment (not otherwise available through or paid by public schools or vocational rehabilitation program):

(A) Maximum Amount -- Up to \$350.00;

(B) When -- School Year;

(C) Required Approval -- Supervisor/Designee.

(d) GED testing:

(A) Maximum Amount -- Actual cost up to \$20.00;

(B) When -- Each testing;

(C) Required Approval -- Supervisor/Designee.

Stat. Auth.: HB 2004

Stats. Implemented: Title IV-E

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

#### **413-090-0360**

##### **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.

(3) Non Title IV-E allowable school fees include, but are not limited to, transportation to games, bus tickets to school, trumpet rental, books, class ring, graduation expenses, school pictures, sports gear, tuition, GED expenses, tutoring.

Stat. Auth.: HB 2004

Stats. Implemented: Title IV-E

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

#### **413-090-0370**

##### **Payment Method**

(1) A CF 598 (Authorization and Vendor Invoice) must be completed in accordance with instructions and presented to the vendor.

(2) The CF 598 will authorize a maximum amount; however, the vendor may only bill SOSCF 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.: HB 2004

Stats. Implemented: Title IV-E

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

### **413-090-0380**

#### **Children in Non-Reimbursed Placement at Oregon State Hospital and Other Non-Reimbursed Providers**

(1) SOSCF has established a procedure to provide personal allowances for children who are in custody of SOSCF and are placed in a non-reimbursed placement at Oregon State Hospital (OSH) and other non-reimbursed providers.

(2) Procedure:

(a) Determine if the child has benefits or resources coming in to his/her trust account. SOSCF 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;

(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 SOSCF location cost center and an object code of 980.092, Personal Allowance. (This is an EAS object code). SOSCF 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.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

#### **Funeral and Burial Expense**

### **413-090-0400**

#### **Purpose**

These rules describe the limitations on the payment of funeral and burial expenses for a child who dies while in the legal custody of the State Office for Services to Children and Families (SOSCF).

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-090-0410**

#### **Eligibility for Payment**

Funeral and burial expenses shall only be authorized for a child who is in SOSCF's legal custody and placed in substitute care at the time of death. All other resources for payment of burial expenses, including parents or guardians, must be explored before approval is given for SOSCF to make payments.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-090-0420**

#### **Payment Method**

Payment by SOSCF 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.: HB 2004

Stats. Implemented: HB 2004

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

### **413-090-0430**

#### **Allowable Costs**

Funeral and burial expenses are to be borne by parents, relatives or guardians if at all possible. In the event the agency must cover costs, payment for funeral and burial expenses are to be kept to a maximum of that amount authorized by the indigent burial fund administered by the Oregon Health Division. The following list specifies allowable expenses:

(1) Funeral Service. 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.: HB 2004

Stats. Implemented: HB 2004

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 100**

**SUBSTITUTE CARE - FUNDING ELIGIBILITY**

**Title IV-E and General Assistance**

**413-100-0000**

**Purpose**

The purpose of these rules is to set forth the procedures and criteria the agency will use to make Title IV-E-FC federal financial participation eligibility determinations for children in substitute care and in the care and custody of the State Office for Services to Children and Families.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

**413-100-0010**

**Eligibility Requirements**

(1) Public Law 96-272, the Adoption Assistance and **Child Welfare Act of 1980**, became effective June 17, 1980. It amended Title IV of the **Social Security Act** to establish a new Part E, which provides for federal payments to the states for foster care maintenance and adoption assistance payments made on behalf of certain eligible children. Title IV-E eligible children are categorically eligible for Medicaid.

(2) The Administration for Children and Families is the federal agency that sets regulations and monitors the Title IV-E foster care and adoption assistance programs. Title IV-E is administered by the State Office for Services to Children and Families of the Department of Human Resources. The agency acts as an applicant for the child and provides Title IV-E

foster care payments to providers on behalf of eligible children within:

- (a) The guidelines established by state and/or federal legislation for the program;
- (b) The established financial standards of the AFDC program in effect June 1, 1995;
- (c) Certain state and/or federal regulations and statutory requirements as defined in AFS rules 461-101-0010 through 461-195-0660 and 461-002-0920 in effect June 1, 1995 for AFDC recipients which also apply to the Title IV-E-FC eligible foster child who derives his/her eligibility from the AFDC program.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## 413-100-0020

### Definitions

- (1) "ADC No-Adult Standard": The standard applicable to ADC households that do not have an adult in the grant.
- (2) "AFDC": Aid to Families with Dependent Children.
- (3) "AFS": Adult and Family Services.
- (4) "Amnesty Alien": Any person with proper INS documentation who, because of a well-founded fear of persecution due to race, religion, or political opinion, fled his or her homeland. The term "refugee" is applied to all refugees and asylees with proper INS documentation served by AFS under the Refugee Resettlement Program.
- (5) "Assistance Unit": Unit of individuals whose needs, income, and resources are considered in determining eligibility for, and the grant amount.
- (6) "Child Support": Any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, necessary and proper shelter, food, clothing, medical attention and education.
- (7) "Citizen/Alien Status": A U.S. citizen or alien lawfully admitted under provisions of the **Immigration and Nationality Act** as a paroled or conditional entrant; or an alien lawfully admitted for permanent residence or who is otherwise permanently and lawfully residing in the United States.
- (8) "Countable Income": The amount of available income, including earned and unearned not specifically excluded by AFS rule 461-140-0040 to be used to determine eligibility for public assistance.
- (9) "Countable Income Limit": This amount is the standard set by AFS as the maximum countable income limit for ADC eligibility. This standard is used as the first step of the income eligibility tests.
- (10) "Court Order Date": Date of court order or temporary court order giving State Office for Services to Children and Families responsibility for placement and care, including orders of detention.
- (11) "Earned Income": Income produced as a result of services which the client performed.
- (12) "Eligibility Month":
  - (a) The month court action for placement was initiated resulting in the removal of the child from the home of his/her

caretaker; or

(b) The month a documented request for a judicial review of a child in SOSCF's continuous custody is made; or

(c) The month the judicial determination resulting in a court order for SOSCF custody was made when no documentation of a request for a judicial review is evident; or

(d) The month a voluntary agreement is signed; or

(e) The month a voluntary relinquishment is signed.

(13) "Entitlement": Any benefit to which an individual has a valid claim, or would have a valid claim upon application, including one related to past employment or service, pension, compensation payment, allotment allowance insurance payment, interest in an estate or fund, or of a similar nature.

(14) "Family": For purposes of determining Title IV-E-FC eligibility, family is the parent(s), stepparent(s), or relative(s) from whom the child is removed.

(15) "Foster Home": ORS 418.625(2) defines a foster home as one maintained by a person who has under his care a child unattended by his parent and not related by blood or marriage.

(16) "Grant": Is the actual assistance payment for the payment month.

(17) "Home": The home in which the child resided at the time of initiation of the court action. Non-related homes will not be considered as the home which exercises day-to-day care.

(18) "Incapacity": A condition that causes unemployability or impairs the individual's ability to perform normal functions either on a medical or psychiatric basis.

(19) "Initiation of Court Action": Date court was petitioned or legal action was taken which resulted in the removal of the child from the home of his/her caretaker.

(20) "Need": The monetary amount by which the requirements of AFS standards of an individual or family exceed all income and resources available to them.

(21) "Nunc Pro Tunc Orders": Under Oregon law, the role of a nunc pro tunc order is to supply an omission in the record of action actually taken, but omitted through inadvertence or mistake. Oregon's trial courts are authorized to correct their record so that it will speak the truth and truly set forth the proceedings as they actually occurred.

(22) "Parent": For IV E purposes "parent" means the birth or legal (step or adoptive) mother or father of a person or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child/unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established;

(b) A stepparent relationship exists if:

(A) The person is legally married to the child's birth or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the birth parent is also considered a parent if both of the following are true:

(A) The child lives with the birth parent; and

(B) The legal parent (the adoptive parent) has given up care, control and supervision of the child.

(23) "Payment Standard": This is the amount set by AFS as the ADC net income limit. It is used in the second step of the income eligibility tests. It is also used to determine the actual grant amount.

(24) "Personal Property": Everything owned which is not real property.

(25) "Real Property": Land, buildings, and generally whatever is erected on or affixed to the land or buildings.

(26) "Release of Temporary Commitment": The State Office for Services to Children and Families is relieved of responsibility by the court for placement and care of the child.

(27) "Resource": Any personal or real property which is or can be made available to meet the need of the assistance unit and is not specifically excluded from consideration by AFS.

(a) Personal Property: Any property that is not real property, including liquid assets;

(b) Real Property: Land, buildings, and whatever is erected on or affixed to the land or buildings and taxed as real property.

(28) "Shelter In-Kind": Shelter paid by an agency (other than AFS) or someone other than the client pays (or provides payment) for the client's rent and utility bills, totally, and at no cost to the client and the client provides no service in exchange for the payment.

(29) "Standards of Assistance": The consolidated standards for payment specified in Adult and Family Service's OAR 461-155-0030. These standards are used to determine income eligibility for ADC.

(30) "Title IV-E Program": The Title IV-E program of the Social Security Act provides federal payments for foster care and adoption assistance. The Adoption Assistance and **Child Welfare Act of 1980** (P.L. 96-272) was enacted on June 27, 1980, and established the new Title IV-E program, replacing on October 1, 1982, the Title IV-A foster care program in states.

(31) "Unearned Income": All income which does not directly result from an individual's employment or self-employment.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0030**

### **Certification**

Children found eligible for Title IV-E-FC must be placed in a certified or licensed substitute care placement. Documentation in the case record of licensure or certification is required. The following documentation is required for children in out-of-state placements:

(1) Verification that the out-of-state foster home or child caring agency is licensed or approved by the agency in that state which is responsible for licensing or approval of such facilities; or

(2) In states where relative homes are not licensed, a statement in a letter that the home would meet the state's licensing standards for certification or licensure, including a statement of the period of time for which a formal license would be

issued for that home.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0040**

### **Certification of Relative Homes**

(1) **Relative Payments.** Foster care payments to relatives are restricted by Oregon state law. Children in relative foster care must be Title IV-E eligible to receive a foster care payment with the exception of an Indian child. (The Tribal enrollment committee must verify that the child is enrolled as a member of a federally recognized tribe or eligible for enrollment.) State general fund foster care payments may be authorized for these Indian children in relative foster care but found ineligible for Title IV-E.

(2) **Relative Placements.** With the exception of Indian children, children in the following homes must be found Title IV-E eligible for the relative to receive foster care payments:

- (a) The home of any blood or half blood relative or adoptive relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great. Children with one common birth parent are half-blood relatives;
- (b) The home of siblings, aunts, uncles, first cousins, first cousins once removed, nephew, or niece, and grandparents;
- (c) The home of a relative, as defined in (a) of this rule, of adoptive parents. A valid decree of adoption establishes the adoptive parent(s) as the legal parent(s) and erases all prior legal and blood relationships;

(3) **Relative Foster Care Provider Rights.** The relative foster care provider has a right to:

- (a) Information about the Title IV-E foster care program administered by the agency, including the eligibility requirements of the program and the required verification methods for providing verification;
- (b) Apply for Title IV-E foster care payments for the financial support of the related child in their care;
- (c) Receive these benefits without discrimination when the related child in their care meets the eligibility requirement of the Title IV-E foster care program and the home meets Oregon foster care certification requirements.

(4) **Request for Payment.** The relative foster care provider may contact the agency with a request for Title IV-E payments. Their request for Title IV-E payments may be in the form of a phone call, visit or written request by the relative provider or another person acting on the relative provider's behalf. This request starts the application process. The date of request is the day the request for foster care payments is received. That date will be recorded by the Eligibility Specialist on the narrative and used to establish:

- (a) The date for starting the application processing time frame; and
- (b) The earliest date for which Title IV-E eligibility may be established.

(5) **Eligibility Determination Time Lines.** Eligibility will be determined within 45 days from the date of request for benefits. The limit may be extended for any of the following reasons:

- (a) Information needed to determine eligibility is expected to be received after the 45 day limit; or

(b) Other circumstances exist that are not within the control of the client or the branch office, and this delays the eligibility decision past the 45 day limit.

(6) Notification of Closing or Denial of Relative Payment. The eligibility worker will send written notification to the relative foster home at least ten days prior to the effective date of termination of payments when a child is no longer Title IV-E-FC eligible. Notification of denial will also be sent to relative(s) requesting foster care payments when a child placed in their home does not meet the requirements of the Title IV-E-FC program.

(7) Should relatives not agree with the closure or denial of Title IV-E foster care payments and medical coverage, a conference with the State Office for Services to Children and Families branch staff may be requested. The conference will provide relatives the opportunity to:

(a) Discuss the decision;

(b) Get an explanation of the specific reasons for the action; and

(c) Explain why they feel the action should not be taken.

(8) Relatives also have the right to ask for an Administrative Hearing before an impartial person designated as an authority on the federal eligibility requirements of the Title IV-E Foster Care and medical programs. The purpose of such a hearing is to determine if the branch's Title IV-E foster care eligibility determination decision is in compliance with the guidelines established by state and/or federal legislation for the program. If the hearing decision is that Title IV-E foster care payments and medical coverage have been wrongfully denied or terminated, corrective payment action will be taken.

(9) Whether relatives request a conference with branch staff, or an Administrative Hearing, witnesses may testify on their behalf and legal counsel or other representatives may be present. The State Office for Services to Children and Families will not pay the expenses of witnesses attending or of an attorney.

(10) Whenever a client or the client's authorized representative clearly expresses a desire to have a hearing, orally or in writing, the client has requested a hearing. The Eligibility Specialist will document the hearing request date on the narrative.

(11) Relatives may make a written or oral request for an Administrative Hearing to either their local branch office or the Central Office. Requests for an Administrative Hearing must be made within 45 days of the date of notice of closure or denial of Title IV-E foster care payments and medical coverage.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0050**

### **Certification of Unrelated Homes**

(1) Definition of Unrelated Home. Certification of the home is required when children are placed in the home of a person formerly related by blood or marriage. The following homes meet SOSCF's definition of an unrelated home. General Fund foster care payments may be made to the following certified homes:

(a) The home of a person formerly related to the child by marriage when:

(A) The relationship by marriage was terminated by death or divorce;

(B) The child was not adopted by a step-parent prior to the dissolution of the marriage or death of the natural or adoptive parent. A child's relationship to his/her step-parent ends 30 days after the entry of a divorce decree.

(b) The home of a person no longer related to the child by blood, with the exception of the birth parent. Blood relationships end when the child is legally adopted by another family. A valid decree of adoption establishes the adoptive parent(s) as the legal parent(s) and erases all the prior blood relationships of siblings, unless also adopted by the same adoptive parents, and extended family members.

(c) The home of a putative paternal relative. A paternal relationship by blood does not exist when:

(A) There is no court order establishing paternity or no evidence of such an order having been submitted to Vital Statistics; or

(B) The father's name is not on the birth certificate. (Only the birth certificate issued by Vital Statistics will provide proof of paternity having been established by the court. The hospital certificate giving the father's name is not sufficient evidence of paternity.); or

(C) The putative father signed relinquishment papers without ever having signed a stipulation of paternity. (The Support Enforcement Division does not recognize the signing of a stipulation of paternity without the mother agreeing that the man is indeed the father. The HS 21 form jointly signed by the mother and putative father is a legal document which establishes paternity and allows the father's name to be added to the birth certificate.)

(2) Definition of Non-substitute Care Placements. Children in the following relative homes are not considered to be in substitute care and are ineligible for foster care payments:

(a) The home of a birth parent even after adoption or termination of parental rights;

(b) The home of the designated caretaker relative from whose physical custody the child was removed;

(c) The home of a relative when the child's parent resides under the same roof;

(d) The home of a step-parent when the birth parent and step-parent are separated, but not divorced.

(e) The home of a relative when the relative has legal custody;

(f) The home of a relative when this home was the dwelling shared by the parent and the child at the time of removal.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0060**

### **Reimbursable Placements and Payments**

(1) Reimbursable Placements. There are five types of out-of-home placements which meet the Title IV-E definition of a reimbursable placement. They are:

(a) An approved foster family home;

(b) A private, non-profit, non-medical group home or crisis residential center licensed by the state;

- (c) A public non-medical group home or child-care facility which has a licensed capacity of less than 26 beds;
- (d) A pre-adoptive placement; or
- (e) A relative foster home.

(2) Reimbursable Payments. Title IV-E foster care maintenance payments for a child in foster care may cover:

- (a) The cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to the child, and reasonable travel to the child's home for visitation; and,
- (b) In the case of institutional care, the reasonable costs of administration and operation of such institution as are necessarily required to provide the items noted above.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

### **413-100-0070**

#### **Application for Title IV-E-FC**

- (1) Children in the care and custody of SOSCF and in substitute care will be referred for a Title IV-E-FC eligibility determination.
- (2) Under no circumstances is Title IV-E-FC to be authorized on behalf of any child prior to the establishment of eligibility by SOSCF's eligibility worker. A child cannot be eligible for Title IV-E-FC on the basis of presumed eligibility.
- (3) Applications will be submitted to eligibility workers under the following timelines:
  - (a) No later than three working days after a child's placement with a relative provider, unless the relative declines foster care payments;
  - (b) No later than 14 working days after a child's placement in regular paid care. (No application is required when children leave care on or before the seventh working day.)

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

### **413-100-0080**

#### **Effective Eligibility Date**

Eligibility for Title IV-E can be established when all other eligibility criteria is met:

- (1) No earlier than the date of placement when the child is in the agency's legal care and custody; or

- (2) The placement date, when custody is awarded (excluding Saturdays, Sundays and holidays) within 24 hours of placement; or
- (3) The day after the last Title IV-A entry claim date; or
- (4) The first of the month in which both "Reasonable Efforts" and "Contrary to the Welfare" rulings are made when the court delays making either finding; or
- (5) The first day of the month following the closure of the AFDC Non-Needy Relative (NNR) grant for the relative provider having received AFDC maintenance payments; or
- (6) The effective certification date of the relative provider's home when an AFDC (NNR) grant has not been received; or
- (7) The effective certification date when SOSCF Financial Services has reimbursed AFS the relative provider's AFDC (NNR) grant retroactive to the certification date; or
- (8) Effective the date the child is no longer in receipt of SSI (if applicable); or
- (9) The first of the month in which the court makes a judicial determination of "best interests" and "reasonable efforts" when a child in their parental home under SOSCF custody is returned to care; or
- (10) The first of the month in which the voluntary placement agreement is signed, when placement occurs prior to the signing of the agreement.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0090**

### **Retroactive Eligibility**

- (1) A claim for retroactive eligibility may be made on otherwise eligible cases when:
  - (a) A nunc pro tunc order is issued giving retroactive effect to the judicial findings included in the order and documentation meets the requirements outlined in OAR 413-100-0240(6); or
  - (b) A referral for a Title IV-E FC eligibility determination was not timely.
- (2) The effective date of eligibility for cases pended only for judicial determination requirements is:
  - (a) The first of the month in which the judicial determination is made; or
  - (b) The first of the month in which an existing order is modified to reflect a ruling not previously made.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

**413-100-0100****Pended Cases**

Applications with a potential for Title IV-E-FC eligibility with requirements which cannot be met or eligibility factors which cannot be cleared within the month of referral will be pended indefinitely.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

**413-100-0110****Effective Closure Date**

The effective date of termination for cases no longer meeting Title IV-E-FC eligibility criteria is the following:

- (1) The end of the month in which eligibility ceased to exist; or
- (2) Retroactive to the end of the month in which eligibility ceased to exist even though information causing the child's ineligibility became known to the agency after the fact; or
- (3) The day the parent(s), custodial or non-custodial, establishes residency in the home where their child resides; or
- (4) The day the foster home license certification is terminated; or
- (5) On the 180th day of placement for a voluntary placement not approved for continuation by the court within 180 days. The date the child is placed, not the signature date on the agreement, will begin the count; or
- (6) The day SOSCF ceases having legal care and custody of the child; or
- (7) The end of the month in which an 18-year-old youth graduates or obtains a GED; or the end of the last month they are 17 years of age if they did not or will not graduate by age 19.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

**413-100-0120****Verification of Eligibility**

- (1) To establish Title IV-E-FC, eligibility factors must be verified with documentary evidence acceptable for verification. The agency decides which eligibility factors require verification and what the acceptable type of verification are. The agency may:
  - (a) Decide that additional eligibility factors must be verified;
  - (b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.

(2) Verification is required for the following:

- (a) Residency;
- (b) Alien status;
- (c) Referral to Support Enforcement Division;
- (d) Age and school attendance;
- (e) Removal from the home of the designated relative caretaker;
- (f) Judicial Language on Court Orders;
- (g) Countable family/child income and benefits;
- (h) Work status;
- (i) Parental deprivation;
- (j) Family/child resources.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

### **413-100-0130**

#### **Eligibility Determinations**

(1) Title IV-E eligibility is determined on a one-time basis when the child enters substitute care. Children removed from the home of a parent or other caretaker-relative must meet specific eligibility requirements.

(2) The agency will reconstruct the case facts in the eligibility month to determine if the child was receiving AFDC, or might have been eligible for AFDC had an application been made. The child must have a relationship to the AFDC program during the eligibility month.

(a) AFDC Relatedness. The child meets the AFDC relatedness test if one of the following three criteria is met:

(A) The child was in receipt of AFDC in the eligibility month, and remain within the resource limits prior to the implementation of the **Oregon Options Waiver** under **Section 1115** of the **Soc. Sec. Act** effective (7-1-96); or

(B) The child was eligible to receive AFDC in such month, if an application had been made; or

(C) The child did not live with the AFDC specified relative in such month, but did live with such a relative in any of the preceding six months; and would have been eligible to receive AFDC during the eligibility month signed had an application been made.

(b) Circumstances defining AFDC eligibility or hypothetical AFDC eligibility for Title IV-E purposes are:

(A) Living with a specified relative;

(B) Deprived of the support of one or both parents;

(C) Financial need;

(D) U.S. citizen;

(E) Age.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0140**

### **Specified Caretaker Relative**

(1) Definition of Specified Caretaker Relative for Removal Purposes. AFDC relatedness tests require that the child be physically removed from the home of a specified relative. A specified relative is defined as:

(a) Birth, adoptive, or stepparent;

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great; (Children with one common birth parent are half-blood relatives.)

(c) Aunts, uncles, first cousins, first cousins (once removed);

(d) Persons who legally adopt a child and any people related to the child through the adoption who meet the degree of relationship specified in this rule. A valid decree of adoption establishes the adoptive parent(s) as the legal parent(s) and erases all prior legal and blood relationships;

(e) Stepmother, stepfather, stepbrother, or stepsister, even after marriage is terminated by death or divorce;

(f) Spouse of anyone listed above, even if the marriage has been terminated by death or divorce.

(2) Not Living With Specified Relative.

(a) Children removed from homes not related by blood or marriage will have their eligibility based on the AFDC eligibility of the related home in which the child last resided. Such children must have lived with a specified relative within six months of initiation of court action which resulted in the placement into SOSCF custody;

(b) Children hospitalized under parental custody and released into SOSCF custody for placement purposes will be considered to have lived with the parent regardless of the length of the child's hospitalization.

(3) Removal Requirements. AFDC relatedness tests require that the child be removed from the home of a specified relative. The removal home is the home from which the child is removed and where daily supervision and care of the child is maintained. For Title IV-E purposes, the designation of the home from which removal is based on is:

(a) The home of a relative when the relative exercises day-to-day care and control with the expectation of continuing to do so indefinitely. A home is the family setting maintained, or in the process of being established, as evidenced by assumption and continuation of responsibility for day-to-day care of the child by a relative with whom the child is living. The child will be considered to be living in the home of the relative when the parent(s) of a child leave the home in which the child and relative remain for an indefinite period of time, or place the child with relatives and do not return;

(b) The home of the parent when the child in a relative home is considered to be a temporary resident of the home. The

designated home for removal purposes will be the custodial parent's home when care and control by the relative or non-custodial parent is expected by all parties to be temporary or of a specific duration;

(c) The relative home where the child last resided.

(4) The child is not considered to be removed from the home of a specified relative and Title IV-E eligibility does not exist when:

(a) Court action initiated for purposes of placing a child in SOSCF custody results in the removal of the child from the legal custody of the parent, but does not physically remove the child from the designated day-to-day relative caretaker's home; or

(b) A child previously denied Title IV-E due to court action not resulting in the child's physical removal from the home of the designated day-to-day relative caretaker is moved from the home of that relative foster parent and moved into another placement; or

(c) A parent resides with his/her child in a relative home and the parent leaves the home of the relative for an indefinite period of time leaving the child in the relatives home. When the child's home is with the parent and a relative, the child must be physically removed from that home for eligibility to be considered even when the parent is temporarily absent from or leaves the home.

(d) Court action initiated for purposes of placing a child in SOSCF custody results in the removal of the child from the legal custody of the relative caretaker, but does not physically remove the child from the relative caretaker's home.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0150**

### **Parental Deprivation**

A continued absence of one or both birth or adoptive, or stepparent(s) from the home constitutes the basis for deprivation of parental support or care. Deprivation in relation to the home from which the child is removed exists when there is:

(1) Death. If either parent is deceased, the child is deprived of parental support or care.

(2) Continued Absence.

(a) The parent is 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; or

(b) There is evidence of continued absence of over 30 days duration; or

(c) Predictable absence due to divorce, legal separation, incarceration, and other verified and documented circumstances.

(3) Unemployment or Incapacity. For two-parent families with no absent parent, deprivation must be based on one of the following:

(a) Incapacity. One parent must meet one of the following criteria:

(A) Receives SSI;

(B) Receives SSB based on disability or blindness;

(C) Is unable to work or has a physical or mental condition that is expected to last at least 30 days and substantially reduces the parent's ability to support or care for the child.

(b) Unemployment or underemployment. Consider a two-parent household unemployed or under employed if they meet one of the following criteria:

(A) Is working less than 100 hours per month;

(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. (IV-A)

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0160**

### **Financial Need**

A child removed from the home of a specified relative and not in receipt of AFDC requires reconstruction of the child's situation to determine whether AFDC eligibility was possible. A step-by-step process must be followed.

(1) Child is removed from a parent's home:

(a) First consider the income and resources of the parent(s) or stepparent from whom the child was removed: and

(A) Determine the countable gross earned and unearned income of all the family members in the assistance unit in the eligibility month; and

(B) Include the child placed in substitute care in the assistance unit. Exclude the parent or child receiving SSI or a combination of SSI and other Social Security benefits.

(C) Determine if the total countable gross earned and unearned income of the assistance unit exceeds the ADC Countable Income Limit for the household.

(b) The second consideration in the income eligibility test is to:

(A) Determine the countable gross earned income with disregards and countable unearned income of all the family members in the assistance unit, including the child(ren) who has/have been removed;

(B) An assistance unit is not eligible when all available countable income in the eligibility month, both earned and unearned, exceeds the ADC Countable Income Limit, or the Adjusted Income Payment Standard. (SSI or a combination of SSI and SSA benefits are excluded as countable income.) (The first \$50 of child support is also excluded) The Adjusted Income Payment Standard is used to determine the actual ADC grant amount;

(C) An assistance unit is not eligible if in the eligibility month all available resources not excluded by AFS Rules are over the Resource Limit.

(2) Child Removed from a Caretaker Relative's Home. When a child is removed from a caretaker relative's home the steps of the eligibility test are to:

- (a) Disregard the income and resources of the caretaker relative(s);
- (b) Determine the countable earned and unearned income and resources available to the child;
- (c) Include the child placed in substitute care in the Assistance Unit;
- (d) Deny Title IV-E eligibility if the child's income is above the No Adult Standards for the ADC Non-Needy Relative Assistance Unit.

(3) Child Removed from a Minor Mother Residing in her Parent(s)' Home.

(a) A minor child is considered to be any person under the age of 18 who has not been emancipated by a court of law, married, or a member of the Armed Forces of the United States. When a child is removed from a minor mother residing in her parent(s) home, the first step of the eligibility test is to:

- (A) Exclude the resource of the parent(s) of the minor mother;
- (B) Determine the amount of countable income of the parent(s);
- (C) Deduct the needs of the parent(s) and their dependents living in the same household at the ADC Adjusted Income Payment Standard. Do not include the minor mother and her child in the assistance unit;
- (D) Allow the standard earned income deduction;
- (E) Deduct payments of alimony or child support;
- (F) Any remaining income is considered available to the minor parent and their dependent child even if it is not received.

(b) The second step of the eligibility test is to:

- (A) Determine the minor mother and her child's needs at ADC Adjusted Income Payment Standards; (i.e. needs standard);
- (B) Deduct the grandparent's income available to the minor parent from the ADC Adjusted Income Payment Standard; (i.e. needs standard);
- (C) Deny Title IV-E eligibility if the grandparent's income exceeds the payment standard for the minor parent.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

**413-100-0170**

**Need and Resources**

(1) The resource limit is \$1,000. An assistance unit with resources in excess of \$1,000 is ineligible for public assistance. The most common resources are cash, bank accounts, and motor vehicles.

(2) If an ADC 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 \$1,000 resource limit. Any vehicle with over \$2,500 equity value, or any second car with more than \$1,000 equity, makes the family ineligible.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0180**

### **Earned Income of Students**

(1) Children under age 18 with a GED or high school diploma and employed must have their earnings considered as income to reduce the foster care payment. Otherwise Title IV-E FC payments must be closed.

(2) 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) Children under 18 years of age and at least part-time students (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.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0190**

### **Unearned Income**

(1) For Title IV-E-FC purposes, all unearned income/benefits potentially available to the child must be counted against his/her foster care need on a dollar-for-dollar basis. Benefits awarded to the child for which the agency is not yet payee or benefits not readily available to the child must still be counted.

(2) The following are examples of countable unearned income:

(a) All Social Security benefits;

(b) Veteran's benefits;

(c) Loans;

(d) Cash contributions from any source;

(e) State or private accident or disability payments;

(f) Personal injury settlements;

(g) Lump sum income (except SOIL and IRS recoveries and lump sum support payment applied in the month of receipt to offset prior months Title IV-E maintenance costs);

(h) Child support;

(i) Railroad Retirement and other pensions;

(j) Annuities, dividends, interest, royalties.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

### **413-100-0200**

#### **Lump Sum Benefits**

(1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid into the agency must be applied retroactively to reimburse the agency from the date paid placement was initiated. The agency must be the representative payee. This can be accomplished by contacting SCF's Child Benefit Unit.

(2) Title IV-E-FC eligible children receiving lump sum benefits are considered eligible, but unreimbursable for Title IV-E during the months the calculated lump sum exceeds their substitute care need.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

### **413-100-0210**

#### **Citizenship and Alienage**

A child eligible to receive Title IV-E-FC is:

(1) A United States citizen; or

(2) An alien lawfully admitted under provisions of Section 203(a)(7) (prior to April, 1980), 207(c), 208, 249, 584(a), 101, Section 207(c) (after March 31, 1980) or Section 212(d)(5) of the **Immigration and Nationality Act** as a paroled or conditional entrant, or aliens granted immigrant status according to the **Amerasian Homecoming Act**.

(3) An amnesty alien granted permanent or unexpired temporary resident admitted under Section 245A, 210, 210A, status by the **Immigration and Nationality Act** and otherwise Title IV-E-FC eligible may receive Title IV-E-FC even though the child and his/her parents are prohibited from receiving ADC.

(4) Not an illegal alien.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0220**

### **Residency**

There is no minimum residency requirement for Title IV-E-FC eligibility. There need only be the intent for the child to reside in the State of Oregon under SOSCF's custody.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0230**

### **Age Requirements**

(1) To qualify for Title IV-E-FC, a child must be:

- (a) Under age 18: Children under age 18 do not have to attend school to be eligible for Title IV-E-FC;
- (b) Age 18, and regularly attending school or training, and expected to complete training or graduate from school by age 19; or
- (c) Enrolled in and attending school if age 18, and graduated by age 19. This must be verified prior to establishing eligibility for Title IV-E-FC. During summer vacation, verification of en-rollment for the next school year is required.

(2) Regular school attendance means enrolled in and attending any of the following:

- (a) A school in grade 12 or below; or
  - (b) GED classes in lieu of high school; or
  - (c) A course of vocational or technical training in lieu of high school.
- (3) The students full-time or half-time attendance is defined by the school.

(4) A child will be considered in regular attendance during a training program, vacation, illness, or family emergency.

(5) Students are considered to be attending for the full month in which they complete or discontinue school or training.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0240**

## Judicial Determination Requirements

(1) Best Interest Determination. The first court order issued in relation to the child's removal and placement should contain language or words to the effect that:

(a) "Placement is in the best interest (BI) of the child;" or

(b) "Continuation of residence in the home is contrary to the welfare (CTW) of the child."

(2) Should the Court fail to make a "Best Interest" or "Contrary to the Welfare" ruling in the first order issued at the time of the removal, the case will be pended awaiting a dispositional hearing. The "Contrary to the Welfare" or "Best Interest" requirement may be met through a subsequent order if the judicial determination is made within 6 months of the child's removal.

(3) Reasonable Efforts Requirement. Effective 10-01-83 the court order issued in relation to the removal contains language to the effect that:

(a) "Reasonable efforts in light of the child(ren)'s and parent's circumstances were made to prevent or eliminate the need for removal of the child from the home;" or

(b) "Reasonable efforts, in light of the child(ren)'s and parents circumstances have been made to make the return of the child to the home possible."

(4) Cases Pended for a Reasonable Efforts Determination. The judicial determination requirement of "reasonable efforts" may be satisfied without benefit of a hearing, but based on the court's review of current circumstances surrounding the replacement.

(a) Should the first order issued at the time of the child's removal contain a "best interest" ruling, but no "reasonable efforts" finding, the case will be ineligible until the first of the month in which the court makes a "reasonable efforts" finding on a subsequent order;

(b) Once the court makes a "reasonable efforts" finding on an otherwise eligible case, Title IV-E can be claimed for the duration of the placement even when the court rules at a later date that "reasonable efforts" have not been made to reunite the child with the family.

(5) Orders Reflecting Recommended Placements. The court order must also:

(a) Recommend, not specify placement with a particular individual; and

(b) Allow the agency to freely make decisions about a change in the child's placement without further court approval; or

(c) Reflect that the court was advised of, and approved, placement or the agency's intent and case plan to place the child at a future date.

(6) Nunc Pro Tunc Orders. Nunc pro tunc or amended orders are acceptable to correct the omission of a "best interest" or "reasonable efforts" ruling in the original removal order only when documentation such as court transcripts, bench notes, court documents and the caseworker narrative are available to verify that the judicial determination was made at the original removal hearing.

(7) Replacement Orders. Each time a child is removed from the home in the following instances, a new eligibility determination and a judicial review addressing the circumstances of the child's removal is required regardless of whether the child is already committed to the department's custody:

(a) The case plan was for the child to remain in the parental home; or

- (b) New circumstances or issues arose in the parental home causing the child's replacement; or
  - (c) The child was under agency supervision and removed from the legal care, custody, and placement of a relative; or
  - (d) A child in a legally finalized adoptive placement is returned to care.
- (8) Replacement Order Time Lines. The court's review of the circumstances surrounding the child's replacement must:
- (a) Be initiated within six months of the date the child last lived with the parent; and
  - (b) Take place within 180 days of initiation of court action; and
  - (c) Include a "best interest" determination that replacement of the child into care was in the child's "best interest," or words to that effect, in the first order issued after the child's replacement. (A reasonable efforts ruling may be obtained at a later date.)
- (9) Exceptions to Replacement Orders. Some Title IV-E-FC eligible children, moved while in care or with interruptions or delays in placement, require no new application or new judicial determination for Title IV-E-FC. The eligibility factors of deprivation, limited income and resources available to the child, and school registration for the 18 year old must still exist, to reopen or continue Title IV-E eligibility. Eligibility may be reopened or established effective the day the child enters paid care for the following otherwise eligible children:
- (a) Children moved from a paid or unpaid relative placement into family foster care;
  - (b) Children at home awaiting a residential opening and the court has approved placement in a residential facility;
  - (c) Children on the run or taken by the parent without SOSCF's permission are located in the home of the parent and immediately returned to care;
  - (d) Children on the run are located in the home of the parent and are allowed to remain there for a reasonable time, with the worker's consent, until a placement becomes available;
  - (e) Children with interrupted placement resulting from:
    - (A) A runaway; or
    - (B) Placement in a detention facility or a juvenile training school; or
    - (C) Hospitalization.
  - (f) Children returned to care from the parental home when a trial visit fails. A judicial review is not required for a failed trial visit under the following situations:
    - (A) SOSCF custody was continued during the trial visit period; and
    - (B) At the time the child was sent home, the case record narration or documentation designated that the child's return home was on a trial visit basis; and
    - (C) The duration of the trial visit was no longer than six months.
  - (g) Children in continuous placement and returned by court order to the care and custody of SOSCF from the custody of a private agency or substitute care provider.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0250**

### **Voluntary Placement Agreements**

Children in placement based on the signing of a Voluntary Custody Agreement or Voluntary Child Placement Agreement, and Title IV-E-FC eligible must:

- (1) 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 determination requirement may be met without a court hearing, i.e. letter to the court which results in a court order; or otherwise
- (2) Be closed if the court has not made a judicial determination within the first 180 days of the voluntary placement. The effective date of closure is the 180th day. Title IV-E-FC eligibility cannot be continued or reopened during the duration of the child's placement if this time line is not met.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0260**

### **Voluntary Relinquishments**

(1) Children in placement based on the signing of a voluntary relinquishment are eligible for Title IV-E if court action is initiated within six months of the month the child last lived with the parent and there is a judicial determination in the first court order issued that:

- (a) Remaining in the home would be "contrary to the welfare" of the child; and
  - (b) "Reasonable efforts" have been made in relation to the child's removal from the home.
- (2) Title IV-E eligibility is effective the first of the month of the court order when all other eligibility criteria are met.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0270**

### **Reviewing Eligibility**

(1) Once Title IV-E eligibility is established, the agency shall determine for each month a child is in care whether the child's cost of care was reimbursable under Title IV-E. A child may lose and regain reimbursability on a frequent basis. The loss of reimbursability in any one month does not permanently deprive the child of reimbursability in future months. For all Title IV-E cases, except relative foster care cases, redeterminations shall occur at least every year to

establish whether the reimbursability criteria are met on a month-to-month basis. For relative foster care cases the redeterminations will occur at least every six months. Circumstances defining reimbursability for Title IV-E purposes are:

(a) Resources;

(b) Income;

(c) Age;

(d) Parental Deprivation.

(2) The child will be found temporarily unreimbursable for Title IV-E when the child's:

(a) Resources exceed \$1,000 in any month;

(b) Countable earned and unearned income exceeds the cost of the substitute care maintenance payment;

(c) Placement is in a foster home awaiting certification.

(3) The following factors must be reviewed in determining a child's continued eligibility for Title IV-E-FC:

(a) The child's resources must not exceed \$1,000 in any month or he/she will be found temporarily unreimbursable for Title IV-E-FC; and

(b) The child's countable earned (per OAR 413-100-0180) and unearned (per OAR 413-100-0190) income, including lump sum benefits (per OAR 413-100-0200) must not exceed the cost of the substitute care maintenance payment or he/she will be found temporarily unreimbursable for Title IV-E-FC; and

(c) There must be continued deprivation of parental care and support in the home from which the child was removed and on which the eligibility determination was based; and

(d) The 18-year-old child must be in school full time or in the equivalent level of vocational or technical training and expected to complete or graduate from such school or training by age 19. If verification cannot be obtained, children age 18 will not be eligible. Title IV-E must be closed effective:

(A) The end of the month in which the 18-year-old youth graduated or obtained a GED; or

(B) The end of the last month they are 17 (i.e. the end of the month prior to their 18th birthday) if they did not or will not graduate by age 19.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0280**

### **Deprivation at Relinquishment or Termination of Parental Rights**

In the month parental rights are terminated or voluntarily relinquished, there must be deprivation in the home from which the child was removed for the child to remain Title IV-E-FC eligible. Thereafter, parental deprivation will not be a consideration in further reviews of eligibility. Deprivation will be based on continued absence.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0290**

### **Parental Deprivation at Review**

(1) Existing Deprivation. To maintain Title IV-E reimbursability the child must be considered to be continually deprived of the parental support and care of one or both parents as if they were back in the home from which they were removed. However the deprivation need not be the same as at the time of the original application. Deprivation will be:

(a) Divorce, marital separation, incarceration, never having been married, or death in single parent households, or absent parents for children removed from a relative home;

(b) Unemployment or incapacity in two-parent households. Because the parents' wages and/or benefits are disregarded at review reimbursability may continue when:

(A) Both parents are unemployed or incapacitated; or

(B) Both parents are unemployed or each parent is working less than 100 hours per month, or either parent 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 upcoming month.

(C) One parent is incapacitated and the other is employed.

(c) Continued absence when:

(A) A child is removed from the home of a relative other than the parent; or

(B) Parental rights of the parent or parents from whom removal was based are terminated or relinquished. The status of the parents does not have to be verified after termination or relinquishment. (See OAR 413-100-0280.)

(2) Deprivation Not Existing: Children do not meet the deprivation requirement and reimbursability does not exist when:

(a) The parent remarries, if removal was based on that parent, and deprivation based on incapacity or unemployment does not exist in the two parent household; or

(b) The parent reconciles with the parent of the child in care and deprivation based on incapacity or unemployment does not exist in the two parent household; or

(c) Both parents return to reside in the home of the caretaker relative from whom the child was removed, or on whom eligibility was based; or

(d) The child returns to the home of a relative from whom the child was removed, and on whom eligibility was based; or

(e) A parent visits extensively in the relative caretaker foster home. Parental visits in the child's home and that of the relative caretaker may not exceed four times per week, or a total of 12 hours per week without a visitation plan outlined

or reasonable explanation documented in the eligibility file. Such documentation is needed to ensure that the parent has not assumed the caretaking responsibilities of their child. (IV-A).

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0300**

### **Parental Referral to Support Enforcement Division**

Every Title IV-E-FC eligible child (unless excepted by policy) must be referred to the Support Enforcement Division of the Oregon Department of Justice. The referral is made via SOSCF's IIS automated referral process.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0310**

### **Title XIX Eligibility**

All children found eligible for Title IV-E-FC will be automatically eligible for Title XIX as described in SOSCF's rule OAR 413-100-0430.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

## **413-100-0320**

### **Cobra and Title XIX**

(1) The **Consolidated Omnibus Reconciliation Act of 1985**, PL 99-272 (COBRA) enacted on April 7, 1986, permits Title IV-E-FC eligible children in paid substitute care or receiving adoption assistance to receive Medicaid (Title XIX coverage) from the state where they reside.

(2) The SOSCF eligibility worker will notify the foster or adoptive parent(s) residing or moving outside of Oregon of the discontinuance of the Oregon Medicaid Card and need to apply for Medicaid under COBRA for their Title IV-E eligible child in their new state of residence.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

**413-100-0330****SSI Eligibility**

Children cannot receive SSI payments and Title IV-E foster care payments concurrently. A determination of which funding source is of most financial benefit to the agency must be made. The following children will be referred to the SSI Unit, Central Office SOSCF for the determination:

- (1) SSI recipients in residential or group care placement;
- (2) SSI eligible children receiving a special rate and standard foster care payment under Title IV-E;
- (3) SSI eligible children with a cost of care under the SSI rate for consultation on closure of Title IV-E;
- (4) SSI eligible children receiving Title XIX Personal Care and Title IV-E foster care payments for consultation on closure of Title IV-E and application for SSI.
- (5) SSI eligible children placed in a Relative Foster Home and potentially eligible for a Special Rate Foster Care payment.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

**413-100-0340****AFS Notification and Concurrent Federal Payment**

AFS must be notified by the eligibility specialist when children are receiving AFDC and are placed in foster care. Title IV-E-FC relative payments cannot be authorized for otherwise eligible children when the relatives are receiving an AFDC/NNR grant for the children as the relatives would incur an overpayment with AFS. Title IV-E relative foster care payments may begin when the child is removed from the ADC grant.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

**413-100-0350****Minor Mothers and Children**

Children in the care and custody of the agency and not removed from their minor mothers in a foster care placement are not deprived of their parent. They do not meet the removal requirement for Title IV-E-FC eligibility. The child's parent must be absent from the foster home before Title IV-E-FC can be considered.

Stat. Auth.: HB 2004

Stats. Implemented: PL 96-272

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

### **413-100-0360**

#### **Fraudulent Receipt of AFDC**

If it is a known fact that a family was fraudulently receiving AFDC based on parental absence, Title IV-E must be established on the basis of a two-parent household. However, if there is only suspicion and no documentation of fraud, Title IV-E eligibility based on an absent parent may be considered.

Stat. Authority: HB 2004

Stats. Implemented: PL 96-272

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

## **Title IX General Assistance Medical Eligibility**

### **413-100-0400**

#### **Purpose**

The purpose of these rules is to set forth procedures and criteria which the agency will use to make Title XIX medical eligibility determinations for children in substitute care who are in the care and custody of the State Office for Services to Children and Families, and to make such determinations for those children who do not meet the financial eligibility criteria for Title XIX who would otherwise be eligible for the General Assistance Medical Program. Both of these programs are administered by the Office of Medical Assistance Programs.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

### **413-100-0410**

#### **Definitions**

- (1) "AFS": Adult and Family Services Division.
- (2) "Assistance Standards": Amount of entitlement determined by AFS taking into consideration the need for food, shelter, utilities, clothing, personal incidentals and household supplies. Need is determined for individuals by comparing available income and resources to the ADC assistance standards.
- (3) "Custody": Legal custody and guardianship, as defined in ORS 419B.373, 419B.376 and 419B.379.
- (4) "Earned Income": Income received from earnings of the child who is either working full time or part time.

(5) "Full-Time Employment": 160 hours per month.

(6) "Full-Time School Attendance": Number of hours as defined by each individual school.

(7) "G.A.": General Assistance with no federal match.

(8) "OMAP (Office of Medical Assistance Programs)": Refers to the official state Title XIX (Medicaid) agency located in the Office of the Director, DHR. Most DHR - wide Title XIX functions are handled by OMAP, but a few functions are retained by AFS. OMAP was formerly a part of AFS.

(9) "Paid Substitute Care": The State Office for Services to Children and Families is making a payment on behalf of the child.

(10) "Resources": All real and personal property, automobiles, life insurance and trusts, including cash, savings, checking accounts or trust and agency (T&A) accounts.

(11) "SOSCF or the Agency": The State Office for Services to Children and Families.

(12) "Spend Down": Refers to the use of excess monthly income over the AFS assistance standard that is used to pay for medical expenses which enables a client to be Title XIX eligible.

(13) "Unearned Income": Refers to income to the child in the child's own right, such as Social Security benefits, Veteran's benefits, child support payments or other entitlements. It does not include the SOSCF foster care payment.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

## **413-100-0420**

### **Determinations Required**

(1) Each child in substitute care whose care is paid by SOSCF or another public agency must have a determination of Title XIX eligibility before the issuance of a medical care ID card is authorized by SOSCF. Eligibility will not be presumed. In order to determine this eligibility the form "Individual Eligibility Determination for Title XIX Medical Coverage" (CF 190) must be completed, dated, signed by either a SOSCF case worker or their designee, and filed in the child's case record. The following children are potential candidates for Title XIX coverage:

(a) Children in shelter or foster home placements or, in a licensed child care agency, group home, or residential care placement, or a non-profit public drug and alcohol treatment facility;

(b) Children in placements listed above when the care is paid by another public agency including county juvenile departments.

(2) Children admitted to the hospital prior to entering substitute care or newborns released from the hospital into substitute care. Title XIX eligibility is effective the date that SOSCF obtains custody of the child and the child is determined eligible. Children hospitalized under SOSCF's protective custody and returned home upon discharge are eligible for Title XIX when the intent was to place the child in care.

(3) Babies born to mothers receiving Title XIX coverage from Adult and Family Services. Title XIX coverage for birth expenses can be authorized when:

- (a) SOSCF obtains custody of the baby during its hospitalization; and,
- (b) An SMED service is entered effective the date of birth;
- (c) In the month following the birth month (if the child is not found Title IV-E eligible) a new CF 190 must be completed for review of the infants ongoing Title XIX eligibility. Consideration of the following factors is necessary before continuing Title XIX eligibility:
  - (A) An application for a Social Security number has been made; and/or,
  - (B) Unearned income in excess of the ADC standards for Title XIX eligibility is available for the child.
- (4) Children on runaway status who would otherwise be in care. Eligibility for Title XIX resumes at the time they are located as long as SOSCF retains custody and the child would continue to be in substitute care and Title XIX eligible if not on runaway status. SOSCF is not responsible for medical bills incurred while a child is on the run if the child is not replaced in care.
- (5) Youth in subsidized Independent Living.
- (6) Children placed in an adoptive home pending the finalization of the adoption.
- (7) Children receiving SSI. An application (CF 190) for Title XIX must be completed to establish initial eligibility.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

### **413-100-0430**

#### **Assistance Standard**

- (1) In order to be eligible for Title XIX coverage while in foster care, a child must meet the income level in one of five ways:
  - (a) Through the ADC payment standard for one in a household of one, or (AFS Rule 461-004-0915);
  - (b) Through the Medically Needy standard for one in a household of one;
  - (c) Through the Medically Needy with spend-down standard;
  - (d) Eligible for and receiving Title IV-E foster care payments;
  - (e) Receiving (SSI) Supplemental Security Income.
- (2) Unearned Income: All unearned income that the child is entitled to receive must be counted in determining Title XIX eligibility. Income must be used to determine eligibility even if the agency has not begun to receive the benefits as long as that income has been awarded to the child.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0440****Earned Income**

Earned Income: Treatment of earned income in determining eligibility for Title XIX will be handled solely on the basis of the child's student status as follows:

(1) The following children will have their earnings disregarded:

(a) Full-time students (as defined by the school) attending grade 12 or below, or attending a course of vocational or technical training, or GED classes in lieu of high school or planning to return to school or vocational training; or

(b) Part-time students who are not employed full time and are attending grade 12 or below, or attending an equivalent level of vocational or technical training or GED classes, or planning to return to school or training;

(c) Children earning income under the Job Training Partnership Act (JTPA) programs (except Job Corps payments).

(2) A child who is attending school part-time and employed full-time, or not attending school will have his/her earnings partially disregarded. The first \$90 of earned income will be disregarded. The earnings will be computed on the CF 190 to determine the child's eligibility for Title XIX.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0450****Resources**

(1) Total resources for a child may not exceed \$2,000 in order to be eligible for Title XIX. If a child has a motor vehicle, the first \$1,500 of equity value of that vehicle is exempt. The equity value over \$1,500 will be counted towards the \$2,000 resource limitation.

(2) Children receiving SSI are always eligible for Title XIX. If the child's assets (SOSCF Trust Account) exceed the limitation for SSI eligibility, it must be reported to the Social Security Administration. (Refer to SOSCF policy III-B.5, "Trust Accounts.")

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0460****Citizenship and Alienage**

(1) To be eligible for Title XIX the child must be:

(a) A United States citizen; or

(b) An alien lawfully admitted under provisions of Section 203(a) (7) before April 1980, 207(c), 208, 249, 584(a), 101, Section 207(c) (after March 31, 1980) or Section 212(d) (5) of the Immigration and Nationality Act as a paroled or conditional entrant; or aliens granted immigrant status according to the Amerasian Homecoming Act;

(c) An amnesty alien with permanent or unexpired temporary status admitted under **Section 245A, 210, or 210A** of the **Immigration and Nationality Act**.

(2) In order to authorize benefits, there must be proof that a child is a U.S. citizen, or in the country legally. Birth certificates, or citizenship papers, alien registration cards, permanent visas, Cuban and Refugee registration cards may be used.

(3) To authorize Title XIX benefits, there must be proof that the child is in the country legally. Individuals completing and signing the CF 190 application swear that they have reported the child's citizenship honestly.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

## **413-100-0470**

### **Social Security Number**

The child must have a social security number (SSN) or verification that an application for an SSN has been made. When a child does not have an SSN, verification of application for the social security number must be documented in the case file.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

## **413-100-0480**

### **Retroactive Eligibility**

Children receiving GA medical due solely to the lack of an SSN are eligible for Title XIX retroactive to the date of placement once verification of an application for an SSN from the Social Security Administration has been obtained. An AFS 148 form titled "Recipient Subsystem, Claims Processing, Addition/Correction" must be completed on each case and sent to the Client Maintenance Section, AFS, P.O. Box 17150, Salem, OR 97305, for retroactive claiming of Title XIX. Title XIX eligibility retroactive to the date of placement must also be entered into IIS.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0490****Assignment of Medical Benefits**

- (1) All known or potential health insurance benefits or resources and all other third-party medical benefits, including casualty insurance available to the child, must be assigned to the Adult and Family Services Division.
- (2) The caseworker, or their designee as guardian of the child, may sign the CF 190 assigning these benefits.
- (3) An AFS 415-H, "Medical Resource Report Form," must be completed and sent to AFS, Recovery Resource Section, P.O. Box 14023, Salem, OR 97309, for every child with health insurance coverage. If the child is covered by private health insurance such as Kaiser or another Health Maintenance Organization plan or Physician Care Organization (HMO/PCO), and is placed outside of a 30-mile radius, a statement of "accident injury policy only" must be written in the comment section of the AFS 415-H form. This exception statement will allow the foster parents the freedom to obtain medical care for the child within their local area.
- (4) A CF 969A, "Adoption Assistance Application Supplement" must be completed and sent to AFS, Health Insurance Group, for children approved for Adoption Assistance prior to finalization of the adoption.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0500****Lump Sum Benefits**

If all or part of a lump sum (any income received as a one-time payment) is spent during the month it is received in SOSCF, Accounting Services, so that the ending Trust and Agency balance is less than the Medically Needy resource limit of \$2,000, Title XIX medical eligibility may continue.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0510****Title XIX Coverage**

If a child leaves paid substitute care, Title XIX eligibility exists for the remainder of the calendar month the child was in care as long as the child was eligible the day the medical card was issued.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0520****Reviews**

- (1) Each child's eligibility for Title XIX must be reviewed every 12 months unless the child is receiving SSI. A review is not required for child receiving SSI unless the SSI is terminated.
- (2) When there is a change in income or resources, the CF 190 must be completed in the month the change occurs in order to update the medical eligibility for the following month.
- (3) When it has been determined that a child was incorrectly shown as Title XIX eligible for prior months, an AFS 148 will be completed to retroactively correct the child's computer file.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0530****Cooperation with AFS Quality Control**

- (1) As the State Title XIX agency, DHR is responsible to review cases covered by these rules for compliance with federal law and regulations. AFS performs this function.
- (2) All cases to be reviewed will be requested through the SOSCF Financial Resource Unit. All case material (eligibility and service records) will be forwarded by SOSCF to AFS upon request. The cases will be selected for review by a systematic random sample each month from a universal listing of Title XIX-eligible cases. Title IV-E cases are not included in cases to be reviewed.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

**413-100-0540****GA Medical Policy**

- (1) All children in paid substitute care who do not meet the eligibility requirements for Title XIX, will be eligible for General Assistance(GA) medical through OMAP.
- (2) A CF 190 will reflect eligibility for GA medical when it has been determined there is no eligibility for Title XIX. These cases will be reviewed every 12 months in order to determine possible change in income and/or resources which may change the child's eligibility for Title XIX.
- (3) Infrequently a non-relative foster care provider is the designated payee for a foster child's benefits. Until payee status is transferred to the agency and a foster care maintenance payment is made, the child is eligible for GA medical as long as their income is less than the standard cost of foster care for their age level.
- (4) Youth in non-subsidized Independent Living are eligible for GA medical unless their income exceeds the standard

cost of foster care for their age level.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

#### **413-100-0550**

##### **Non-Paid Relative Placements**

(1) Children living with relatives in non-paid care and living in the state must be referred to AFS for a cash grant and/or Title XIX coverage. SOSCF cannot issue a GA medical card to children in non-paid relative care. The social service specialist will advise the family to pursue medical coverage for the child through AFS.

(2) A child placed in a relative's home out-of-state will be referred to the Title XIX agency in that state for a Title XIX determination. If that state determines there is no Title XIX eligibility, SOSCF may issue a GA medical card only when the child's income is below the foster care rate.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

#### **413-100-0560**

##### **Medical Eligibility for Children in Adoptive Homes**

(1) All children placed in adoptive homes prior to the entry of a final decree of adoption are eligible for a medical card.

(2) If no foster care payment is made, the child is GA eligible prior to execution of any Adoption Assistance agreements.

(3) If no medical eligibility is initially established, the medical eligibility may be determined using the criteria in section (2) of this rule any time during the adoption supervisory period.

(4) Title XIX eligibility for children in an adoptive placement and for whom Adoption Assistance has been approved is determined according to OAR 413-130-0100: Medical Assistance Policy for children receiving Adoption Assistance.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

#### **413-100-0580**

##### **Title XIX Eligibility Under COBRA for Out-of-State Placements**

(1) The **Consolidated Omnibus Reconciliation Act (COBRA)** of 1985 provides for Title XIX coverage in the state of

residence for children receiving Title IV-E foster care payments.

(2) All children receiving Title IV-E foster care payments from other states moving to the State of Oregon must be referred to the AFS office in the county of residence for a Title XIX eligibility determination. Under no circumstances is SOSCF to authorize the issuance of a Medical Care Identification (MCI) for children in the custody of another state. In addition, all children who are Title IV-E eligible in Oregon and move to another state are eligible for Title XIX in the state of residence. The MCI will be issued by the state of residence.

(3) Children receiving SSI payments and moving outside the State of Oregon are eligible for Title XIX in their state of residence.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

## **413-100-0590**

### **Youth in Detention**

Youth held in a county or state juvenile detention facility are ineligible for Title XIX or GA medical coverage. Payment will be made for emergency medical services only. A child must be in SOSCF custody and payment will be made from the SOSCF branch "Other Medical" budget.

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

## **413-100-0600**

### **Children in Residential Care with Payment by Another Public Agency**

(1) Children in substitute care approved by a public agency of this state, and for whom a public agency of this state is assuming some financial responsibility, may be eligible for medical coverage.

(2) Children in the care and custody of SOSCF and placed in residential care paid by another public agency whose income does not exceed the ADC Medically Needy (no spend down) payment standard for one person may be eligible for Title XIX. Others will be eligible for GA medical coverage.

(3) To issue medical care identification to children in the care and custody of SOSCF and in non-paid residential care funded by another public agency, the following must be entered on IIS:

- (a) Medical eligibility after completion of a CF 190;
- (b) An SRES non-pay service;
- (c) The child's address on IKMB (the child's individual screen).

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

## **413-100-0610**

### **Temporary Medical Card Issuance**

The AFS-1086, "Temporary Medical Care Identification Card (MCIC)," may be issued when a child requires medical care prior to receiving the computer generated MCIC (Medical Care Identification Card, OMAP 1417). The temporary MCIC may also be issued when the child is placed, moved to a new placement, or when the MCIC is lost and medical care is needed before a new card will be issued. (The eligibility data must be entered into the system at the time of issuance in order for the provider to be paid.)

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

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

## **Targeted Case Management**

## **413-100-0700**

### **Purpose**

These rules provide guidelines on how individuals and organizations can become qualified targeted case management service providers for children in substitute care who are in the legal custody of the State Office for Services to Children and Families.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-100-0710**

### **Definitions**

- (1) "Case Manager": An employee of a provider organization who has completed the Office of Medical Assistance Program (OMAP) approved case manager training.
- (2) "MMIS": The Office of Medical Assistance Program's (OMAP) Medical Management Information System.
- (3) "OMAP - Approved Case Manager Training": Training provided to an employee of a provider organization by SOSCF TCM program coordinators.
- (4) "Target Group": Children under 21 who are currently residing in a shelter home, foster home, group home, residential care facility, independent living situation financially supported through the State Office for Services to

Children and Families or in a pre-decree adoptive placement.

**Exception:** Children placed outside the geographical boundaries of the State of Oregon or children in non-SOSCF-paid relative placements are not eligible to receive Title XIX reimbursement for targeted case management services under the current state plan.

(5) "Targeted Case Management (also referred to as TCM)": Activities performed by the case manager to assist children in substitute care to obtain necessary medical, social, educational, legal counseling or other services.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-100-0720**

### **Targeted Case Management Services**

Targeted case management services in the Oregon Plan for children in substitute care include:

- (1) **Assessment.** After a client has been placed in substitute care and is determined 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 agreed-upon services through assisting the client and family to access them and through assuring that clients and providers fully understand how these services support the agreed-upon 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 agreed, 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 agreed;
- (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.: HB 2004

Stats. Implemented: HB 2004

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

**413-100-0730****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.: HB 2004

Stats. Implemented: HB 2004

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

**413-100-0740****Case Manager Qualifications**

- (1) Completion of training in case management curriculum approved by the Oregon Medical Assistance Program (OMAP);
- (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 relating to child welfare, and to gain knowledge about community resources.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-100-0750****Targeted Case Management Provider Designation**

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 OMAP publication General Rules and General Information, "Conditions of Provider Participation" referencing OAR 410-120-0020, Provider Enrollment; OAR 410-120-0040, The Provider Agreement; and OAR 410-120-0060, Enrollment of Billing Providers.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-100-0760****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 421-070-0240;
- (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.: HB 2004

Stats. Implemented: HB 2004

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

**413-100-0770****Targeted Case Management Billing**

The targeted case management provider will:

- (1) Verify that the client receiving the TCM service is in the target group;

(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;

(4) Comply with all OMAP billing requirements, using either a Medicaid form 1500 or an electronic billing process through the MMIS system.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **Child Support: SED Referrals**

#### **413-100-0800**

##### **Purpose**

These rules explain the mandatory referrals of children in substitute care and juvenile corrections to the Support Enforcement Division (SED) of the Department of Justice.

Stat. Auth.: HB 2004

Stats. Implemented: PL 93.647, ORS 25.010 to 25.120, 180.320 to 180.370

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

#### **413-100-0810**

##### **Definitions**

(1) Obligor means any person who has a court ordered obligation (or who volunteers) to make payments for the support of a child or caretaker parent or other dependent person.

(2) Support Enforcement Division (SED) means a Division in the Department of Justice responsible for enforcing the support obligation of parents whose children are receiving public assistance.

Stat. Authority: HB 2004

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

#### **413-100-0820**

##### **Informing Parents of Financial Obligations**

The State Office for Services to Children and Families worker shall inform the legal parents that they will be referred to

Support Enforcement Division (SED), who will contact them to determine the amount of support they will be required to pay and will enforce collection of the support obligation. When there is no legal father, a referral so stating will be sent to SED.

Stat. Auth.: HB 2004

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

## **413-100-0830**

### **Referrals to SED**

Unless exempt, the legal parents of all children in the care and custody of the State Office for Services to Children and Families who are in a paid substitute care placement will be referred to SED. Referral information will be reported to SED automatically when substitute care is authorized and this information is entered on the State Office for Services to Children and Families Integrated Information System (IIS). When legal parents are exempt from SED referrals the reason for the exemption must be documented in the case file. Legal parents are exempt from referral when:

- (1) The legal parent(s) of the child(ren) are deceased. The State Office for Services to Children and Families will, however, make application for survivors benefits and pursue resources for the child from the parent(s)' estate where appropriate.
- (2) The parents' rights have been terminated or voluntarily relinquished and the State Office for Services to Children and Families has permanent custody.
- (3) The parent(s) have been exempt for good cause as follows:
  - (a) Temporary exemption for good cause:
    - (A) With the approval of the supervisor a child's legal parent(s) may be exempt if the child's parent(s) 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 agency 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 supervisor.
  - (b) 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 forcible rape if both the mother and the service worker believe that to establish paternity would be detrimental to the child. The mother will be referred unless she meets the criteria for exemption from referral.
    - (B) If a child adopted through SOSCF's Adoption Program subsequently requires substitute care program the case will be considered for a permanent exemption:
      - (i) If the child is approved for an adoption subsidy agreement the subsidy agreement shall be suspended while the child is in care and a permanent exemption from SED referral will be granted;
      - (ii) Legalized SOSCF adoptions that are not approved for an adoption subsidy agreement will be reviewed 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 made. Such an exemption requires the approval of the SOSCF branch manager;

(iii) When it is in the best interest of a child and the agency, the director may approve an exception;

(iv) The foregoing exemptions shall not apply if an order of support from one parent to the other for the care of the subject child already exists.

Stat. Auth.: HB 2004

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

## **413-100-0840**

### **Existing Support Orders**

The service worker will determine, if possible, whether there is an existing support order. Information obtained about the existing Support Order (case number, amount, county where the order was issued, Social Security Numbers, and birth dates of legal parents) shall be entered on SOSCF's Integrated Information System (IIS).

Stat. Auth.: HB 2004

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

## **413-100-0850**

### **Notification of Change**

SED will be automatically notified when the information is entered on IIS when any of the following occur:

- (1) The child leaves paid placement.
- (2) A child begins receiving federal benefits.
- (3) The State Office for Services to Children and Families has permanent custody of the child.
- (4) The cost of care changes.
- (5) The child's parent(s) are incarcerated or die.
- (6) A parent becomes exempt after the original referral (see 413-100-0830).
- (7) Corrections or changes to the referral.

Statutory Authority: HB 2004

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

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**Oregon Administrative Rules  
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**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 110**

**PRE-ADOPTION SERVICES**

**Legal Risk Placements**

**413-110-0000**

**Purpose**

A child in the legal custody of the State Office for Services to Children and Families (SOSCF) who is receiving permanent planning services and 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, the child will be adopted. In the past, such a placement was described as a foster-adopt placement or a potential adoptive placement. The agency has developed the term "Legal Risk Placement" to describe situations which match the requirements specified in these rules.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-110-0010**

**Definitions**

(1) "Legal Risk Placement" means that the State Office for Services to Children and Families believes that an adoption is in the best interest 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.

(2) "Relative," means a grandparent, brother, sister, aunt, or uncle related to the child by blood, adoption or marriage.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-110-0020**

### **Eligibility Criteria for Legal Risk Placement**

Eligibility for Legal Risk Placement status exists when the following conditions have been met:

- (1) The child is a ward of the court, is in substitute care, and the case has been screened and approved for permanent planning.
- (2) All parents and relatives have been considered and have either been determined not to be a realistic permanent plan for the child, or one relative who meets the home requirements of these rules has been selected as the Legal Risk Placement.
- (3) The child's legal status has been assessed by the permanent planning consultant, and it has been determined that a plan to free the child for adoption is legally feasible.
- (4) The Central Office Adoption Unit has determined that the child is adoptable and an approved adoptive home has been secured.
- (5) The Central Office Adoption Unit has reviewed and approved the plan and has officially designated the placement as a Legal Risk Placement.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-110-0030**

### **Legal Risk Placement Request**

The branch office responsible for case planning for the child must develop a written request for a Legal Risk Placement and submit it to SOSCF Central Office Adoption Unit. The request must clearly identify the child's current legal status and the plan to free the child for adoption, and provide information about the child and the child's family that is required by adoption procedures unless the information has already been submitted.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-110-0040**

### **Home Requirements**

(1) The selected home must be studied and approved as an adoptive home according to adoption rules and procedures. The home must also be certified as a foster home according to the rules for certification of foster homes if the potential adoptive parents are unrelated to the child.

(2) Adoptive families considered for a Legal Risk Placement must be able to accept the risk of having the child removed from the home and/or be willing to continue to provide care of the child without adoption if the child cannot be completely freed for adoption. A written agreement must be completed by the potential adoptive parents acknowledging an understanding of the uncertainty of the Legal Risk Placement before official designation of such a placement will be granted.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **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.: HB 2004

Stats. Implemented: HB 2004

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 child's placement status will be changed from Legal Risk Placement to Adoptive Placement.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-110-0100**

#### **Sibling Placement Planning in Adoption Purpose**

These administrative rules provide guidelines on maintaining sibling relationships to whatever extent is in the best interest of the children.

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-110-0110**

### **Definitions**

(1) "Regional Adoption Council" consists of SOSCF management, and Permanency and Adoption Representatives from the region. Each region has a Regional Adoption Council. The Council meets regularly and makes decisions about adoptability, sibling planning, adoption disruptions and about adoption selections referred by the branch. The Permanency and Adoptions Manager has delegated decision-making in these areas to the councils. For the purpose of these rules, when the term Regional Adoption Council is used it also applies to Regional Adoption Council Sub-Committees.

(2) "Regional Adoption Council Sub-Committee" is a smaller committee than the Regional Adoption Council, and is made up of Regional Adoption Council members. Often the Regional Adoption Council delegates their authority to a Regional Adoption Sub-Committee.

(3) "Siblings" are children with at least one biological parent in common.

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-110-0120**

### **Values**

(1) Sibling relationships can be the longest-lasting family relationships and should be preserved when in the best interest of the children.

(2) Siblings should be in the same substitute care placement whenever possible and when in the best interest of the children.

(3) If separation occurs in foster care, it should be viewed as temporary with the goal to reunite siblings when in the best interest of the children.

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-110-0130**

### **Procedure**

(1) Attempts will be made to place siblings in the same adoptive family. Early separation of siblings in substitute care

can impact the probability of the siblings being adopted by the same family. Therefore, when siblings are separated in substitute care, effort will be made to reunite them in placement as soon as possible.

(a) The child's worker should review all attempts to reunite siblings and document in the case file the reasons why the attempts were not successful;

(b) If siblings are not placed together in foster care, the agency should ensure that the children have the opportunity for continuing contact. If a visitation plan between siblings is developed, it should be documented in the case file.

(2) When adoption is being planned for a child, the child's worker should search out the whereabouts of the child's siblings, including those who may have already been placed for adoption.

(a) When siblings do not move toward adoption simultaneously, efforts will be made, when appropriate, to give them an opportunity for maintaining sibling relationships:

(A) A sibling may join his/her sibling in an adoptive home;

(B) Siblings may have contact when placed in separate adoptive homes.

(b) If it is learned that the child has siblings who were previously placed in adoptive homes, efforts will be made by the child's worker to determine if any of those families are interested in being considered as an adoptive resource for this child. If the adoptive parent(s) of the child's sibling is interested, they may be considered with other prospective studied adoptive families for the child. The child's worker will give written information to the interested prospective adoptive parent(s) regarding the need to complete a current adoptive home study and the timelines necessary for completion, and document this in the case file record. (Refer to policy I-G.1.1 for timelines.) Using non-identifying information, the child's worker will document:

(A) Efforts made to contact the adoptive parent(s) of the siblings;

(B) Responses of the contacted adoptive parent(s);

(c) When the child for whom adoption is being planned has a sibling who may need an adoptive placement at some point in the future, (i.e., child's birth mother is currently pregnant or a child is being placed in substitute care), the child's worker will look for potential adoptive families who may be able to adopt both/all these siblings.

(3) When sibling separations are being considered in adoptive planning, the child's worker should:

(a) Consider the following for each child:

(A) Significant family data;

(B) Attachments;

(C) Medical condition;

(D) Psychological evaluations;

(E) Treatment needs;

(F) Therapist recommendations;

(G) Behavior;

(H) Unsuccessful, six-month intensive adoption recruitment for sibling groups;

(I) Other relevant information.

(b) Discuss a possible sibling separation with their supervisor or branch manager;

(c) Staff the case with the Regional Adoption Council and obtain written documentation of the council's final decision. Interested parties who wish to present information on the child may be included in the child presentation portion of the staffing. Only SOSCF staff may attend the decision-making portion of the sibling planning staffing;

(d) Any sibling planning staffing will include at least three committee members not involved in the specific case to be heard.

(4) When the Regional Adoption Council has made a decision to place siblings in separate adoptive homes, recruitment efforts will include searches for families who can maintain some contact between the children when in their best interest.

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-110-0140**

### **Appeal Process**

When the Regional Adoption Council has staffed a case and reached a decision which the child's worker finds difficult to accept, the child's worker will staff the case with his/her supervisor and branch manager. If the branch manager agrees with the child's worker, she/he will consult with the regional administrator or assistant regional administrator to review the council decision. If the regional administrator or assistant regional administrator concurs with the branch manager, he/she will request review of the decision by the Permanency and Adoptions Manager for a final determination.

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

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**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 120**

**ADOPTION**

**Adoption Placement Selection**

**413-120-0000**

**Purpose**

These administrative rules outline the process and decision-making authority for either selecting a legal risk adoptive placement or an adoptive placement for a child who is in the permanent custody of the State Office for Services to Children and Families.

Stat. Auth.: HB2004

Stats. Implemented: ORS 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

**413-120-0010**

**Definitions**

(1) "Legal Risk Placement" means that the State Office for Services to Children and Families believes an adoption is in the best interest of the child; has made a formal decision to free the child for adoption; 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. (Refer to SOSCF policy I-F.5, " Legal Risk Placement".)

(2) "Regional Adoption Council" consists of SOSCF management, and permanency and adoption representatives from the region. Each region has a regional adoption council. The Council meets regularly and makes decisions about adoptability, sibling planning, adoption disruptions and about adoption selections referred by the branch. The

Permanency and adoptions manager has delegated decision-making in these areas to the councils. For the purpose of these rules, when the term Regional Adoption Council is used it also applies to Regional Adoption Council Sub-Committees.

(3) "Regional Adoption Council Sub-Committee" is a smaller committee than the Regional Adoption Council, and is made up of Regional Adoption Council members. Often the Regional Adoption Council delegates their authority to a Regional Adoption Council Sub-Committee.

Stat. Auth.: HB2004

Stats. Implemented: ORS 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

### **413-120-0015**

#### **Values**

(1) Adoption placement selection decisions are never made unilaterally because collaborative decision-making arrives at better decisions.

(2) Adoption selection is an important decision with a lifelong impact.

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.280 to 418.285

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

### **413-120-0020**

#### **Multilateral Decision-Making Required**

(1) When a child is determined to be appropriate for a legal risk placement (see SOSCF policy I-F.5, Legal Risk Placements) or a child is legally free for adoption, the child's worker will refer the child to the appropriate adoption committee for review. Potential adoptive homes for the child shall be carefully reviewed by an adoption committee composed of three individuals. The adoption committee is provided information about the child and potential adoptive families. One adoptive family shall be selected by the majority of the designated adoption committee when an appropriate "match" appears to exist. In some instances, a back-up family shall also be identified. If an adoptive family is not selected, the adoption committee will make a recommendation on how to proceed.

(2) The adoption committee selection for legal risk placements and adoptive placements are subject to the review and approval of the Permanency and Adoptions Manager who is ultimately responsible for providing legal consent for adoption of a child in SOSCF's permanent custody.

Stat. Auth.: HB2004

Stats. Implemented: ORS 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

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

**413-120-0030****Adoption Committees**

(1) Two types of adoption committees review cases and identify placement selections:

(a) Branch or Regional Adoption Council Committees. Branch offices or Regional Adoption Councils shall be responsible for establishing adoption committees. SOSCF staff shall follow any written procedures that have been established by the regional administrator, branch manager or central office Permanency and Adoption Unit regarding the composition and operation of the branch or Regional Adoption Council Committee. If neither the region nor the branch have established procedures for the branch or Regional Adoption Council Committee, the branch manager or, in the case of the Regional Adoption Council, the regional administrator will designate three committee members not involved in the case to act as the adoption committee. The chairperson of the adoption committee shall assure that committee meetings are promptly scheduled and that committee concerns/recommendations are recorded on the CF 250, "Adoption Family Selection Report," and sent to the central office Permanency and Adoption Unit within two weeks of the committee date;

(b) Central Adoption Committees. The central office Permanency and Adoption Unit shall select staff from SOSCF, licensed adoption agencies or knowledgeable community partners to serve on central adoption committees. The central office Permanency and Adoption Unit will be responsible for the staff work associated with the operation of central adoption committees. The chairperson will communicate in writing on the CF 250, "Adoption Family Selection Report," any committee concerns/recommendations to the central office Permanency and Adoption Unit within two weeks of the committee date.

(2) The child's worker shall refer the child and potential adoptive homes to the appropriate adoption committee based on the following criteria:

(a) Children under six with minimum special needs being placed without siblings will be referred to the branch or Regional Adoption Council Committee;

(b) Children six years of age or older, children part of a sibling group, and/or children with significant special needs will be referred to a central adoption committee;

(c) When a current caretaker or relative is being considered along with other resources for a child, the case will be staffed at a central adoption committee.

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.280 to 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96

**413-120-0035****Attendance At Committee**

(1) All persons attending adoption committee are bound by SOSCF confidentiality administrative rules, OAR 413-010-0000 through 413-010-0140, Confidentiality of Client Information.

(2) The child's worker and adoption workers presenting specific families should participate in the adoption committee. If these workers are unavailable, their supervisor or designated co-worker should represent the child or family.

(3) On a case-by-case basis, the child's worker may ask that the child attend a portion of the presentation on the child.

(4) **Individuals Who Can Attend Child Presentation.** (The committee chairperson shall be informed by the child's worker of individuals planning to attend.) These individuals shall only be involved in the presentation of the child.

(a) A child's current or previous caretaker(s) may be asked to attend committee by the child's worker to assist in the presentation of the child. This is especially important for a child with serious behavior or emotional issues, serious physical or medical issues, or other special circumstances;

(b) Other professionals involved with the child, such as therapists, child's attorney, contracted caretakers, evaluators or CASA's, may be invited by the child's worker to assist in the presentation of the child;

(c) Consultants with regard to a child, such as a child development specialist, or a medical expert, may be invited by either the chairperson or child's worker.

(5) **Individuals Who Can Attend Full Committee.** At an adoption committee where a child resides in a designated SOSCF group home which provides care solely for the purpose of preparing a child for adoption, the group home parents may be allowed to attend the full committee staffing with prior knowledge of the chairperson. A signed DHR 2100, "Disclosure of Information," must be signed by the adoptive families authorizing the group parent(s)' permission to attend the full committee.

(6) **Individuals Who Can Attend the Presentation of a Particular Family at Committee.** A consultant with regard to a particular family, such as a medical expert, may be invited by the adoption worker with prior knowledge of the committee chairperson. A signed DHR 2100, "Disclosure of Information," must be signed by the adoptive family authorizing the consultant's permission to attend this portion of the committee. A consultant will be asked to provide their expertise with regard to a particular family and then be dismissed for the remainder of the family's presentation.

(7) **Individuals Who Cannot Attend Committee.**

(a) Prospective adoptive parent(s) and legal or personal advocates for a family under consideration may not attend committee. These individuals can give their input to the committee through written communication;

(b) A current caretaker who is being considered as an adoptive resource along with other resources cannot attend committee to assist in the presentation of the child.

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0040**

### **Potential Families**

(1) Refer to policy I-G.1.1, Relative or Current Caretaker Adoption Planning, for guidelines when considering relatives or current caretakers. In all other situations, the child's worker will select appropriate families for committee from completed home studies.

(2) On a case-by-case basis, where there has been a voluntary relinquishment of parental rights, the child's worker, in consultation with his/her supervisor, may involve the birth parent(s) in the selection of potential adoptive families to be presented to adoption committee through discussion of non-identifying information from home studies.

Stat. Auth.: HB2004

Stats. Implemented: ORS 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

## **413-120-0060**

### **Appeals**

(1) If an adoption committee reaches a decision which the child's worker finds difficult to accept, the child's worker will staff the case with his/her supervisor and branch manager. If the branch manager agrees with the child's worker, she/he will consult with the regional administrator or assistant regional administrator to review the committee decision. If the regional administrator or assistant regional administrator reviewing the decision concurs with the branch manager, he/she will request a review of the decision by the Permanency and Adoptions Manager for a final determination. The child's transition into an adoptive placement cannot begin until the final decision of the Permanency and Adoptions Manager has been made.

(2) A family not selected as the adoptive family for a particular child by adoption committee cannot appeal or grieve the decision.

Stat. Auth.: HB2004

Stats. Implemented: ORS 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

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

## **413-120-0070**

### **Director's Authority to Order Adoptive Placement and Legally Consent to Adoption**

[Hist.: SCF 9-1997(Temp), f. & cert. ef. 8-15-97]

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

## **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 State Office for Services to Children and Families.

Stat. Auth.: HB2004

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

**413-120-0105****Definition**

"Legalization" is the process of giving an adoptive placement legal validity.

Stat. Auth.: HB2004

Stats. Implemented: ORS 109.307, 109.309 & 109.316

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

**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.: HB2004

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) Toward the end of the supervisory period (i.e. six to eight weeks before the adoption is ready to be legalized), the adoptive parent(s) will be advised to obtain legal counsel for the purpose of filing a petition with the court to complete the adoption, unless the adoptive parent(s) chooses to file a petition on his/her own behalf.

(2) In those cases where adoption assistance has been approved, the worker supervising the placement shall provide the adoptive parent(s) with the Qualified Vendor Attorney List. If the adoptive parent(s) decides to use an attorney on the list, both the adoptive parent(s) and the retained attorney sign form CF 970-D, "Adoption Assistance Agreement - Legal Fees (Qualified Vendor)," obtained through the Adoption Assistance program. The adoptive parent(s) has the option of using an attorney that is not on the Qualified Vendor Attorney List. When an adoptive parent(s) uses an attorney not on the Qualified Vendor Attorney List, both the adoptive parent(s) and the retained attorney sign Form CF 970-D, "Adoption Assistance Agreement - Legal Fees (Non-Vendor)". The adoptive parent(s) is responsible for attorney fees above the amount paid to attorneys on the Qualified Vendor Attorney List. In accordance with ORS 418.295, no SOSCF employee shall recommend an attorney serve as counsel for the prospective parent(s).

(3) When the central office Permanency and Adoption Unit receives the request for SOSCF's consent to the adoption from the adoptive parent's attorney, or the adoptive parent(s) if he/she is acting as his/her own attorney, the following legal documents will be provided by the central office Permanency and Adoption Unit for filing with the adoption petition: When the adoptive parent(s) has entered into a Post Adoption Communication Agreement that is to become legally enforceable at the time of legalization the adoptive parent(s) shall give his/her attorney a copy of this agreement.

(a) A certified copy of the court orders and/or the original release and surrender documents which show that SOSCF 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 parent(s) and the petitioner(s) have been advised of the voluntary adoption registry.

(NOTE: SOSCF consent cannot be processed until these documents have been received by the central office Permanency and Adoptions Unit.)

(4) After the central office Permanency and Adoption Unit receives a copy of the petition filed with the court, SOSCF will provide the court with the written consent to the adoption. The consent documents that the adoptive parent(s) has been investigated and approved by SOSCF, and gives permission for the adoption. The consent is signed by the Permanency and Adoptions Manager, or another person designated by the SOSCF Director to give consent.

(5) Per ORS 109.307(4), the court granting the adoption decree shall provide the central office Permanency and Adoption Unit with a copy of the adoption decree.

(6) Upon receipt of the adoption decree, the Permanency and Adoption Unit shall send a letter to the director of the county juvenile department or to the court that has wardship, depending on local practice. The letter provides the date of the adoption decree and requests that wardship be dismissed. A copy of this letter is provided to the child's worker. Central Office Permanency and Adoption Unit shall send a memo to the child's worker, the adoption worker and their supervisors informing them of the date of finalization.

(7) Upon receiving a copy of this memo, the adoption worker should forward the child's adoption record to the central office Permanency and Adoptions Unit for combining with the child's permanent adoption record. If the placement is being supervised by the child's worker, the child's worker should forward to the central office Permanency and Adoption Unit all medical records, treatment information, school reports, etc. that have been added to the file since the child was placed in the adoptive home.

(8) Branches are to follow the Branch Adoption Records Retention Schedule for storage of closed adoption files.

Stat. Auth.: HB2004

Stats. Implemented: ORS 109.307, 109.309 & 109.316

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **Adoption Applications**

### **413-120-0200**

#### **Policy on Adoption Applications**

(1) Persons who wish to adopt a child from SOSCF must meet the following requirements:

(a) Meet the foster home certification requirements in "Rules Governing Certification of Foster Homes and Adoptive Homes for Children" which are relevant to adoption. Specifically, the following sections apply to adoptive home studies: Statement of Purpose, 413-200-0100, **Indian Child Welfare Act**, 413-200-0120; Qualifications of Family, 413-200-0150 sections: OAR 413-200-0150(1) General Requirements (a) through (h); OAR 413-200-0150(2) Personal Qualifications; OAR 413-200-0150(3) Health Qualifications; OAR 413-200-0150(6) Disqualifications, except subsection (d); Professional Responsibilities of Foster Parents, 413-200-0160(3) Accepting Children for Care (a) through (c); Care and Development of the Child, 413-200-0170; and Health and Fire Safety, 413-020-0180. Any exception to the aforementioned rules must be recommended by the adoption worker completing the adoption home study and approved by the branch manager;

(b) Provide evidence of the capacity to accept and raise an adopted child as their own child to maturity; and

(c) Participate in training provided by SOSCF to prepare applicants for adoption.

(2) Persons interested in adopting a child from SOSCF will be required to participate in an orientation to SOSCF's Adoption Program which will include a description of special needs children placed by the agency.

(3) Applications for a home study will be routinely accepted from persons expressing interest in adopting a child with special needs. Persons who are only interested in adopting a child without special needs will be referred to licensed adoption agencies because SOSCF places very few children without special needs. However, on an as-needed basis, SOSCF will accept applications of persons who are only interested in children without special needs if the agency determines that the supply of approved adoptive homes for this group of children is insufficient.

(4) Applications will be accepted from married couples or single persons for consideration of adoptive placement of a child.

(5) Applications will be made to a SOSCF adoption worker on forms specified by the SOSCF Permanency and Adoption Services.

(6) The applicants and all members of the household are subject to a review of criminal history records. A criminal history may be considered sufficient reason to refuse to register the application.

(7) All accepted applications will be registered for consideration of a home study, subject to SOSCF's priorities for adoptive home studies (see OAR 413-120-0230).

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.280 & 418.285

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

## **413-120-0210**

### **Notice to Applicant**

(1) If a home study of the applicant is not initiated within one year from the date the application is signed, the branch office may give the applicant notice in writing that the application will no longer be considered.

(2) The branch office completing a home study shall provide the applicant(s) with notice, in writing, of the approval or disapproval of the home study.

(3) If an approved home study is removed from the bank of homes to be considered for placements, the branch office will provide applicant(s) with written notice.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.280 & 418.285

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

## **413-120-0220**

### **Applicants Known to Other Agencies**

SOSCF may accept applications from any person who previously has applied to another agency unless the applicant is:

- (1) Currently under study for placement of a child; or
- (2) Currently under consideration for placement of a child.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.280 & 418.285

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

## **413-120-0230**

### **Home Studies**

(1) SOSCF will prioritize applications according to the type of homes most needed for children who are free for adoption or being freed. Priority will be given to completing home studies of applicants who:

- (a) Are interested in adopting children with special needs for whom there are few or no available homes approved;
- (b) Relatives and foster parents, applying to adopt a specific child, to whom the child has already developed psychological ties.

(2) Field management staff responsible for the supervision of adoption services will determine which applications will have a home study completed, and will be responsible for the approval or disapproval of the home as a resource for adoptive placements.

(3) Branch offices shall provide SOSCF Permanency and Adoption Services, in the central administrative office, a copy of all approved home studies upon completion.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.280 & 418.285

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

## **Minimum Standards for Adoptive Homes**

### **413-120-0300**

#### **Purpose**

The purpose of these rules is to establish minimum standards for adoptive homes in Oregon. An adoptive home study, completed or approved by a licensed Oregon adoption agency or the State Office for Services to Children and Families, shall assess the potential adoptive parent's compliance with each of the minimum standards set out in OAR 413-120-0310. Nothing in these rules precludes SOSCF or a licensed Oregon adoption agency from utilizing additional standards for adoptions for which the agency provides the legal consent to adopt. In addition to the minimum standards set forth in these rules, SOSCF adoption applications and home studies should refer to SOSCF policy II-B.1, Certification Standards for Foster, Adoptive and Family Group Homes.

Stat. Auth.: HB2004

Stats. Implemented: ORS 109.309(5)(a)(C)

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0310**

### **Minimum Standards for Adoptive Homes**

Basic professional home study investigation requirements and minimum standards for adoptive applicants have been established for the purpose of ensuring to the court that prospective adoptive parents meet minimum standards for adoptive homes as set forth in these rules.

(1) A proposed adoptive home shall have living conditions that promote the health, safety and well-being of an adoptive child or children:

- (a) There shall be an on-site observation of the prospective home to verify living, health and safety conditions;
- (b) The home site to be evaluated shall be identified with a detailed physical description and a full legal address;
- (c) The total number of children to be adopted by prospective adoptive parents shall not exceed their capacity to adequately care for and parent the children:

(A) The director of the licensed Oregon adoption agency working with the applicants, or in the case of a proposed SOSCF adoption home study, the SOSCF branch manager of the county where the potential adoptive parents reside, shall convene a committee to review and approve the adoption application of parents who provide full time physical care for eight or more children under the age of eighteen. The findings and recommendations of the review committee shall be included in the home study report;

(B) Adoptive applicants, including stepparents and relatives, who provide full time physical care for eight or more children under the age of eighteen shall not be eligible for waiver of a home study.

(d) Relationship of all members of the household to an adoptive child shall be evaluated.

(2) Proposed adoptive parents and other members of the household shall maintain a lifestyle and have a personal history, that demonstrates the capacity to meet emotional and physical needs of adoptive children:

(a) Married or unmarried prospective adoptive parents should have a relationship of sufficient duration to give evidence of stability, and will be evaluated for their ability to parent adoptive children;

(b) Each adoptive applicant who requests an adoption home study under ORS 109.304(1) and ORS 109.309(5)(a)(C) shall consent to a check of the State Office for Services to Children and Families Child Protection records and a criminal records check. Criminal records information shall also be requested and must be provided for other household members who are over eighteen years old. Criminal record information shall be furnished according to administrative rules adopted by the State Office for Services to Children and Families to implement ORS 181.537 and ORS 181.525.

(c) There shall be financial ability within the household to ensure the stability and financial security of the family and to meet the needs of children to be adopted;

(d) Prospective adoptive parents must demonstrate an understanding of adoption issues and a preparedness for adoptive parenting.

(3) Prospective adoptive parents must evidence that their physical and mental health is sufficient to be able to undertake

and follow through with responsibilities of parenthood of adoptive children.

- (a) A complete physical and mental health history, and proof of a physical examination performed within one year of date of the request for a home study, shall be required;
- (b) Health history will include review of alcohol and other substance abuse;
- (c) The applicant will provide medical releases to the adoption agency necessary to obtain medical information.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.309 (5)(a)(C)

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

## **Oregon Computerized Criminal History Checks and Nationwide Criminal History Checks Through the FBI for Adoptive Parents**

### **413-120-0400**

#### **Purpose**

- (1) It is the desire of the State Office for Services to Children and Families (SOSCF) to reduce the risk of exploitation and/or abuse of children entrusted in the care of or receiving services from the agency. Therefore, SOSCF will conduct criminal offender information background checks as described in these rules.
- (2) These rules provide guidelines on the procedures by which SOSCF obtains criminal offender information on subject individuals residing within the State of Oregon who are seeking to be adoptive parents of children in SOSCF custody, and how SOSCF applies such information to its determination about the suitability of the subject individual.
- (3) These rules also provide guidelines on the procedures SOSCF will use when SOSCF receives requests to conduct criminal offender information record checks from licensed private agencies who are studying adoptive families for placement of SOSCF children.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.010-181.560 & 409.015

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

### **413-120-0410**

#### **Scope of Rules**

- (1) Consistent with the purpose of these rules, SOSCF will issue decisions regarding the suitability for approval of subject individuals applying to be adoptive parents, or other persons, paid or unpaid, in the household.
- (2) The criminal record check rules in OAR 413-120-0400 through 413-120-0470 shall be construed and implemented consistent with the existing requirements in OAR 413-120-0200 through 413-120-0230. If there is an inconsistency between these criminal record check rules and existing adoption requirements, the rules in OAR 413-120-0300 to 413-120-0310 will supersede existing adoption requirements.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.010-181.560 & 409.015

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

## **413-120-0420**

### **Definitions**

- (1) "Adoptive Applicant" means an individual who has completed an application to receive placement of a child with the intent to legally adopt said child.
- (2) "Agency Agreement" means a written agreement between the Oregon State Police and a Criminal Justice or designated agency as defined by ORS 181.010 authorized to receive criminal offender information, specifying the terms and conditions of accessing and receiving Oregon computerized criminal history information to assure compliance with state and federal regulations.
- (3) "Child or Children" means a person 18 years of age or under.
- (4) "Computerized Criminal History (CCH) System" means the administration and maintenance of on-line computer files of significant criminal offender information by OSP.
- (5) "Contested Case Hearing" means a quasi-judicial hearing before an impartial hearing officer in which the complainant and/or his or her representative may present all pertinent facts and evidence in order to show why the action or inaction of SOSCF should be reconsidered. As a result of the hearing, the hearing officer reports findings and recommendations to the SOSCF director, who makes a final order on the matter.
- (6) "Criminal Offender Information" means records, including fingerprints and photographs, received, compiled and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons' records of arrest, the nature and disposition of criminal charges, sentencing, confinement and release, and includes the OSP Computerized Criminal History System.
- (7) "Director" means the director of SOSCF, who is the assistant director of the Department of Human Resources.
- (8) "FBI" means the Federal Bureau of Investigation.
- (9) "Fingerprint-Based Criminal Offender Information" means criminal offender information compiled and maintained by the Bureau of Criminal Identification regarding persons who have been arrested for crimes where law enforcement agencies have submitted fingerprints and other identifying data as required by ORS 181.515 and/or federal statutes, or as deemed appropriate by the submitting law enforcement agency for the purpose of identification.
- (10) "Information Required" means all information requested by the State Office for Services to Children and Families for processing criminal record checks, including fingerprint checks.
- (11) "OSP" means the Oregon State Police.
- (12) "Other Person in Household" means a person 18 years of age or older living in the home or assisting in the home to enrich the care provided to children placed in the home by tutoring, providing recreation, relief care or other services such as household chores, whether paid or unpaid. It also means 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 home.
- (13) "Private Adoption Agency" means an agency licensed by the State of Oregon to provide adoption services within the state and which contracts with SOSCF to study adoptive parents seeking to adopt children in the custody of SOSCF.

(14) "SOSCF" means the State Office for Services to Children and Families.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.010-181.560 & 409.015

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

### **413-120-0430**

#### **Subject Individuals**

(1) For purposes of this rule, "Subject Individual" means a person who, as of official date of these rules, applies to adopt a child in the custody of SOSCF as described in OAR 413-120-0200 through 413-120-0230 and 413-120-0300 through 413-120-0310.

(2) Adoptive applicants who have been certified as foster parents and who have submitted to a fingerprint-based criminal history check within the last 12 months will be exempt from a criminal records check at the time of applying to adopt.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.010-181.560 & 409.015

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

### **413-120-0440**

#### **Limitations of Inquiries**

(1) Only SOSCF employees who have been fingerprinted and cleared by the Oregon State Police shall access or have access to criminal offender information pursuant to a valid agency agreement. All such information shall be handled in compliance with the agency agreement and rules and procedures of the Oregon State Police relating to the criminal offender information (OAR 257-010-0010 to 257-010-0050). It is the responsibility of SOSCF to assure strict compliance with federal and state laws, rules and procedures regarding criminal offender information access and dissemination.

(2) Criminal offender information obtained from OSP and/or the FBI will not be used for any purpose other than that for which it was obtained nor given to unauthorized persons or agencies.

(3) Criminal offender information, including fingerprint-based criminal offender information, shall be obtained by SOSCF to ascertain whether a subject individual has been convicted of a crime which is substantially related to their qualifications as an adoptive parent.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.010-181.560 & 409.015

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

### **413-120-0450**

**Crimes to be Considered**

(1) SOSCF has determined that serious felonies and misdemeanors involving violence or unauthorized sexual conduct, especially with children or otherwise vulnerable persons, is fundamentally inconsistent with any responsibility for care, treatment or supervision of children or other vulnerable persons. Subject to section (5) of this rule, conviction of crimes listed in subsection (2)(a) and (b) of this rule or a false statement about a conviction, shall disqualify a subject individual from being approved as an adoptive parent. Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(2) Felony and Misdemeanor Crimes:

(a) Oregon Revised Statutes:

**ORS**

162.165 -- Escape 1

162.185 -- Supplying Contraband

163.095 -- Aggravated Murder

163.115 -- Murder

163.115 -- Felony Murder

163.118 -- Manslaughter I

163.125 -- Manslaughter II

163.145 -- Criminally Negligent Homicide

163.165 -- Assault II

163.175 -- Assault II

163.185 -- Assault I

163.200 -- Criminal Mistreatment II

163.205 -- Criminal Mistreatment I

163.225 -- Kidnapping II

163.235 -- Kidnapping I

163.275 -- Coercion

163.355 -- Rape III

163.365 -- Rape II

163.375 -- Rape I

163.385 -- Sodomy III

- 163.395 -- Sodomy II
- 163.405 -- Sodomy I
- 163.408 -- Sexual Penetration II
- 163.411 -- Sexual Penetration
- 163.415 -- Sexual Abuse III
- 163.425 -- Sexual Abuse II
- 163.427 -- Sexual Abuse I
- 163.435 -- Contributing to the Sexual Delinquency of a Minor
- 163.445 -- Sexual Misconduct
- 163.515 -- Bigamy
- 163.525 -- Incest
- 163.535 -- Abandonment of a Child
- 163.545 -- Child Neglect 11
- 163.547 -- Child Neglect 1
- 163.555 -- Criminal Non-Support
- 163.575 -- Endangering the Welfare of a Minor
- 163.670 -- Using Child in Display of Sexually Explicit Conduct
- 163.680 -- Paying for Viewing Sexual Conduct Involving a Child
- 163.732 --- Stalking
- 164.075 -- Theft by Extortionf
- 164.225 -- Burglary I
- 164.325 -- Arson I
- 164.395 -- Robbery III
- 164.405 -- Robbery II
- 164.415 -- Robbery I
- 166.085 -- Abuse of Corpse II
- 166.087 -- Abuse of Corpse I
- 166.155 -- Intimidation II

- 166.165 -- Intimidation I
- 166.220 -- Unlawful Use of a Weapon
- 166.270 -- Certain Felons Forbidden to Possess Firearms
- 166.272 -- Unlawful Possession of Machine Guns, Certain Short-Barreled Firearms and Firearms Silencers
- 166.275 -- Possession of Weapons by Inmates of Institutions
- 166.382 -- Possession of Destructive Device
- 166.384 -- Unlawful Manufacture of a Destructive Device
- 166.429 -- Firearm Used in Felony
- 166.660 -- Unlawful Paramilitary Activity
- 166.720 -- Racketeering
- 167.012 -- Promoting Prostitution
- 167.017 -- Compelling Prostitution
- 167.062 -- Sadomasochistic Abuse or Sexual Conduct in Live Show
- 167.065 -- Furnishing Obscene Materials to Minors
- 167.070 -- Sending Obscene Materials to Minors
- 167.075 -- Exhibiting an Obscene Performance to Minors
- 167.080 -- Displaying Obscene Materials to Minors
- 167.087 -- Disseminating Obscene Material
- 167.090 -- Publicly Displaying Nudity or Sex for Advertising Purposes
- 167.212 -- Tampering with Drug Records
- 167.262 -- Adult Using Minor in Commission of Controlled Substance Offense

(b) And any attempts or solicitations to commit any Felony or Misdemeanor crime listed in subsection (a) of this section.

(3) SOSCF has further determined that felonies and misdemeanors involving theft, fraud or deception, crimes against state and public justice, and major traffic violations listed in subsection (4)(a) or (b) of this rule (or the substantial equivalent of any of the crimes, if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number) substantially jeopardize the safety of children or other vulnerable persons. If any subject individual was convicted of a crime listed in subsection (4)(a) or (b) of this rule, all intervening circumstances and other background information related to criminal activity shall be reviewed by the SOSCF subject to subsection (5) of this section. Based on this information, the agency shall make a decision whether to approve or deny the request to be approved as an adoptive parent for children placed by SOSCF.

(4) Felony and Misdemeanor Crimes:

(a) Oregon Revised Statutes:

ORS

162.025 -- Bribe Receiving

162.065 -- Perjury

162.155 -- Escape 11

162.205 -- Failure to Appear I

162.235 -- Obstructing Governmental or Judicial Administration

162.265 -- Bribing a Witness

162.275 -- Bribe Receiving by a Witness

162.285 -- Tampering with a Witness

162.305 -- Tampering with Public Records

162.325 -- Hindering Prosecution

163.160 -- Assault IV

163.190 -- Menacing

163.195 -- Recklessly Endangering Another

163.465 -- Public Indecency

164.043 -- Theft 111

164.045 -- Theft 11

164.055 -- Theft I

164.057 -- Aggravated Theft I

165.013 -- Forgery in the First Degree

165.022 -- Criminal Possession of a Forged Instrument in the First Degree

165.032 -- Criminal Possession of a Forgery Device

165.055 -- Fraudulent Use of a Credit Card (over \$750)

165.065 -- Negotiating a Bad Check (Class Felony clause)

165.070 -- Possessing a Fraudulent Communication Device

165.074 -- Unlawful Factoring of Credit Card Transaction

165.085 -- Sports Bribery

165.090 -- Sports Bribe Receiving

166.015 -- Riot

167.007 -- Prostitution

167.262 -- Adult Using Minor in Commission of Controlled Substance Offense (less than 5 grams marijuana)

471.410 -- Providing Liquor to a Person Under 21 or to Intoxicated Person; Mandatory Minimum Penalties.

475.992 -- Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses.

475.993 -- Prohibited Acts for Registrants; Penalties.

475.994 -- Prohibited Acts Involving Records and Fraud;

Penalties

475.995 -- Penalties for Distribution to Minors

475.996 -- Crime Category Classification for Violation of ORS 475.992; Proof of Commercial Drug Offense

475.999 -- Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School in violation of a Permit

811.140 -- Reckless Driving

811.182 -- Criminal Driving while Suspended or Revoked or in Violation of a Permit

811.540 -- Fleeing or Attempting to Elude Police

811.700 -- Failure to Perform Duties of Driver when Property is Damaged

811.705 -- Hit and Run Vehicle (Injury)

813.010 -- Driving Under the Influence of Intoxicants

(b) And, any attempts or solicitations to commit any Felony or Misdemeanor crime listed in subsection (a) of this section.

(5) Factors to be considered by the SOSCF administrative office in determining suitability to be an adoptive parent based on information available to SOSCF and information provided by the subject individual include:

(a) Types and number of offenses;

(b) Passage of time since the crime was committed;

(c) Circumstances surrounding the commission of the crime;

(d) Intervening circumstances since the commission of the crime;

(e) Relationship of the facts under subsections (a) through (d) of this section to the specific requirements set forth for

adoptive parents.

(6) Under no circumstances will SOSCF bar or refuse to approve an individual because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 or 419A.262.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.010-181.560 & 409.015

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

## **413-120-0460**

### **Procedures**

(1) Any subject individual applying for adoptive approval as defined in OAR 413-120-0430, and all other persons, paid or unpaid, in the household of the subject individual, shall consent to a criminal offender information records check, including fingerprints. All applicants will be notified of this requirement at the time they apply, and criminal record consent forms shall contain a notice that adoption approval is subject to fingerprints, and that a criminal offender information records check will be conducted as required by ORS 181.537, 181.557 and 409.015. If the subject individual, or a person in the household of the subject individual, refuses to be fingerprinted, or makes a false statement about the non-conviction of a crime listed in OAR 413-120-0450, SOSCF shall not approve the subject individual.

(2) Subject individuals shall provide all information required for a criminal offender information records check, including fingerprints, on forms and fingerprint cards provided by SOSCF and according to procedures established by SOSCF. Information required includes:

(a) Two properly completed FBI fingerprint cards (FD 258) with red overprinting in the reason fingerprinted block which reads "ORS 181.537/ORS 409.015 Child Welfare Programs Regulation/Licensing/DHR Employees UF" from the subject individual and other persons in the household;

(b) A properly completed and signed CF form 101F from the subject individual and other persons in the household;

(c) If the subject individual or other person in the household acknowledges a prior conviction as listed in OAR 413-120-0450, an explanation of the relationship of the facts which support the conviction and all intervening circumstances and authorization for SOSCF to verify the information;

(d) As part of the consent to a criminal records check, SOSCF may request subject individuals or other persons in the household to consent to the use of their social security numbers in conducting the criminal record check.

(3) SOSCF shall request criminal offender information on subject individuals from OSP and FBI as follows:

(a) If the subject individual has lived outside the State of Oregon anytime during the five years prior to application, SOSCF shall instruct OSP to conduct a fingerprint criminal offender records check through the FBI; or

(b) If the subject individual has lived in Oregon more than five consecutive years, but the subject individual's Oregon record indicates that the subject individual has criminal offender information outside the State of Oregon, SOSCF shall instruct OSP to conduct a fingerprint-based criminal offender records check through the FBI.

(c) If the subject individual's or other person in the household's Oregon record indicates a conviction for a crime listed in this rule, SOSCF shall forward the fingerprint cards to OSP for a positive identification verification prior to issuing a denial notice; or

(d) If an applicant for adoption of an SOSCF child resides outside the State of Oregon, SOSCF shall instruct OSP to

conduct a fingerprint-based criminal offender records check through the FBI.

(4) This rule provides that no applicant for approval as an adoptive parent will be provisionally approved prior to initiation of the criminal record check process, including fingerprint-based criminal offender checks for the applicant and under ORS 181.557, for any other persons in the household of the applicant.

(5) SOSCF will review the criminal offender information, including fingerprint-based criminal offender information, of subject individuals under ORS 409.015(9)(A) for persons seeking to adopt, and under ORS 181.557 for other persons in the household. The SOSCF director or designee shall issue a statement of criminal history status and related impact on approval for adoption to the SOSCF branch adoption worker or the private agency adoption worker. A statement of criminal history status resulting in a determination that an applicant is not suitable, shall be considered preliminary by the adoption worker until the applicant has been given notice of an opportunity to challenge the criminal record report, or to request a contested case hearing pursuant to sections (8) or (9) of this rule. A finding of suitability based on criminal history is only one factor SOSCF will use in deciding whether to approve an adoptive parent. The final determination to grant or deny certification based solely on criminal history, will be made by the SOSCF director or designee. Criminal offender information received from the OSP or the FBI is confidential and shall not be released to unauthorized persons or agencies.

(6) Subject individuals who have been determined not suitable pursuant to section (6) of this rule shall be denied approval for adoption of a child in the custody of SOSCF.

(7) If SOSCF determines that the subject individual is not suitable for adoption approval based on criminal history or false statement on the application related to criminal history, the SOSCF administrative office will notify the subject individual, via certified mail, that the subject individual:

(a) Has a right to inspect and challenge their Oregon criminal offender information through the Oregon State Police procedures as adopted per ORS 181.555 (3) and OAR 257-010-0035;

(b) May also 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 SOSCF's determination of unsuitability, and/or indicate an intent to challenge information in the OSP or FBI report, by requesting a contested case hearing pursuant to ORS 183.413 to 183.470 and OAR 413-120-0470 provided that SOSCF receives their request for a contested case hearing in writing within 10 calendar days of mailing the notice. After said 10 days have elapsed, SOSCF will inform the SOSCF branch adoption worker or private agency adoption worker that either:

(i) The subject individual has been notified that they are not suitable for approval for adoption based on criminal history or false statement in the application about criminal history and that the worker may not approve the adoption application because the subject individual has waived, or timely declined, to exercise their right to a contested case hearing regarding their suitability; or

(ii) The subject individual has requested a contested case hearing and that the branch will be notified of the subject individual's suitability for certification upon issuance of the hearing decision.

(8) Upon SOSCF's determination that an applicant for adoption of a child in the custody of SOSCF is not suitable based on the criminal history of a person in the household or false statement of criminal history of a person in the household, SOSCF shall:

(a) Inform the person in the household whose record was reviewed of the right to inspect and challenge their Oregon criminal offender information through OSP procedures as adopted per ORS 181.555 (3) and OAR 257-010-0035 and their rights under ORS 181.557 (2)(b); and

(b) Inform the adoption applicant whose approval is affected by the other person's criminal history of false statement

about criminal history, via certified mail, that:

- (i) SOSCF may not approve the adoption applicant permitting the other person to remain in the household or to have contact with children in the home based on the information contained in the criminal record check about the other person or the person's false statement about criminal history; and
  - (ii) The adoption applicant may appeal in a contested case hearing SOSCF's determination of unsuitability based on the criminal history or false statement of criminal history concerning a person in the home, provided that SOSCF receives the applicant's request for a contested case hearing in writing within 10 calendar days of the date of mailing the notice to the applicant.
- (c) Inform the SOSCF branch adoption worker or private adoption agency worker, after said 10 days have elapsed, that either:
- (i) The adoption applicant has been notified that they are not suitable for approval for placement of a child in the custody of SOSCF based on criminal history of a person in the household, or false statement in the application of the other person, and that the agency may not approve the applicant because the applicant has waived or timely declined to exercise their right to a contested case hearing regarding their suitability; or
  - (ii) The adoption applicant has requested a contested case hearing and that the branch will be notified of the applicant's suitability for certification upon issuance of the hearing decision.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.010-181.560 & 409.015

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

## **413-120-0470**

### **Rights for Review and Contested Case Hearings**

- (1) SOSCF shall conduct contested case hearings per ORS 183.413 to 183.470, and afford adoption applicants the right to appeal a decision made by SOSCF that the applicant is not suitable for approval for placement of a child in the custody of SOSCF based on an authorized criminal offender information records check, or a false statement concerning such criminal records check of the applicant or other person in the household. Applicants must notify SOSCF of their request for a contested case hearing within 10 calendar days after the notice is mailed by SOSCF to the applicant.
- (2) SOSCF has no jurisdiction in a contested case hearing over allegations that the criminal offender information received from OSP or the FBI is inaccurate, incomplete or maintained in violation of any federal or state law.
- (3) SOSCF is entitled to rely on the criminal offender information supplied by OSP or the FBI until OSP or the FBI notifies SOSCF that information has been changed or corrected. If a subject individual has timely requested a contested case hearing, SOSCF will stay the hearing until the subject individual has been afforded a reasonable time to correct or complete the record, or has declined to do so.
- (4) To preserve the confidentiality of the records and the privacy of the subject individual, any contested case hearing under this rule will not be open to the public.
- (5) Prior to a contested case hearing being scheduled, a mandatory pre-hearing conference between SOSCF, the subject individual and their legal representation shall be convened to review all available information and determine the need for a contested case hearing. At the pre-hearing conference, the subject individual must verify whether they have used their right to inspect or challenge their criminal offender information record(s) or have declined to do so.

(6) The issues at a contested case hearing shall be limited to:

(a) Whether the subject individual or other person in the household has made a false statement in the application as to the non-conviction of a crime, or has refused to consent to the criminal records check, or refused to be fingerprinted; or

(b) Whether the criminal offender information provided to SOSCF by OSP or the FBI describes any crime which SOSCF has determined is relevant to the risk of exploitation and/or abuse or safety of children; and

(c) If the subject individual seeks adoption approval and the subject individual and other persons in the household have admitted the commission of a crime which SOSCF has determined is relevant to the risk of exploitation and/or abuse or safety to children, whether the relationship between the facts which support the conviction and all intervening circumstances would permit the subject individual to be approved by SOSCF.

(7) Fingerprint cards required for evidence in a contested case shall be destroyed at the direction of adjudication, or within 90 days following case resolution, whichever is appropriate.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.010-181.560 & 409.015

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

## **Relative or Current Caretaker Adoption Planning**

### **413-120-0500**

#### **Purpose**

The purpose of these rules is to establish the process by which the current caretaker and/or relative(s) of a child who is legally free or being freed for adoption may apply and be given consideration as the adoptive placement resource for the child.

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.285 & 418.290

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

### **413-120-0510**

#### **Definitions**

(1) "Relative" for the purpose of these rules is any person meeting the following definition:

(a) Any non-parent who is connected to the child through a bloodline. This may include half-blood relatives, (children with one common bio-parent). Included are persons of preceding generations denoted by the prefixes of "great" or "great-great". Included are aunts and uncles of the child or of the parents, and first cousins of the child or of the parents;

(b) In a case where a child has been legally adopted, a person who has the same degree of connection as delineated in subsection (1)(a) of this rule;

(NOTE: Applicants who meet the relative definition will be considered for adoption assistance without any additional adoption recruitment efforts. Documented recruitment efforts are required for a child to be eligible for adoption assistance except where it would not be in the best interest of the child because of such factors as existing emotional ties with a foster parent or relative. The adoption assistance coordinator should be contacted for consultation in questionable situations. Applicants who do not meet the definition of relative will not be eligible for adoption assistance without additional recruitment efforts. ([Refer to SOSCF policies I-G.3.1, "Adoption Assistance" and I-G.1.2, "Adoption Recruitment" for further guidelines.]

(2) "Current Caretaker" is a person or persons currently having physical custody of a child. The current caretaker can be a relative or a non-related foster parent. Non-related foster parents shall not be considered a current caretaker for the propose of these rules unless they have had the child in their home consecutively for 6 months or longer. Exception to this time frame requires branch manager approval and documentation in the case file.

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.285 & 418.290

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0520**

### **Values**

- (1) Every child has a right to a permanent family.
- (2) For most children, the family of choice is the birth parent(s). When that is not possible, the extended birth family should be considered.
- (3) Decision making for a child should be guided by the child's best interest and an understanding of his/her needs.
- (4) The psychological and emotional attachments of a child to the current caretaker are of vital consideration in determining the best interest of the child.
- (5) When possible, information about a child's birth family's history shall be made available to the child.

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.285 & 418.290

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0530**

### **Procedures**

At the time the State Office for Services to Children and Families (SOSCF) makes a formal decision (approved by a permanency consultant) to proceed to free a child for adoption, the following procedures regarding a current caretaker and non-caretaker relative(s) shall apply.

- (1) Current Caretaker. When there is a current caretaker who has expressed his/her desire to be considered as the adoptive resource for a child in his/her care, the following procedures will be followed:
  - (a) The child's worker will schedule a staffing with the designated branch committee following procedures established by the branch or regional administration. This branch committee shall consist of at least three persons: The branch manager or designee, a supervisor and one other branch staff person knowledgeable about permanency and adoptive

planning;

(b) The child's worker will present information at the staffing regarding the child and the current caretaker. If the current caretaker is certified, the foster home certifier will also present information about the current caretaker. Other individuals who have significant information may be invited to provide information;

(c) The designated branch committee will consider the request of the child's current caretaker to be designated the adoptive resource for the child in question. The committee will make only one of the following recommendations:

(A) An adoptive study of the current caretaker be completed or updated. The completed adoption home study will address any concerns identified in the staffing. Upon completion of the adoption home study, the branch will make one of the following recommendations, documenting this recommendation on the CF 251, "Current Caretaker Final Recommendation Report":

(i) The current caretaker will be designated as the adoptive placement of the child;

(ii) The current caretaker will be considered by a central adoption committee along with other studied relative and/or non-related adoptive families;

(iii) The branch does not find that it is in the best interest of the child to be permanently adopted by the current caretaker, and cannot recommend the current caretaker as the adoptive resource for this child. The decision shall be documented in writing and shall be provided to the current caretaker in a timely fashion;

(B) The branch committee does not find that it is in the best interest of the child to be permanently adopted by the current caretaker and cannot recommend the current caretaker as the adoptive resource for this child. No study will be undertaken by SOSCF. The reasons for this decision shall be documented in writing by a designated member of the branch committee using the CF 251 and provided to any subsequent SOSCF adoption committee that may consider the current caretaker. The decision shall be documented in writing and provided to the current caretaker in a timely fashion;

(d) A current caretaker not approved as an adoptive resource by the branch committee may be presented to a central adoption committee under the following conditions:

(A) The branch will have the discretion to determine by whom and in what form information about the family will be presented to a central adoption committee, (e.g., the family's certifier may attend using the certification home study); or

(B) The current caretaker may obtain, at their own expense, an adoption home study by a state licensed adoption agency and be represented at committee by that agency. They must provide a letter to the child's worker confirming their intention to seek a private adoption study within 10 days of their written notification of the branch's decision. Their adoption home study must be completed within 90 days of the date of the letter of intent.

(e) The decision of any SOSCF adoption committee is final and cannot be appealed by the applicant families.

(2) Non-Caretaker Relatives:

(a) When there is a non-caretaker relative who has expressed a desire to be considered as the adoptive resource for a child, the following procedures will be followed:

(A) One Relative. When there is only one interested relative and this relative is an Oregon resident, the child's worker will document in writing in the case file, the date and options discussed with the relative family. The child's worker will direct the relative family in writing to:

(i) Contact the relative's local SOSCF branch office and follow the branch's process to apply to adopt; or

(ii) Obtain a current adoption home study through a licensed private adoption agency and have the private agency provide a copy of that study to the child's worker within 90 days of the date of the written notification of intent; and

(iii) Provide written notification to the child's worker, within 14 days of being advised in writing by SOSCF of their options, of their intent to complete an adoption home study, and the name of the agency, public or private, that will be completing the study.

(B) More Than One Non-Caretaker Relative. When there is more than one non-caretaker relative family requesting consideration, the following will apply:

(i) Unless otherwise directed by the local branch, the relatives interested in adopting will determine, within reasonable timelines set by the branch, which family is the best resource for the child. That family will be the focus of agency consideration. A family resource meeting, facilitated by the local branch, may be arranged to assist the family in their decision;

(ii) If the families cannot determine which family is the best resource for the child, the branch responsible for the child will determine which family or families are most appropriate for consideration.

(C) Relatives Residing Outside of Oregon. Relative families residing outside the State of Oregon shall proceed as follows:

(i) The child's worker should contact the Interstate Compact on the Placement of Children Deputy Administrator prior to discussing adoptive options with a relative family to assure compliance with adoptive statutes of other states and contractual adoptive issues;

(ii) The child's worker will document in writing, in the case file, the date and options discussed with the relative family. The child's worker will direct the relative family in writing to:

(I) Contact the relative's local state agency office and follow the agency's process to complete an adoption home study; or

(II) Obtain a current adoption home study through a licensed private adoption agency and have the private agency provide a copy of that study to the child's worker. Complete the home study and provide a copy to the child's worker within 90 days of the date of the written notification of intent; and

(III) Provide written notification to the child's worker, within 14 days of being advised in writing by SOSCF of their options, of their intent to complete an adoption home study and the name of the agency, public or private, that will be completing the study. In addition, within this same 14 day timeline, if the relative selects a private agency, the relative family must provide written verification from the licensed private agency that an adoption home study is in process.

(iii) If the relative family chooses a public agency to complete their home study, the child's worker shall request an adoption home study through Interstate Compact on the Placement of Children within 30 days;

(b) In addition, the following applies:

(A) Upon completion of the adoption home study, the non-caretaker family or families will be referred to the appropriate adoption committee (refer to SOSCF policy I-G.1.5, Adoption Placement Selection) for consideration;

(B) The local branch reserves the right to consider additional relatives the branch determines may be appropriate adoptive resources; and

(C) The local branch reserves the right to not consider relative families who request consideration after adoption committee has been set or after a current caretaker staffing has occurred and selected the current caretaker pending a positive home study.

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.285 & 418.290

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

## **Openness and Post-Adoption Communication**

### **413-120-0600**

#### **Purpose**

The purpose of these rules is to provide guidelines on openness in adoptive placements, as well as guidelines for Post Adoption Communication Agreements. These rules also address the role of SOSCF in the implementation of ORS 109.305. ORS 109.305 provides a mechanism to make Post Adoption Communication Agreements legally enforceable.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

### **413-120-0610**

#### **Definitions**

- (1) "Birth Relatives" includes birth parents, grandparents, siblings and other members of the child's birth family.
- (2) "Openness in Adoption" is the sharing of information between birth relatives and adoptive parent(s). The extent of openness is determined on a continuum. This continuum may range from the child's worker and/or adoption worker providing information to the adoptive parent(s) about the child and his/her history, to the adoptive parent(s) and birth relatives meeting and sharing full identifying information and continuing contact. A wide range of options on the continuum exist (such as letter exchanges between adoptive parent(s) and birth relatives through a post office box or third party, to meetings between birth relatives and adoptive parent(s) where identifying information is or is not exchanged).
- (3) "Post Adoption Communication Agreement" is a mutual, written agreement between birth parent(s) and adoptive parent(s) based on a thoughtful, informed decision-making process by the birth parent(s), adoptive parent(s), SOSCF and the child, where appropriate, for communication following the legalization of the adoption. The content of the agreement is based on the best interest of the child.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

### **413-120-0620**

#### **Values**

(1) The State Office for Services to Children and Families operates an adoption program which allows for a variety of adoption options. The appropriate option in each situation is based on the best interest of the child. Openness between the birth relatives and adoptive parents is not a right or entitlement.

(2) When a Post Adoption Communication Agreement exists, the best interest of the child being adopted governs the nature, extent of openness and the content of the agreement negotiated between the birth parent(s) and adoptive parent(s) of the child who is in the custody of the State Office for Services to Children and Families.

(3) When a Post Adoption Communication Agreement exists, it is the responsibility of all parties involved to make it a workable agreement that continues to be in the best interest of the child as he/she grows older.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0630**

### **Post Adoption Communication Agreements**

(1) 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) A Post Adoption Communication Agreement must be flexibly designed in order for the adoptive parent(s) to meet the needs of the adoptee as he/she grows and develops. Agreements should reflect the spirit and intent of relationship building.

(3) A Post Adoption Communication Agreement must include at least one birth parent and the adoptive parent(s) as parties. The Post Adoption Communication Agreement may include continuing contact between birth relatives, in addition to the birth parent(s), and the child or adoptive parent(s).

(4) A Post Adoption Communication Agreement shall not be executed solely as a means to avoid a court termination of parental rights. Relinquishments must be voluntary and unconditional. At no time shall a voluntary relinquishment be "conditional" upon the willingness of an adoptive family to enter into a Post Adoption Communication Agreement. Relinquishment and termination of parental rights are a separate process from adoption. Relinquishment and termination of parental rights resolve the child's legal status. Adoption builds a new family for a child and the post adoptive relationship between birth and adoptive families.

(5) Although not precluded by these rules, agency staff shall exercise extreme caution in the development of a Post Adoption Communication Agreement where a legal assistance referral has been approved. These cases should be referred for mediation when available. Consultation with the assigned legal assistance attorney and permanency consultant is required in these cases. These birth parent(s) may present a continuing threat to their child and/or adoptive parent(s) when they are not working cooperatively with the agency, and a plan for openness may not meet the standard for the best interest of the child.

(6) A Post Adoption Communication Agreement shall be developed in a timely manner and shall not delay achieving permanency for the child.

(7) Mediation can be used to arrive at a Post Adoption Communication Agreement between the adoptive parent(s) and the birth parent(s) depending on the resources of the agency. Mediation between birth parent(s) and adoptive parent(s)

shall not begin until an adoptive family has been selected by a committee for a child or the case has been staffed and approved for mediation by a permanency consultant. (See SOSCF policies I-G.1.1, Relative or Current Caretaker Adoption Planning, and I-G.1.5, Adoption Placement Selection.) When the services of a mediator has been engaged, the mediator will facilitate the development of a Post Adoption Communication Agreement between the parties, and the child's SOSCF worker and adoption worker will act as a support to the adoptive parent(s) and the birth parent(s).

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0640**

### **Legally Enforceable Post Adoption Communication Agreement**

A Post Adoption Communication Agreement is legally enforceable only when it is reviewed by a judge and made part of the adoption decree per ORS 109.305.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0650**

### **Assessing Options**

The child's worker, after consultation with their supervisor or appropriate consultation committee, will assess the level of openness which will be in the child's best interest. Openness should be considered by the child's worker as a way to maintain positive family connections for a child when discussing permanency issues and options with birth relatives. The child's worker, in consultation with the adoption worker, will consider the following:

- (1) Child's emotional needs (i.e., will the lack of post adoption communication be detrimental to the child? Will ongoing communication be harmful to the child?);
- (2) Importance of maintaining birth family connections;
- (3) Adoptive family's ongoing need for information about the child and the birth family;
- (4) Birth parent(s) and adoptive parent(s) desires;
- (5) Degree of openness which is in the child's best interest at the current time remembering that it is possible to change the type and frequency of openness as the child's needs change.
- (6) The child's worker will indicate in the "Adoption Planning Summary" the extent of post adoption communication which will meet the best interest of the child. The child's worker will review potential adoptive families with respect to their ability to meet all of the needs of the child. Openness is one of the needs to be considered.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0660**

### **Assessing Options for the Adoptive Parent(S)**

(1) Information shall be provided for potential adoptive parent(s) regarding Post Adoption Communication Agreements. Information should include when an agreement can be beneficial or harmful, and how, when an agreement is appropriate, the adoptive parent(s) can support this process.

(2) The family's adoption worker will assist potential adoptive parent(s) in exploring the extent of post adoption communication which will be comfortable for them, and record this information in their home study.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-120-0670**

### **Developing the Post Adoption Communication Agreement**

(1) If the services of a contracted mediator have been engaged, the mediator will facilitate the development of a Post Adoption Communication Agreement. If the services of a contracted mediator have not been engaged, the process described in OAR 413-120-0670(2) through (8) should be followed. For the purpose of this rule, designated SOSCF staff means an SOSCF employe who is not involved in the case and who has received appropriate training in child welfare mediation.

(2) As soon as feasible after the adoptive family has been selected at adoption committee, designated SOSCF staff can facilitate the development of a Post Adoption Communication Agreement. Legal representatives or a mediator may assist in this process.

(3) Designated SOSCF staff can arrange for an initial meeting between the adoptive family and the birth family which should include the child's worker and the adoption worker when practical. Identifying information may or may not be shared at this meeting, depending on the extent of openness planned in the adoption.

(4) The designated SOSCF staff may assist the families to reach mutual agreement regarding exchange of information, type and frequency of communication, location, etc.

(5) Designated SOSCF staff will explain to both parties that the agreement for post adoption communication is based on trust and not enforceable unless it is reviewed by a judge and made part of the adoption decree per ORS 109.305.

(6) Designated SOSCF staff may facilitate the parties in preparing a written draft agreement which describes the expectations for communication reached by the parties. The agreement should be clear, flexible, individualized and understandable by all involved persons, and should be based on the best interest of the child. An agreement should include a procedure for modifying the agreement as the child grows and his/her needs change. Also, the agreement should address how financial costs will be met which are necessary to support the agreement (i.e., costs of transportation, costs of counseling, costs of visitation supervision, costs of letter and picture exchange, etc.). SOSCF cannot encumber any financial costs or services related to the agreement, nor is SOSCF a party to the agreement.

(7) Designated SOSCF staff should encourage the parties to seek legal representation to review the draft agreement. The

designated SOSCF staff and/or the child's worker or adoption worker should clarify with each party that SOSCF personnel cannot give legal advice.

(8) Designated SOSCF staff should ensure that all family members involved in the agreement and children over 14 years of age sign the agreement. When the agreement includes only the exchange of non-identifying information, only first names should be used. The signatures of the family members indicate their commitment to follow through with the agreement.

(9) Designated SOSCF staff shall send a copy of the written agreement to the central office Permanency and Adoptions Unit for inclusion in the permanent adoption file.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **Supervision of an Adoptive Placement**

### **413-120-0800**

#### **Purpose**

The purpose of these rules is to define the standards for supervision of adoptive placements and to assist adoptive families with integration of a child into the adoptive family.

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

### **413-120-0810**

#### **Definitions**

(1) "Adoptive Placement" is the placement of a child for adoption, including any action which results in a decree of adoption.

(2) "Legalization" is the process of giving an adoptive placement legal validity.

(3) "Supervision" means to monitor and support the child and his/her adoptive family and to report on the status and adjustment of the child and the adoptive family, and to provide related services until the adoption is finalized.

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

**413-120-0820****Values**

- (1) Adoptive families should be empowered to make decisions for the child placed in their home for adoption.
- (2) Creating legal relationships in a timely manner is important in achieving permanency for a child.
- (3) During the supervision period, safety standards and a child's physical, mental and emotional needs should be monitored.

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

**413-120-0830****Procedures**

- (1) Supervision of placements for children who are placed with adoptive families shall include support for the adoptive family in providing optimal care for the child during the integration process and assistance with legalization. Supervision by the supervising worker should include:
  - (a) At least monthly face-to-face visits with the child and the adoptive parent(s) for the first six months of adoptive placement, or until finalization. After six months of supervision, with agreement of the supervising worker, supervisor and adoptive parents, bi-monthly face-to-face visits with the child and adoptive parent(s) shall occur until finalization. In the case of a current caretaker adoptive placement where the child(ren) has resided in the current caretaker home consecutively for six months, with the agreement of the supervising worker, supervisor and adoptive parents, bi-monthly supervision with the child and adoptive parents can occur instead of monthly face-to-face visits until finalization. Visits are to assess safety standards, child's physical, mental and emotional needs and the quality of the relationship between the adoptive parent(s) and the child as well as the child's behavior and emotional adjustment to the placement. The supervising worker will document the date and content of face-to-face visits in the case file;
  - (b) Referrals to services to assist the child or adoptive family with the integration process, when applicable;
  - (c) Completion of the adoption assistance process, when appropriate;
  - (d) Completion of administration reviews for PL 96-272 throughout the supervisory period;
  - (e) Completion of a progress report twice a year. The CF 147 can be used in lieu of an additional progress report if it includes specific information about the child's adjustment in the adoptive placement.
- (2) Case responsibility for children in adoption placements is outlined in SOSCF policy I-B.3.3, Sharing and Transfer of Case Responsibility.
- (3) Protective service concerns will be addressed following branch sensitive issue procedures.
- (4) Non-protective services concerns shall be addressed with the supervisor or designated branch authority.
- (5) The supervising worker of the adoptive placement shall make a recommendation for legalizing the adoption upon completion of the supervisory period. The successful completion of the supervisory period is determined by the worker supervising the placement, in conjunction with the approval of the Permanency and Adoptions Manager, taking into

consideration the best interests of the child and the adoptive family, as well as the following criteria:

(a) Progress of the child and the adoptive family through the supervision period;

(b) Completion of the adoption assistance process;

(c) Receipt of required case file documentation by central office;

(d) Availability of post legal adoption services.

(6) The worker supervising the placement shall notify the Permanency and Adoptions Manager in writing that he/she believes that the supervisory period has been successfully completed, and request that the adoption proceed toward legalization. A final progress report shall accompany this notification, and a copy of the final progress report should be sent to the child's worker, when the placement is not supervised by the child's worker.

(7) A minimum of six months of supervision is required for an SOSCF child placed in an adoptive home other than those children placed in a "current caretaker" adoptive home as defined in OAR 413-120-0510(2).

Stat. Auth.: HB2004

Stats. Implemented: HB2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 130**

**POST ADOPTION SERVICES**

**Adoption Assistance**

**413-130-0000**

**Purpose**

The State of Oregon administers an adoption assistance program that is funded by General Fund dollars and the Title IV-E adoption assistance program under PL 96-272 (Adoption Assistance and **Child Welfare Act** of 1980). The purpose of these rules is to set forth criteria used to determine eligibility for the adoption assistance program.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

**413-130-0010**

**Definitions**

- (1) "Adoption Assistance" means financial and/or medical assistance to adoptive families to assist them with the costs associated with their adoptive child's needs made from SOSCF's adoption assistance budget. Assistance can be in the form of cash and/or medical coverage, an agreement only or special payments.
- (2) "Agreement Only" is an agreement between SOSCF and the parents signed prior to the finalization of the adoption, to provide adoption assistance when/if a need for payment and/or medical coverage arises prior to the child's 18th birthday.

(3) "Payment" means cash assistance to adoptive families to meet the child's needs.

(4) "Qualified Vendor Attorney" is an attorney who agrees to accept SOSCF's rate of reimbursement as payment in full for finalizing the adoption of a child who is eligible for adoption assistance.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-130-0020**

### **Special Needs Eligibility Criteria for Children**

A child who is in the permanent custody of SOSCF or a licensed adoption agency in Oregon may be eligible for adoption assistance, including monthly assistance payments, medical coverage, an agreement only and special payments. In order to be eligible the child must meet all three of the following criteria which establish special needs status:

(1) The state has determined that the child cannot or should not be returned to the home of his/her parents. This decision shall be based on:

(a) An order from a court of competent jurisdiction terminating parental rights; or

(b) The existence of a petition for termination of parental rights; or

(c) A signed relinquishment, and for children not already under the court's jurisdiction, a subsequent court finding that it would be contrary to the welfare of the child to return home; or

(d) In the case of an orphan, verification of the death of the parent.

(2) The child has at least one of the following factors or conditions which make adoptive placement difficult to achieve:

(a) Has a documented medical, physical, mental, emotional-condition or other clinically diagnosed disability or has a documented history of abuse or neglect or other identified predisposing factor that places the child at risk for future problems and need for treatment;

(b) Is a member of a sibling group which 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/cultural minority (e.g. African American, Hispanic, Asian, Indian, Pacific Islander);

(d) Is eight years of age or older; or

(e) Has developed significant emotional ties with the prospective adoptive parents while in their care as a foster child (or relative placement), and the family needs financial and/or medical assistance in order to rear the child.

(3) Reasonable but unsuccessful efforts, except where it would be against the best interests of the child, have been made to place the child for adoption without assistance. Efforts to do so must be documented as shown by statewide and/or interstate recruitment, such as registration with the Special Needs Adoption Coalition and/or the Northwest Adoption Exchange or other special needs recruitment resources, or by other documented attempts to locate an adoption resource which will not require adoption assistance. (Exempted from this criterion would be situations where relatives or foster parents who have significant emotional ties with the child they wish to adopt.)

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.330-418.340, PL96-272, 99-514 & PIQ 88-06

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

## **413-130-0030**

### **Eligibility for Nonrecurring Costs**

A separate federal statute, Public Law 99-514, provides for the reimbursement of nonrecurring costs directly related to the adoption. All children who meet the above criteria will also be eligible for payment of the nonrecurring costs. In addition, children who are not in the permanent custody of SOSCF or a licensed adoption agency in Oregon, but are being adopted by an Oregon resident, will also be eligible if they meet all other eligibility requirements for nonrecurring reimbursement.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-130-0040**

### **Title IV-E Eligibility**

(1) SOSCF will make efforts to establish Title IV-E eligibility for all children who meet the special needs criteria. Licensed adoption agencies shall make all requested efforts to assist SOSCF in establishing Title IV-E eligibility. Children who meet the special needs criteria, but are not determined to be Title IV-E eligible, will be eligible for fully state-funded adoption assistance.

(2) In addition to the special needs criteria a child must meet the following criteria to be Title IV-E eligible:

(a) Financial Needs Criteria:

(A) The child's eligibility for Title IV-E was established while in substitute care; or

(B) A child removed from his/her parent(s)' home was AFDC eligible in the month the removal was initiated or would have been AFDC eligible had the family applied; or

(C) A child removed from a relative home received AFDC in the month court action for the child's removal was initiated, or the child would have been AFDC eligible in the relative's home had the relative applied; or

(D) The child was voluntarily relinquished and found AFDC eligible in the month the voluntary relinquishment was signed; or

(E) The child was voluntarily placed with the public or private agency in out-of-home care and was AFDC eligible in the month the voluntary agreement was signed and received at least one IV-E foster care payment (IV-E payment is not required for a private agency); or

(F) The child is receiving SSI or met the requirements for SSI eligibility prior to the finalization of the adoption; or

(G) The child is residing with a relative intending to adopt and the child meets the criteria for an AFDC Non-Needy

Relative grant.

(b) Judicial Determination Criteria. A judicial determination that it is "contrary to the welfare" of the child to remain in the home is contained in:

(A) The first court order of removal for children removed by court order; or

(B) A court order initiated within six months of the month the child last lived with a relative if the child's removal was via parental relinquishment only. Documentation of the date of the initiation of the court order is necessary; or

(C) A court order finding made within 180 days of a child voluntarily placed into care. A contrary to the welfare ruling is not required for children receiving SSI or children with a relative who is planning to adopt.

(c) Living with Specified Relative Criteria (per OAR 413-100-0140). At the time the adoption petition is filed the child:

(A) Must have lived with a specified relative within six months prior to the month court proceedings were initiated to review the voluntary placement or relinquishment of a child; or

(B) Must have lived with a specified relative within six months prior to the month court proceedings leading to the judicial removal of the child were initiated.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-130-0050**

### **Availability of New Assistance and Rate Adjustments**

The availability of state funds shall govern the rate of payments which can be obligated. If all of the adoption assistance funds are obligated, SOSCF shall continue to accept and process applications and requests for increases in assistance and shall establish a waiting list. Assistance agreements will be granted in the order of the date of approval as funds become available.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-130-0060**

### **Agreement Only**

(1) An agreement only shall be entered into between SOSCF and the adoptive parent(s) when there is no current need for adoption assistance, the parent(s) request such agreement, and the child meets adoption assistance special needs criteria.

(2) The agreement only shall become effective on the date the completed adoption assistance agreement is approved and signed by the SOSCF, and shall automatically terminate upon the child's 18th birthday.

(3) A written request to the agency by the adoptive parent(s) will be made prior to initiation of cash and/or medical payments. The parent(s) will provide documentation to establish the child's need for service and costs of service at the time assistance is requested.

(4) Adoption staff will consider an agreement only for all adoptive families of a child who meets the special needs criteria. If an agreement only is not appropriate due to the existence of a current need for benefits, other types of adoption assistance will be discussed with the family.

(5) Agreement only adoption assistance agreements shall be governed by policy for monthly payment and medical assistance agreements, payments and procedures except as noted herein.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-130-0070**

### **Monthly Payments**

(1) The rate of monthly assistance payments shall be determined by negotiation between the adoptive family and the agency worker, with review, renegotiation if necessary, and approval by the SOSCF central office adoption assistance staff. Consultation from the adoption assistance coordinator is available during the negotiation.

(2) In negotiating the amount of a monthly payment consideration shall be given to the needs of the child and the circumstances of the family, recommendations of professionals and present adoption assistance funding.

(3) The amount of monthly payment will be negotiated prior to the completion of the adoption assistance agreement and may be adjusted at any time to reflect current needs and family circumstances. The rate of assistance will take effect upon completion of the adoption assistance agreement.

(4) Medicaid, private insurance, public education, and all community resources shall be considered as resources for the child and the family when negotiating the amount of assistance. Income to the child from sources such as Social Security and Veterans benefits shall be considered in negotiating a monthly payment, but will not necessarily be deducted dollar for dollar from the amount of monthly payment.

(5) The rate of the monthly payment cannot exceed what the child would currently require if placed in family foster care. When a child's needs exceed the standard foster care rate (determined by the age of the child), verification of the need for a higher foster care rate must be shown by completed Special Rate forms (SCF 172A and 172RN). When the child is not currently in foster care or there are no recently completed Special Rate forms available, other appropriate documentation may be accepted, for example: detailed letter from the parent describing the child's needs, therapist assessment, school report or psychological evaluation.

(6) When a change in monthly payment is negotiated, a new agreement in the adjusted amount must be signed by the parents and the adoption assistance coordinator prior to instituting the new payment rate.

(7) The foster care payment made to the adoptive family prior to the initiation of adoption assistance shall be discontinued when the adoption assistance agreement is in effect. Central office adoption assistance staff will notify the branch of the date assistance begins.

(8) Adoptive parents who move out of state shall continue to be eligible for adoption assistance.

(9) Monthly payments may begin when all of the following criteria are met:

- (a) The child is legally free for adoption;
  - (b) An adoption assistance application has been signed;
  - (c) An agreement has been signed by the adoptive parent(s) and by the agency representative;
  - (d) SOSCF or a private agency has designated this family as the adoption placement.
- (10) Actual payment may begin the date of the signed application.
- (11) Adoption assistance payments will be made at the end of each month of eligibility.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

### **413-130-0080**

#### **Nonrecurring Payment for Adoption Expenses**

- (1) SOSCF may make a one-time, nonrecurring payment to an adoptive family to assist with the costs incurred in legally finalizing the adoption of a special needs child up to a maximum of \$2,000. Nonrecurring expenses are the reasonable and necessary adoption fees, court costs, attorney fees, mediation costs, and other expenses which are directly related to the legal adoption of a special needs child. Other expenses are defined as the costs of adoption incurred by, or on behalf of, the parents and for which the parents carry the burden of payment, such as the adoption study, health and psychological examinations, supervision of the placement prior to adoption, transportation, and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the adoption process. This payment may not duplicate expenses covered by Interstate Compact for Placement of Children or expenses covered by SOSCF contract with a private agency.
- (2) Documentation of the nonrecurring adoption expenses will be required and must be submitted prior to execution of the adoption assistance agreement. The agreement, indicating the nature and amount of the nonrecurring expenses, must be signed prior to the final decree of adoption.
- (3) The legal fees, when reimbursement is requested, are included in the nonrecurring costs. It is the responsibility of the adoptive family to choose a private attorney or a "vendor" attorney. Vendor attorneys are those who have an agreement with SOSCF to process SOSCF adoptions for the currently established vendor fee plus costs for filing and birth certificates. SOSCF will make payment directly to the vendor attorneys after adoption is legalized. For other attorneys, the adoptive family is responsible for payment and SOSCF will reimburse the family for reasonable charges. (Oregon attorneys may complete adoptions for Oregon children placed out-of-state.)
- (4) Payment will be made when the agency receives the final order of adoption.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

### **413-130-0090**

## Special Payments

(1) Payment for unanticipated, short term costs which are directly related to the child's special needs or are essential to the welfare of the child, and are not covered by the adoptive family's insurance or by Medicaid may be approved in exceptional cases as negotiated between SOSCF and the family. These expenses may be authorized by SOSCF for a limited duration, subject to the agency's discretion and availability of resources. Documentation shall be made available to SOSCF by the family. Payment will be made to the adoptive family who will then be responsible to reimburse the provider for services.

Stat. Auth.: HB2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

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

## 413-130-0100

### Medical Assistance

(1) Children will be eligible for Medicaid coverage if one of the following criteria is met:

(a) The child was receiving Title IV-E foster care payments, Aid to Dependent Children Assistance, or SSI benefits at the time the adoptive placement was approved; or

(b) The child and adoptive parents would meet the income and resource standards of the ADC program administered under the Adult and Family Services Division; or

(c) Prior to the execution of the adoption assistance agreement, the child was not Title IV-E eligible, but was receiving or was eligible to receive Medicaid under the Oregon State Plan, and the child has a documented special need for medical or rehabilitative services, or services that preclude adoption without receipt of Title XIX Medicaid benefits; or

(d) Prior to the execution of the adoption assistance agreement, the child was not eligible for Medicaid coverage because he/she had income available above Adult and Family Services standards. However, the child had a condition which required a special foster care rate plus the standard foster care rate which was greater than the amount of the child's income.

(2) All Oregon families, for whom eligibility for medical assistance has been established, shall be issued medical identification for the child through the Office of Medical Assistance Programs. Payment for medical services will be in accordance with the administrative rules of DHR.

(3) Medical coverage for Title IV-E eligible children will be provided by the medical assistance program in the state where the child resides:

(a) If the child is eligible for federal funding through Title IV-E or SSI, the state in which the child and adoptive parents reside will provide medical coverage in accordance with the rules of that state;

(b) If the adoptive family moves to another state, or the child is placed for adoption in a state other than Oregon, SOSCF will provide information in writing, to the adoptive family advising them where to obtain Medicaid coverage;

(c) SOSCF will provide written verification of the child's Title IV-E eligibility to the appropriate coordinator of the adoption assistance program in the state where the adoptive family is residing in order to facilitate Medicaid medical coverage.

(4) Medical coverage for children who are not eligible for Title IV-E will be provided by the Office of Medical

Assistance Programs under the state plan. If the child is placed in another state, or the adoptive family moves from Oregon to another state, the child will continue to receive medical coverage from Oregon.

(5) An adoption assistance agreement shall be signed by the adoptive parents and SOSCF which documents that the child is eligible for adoption assistance, and that medical coverage has been requested.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-130-0110**

### **Administration of Approved Adoption Assistance**

(1) It is the responsibility of SOSCF staff and licensed private agency staff, to notify or advise adoptive parents of the availability of adoption assistance for children with special needs, provide adoptive parents with a copy of the adoption assistance policy, and assist the family in making application if appropriate.

(2) Applicants must submit a written application for adoption assistance to the SOSCF central office Adoption Unit through their respective SOSCF branch office or private adoption agency with appropriate documentation and clarification as requested.

(3) Prospective adoptive parents who apply for adoption assistance must be approved by their respective adoption agency as being suitable adoptive parents who meet all state standards:

(a) Licensed adoption agencies recommending adoption assistance for prospective adoptive parents are responsible to verify that efforts have been made to place the child without adoption assistance and must approve and document the agency plan for adoption prior to application for adoption assistance;

(b) The SOSCF branch offices submitting applications must assure that the adoptive placement status has been approved by the central office Adoption Unit;

(c) Central office adoption assistance staff are responsible to complete adoption assistance determinations, issue agreements, and maintain records.

(4) Prior to the finalization of the adoption, and to any issued benefits, a written adoption assistance agreement is completed that:

(a) Is signed by the adoptive parent(s) and the adoption assistance coordinator. The adoption assistance agreement also establishes the child's eligibility for Title XIX medical assistance and Title XX social services. A separate agreement is completed, prior to finalization of the adoption, to include nonrecurring adoption finalization expenses;

(b) States the duration of the agreement;

(c) States the amount of assistance payments (if any);

(d) States that the agreement remains in effect regardless of the adoptive parents and/or the child's state of residence.

(5) The initial effective date of adoption assistance shall be determined by the central office Adoption Unit, taking into consideration the request of the adoptive family and the recommendations of the adoption agency/SOSCF branch. The effective date cannot be prior to the completion of a written assistance agreement, and must be effective no later than the date the adoption is finalized.

(6) An annual review of the circumstances of the family and the needs of the child shall be conducted in all cases except where there is an agreement only. Adoptive parents who continue to need adoption assistance shall provide SOSCF with the information or documentation requested by SOSCF for continuing eligibility to be determined. A new agreement must be completed only if there are any changes in the type and/or the amount of the adoption assistance.

(7) No assistance may be provided to parents if the parents are no longer legally responsible for the support of the child, or the child is no longer receiving care and support from the adoptive parents. Examples include marriage, military enlistment.

(8) If a child receiving adoption assistance is placed in substitute care, adoption assistance may be adjusted, continued, or suspended. If the family is involved in the child's treatment, and the plan is for the child to return home, the family may ask to have the adoption assistance suspended, continued, or adjusted to reflect current expenses. When the child returns to the care of the parents, adoption assistance may be reinstated or redetermined.

(9) Adoptive parents must immediately inform the agency when a change in circumstances indicates that there is no longer a need for adoption assistance.

(10) The agency may terminate the agreement upon 30 days written notice to adoptive parents when the child is no longer in the home, or the adoptive parents are no longer providing for the child's support, or in the event of legal or legislative action requiring discontinuance of adoption assistance.

(11) An adoption assistance agreement shall automatically terminate, as required by Oregon law, when the child is 18 years old.

(12) An adoption assistance agreement shall be terminated when the child leaves the home with no plan to return as in such situations as marriage, military enlistment, emancipation.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, P L96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **413-130-0120**

### **Appeal Procedures of Adoption Assistance (Reference SOSCF policy I-A.5.2, Contested Case Hearings)**

(1) At any time SOSCF takes action to deny the application, or reduce or terminate payments, recipients of adoption assistance shall be notified of their right to a hearing, except for terminations required by law, termination on the child's 18th birthday, or terminations required by legislative action.

(2) If agreement cannot be reached between SOSCF and the adoptive parents on the amount or type of benefits, the adoptive parents have the right to request a hearing. Excluded from the right of appeal are Special Payments described in 413-130-0090(1).

(3) Requests for a hearing should be addressed to the manager of the SOSCF central Adoptions Unit. The adoption manager will complete the Hearing Request Memo and forward copies to the Adult and Family Services Hearings Unit.

(4) A written report shall be prepared by the adoption assistance coordinator within two weeks of the receipt of a request for a hearing.

(5) Hearings will be conducted by the Adult and Family Services Hearings Unit in compliance with rules governing contested case hearings.

(6) The hearing officer will prepare and distribute a proposed final order in compliance with rules governing contested case hearings. The final order will be issued by SOSCF.

Stat. Auth.: Oregon Laws 1993, Ch. 676

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, 99-514 & PIQ 88-06

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; SCF 11-1997, f. & cert. ef. 10-6-97

## **413-130-0130**

### **Post Finalization Applications for Adoption Assistance**

(1) An adoptive parent may request the opportunity to apply for adoption assistance after the adoption has been finalized based on extenuating circumstances such as:

- (a) Relevant facts regarding the child, the biological family, or child's background were known, but not shared with adoptive parents prior to legalization;
- (b) Adoption assistance was denied, based on an assessment of the financial need of the adoptive family;
- (c) Erroneous determination was made by the state that a child was ineligible for assistance;
- (d) Failure by the state to advise adoptive parents of a special needs child of the availability of adoption assistance.

(2) Adoptive parents shall submit a written request to the adoption assistance coordinator stating their wish to apply for adoption assistance after an adoption has been legally finalized.

(3) Upon receipt of the written request, SOSCF adoption assistance staff will determine, within thirty days, whether the child meets Title IV-E eligibility requirements:

(a) When it is determined that a child meets Title IV-E eligibility requirements, federal policy requires a fair hearing be held before the state may provide adoption assistance:

(A) Adoptive parents have the responsibility of proving that extenuating circumstances exist. SOSCF may provide corroborating facts to the family or the hearing officer;

(B) The adoption assistance coordinator shall write a summary of the situation and submit a hearing request form and appropriate documentation to the hearing officer within 45 days of receipt of the adoptive parent request for a fair hearing;

(C) The hearing will be conducted by a hearing officer in compliance with rules governing contested case hearings;

(D) If a post legal fair hearing decision finds that a child has been wrongly denied, an adoption assistance agreement may be signed, effective the date of the fair hearing.

(b) When it is determined that a child does not meet Title IV-E eligibility requirements, the SOSCF adoptions manager will review the information submitted by the family and by the adoption assistance coordinator. The manager will decide if extenuating circumstances exist which justify accepting an application from the family:

(A) A written finding will be sent to the adoptive parent within 30 days;

(B) The adoptive parent may appeal the decision by following the appeal process included in these administrative rules.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.330-418.340, PL 96-272, 99-514 & PIQ 88-06

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

## **Post-Legal Adoption Services**

### **413-130-0150**

#### **Purpose**

The purpose of these rules is to establish criteria and eligibility for post legal adoption services for adoptive families who adopted a child through the State Office for Services to Children and Families.

Stat. Auth.: HB2004

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

### **413-130-0160**

#### **Definition**

"Post Legal Adoption" is the period of time after an adoption is legalized.

Stat. Auth.: HB2004

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

### **413-130-0170**

#### **Values**

(1) Freeing a special needs child for adoption through SOSCF presupposes a commitment by the agency to the child until the child reaches the age of 18 years or emancipation, whichever comes first. SOSCF assumes an obligation to the child, the adoptive parent(s) and to the family as a whole to maintain the placement through the delivery of adoption preservation services.

(2) Families who adopt special needs children are often challenged by the exceptional current and future needs of their children, and may require specialized services after the adoption is legalized.

(3) SOSCF's response to adoptive families (who adopted through SOSCF) returning to the agency for support shall be provided in a way that is sensitive to the issues unique to adoption.

Stat. Auth.: HB2004

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **413-130-0180**

### **Procedures**

Except where OAR 413-030-0100 through OAR 413-030-0130, (Child Protective Services Eligibility administrative rules) applies, eligibility for post legal adoption services to families who have adopted a child through SOSCF shall not be determined on the basis of risk assessment factors or the vulnerability scale, but shall be based on the needs of the adoptive child and family. Post legal adoptive services will be determined by the availability of SOSCF and community resources.

- (1) Case responsibility for post-legal adoptive services shall be determined through branch or regional administration.
- (2) Adoptive families eligible to receive SOSCF services shall sign the CF 304, "Service Application," to access SOSCF services. SOSCF services and other community services may include, but are not limited to referrals to SOSCF contracted services or other agency or community services, (such as counseling, adoptive parent's support group, family resource or unity meeting, respite care, temporary out-of-home care or residential treatment).
- (3) Post adoption applications for adoption assistance or renegotiated agreements may be processed through the adoption assistance coordinator without the need for casework services.
- (4) Members of the adoption triad (adult adoptee, adoptive family and birth family) seeking non-identifying or identifying information shall be referred to the adoption registry and assisted search programs through the State Office for Services to Children and Families.

Stat. Auth.: HB2004

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

## **Adoption Registry**

## **413-130-0300**

### **Purpose**

The central office adoptions unit maintains the Voluntary Adoption Registry and carries out the SOSCF 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 the counseling services mentioned in OAR 413-130-0340.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.500 & SB 1105

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

**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 State Office for Services to Children and Families 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 - 109.507 and OAR 413-130-0400 through 413-130-0520.

(2) The State Office for Services to Children and Families will maintain the registry for all SOSCF adoptions and all adoptions not arranged through a licensed Oregon agency.

(3) SOSCF may contract with another licensed adoption agency for the operation of the registry. If it does so, these administrative rules will govern the operation of the registry.

(4) SOSCF may join a voluntary national or international registry and make its records available to that registry. The rules governing disclosure of information in such adoption registry shall be as prescribed in these rules.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.500 & SB 1105

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

**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) SOSCF will provide written request forms to all eligible persons.

(3) Upon receipt of a written request form and the fee, SOSCF will provide a genetic, social, and health history of the adoptee, 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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.500 & SB 1105

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

## **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.

(2) A fee of \$25 per registrant will be paid prior to processing any affidavit.

(3) Eligible persons may register by submitting a notarized affidavit to SOSCF on forms provided by SOSCF.

(4) Affidavit contents. The affidavit must be sent by the registrant to the Adoption Services section of the State Office for Services to Children and Families. 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.

(5) Processing Affidavits:

- (a) SOSCF will maintain files concerning all persons whose adoptions were completed through SOSCF, 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. SOSCF shall not 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) SOSCF will not contact or in any other way solicit any adoptee or birth parent to register with the registry except as provided for under ORS 109.502 - 109.507;

(e) If a birth parent of an adoptee registers prior to the adoptee's eighteenth birthday, SOSCF 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 (4)(f) of this rule must be met;

(f) When an adoptee reaches age 18, the birth parent of the adoptee, if the birth parent registered prior to the adoptee's eighteenth birthday, shall notify SOSCF in writing of his or her desire to continue the registration;

(g) All affidavits and other related registry information collected by SOSCF shall be permanently maintained by SOSCF.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.500 & SB 1105

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

### **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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.500 & SB 1105

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

### **413-130-0350**

#### **Release of Identifying Information - Counseling**

(1) When SOSCF determines that a match exists, SOSCF will notify the affected persons of the match by a method which is direct and confidential.

(2) SOSCF may recommend appropriate counseling by a SOSCF service worker prior to the release of identifying information to eligible persons. In cases where an eligible person resides in another state, SOSCF may request the appropriate social services agency in that state to provide the notification of the match and to offer counseling services prior to the release of identifying information.

(3) If SOSCF determines that there is a match, and if relevant persons have registered with the registry and have received appropriate counseling, notification of the match may be given by SOSCF 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 SOSCF's discretion, parents or adult siblings of the birth parent/s if the birth parent/s are deceased; or
- (f) At SOSCF's discretion, the adoptive parent/s of a deceased 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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.500 & SB 1105

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

## **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.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.500 & SB 1105

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

## **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

## 413-130-0410

### Definitions

- (1) "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.
- (2) "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, or is a putative father of the child where the birth mother has alleged he is the father and the putative father, by written affidavit or surrender and release executed within one year of the relinquishment of the child by the birth mother, or the termination of parental rights of the birth mother, has acknowledged being the child's biological father.
- (3) "Fee" means the maximum fixed amount that may be charged for conducting an assisted search for persons eligible to request such services, a birth father file review, and for SOSCF's, or Oregon licensed adoption agency's reasonable costs associated with an administration of the assisted search program.
- (4) "Licensed Adoption Agency" means an agency currently licensed in Oregon under the provisions of ORS 418.225 to 418.325 to provide adoption services.
- (5) "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.
- (6) "Voluntary Adoption Registry" means a registry as established in ORS 109.450 and OAR 413-130-0300 through 413-130-0350, which provides identifying information to eligible adoptees and other authorized family members.
- (7) "Work Product" means any records, information or other materials obtained or developed by the licensed adoption agency or SOSCF during the course of the assisted search.

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 is permitted where authorized by statute.

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

## **413-130-0430**

### **Application**

Requesters for assisted searches will submit an application directly to the licensed adoption agency that facilitated the adoption if that agency has met all requirements under OAR 413-130-0450 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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

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

## **413-130-0440**

### **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 file review if the application requests an assisted search for a birth father. This review shall determine if there is a birth father who meets the definition as 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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

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

## **413-130-0450**

### **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, including results of consumer satisfaction surveys of requesters and/or persons identified and contacted during the assisted search process.

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

## **413-130-0460**

### **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 as 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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

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

## **413-130-0470**

### **Standards of Conduct**

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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

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

## **413-130-0480**

### **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. During the contact, 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. If that person wishes to establish contact, the agency or SOSCF shall provide information and any application materials necessary to register with the appropriate registry. The application materials shall contain a statement regarding the voluntary nature of any participation in a voluntary adoption registry. 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. 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.
- (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 sections (3), (5) or (6) of this rule, 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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

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

#### **413-130-0490**

##### **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 & SB1105

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

## **413-130-0520**

### **Advisory Committee**

An advisory committee selected by SOSCF will 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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

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

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**Oregon Administrative Rules  
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**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 140**

**INDEPENDENT ADOPTION SERVICES**

**Independent Adoptions**

**413-140-0000**

**Purpose**

The purpose of these rules is to establish the administrative process necessary to achieve a private independent adoption in Oregon.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.305-109.410 & SB 1105

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

**413-140-0010**

**Definitions**

(1) "Certificate of Approval" means a letter indicating that an independent adoption home study was completed or approved by a contracted adoption agency or by SOSCF, which approves of the persons as potential adoptive parents, and verifies that potential adoptive applicants meet minimum standards for adoption homes per OAR 413-120-0300 and 413-120-0310.

(2) "Contracted Adoption Agency" means a licensed Oregon adoption agency holding a current contract with SOSCF to complete independent adoption home studies and placement reports.

(3) "Fee" means the maximum fixed amount that may be charged for conducting and providing a home study or

placement report for a proposed independent adoption.

(4) "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 division reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes as set forth in SOSCF administrative rules, OAR 413-120-0300 through 413-120-0310.

(5) "Independent Adoption" means any adoption in which the consent is given other than by SOSCF or a licensed adoption agency.

(6) "Licensed Adoption Agency" means a licensed Oregon adoption agency.

(7) "Petitioner" means the person or persons seeking to adopt the child of another person.

(8) "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 division's prescribed reporting format and includes information about the child's background and placement; medical and genetic history; birth parent(s)' history; status and adjustment of the child in the adoptive home; and status and adjustment of the child's prospective adoptive parent(s).

(9) "Stepparent" means a person married to and not legally separated from the petitioning biological or adoptive parent of the child.

(10) "Venue" means the particular county in which a court that possesses subject matter jurisdiction under ORS 109.730 may decide whether or not to grant a decree of adoption.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.730 & SB 1105

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

## **413-140-0020**

### **Home Study and Fee**

(1) Potential adoptive parents who are planning an independent adoption may request a home study for the purpose of meeting the requirements of ORS 109.312, subsection (2), and the filing of an adoption petition. Home study fee requirements for potential adoptive parents who are Oregon residents and non-Oregon residents planning an independent adoption are as follows:

(a) Oregon Residents:

(A) A request for a home study shall be made to a contracted licensed adoption agency;

(B) The fee for an independent adoption home study shall not exceed \$495 and reasonable travel expenses. The fee may be adjusted to a lower amount by either:

(i) The potential adoptive parent(s)' qualification for waiver of part or all of the fee in accordance with these rules; or

(ii) The agency voluntarily lowering the fees.

(C) A home study will not begin until the agency has received the required fee and necessary information;

(D) A relative or step-parent who qualifies for a waiver under section (4) of this rule or OAR 413-140-0040 may request in writing that SOSCF waive the home study and/or placement report at the time of filing a petition to adopt. A home study is not required for petitioners readopting children adopted in a foreign nation who qualify for a waiver of the placement report under OAR 413-140-0040.

(b) Non-Oregon Residents:

(A) Potential adoptive parents who are not Oregon residents may request a home study from an adoption agency, or person licensed in the state in which they reside, to conduct and prepare a home study for the purpose of an independent adoption.

(B) A home study, completed by an adoption agency or person licensed in the state in which the potential adoptive parents reside, and not licensed in Oregon, must be approved by a contracted licensed Oregon adoption agency, or by the central adoption unit of SOSCF in order to be used for the purpose of adoption in Oregon:

(i) A request for approval of the home study shall be made to a contracted licensed adoption agency and shall contain the full names, addresses, phone number, birth dates and social security numbers of the potential adoptive parents;

(ii) The request shall include a complete copy of the home study, and shall have written verification that the agency, or person who conducted the study, is authorized to carry out adoption work under the laws of the state where the prospective adoptive parents reside.

(C) The maximum fee charged by a contracted adoption agency for evaluation and approval of a home study completed by an agency not licensed in Oregon shall not exceed \$150.

(2) A contracted adoption agency that completes or approves a home study shall:

(a) Maintain an original written copy of the study for a period of not less than 30 months from the date of completion;

(b) Write a letter certifying approval, or indicating disapproval, of the applicants as potential adoptive parents per OAR 413-120-0300 and 413-120-0310, Minimum Standards for Adoptive Homes. Send a copy of the letter to the potential adoptive parents. The letter shall be dated and shall identify the persons by full name, date of birth and social security number, and shall approve or disapprove of the persons as potential adoptive parents (including any limitations for placement or reasons for disapproval);

(c) Upon a written request of the petitioner or petitioner's attorney, send a copy of the home study to the petitioner's attorney or, if requested, to the court at the time of filing a petition;

(d) Furnish upon request a copy of the home study to the agency assigned to complete a placement report to the court.

(3) A home study is valid for a maximum period of two years from the date of completion provided significant changes have not occurred in the household, in the applicant's ability to meet minimum standards for adoptive homes per OAR 413-120-0300 and 413-120-0310, or until a child is placed with the persons for the purpose of adoption.

(4) Following filing of the adoption petition with the court, and upon written request of the petitioner(s), the State Office for Services to Children and Families may file a waiver of the home study required under ORS 109.309 (5)(a)(C) under the following circumstances:

(a) The petition is to adopt the step-child of one of the petitioners and there is evidence that the petition has been served on all persons whose consent is required under ORS 109.312. In addition, evidence must be provided that the petition was served on each of the child's grandparents who have established rights under ORS 109.119 or 109.121, if the names and addresses are known or can be readily determined by the petitioners; or

(b) One of the petitioners is a grandparent, sibling, aunt or uncle of the child, and the child has resided with the petitioners since birth for at least six months, or has resided with the petitioners on a continuous basis for one or more

years immediately prior to the filing of the adoption petition; and

(c) Each petitioner and all members of the petitioner's household over 18 years of age have filed a consent to a check of the State Office for Services to Children and Families (SOSCF) child protection records and an Oregon criminal records check:

(A) The criminal records information shall be provided to SOSCF before a request for the waiver of the home study will be considered;

(B) SOSCF shall provide the applicants and specified household members with an application, including instructions, for an Oregon State Police criminal records check;

(C) Applicants will be responsible for paying all fees associated with acquiring and providing criminal history information to SOSCF.

(d) The adoption petition demonstrates compliance with the UCCJA as per ORS 109.700-109.930, including a declaration of the child's connection with Oregon in accordance with ORS 109.730, and the information required under 109.790; and

(e) The adoptive applicants are not providing full time physical care for more than eight children, including biological, foster or adopted children. (ORS 109.309(5)(a)(C), ORS 109.312, OAR 413-120-0310(1)(c)(B)); and

(f) The adoption petition declares that one petitioner, the child or one birth parent, has resided in Oregon continuously for a period of six months prior to the date of the petition.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.309, 109.312 & SB 1105

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

## **413-140-0030**

### **The Contents and Service of Petition**

(1) Every petition for the adoption of a child shall be governed by the **Uniform Child Custody Jurisdiction Act**, ORS 109.700 to 109.930, with the exception of ORS 109.800, and venue shall lie in the county with which the child has the most significant connection, or the county in which the contracted adoption agency is located. A declaration of the child's connection with Oregon in accordance with ORS 109.730, the information required under 109.790, and a declaration, for the purpose of determining venue, of the child's connection with the county in which the petition is filed or that the county in which the petition is filed is the county in which the licensed adoption agency is located shall be included in the petition.

(2) A copy of each petition and required documentation for the adoption of a minor child shall be served on the director of SOSCF within 30 days after filing a petition with the court. Service may be by registered mail, by certified mail with return receipt or by personal service. Date of service shall be the date the director is in receipt of a copy of the petition and all documents and fees described in this rule as follows:

(a) A statement containing:

(A) The full names, permanent address and telephone numbers of the petitioners;

(B) The birth dates, full names, permanent addresses and telephone numbers of all persons whose consent to the adoption is required under ORS 109.312, when these names and addresses are known or may be determined by the

petitioner and the name and address of the relative or person who privately placed the child for adoption.

(b) The documents demonstrating consent under ORS 109.312 to the adoption of the child;

(c) Written evidence, or a certificate of approval, documenting a current approved home study has been completed which confirms that the petitioners meet minimum standards for adoptive homes per OAR 413-120-0300 and 413-120-0310. This requirement shall not apply in the case of a step-parent adoption or relative adoption which qualifies for a waiver of the home study and placement report in accordance with OAR 413-140-0040;

(d) A written disclosure statement, prepared on the form prescribed by SOSCF, which contains an itemized accounting of all money paid, or estimated to be paid, by the petitioner for fees, costs and expenses related to the adoption, including all legal, medical, living and travel expenses (see OAR 413-140-0070);

(e) A check or money order for those fees required and specified in OAR 413-140-0060 shall also accompany the petition;

(f) In the case of a step-parent adoption, evidence the petition was served on all persons whose consent is required under ORS 109.312, and each of the child's eligible grandparents who have established rights under ORS 109.119 or ORS 109.121, if the names and addresses are known or may be readily determined;

(g) A report of the medical history of the child and of the biological parent(s), pursuant to ORS 109.342, on forms prescribed by the division. A medical history is not required when a child is adopted by a step parent;

(h) A step-parent or relative, or person petitioning to readopt a child previously adopted in a foreign nation who qualifies for a waiver under OAR 413-140-0020(4) or OAR 413-140-0040, may request that SOSCF waive the home study and/or placement report at the time of filing a petition to adopt;

(i) Verification that the birth parent(s) and petitioner(s) have been advised of the voluntary adoption registry established under ORS 109.450, and have been given information on how to access those services;

(j) Every adoption petition shall comply with the **Indian Child Welfare Act** of 1978, U.S.C., Title 25, Sections 1901-1963, if applicable. Every petition involving the **Indian Child Welfare Act** shall include:

(A) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption;

(B) A statement of the efforts to comply with placement preferences of the **Indian Child Welfare Act**, or the placement preferences of the appropriate Indian tribe.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.309(10), 109.312(3), Indian Child Welfare Act of 1978, U.S.C., Title 25, Sections 1901-1963 & SB 1105

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

## **413-140-0040**

### **Placement Report to the Court or Waiver**

(1) A placement report shall be filed in every adoption proceeding unless SOSCF files a waiver of the report with the court. An adoption placement report to the court will only be considered for waiver by the division when the child's connection with Oregon is described in the petition in accordance with ORS 109.730.

(2) SOSCF may file a waiver of the placement report under the following circumstances:

(a) The petition is to adopt the step-child of one of the petitioners, and there is evidence that the petition has been served on all persons whose consent is required under ORS 109.312, and each of the child's grandparents who have established rights under ORS 109.119 or 109.121 if the names and addresses are known or may be readily determined by the petitioners; (ORS 109.309(6) and (11))

(b) The petitioners and the child are currently receiving services from SOSCF or a licensed adoption agency, or have received such services in the past, and there is sufficient information available that will allow SOSCF or a licensed adoption agency to recommend in writing that the adoption is in the best interest of the child;

(c) The child is 14 years of age or older, has consented to his/her adoption, and SOSCF or a licensed adoption agency has sufficient information available to recommend that the adoption is in the best interest of the child;

(d) One of the petitioners is a grandparent, sibling, aunt or uncle of the child, and the child has resided with the petitioners since birth for at least six months, or if placed after birth, has resided with the petitioners on a continuous basis for one or more years immediately prior to the filing of the petition for adoption;

(e) The child's adoption in a foreign nation meets all requirements of ORS 109.385, and:

(A) There is documented proof the foreign adoption and the child's entry into the United States fully complies with federal immigration and naturalization laws;

(B) The adoption is verified with original or certified true copies of all documents necessary for completion of the foreign adoption; and

(C) All documents written in a foreign language are translated into English.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.385 & SB 1105

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

## **413-140-0050**

### **Child's Significant Connection With Oregon**

(1) The adoption petition shall declare the child's connection with Oregon in accordance with ORS 109.730.

(2) An adoption placement report to the court will only be commenced when the child's connection with Oregon is described in accordance with ORS 109.730; SOSCF will notify the petitioner(s) or their attorney, and the court if the petition does not describe the child's connection with Oregon under ORS 109.730.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.730 & SB 1105

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

## **413-140-0060**

### **Placement Report and Fee**

(1) A placement report may be completed, after the filing of a petition, by a contracted licensed adoption agency under

the following conditions:

- (a) A petition and all related documents must be served on SOSCF (OAR 413-140-0030) within 30 days of petition filing, along with the full fee, or justification for a fee waiver, before SOSCF will authorize the preparation of a placement report to the court. Service is not considered complete until SOSCF has received copies of all required documentation provided to the court as well as the required fees;
  - (b) Upon satisfactory service of the petition and documents, SOSCF will assign completion of the placement report to a contracted licensed adoption agency. Assignment will be made to the agency which completed the home study, or to the agency requested by the petitioners, if that agency has a current contract with SOSCF to complete independent home study and placement reports;
  - (c) SOSCF shall provide all necessary information and materials to the designated agency within 30 days of completed service upon the central adoption unit;
  - (d) The maximum fee for each Independent Adoption Placement Report shall not exceed \$545. The fee may be adjusted to a lower amount when:
    - (A) The petitioners qualify for a fee waiver of part or all of the fee in accordance with OAR 413-140-0100;
    - (B) A voluntary adjustment of the fee to a lower amount is made by the contracted agency;
    - (C) The interview of the petitioners was done in another jurisdiction;
    - (D) The interview with the birth parent(s) could not be completed.
  - (e) The contracted adoption agency will not investigate and prepare an Independent Adoption Placement Report until the required fee has been received by SOSCF.
- (2) In the event the required fee for a placement report or any documents required under OAR 413-140-0030 are not received, SOSCF will notify the attorney for the petitioner or petitioners and the court, in writing, that preparation of an Independent Adoption Placement Report will not be completed until the fee and documents have been received by SOSCF.
- (3) No fee shall be paid, nor shall a report be completed, when one of the circumstances described in OAR 413-140-0040 exists and SOSCF files a waiver with the court.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.309(7) & SB 1105

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

## **413-140-0070**

### **Disclosure Statement**

A written disclosure statement shall accompany the copy of the adoption petition served on SOSCF, and shall contain an itemized accounting of all money paid, or estimated to be paid, by the petitioner for fees, costs and expenses related to the adoption, including all legal, medical, living and travel expenses.

- (1) The content of the disclosure statement is outlined on the Disclosure Statement, CF 960, and may be obtained from the SOSCF central office adoption unit.

(2) SOSCF, or a licensed adoption agency, will not assign a placement report for completion until a copy of the disclosure statement has been received from the petitioner or petitioner's attorney.

(3) In the event the disclosure statement does not accompany an independent adoption petition, the petitioner(s), or their attorney and the court will be notified.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.311 & SB 1105

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

## **413-140-0080**

### **Interview With Birth Parents**

If the birth parent(s) of the child can be located, and are willing to be interviewed, they shall be interviewed regarding the background and legal status of the child to determine the child's ethnic (including Indian tribal membership) and health history, and the attitude of the parents toward the adoption. In the event the birth parent(s) were not interviewed, the reasons for not interviewing shall be included in the placement report, as well as a description of efforts made to interview.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004 & SB 1105

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

## **413-140-0090**

### **Placement Report for the Court**

(1) A placement report, or waiver by SOSCF, shall be prepared and submitted to the court, after the filing of a petition, for each proposed independent adoption:

(a) SOSCF may assign completion of any placement report to a contracted adoption agency. A request for completion of the report by a specific agency will be honored whenever practical;

(b) All independent adoption placement reports will be completed following SOSCF procedures and prescribed reporting format;

(c) A copy of each finished report shall be sent by the assigned agency to the court and to the SOSCF central office adoption unit.

(2) In the event the placement report cannot be completed within 60 days from the date SOSCF assigned it to a contracted adoption agency, the adoption agency responsible for preparing the report shall:

(a) Notify the court in writing of the delay, stating the specific reasons for the delay, and the anticipated additional time necessary to prepare and submit a full and complete report;

(b) Provide a copy of the notification of the delay to the SOSCF central office adoption unit.

(3) SOSCF shall furnish to the petitioner's attorney, upon written request, copies of any information filed with the court.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.309(7)(b) & SB 1105

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

## **413-140-0100**

### **Waiver of Fees**

(1) Contracted adoption agencies, which are contracted by the division to prepare independent adoption reports, recognize some prospective adoptive parents with low income may be financially incapable of making full payment for preparation and development of required adoption reports. The agencies, on a case-by-case basis, will absorb some costs, and accept a reduced fee, or full waiver of the fee, considering the household income of the prospective adoptive parents:

(a) A fee waiver schedule is established each calendar year, based upon Federal Fiscal Year Official HHS Poverty Guidelines, and is available through the SOSCF central office adoption unit;

(b) Potential adoptive parent(s) or petitioner(s) shall not be entitled to any consideration for a waiver unless a request for waiver or reduction of the fee is submitted to the division, or the licensed adoption agency, in writing, along with documentation of household income. A copy of the previous year's Federal Tax Report 1040 form if filed, and verification of household income, will be required;

(c) Household income includes before tax cash receipts from all sources such as wages or salaries, public and private support/assistance payments, regular payments from investments, rents, pensions, allotments, compensations, child support, alimony, public assistance, annuities, grants, interest, winnings, entitlements, etc.;

(d) Household includes all persons who occupy the housing unit;

(e) Confirmation of household income will be made on forms supplied by the division, along with supporting documents and records of income before any waiver of fee is authorized. In the event a fee waiver is authorized based upon erroneous information, the petitioner will be liable for the full cost of the report and any amounts associated with recovery of those costs.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.309(7)(C) & SB 1105

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

## **413-140-0110**

### **Release of Information**

No person shall disclose to the birth parent or to the adopted parents of a child the names, identities, or whereabouts of the other without consent of the other party.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.309 & SB 1105

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

## 413-140-0120

### Storage and Destruction of Information Concerning Adoptions

- (1) All records and written material dealing with independent adoption petitions and placement reports, in the possession of SOSCF or a licensed adoption agency, are confidential and shall be stored in locked file cabinets.
- (2) Where an independent adoption home study and/or placement report for the court has been completed by a local SOSCF office, the branch office will:
  - (a) Forward copies of all confidential information related to an independent adoption to the central office adoption unit;
  - (b) Destroy all remaining information related to the independent adoption upon confirmation that a decree was granted and the central office is in receipt of all information.
- (3) In those instances where a licensed adoption agency has completed an independent adoption home study and/or placement report for the court, the agency will:
  - (a) Forward copies of the home study and/or placement report to the central office adoption unit.
  - (b) Destroy all remaining information related to the independent adoption one year after confirmation that a decree was granted and that the central office adoption unit is in receipt of all information.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.435, 109.445 & SB 1105

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

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**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**RESOURCE MANAGEMENT**

**DIVISION 200**

**STATUTORY AUTHORITY**

**Response to Assessment of Child Abuse Reports in Private Child-Caring Agencies and Private Residential  
Schools**

**413-200-0000**

**Purpose**

(1) ORS 419B.020 provides that SOSCF and/or law enforcement must assess or investigate all reports of child abuse. In addition, ORS 418.260 provides that SOSCF has responsibility to assess reports of abuses, derelictions or deficiencies in all child caring agencies, public or private.

(2) These rules are limited to requirements for assessing reports of child abuse in all out-of-home child care facilities registered, certified or licensed by the State Office for Services to Children and Families.

Stat. Auth.: HB 2004

Stats. Implementation: ORS 418.205 - 418.327

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

**413-200-0010**

**Definitions**

(1) "Child Abuse": Child abuse as defined in ORS 419B.005 includes:

- (a) Physical injuries caused by other than accidental means;
  - (b) Mental injury;
  - (c) Sexual abuse;
  - (d) Sexual exploitation;
  - (e) Negligent treatment or maltreatment (neglect); and
  - (f) Substantial risk of harm to a child's health or welfare.
- (2) "Out-of-Home Child Care Facilities": For the purpose of assessing reports of child abuse, out-of-home care facilities means: private child caring agencies and private residential schools. Specific procedures for assessing foster home abuse allegations are listed in SOSCF's Policy II-A.2.1.1, "Assessment of Abuse Allegations in Certified Family Foster Care, Group Homes and Family Shelter Homes."
- (3) "Child Protective Services (CPS) Assessment": The part of the case process which assesses a report of suspected child abuse or neglect on the part of a child's caretaker in order to determine the presence of abuse or neglect, evaluates the severity of risk of harm to a child, arranges services to assure the child's safety, and communicates SOSCF's commitment to provide help to a family.

Stat. Auth.: HB 2004

Stats. Implementation: ORS 418.205 - 418.327

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

## **413-200-0020**

### **Assessment of Abuse**

- (1) A protective services worker in the county where the provider is located shall assess all reports of child abuse in out-of-home care facilities. The assessment shall be coordinated with the facility certifier/liaison worker or their supervisor whenever possible.
- (2) Upon receiving a report of alleged abuse in an out-of-home care facility, the protective services worker shall immediately notify his/her supervisor, the certification/liaison worker and appropriate law enforcement agency and then assess the report per OARs 413-020-0300 through 413-020-0420 and branch protocol. The supervisor shall notify the branch manager, who shall assure the appropriate regional and central office staff are notified.
- (3) Certification/licensing staff, and staff with children in placement at the facility shall provide consultation and assistance to the protective services worker. SOSCF program staff and child protective services consultants shall provide consultation and technical assistance as requested by the branch. When the report does not meet the definition of "Child Abuse" in OAR 413-200-0010, certification/licensing staff shall evaluate for possible regulatory violations. The protective services staff will provide consultation regarding the report when requested.
- (4) The branch manager shall jointly determine with local law enforcement authorities, consistent with good practice, the appropriate time to notify provider and/or board of directors regarding the assessment.

Stat. Auth.: HB 2004

Stats. Implementation: ORS 418.205 - 418.327

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

## **413-200-0030**

### **Reports of Assessment Findings**

(1) Incidents of abuse which occur in out-of-home care facilities and agencies require prompt reports to the SOSCF certification/licensing staff and to SOSCF program management. A sensitive issue report may be required (SOSCF Policy III-A.1.2, Sensitive Issues Policy). The CPS worker shall make a verbal report of initial assessment status and the actions taken and/or recommended. A written report will be completed and submitted as soon as possible to the protective services supervisor and the branch management staff. If this is a sensitive issue, the completed assessment is to be sent to SOSCF program management (SOSCF Policy III-A.2.1, "Reporting and Review of Sensitive Issues").

(2) Upon completion of the assessment, the branch manager and/or the protective services supervisor shall jointly determine with the law enforcement agency when and how it is appropriate to notify the provider of the results.

(3) The certification/licensing worker shall provide a written summary of SOSCF conclusions and any recommendations for regulatory actions to the provider. For a licensed facility or agency, the appropriate program manager, branch manager and the assistant administrator of the region shall assure that the appropriate persons receive reports in order to take follow-up action in accordance with licensing regulations and policy.

Stat. Auth.: HB 2004

Stats. Implementation: ORS 418.205 - 418.327

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

## **413-200-0040**

### **Protective Actions**

When abuse is confirmed, immediate protection of the child shall be assured through a risk assessment for children affected in the facility and appropriate action taken, if necessary, which may include:

(1) Assuring adjustment in the facility management or staffing to allow the program to continue with the least interruption and still protect children. This may require a comprehensive review of the operation of the facility by a multidisciplinary team. The regional administrator or designee, branch manager or designee, and the program manager shall jointly determine if such a review is required.

(2) Removing the child(ren) from the facility if the child(ren) is in the custody of SOSCF.

(3) Taking the child into custody with the assistance of a law enforcement officer if the child is not in the custody of SOSCF and the parents are unavailable or not willing to participate in a plan to protect the child.

Stat. Auth.: HB 2004

Stats. Implementation: ORS 418.205 - 418.327

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

## **413-200-0050**

## Confidentiality

All social service agencies, service providers, or agents of SOSCF to whom State Office for Services to Children and Families has disclosed relevant client information are subject to the standards of confidentiality established in rules 413-010-0000 through 413-010-0130.

Stat. Auth.: HB 2004

Stats. Implementation: ORS 418.205 - 418.327

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

## Certification Standards

### 413-200-0100

#### Statement of Purpose

(1) The State Office for Services to Children and Families (SOSCF) works in partnership with families and communities to protect Oregon's children. There are, however, some children who must be removed from their own homes due to physical, sexual, and/or emotional abuse, as well as parental neglect and abandonment. In addition, children with complex medical impairments may temporarily require out-of-home placement as a method to assist the family in providing continuing in-home care to their own children. These children need foster and adoptive families to help meet their special needs.

(2) Foster parents provide temporary care for children until they can be reunited with their birth families or have another permanent family. Adoptive families make a permanent, legal commitment to the children they adopt.

(3) The rules governing the certification of foster and adoptive homes state the requirements and expectations for families seeking to provide special care and services to these children.

(4) The certification process is aimed at building a partnership between the prospective foster or adoptive parent and the agency. The process allows the applicant to ask questions of the agency, to learn the requirements, and to become better prepared to care for these children. This is also an opportunity for the agency to assess the willingness and abilities of the family to work effectively in partnership with the agency to meet the specific needs of children needing placement.

(5) These standards establish parameters for the certification of both foster and adoptive parents. By these rules, SOSCF seeks to ensure that the safety and best interests of children under the custody of the division are served. The privilege of certification is granted based upon the qualifications of the applicants. A family may meet certification requirements, but it is responsibility of the State Office for Services to Children and Families to exercise discretion and judgment in the selection of homes for specific children.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.625

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

### 413-200-0110

## Authorization

These rules are authorized by ORS 418.005 - 418.640 and HB 2004. The rules set forth requirements for the certification of foster homes by the State Office for Services to Children and Families. Adoptive parents and relatives caring for children in foster care who are to receive foster care payments must meet all certification requirements.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## 413-200-0120

### Indian Child Welfare Act

The **Indian Child Welfare Act** gives federally recognized Indian tribes the authority to select homes for children protected by the Act. Tribes and Alaskan Native Regional Corporations may license, approve or specify a foster or adoptive home for children protected by the Act. The tribe also decides which of these three processes to use or whether to request SOSCF certification of the home. Indian children placed in relative homes (licensed, certified or selected) by the tribe are eligible for foster care payments when SOSCF has legal custody. Preference shall be given for placement with:

- (1) A member of the Indian child's extended family;
- (2) A foster home licensed, approved, or specified by the Indian child's tribe; or
- (3) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

Stat. Auth.: HB 2004

Stats. Implemented: 25USC§1901

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

## 413-200-0130

### Selection

The SOSCF branch office will select as applicants persons who have the abilities and commitment to carry out the responsibilities as set forth in these rules and can meet the agency's specific need for homes. The branch will determine which applicants will undergo a complete certification study, which applicants will be certified, and which home is best for a particular child.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## 413-200-0140

## Definitions

- (1) "Agreement" is a written contract stating mutual expectations of the parties providing 24 hour care of children.
- (2) "Applicant" is a person who applies for a certificate.
- (3) "Case Plan" is the goal-oriented, time-limited, individualized program of action for a child and the child's family developed by the agency and the family.
- (4) "Certificate" is a certificate of approval to operate a foster home, issued for a period not to exceed one year, by the State Office for Services to Children and Families or an agency licensed by SOSCF.
- (5) "Child" is a person under 18 years of age, or a youth between 18 and 21 years of age in SOSCF custody.
- (6) "Child Placing Agency" is any person or organization who receives children for placement into residential group care facilities, family foster homes, or adoptive homes. This term is abbreviated in the text as "agency."
- (7) "Children in Care" or "Children in Placement" refers to children under the custody and/or supervision of a child placing agency who are placed in a certified foster home.
- (8) "Criminal Offender Information" is information received from the Oregon State Police through the Law Enforcement Data System, or other law enforcement agencies or courts, including records of arrests, convictions and disposition of criminal charges including dismissal, sentence, confinement, release or probation.
- (9) "Denial of Certification" is the refusal of the agency to issue a certificate of approval to operate a foster home for children because the agency has determined that the home is not in compliance with one or more of these administrative rules.
- (10) "Discipline" is an educational process by which foster parents assist children to develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to live in conformity with accepted levels of social behavior.
- (11) "Domestic Animals" are any of various animals domesticated so as to live and breed in a tame condition. Examples of domestic animals are dogs, cats, and domesticated farm stock.
- (12) "Employee" is any person being paid by foster parents to enrich the care provided to children placed in the home by tutoring, or providing recreation, relief care, health care or other services such as household chores.
- (13) "Family Foster Home" refers to any certified foster family, kinship, shelter home, or family group home, which is maintained and lived in by a person who cares for any child(ren) unattended by parents or guardian for the purpose of providing the child(ren) with care, food and lodging.
- (14) "Family Group Home" is a specialized foster home providing specific services to a group of 4 to 8 children who have similar serious social and/or behavioral maladaptive characteristics. The atmosphere of the home is that of a family setting where at least one parent is the full time care giver.
- (15) "Family Group Home Provider" is a certified foster care provider with whom SOSCF has contracted to provide group home service and who has demonstrated special competence to care for young people with serious social and/or behavioral maladaptive characteristics.
- (16) "Foster Care Maintenance Payment" is the monthly payment sent to the foster parent to pay for the child's room, board, clothing, allowance and personal incidentals.
- (17) "Group Home Worker" is the service worker assigned to represent the agency and to work with the group home provider.

- (18) "Home Study" is the assessment process for the purpose of determining the family's strengths to care for the children that the child placing agency has available for placement.
- (19) "Independent Caregiver" is a person hired by a foster care provider certified by an agency licensed by SOSCF.
- (20) "Kinship Care" is the temporary placement of a child in the custody of the State Office for Services to Children and Families into an approved home in which the caretakers are the child's relative by blood, adoption or marriage.
- (21) "Kinship Resources" are adults related to the child by blood, adoption or marriage.
- (22) "Mechanical Restraint" is any apparatus, device or instrument applied or affixed to the person to limit movement.
- (23) "Members of Household" are any adults and children living in the home including any employees or volunteers assisting in the care provided to children placed in the home, and excluding persons placed through a contractual agreement.
- (24) "Monitoring" is the observation by SOSCF of certified foster parents to determine continuing compliance with certification rules.
- (25) "Physical Restraint" means restricting the movement of a child, or restricting the movement or normal function of a portion of the child's body as described in agency-approved training methods, by forcefully and involuntary depriving the child of free liberty to move about. (Refer to Physical Behavior Management policy I-B.1.6)
- (26) "Provisional Certificate" is a foster home certificate of approval which may be issued by SOSCF effective for a period of up to 90 days and which may be renewed for one additional period of up to 90 days annually to allow the home to come into compliance with necessary standards.
- (27) "Psychotropic Medications" are drugs which have an effect upon the mind to modify mental activity. (Refer to Physician's Desk Reference.)
- (28) "Punishment" is the intentional infliction of physical or emotional duress.
- (29) "Regular Certificate" is a foster home certificate of approval issued by SOSCF for a period of one year when all standards set forth in these rules have been met.
- (30) "Revocation of a Foster Home Certificate" is the action taken to rescind a foster home certificate of approval after the certifying agency determines that the foster home is not in compliance with one or more administrative rules.
- (31) "Special Certificate" is a certificate of approval which lists the names of the specific child(ren) for whom the home is certified.
- (32) "Suspension of a Foster Home Certificate" is a temporary withdrawal of the foster home certification after the certifying agency determines that the foster home is not in compliance with one or more administrative rules.
- (33) "Team Members" are those people involved with the care and treatment of the child. Team members may include service workers, other agency staff, foster parents, birth family, counselors, physicians, teachers and therapists.
- (34) "Volunteer" is any person assisting in a foster home without pay to enrich the care provided children placed in the home with activities including tutoring, recreation, relief care or other activities such as household chores.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-200-0150****Qualifications of the Family****(1) General Requirements for Certification and Certification Renewal:**

(a) Applicant(s)/foster parent(s) shall participate in certification and certification renewal studies, and in the ongoing monitoring of their homes and shall give the information required for the agency to verify compliance with all applicable rules, including change of address and change of number of persons in the household, such as relatives, employees or volunteers;

(b) Applicants for certification shall complete agency application forms;

(c) Information provided by the applicant(s) shall include:

(A) Name, gender, address, birth date, social security number (optional) of applicants and all persons residing in the home including the children of the foster parents. Members of the household who possess a driver's license shall also provide their driver's license number and proof of driver's insurance;

(B) Proposed number, gender and age range of children in foster care to be served;

(C) Names and addresses of at least four persons, three of whom are unrelated, who have known the applicant(s) for two years or more and who can attest to their character and ability to care for children. The agency may contact schools, employers, adult children and other sources as references;

(D) A statement as to whether the applicant(s) has ever operated or currently is operating a licensed/certified care facility or foster home for children or adults, and reasons for any termination of such license or certification;

(E) Reports of all criminal charges, arrests or convictions, the dates of offenses, and the resolution of those charges for all employees or volunteers and persons living in the home. For foster parents' minor children living in the home, reports of all criminal or juvenile delinquency charges, arrests or convictions, the dates of offenses, and the resolution of those charges shall be listed. Falsification or omission of any of the above information may be grounds for denial or revocation of foster home certification;\*

(F) Reports of all allegations of child abuse and neglect, with dates, locations and resolutions of those allegations for all persons living in the home including all employees, independent contractors and volunteers;

(G) Demonstration of income sufficient to meet their needs and to ensure the stability and financial security of the family, independent of the foster care maintenance payment;

(H) All child support obligations in any state, whether the obligor is current with payments or in arrears, and whether any applicant's/foster parent's wages are being attached or garnished for any reason.

(d) Applicant(s) must be at least 21 years of age. However, an applicant who is an "Indian," as defined in the Indian Child Welfare Act, may be 18 years of age or older;

(e) Prospective applicants, foster parent(s) and members of the household 18 years of age and older shall consent to a fingerprint-based criminal record check by the agency. SOSCF shall require a fingerprint-based criminal record check for any employee, volunteer, or other adult having regular contact with children placed in the foster home. SOSCF may require a criminal history on members of the household under 18 if there is reason to believe that member may pose a risk to children placed in the home;

(f) The agency will not issue or renew a certificate of approval if any member of the household has been indicted or

convicted of a crime listed in section (6) of this rule, Disqualifications;

(g) If the applicant(s) or foster parent(s) has been convicted of a crime other than those listed in OAR 413-200-0150(6), all criteria in the criminal history exception procedure, section (6) of this rule must be met prior to the issuance of a certificate of approval;

(h) If the applicants are agency employees, the application and supporting study must be reviewed by the appropriate assistant administrator who will decide if a certificate will be issued;

(i) Upon completion of the application, a decision will be made by the branch manager to approve or to deny certification within 180 days. The application may be denied if the supporting materials are not submitted within 90 days from the date of application;

(j) A person whose application has been denied has the right to appeal under the provisions of Chapter 183, Oregon Revised Statutes, and may request an appeal from the SOSCF branch office that issued the denial;

(k) A provisional certificate for up to 90 days and one additional provisional certificate for another period of 90 days may be issued by the branch manager;

(l) Provisional, but not annual, certificates may be issued if, at the time of certificate renewal, the renewal process is incomplete;

(m) Persons renewing, modifying or maintaining an existing certificate shall not be required to re-apply for certification, but shall be required to submit to an Oregon computerized criminal history check (CCH) and must continue to meet all certification standards as outlined in these rules. If the CCH indicates a new crime to be considered has occurred since the last certificate renewal, the subject individual shall consent to a fingerprint-based criminal record check;

(n) A person whose application for certification has been denied, may not re-apply for certification for five years after the date of denial.

## (2) Personal Qualifications:

(a) Foster parent(s) shall be responsible, stable, emotionally mature adults who exercise sound judgment and have the capacity to meet the mental, physical and emotional needs of children placed in foster care;

(b) Foster parent(s) shall understand the behaviors of children in foster care, and shall know effective child-rearing practices which will enable these children to grow and develop;

(c) Foster parent(s) shall have knowledge and understanding of non-punitive discipline and ways of helping a child build positive personal relationships and self-esteem;

(d) Foster parent(s) must be able and willing to provide temporary care, respect the child's relationship with his/her birth family and siblings, and be able to work in partnership with the agency to attain goals as listed in the case plan. Foster parent(s) shall demonstrate the ability to work cooperatively with the agency;

(e) Foster parent(s) shall know and understand the importance of keeping siblings together whenever possible;

(f) Foster parent(s) shall demonstrate the following traits: capacity to give and receive affection, kindness, flexibility, a sense of humor, and the ability to deal with frustration and conflict;

(g) Foster parent(s) shall have supportive ties with family, friends, neighborhood and community;

(h) Foster parent(s) shall be able to respect persons with differing values, lifestyles, philosophies, and cultural identity and heritage;

(i) Foster parent(s) shall have a child care plan approved by the agency if both foster parents are employed;

(j) Foster parent(s) shall be able to evaluate realistically which children they can accept, work with, and integrate into their family.

(3) Health Qualifications:

(a) Applicant(s) and foster parent(s) shall provide the agency with the health history of each member of the household, including physical and mental health services and treatment received. Within one working day, foster parent(s) shall inform the agency if any member of the household has or develops a serious communicable disease or other health condition;

(b) Applicant(s)/foster parent(s) and employees, volunteers, independent contractors and other adults in the household caring for children shall be physically and mentally able to perform the duties of foster parents as prescribed in these rules. The agency may require a medical statement from a physician verifying that no person suffers from a communicable disease, specific illness or disability which would interfere with the family's capability to care for children in foster care;

(c) With cause related to certification standards, the applicant(s)/foster parent(s) shall, at their expense, supply psychological, medical or physical, sex-offender, drug and alcohol, and psychiatric reports and evaluations to the agency when requested either during the application process or while certified from a source acceptable to the agency. The agency may require that a release of information be signed. In the case of alcoholism or substance abuse, the applicant(s)/foster parent(s) and others in the household must be able to demonstrate that they have been substance-free and sober for at least two years prior to making application for certification.

(4) Kinship Resources. Kinship resources are to be assessed using these rules as guidelines. It is clearly the intention of SOSCF to promote such placements. Administrative rule 413-200-0200, Kinship Care - Statement of Purpose, provides further information on approving homes of kinship resources.

(5) Foster Family Group Homes. Foster family group homes are contracted resources and are to be certified foster homes that comply with the family group home requirements as specified in rule 413-200-0220, Family Group Home Requirements.

(6) Disqualifications:

(a) The agency will not issue or renew a certificate if prospective applicants or foster parents falsify (including by act of omission) the application or supporting documents. The agency will act to revoke a certificate if falsification is discovered after certification, or if foster parents fail to inform the agency of any disqualifying condition that arises after certification;

(b) The agency will not issue or renew a certificate if any fire safety rule is not met;

(c) Criminal History. The agency will not issue or renew a certificate if a member of the household has been convicted of, or adjudicated delinquent on, any of the following:

(A) Any sexual offense including rape, sodomy, sexual abuse, sexual penetration with a foreign object, visual recording of sexual conduct with or between children and other sex offender behavior;

(B) A crime against a child, bigamy, incest, kidnapping or abandonment of a child;

(C) Aggravated murder or murder;

(D) Sale or purchase of a child;

(E) Three alcohol and/or drug related offenses within the last five years;

(F) Three felony convictions within the last five years.

(7) Appeal. If SOSCF refuses to issue or renew a certificate for reasons other than those listed under (6) Disqualifications, the applicant(s)/foster parent(s) may appeal SOSCF's decision by requesting a hearing. If the request for a hearing is not received by SOSCF within 60 days of the mailing or other service of the notice, the applicant(s)/foster parent(s) shall have waived the right to a hearing.

(8) Exceptions. SOSCF may allow exceptions to some certification requirements.

(a) Generally:

(A) Exceptions will be granted by the foster home certifier, certification supervisor, branch manager or regional administrator. Exceptions to rules marked with an asterisk (\*) require branch manager approval. The regional administrator's approval for an exception is required on those rules where such approval is specified. The foster home certifier or certification supervisor may grant exceptions on all other rules;

(B) Exceptions shall be in writing, shall state the need for the exception, shall be signed by the required decision maker and filed in the certification file. Exceptions shall be accompanied by a written plan showing how the safety of the children in placement will be ensured while the exception is in effect;

(C) The agency will respond to each request for an exception within 45 days from the date the request was received;

(D) Each request for an exception will be evaluated on its own merits. Granting an exception does not set a precedent that must be followed by the agency when evaluating subsequent requests for exceptions;

(E) Exceptions granted for a specific misdemeanor or felony need only to be granted one time.

(b) The agency will not issue or renew a certificate if a member of the household has been convicted of or adjudicated delinquent on a misdemeanor, or is currently on probation or parole, without approval of the branch manager. The agency will not issue or renew a certificate if a member of the household has been convicted of or adjudicated delinquent on a felony without approval of the regional administrator. The branch manager and regional administrator shall base the decision to allow an exception on the following criteria:

(A) The severity and nature of the crime;

(B) The number of offenses;

(C) The time elapsed since the offenses;

(D) The circumstances surrounding the crime as they relate to the probability of re-offending;

(E) Evidence of rehabilitation and behavior change, including participation in activities such as employment, counseling or therapy, and/or education; and/or

(F) The relationship between the offense and the ability to be a foster parent.

(c) SOSCF will not issue or renew a certificate if a member of the household has been found to have abused or neglected a child as outlined in 413-200-0170(f), excluding sexual abuse, without approval of the regional administrator, who shall base the decision on the above factors and on a recommendation from the branch manager;

(d) Regional administrator approval for an exception is required if any member of the household is a perpetrator of sexual abuse as evidenced by a child protective service complaint determined by SOSCF to be valid even if there was no successful criminal prosecution and/or if a member of the household has been adjudicated delinquent or sexual offender while a juvenile.

\*Requires branch manager approval for an exception.

Stat. Auth.: HB 2004

Stats. Implemented: 25USCJ1901

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1996, f. & cert. ef. 3-15-96

## **413-200-0160**

### **Professional Responsibilities of Foster Parents**

#### (1) Training and Development:

(a) Foster parent(s) shall complete a minimum of 12 hours of pre-service training prior to a regular certification being issued;\*

(b) Foster parent(s) shall participate in training provided or approved by the agency. Such training shall include educational opportunities designed to enhance the foster parents' awareness, understanding and skill to meet the special needs of children placed in their home. Each foster parent shall participate in a minimum of 10 hours of approved training per year prior to the issuance of an annual, regular certificate. A mutually agreed upon training plan may be a part of the recertification process;

(c) The home will be closed if no children are currently in placement and the annual training requirements are not completed. If there are children placed in the home and annual training hours have not been completed, the certificate shall be converted to a special certificate for these children. No additional children will be placed until the training hours are completed.\*

#### (2) Relationship with the Child Placing Agency:

(a) Foster parent(s) shall take part in planning for the children and shall participate in the preparation, preplacement and visitation plans for the children placed in their home;

(b) Foster parent(s) shall participate as team members in developing and implementing the case plan and in case reviews for the children placed in their home;

(c) Whenever possible, foster parent(s) shall notify the agency in advance of changes likely to affect the life and circumstances of the foster family;

(d) Foster parent(s) shall notify the agency immediately of injury, illness, accidents, or any unusual circumstances which may have a serious affect on the health, safety, physical or emotional well being of the foster child;

(e) Foster parent(s) shall sign and abide by the responsibilities described in the "Foster Home/Shelter Care Contract" which is to be signed prior to a child being placed by the agency in the home and annually thereafter; (Refer to Grievance Review policy I-A.5.1, OAR 413-010-0400 through 413-100-0490 to review any action or decision of the agency which violates a condition or term of the contract);

(f) Foster parent(s) shall allow the agency reasonable access to their home and to the children placed in their care.

#### (3) Accepting Children for Care:

(a) Foster parent(s) shall accept no more than five children in foster care and shall care for no more than eight children under 18 years of age, including their own.\* Any exception will take into consideration the maximum safe physical capacity of the home, which includes sleeping arrangements, the ratio of adult to child, the level of supervision available, the skill level of the foster parents, the needs of the other children in placement and the need to keep siblings

placed together;

(b) Foster parent(s) of any foster home shall accept for care no more than two children under two years of age, including their own;\*

(c) Foster parent(s) shall not care for unrelated adults on a commercial basis in their own home, nor accept children for day care in their own home at the same time they are certified as foster parents;\*

(d) Foster parent(s) providing foster care services to SOSCF children shall not accept any child for placement from any source other than SOSCF without prior written approval from the SOSCF branch responsible for the foster home certification.\*

(4) Relationship with the Child's Family:

(a) In accordance with the case plan:

(A) Foster parent(s) shall respect and support the child's relationship with his/her birth family members, including siblings;

(B) Foster parent(s) shall assist the service worker in planning visits with the child and his/her parent(s) and family members;

(C) Foster parent(s) shall allow children reasonable opportunities to communicate with their birth family.

(5) Confidentiality:

(a) The foster family shall treat personal information about a child and the child's family in a confidential manner. Confidential information may be disclosed only when necessary to provide for the safety and well-being of a child or other children in the home. The information shared is to be only about the child and only enough information to ensure the child's safety and well-being.

(b) In maintaining children's records:

(A) Foster parent(s) will maintain records on the child's health, immunizations, and educational and placement progress for the duration of the child's placement;

(B) Foster parent(s) shall keep such written records for each foster child in a manner that ensures their confidentiality

\*Requires branch manager approval for an exception.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.640

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

## **413-200-0170**

### **Care and Development of the Child**

(1) Family Care Activities:

(a) Daily Living:

(A) Foster parent(s) shall provide structure and daily activities designed to promote the physical, social, intellectual,

cultural, spiritual and emotional development of the children in their home;

(B) Playthings shall be available in the foster home, including games, recreational and educational materials, and books appropriate to the age, culture and developmental level of the child;

(C) Foster parent(s) shall help the foster children placed in their home develop skills and perform tasks that promote independence and self-sufficiency;

(D) Foster parent(s) shall participate with the agency to help children in foster care maintain an awareness of their past, a record of the present, and a plan for the future;

(E) In accordance with the case plan, the foster parent shall ask children placed in their care to assume work responsibilities appropriate to the child's age and ability and commensurate with those expected of their own children. Foster children shall not baby-sit in the foster home or elsewhere without permission of the caseworker;

(F) Foster parent(s) shall not use mechanical restraints on children in care other than car seat belts and normally acceptable infant safety products. (Refer to the Physical Restraint policy I-B.1.6 for information on protective holding);\*

(G) Each child in placement shall be treated with respect and dignity. The foster family shall:

(i) Respect the child's family, cultural heritage and ethnic identity;

(ii) Provide reasonable and meaningful opportunities for the child to develop relationships and practices with others of similar cultural and ethnic background;

(iii) Help ensure regular contacts and private visits or phone calls with the foster child's service worker;

(iv) Permit and encourage the child to have visits with friends and siblings;

(v) Provide the child with reasonable access to a telephone and to writing materials.

(b) Alternate Caregivers:

(A) The foster parent(s) shall arrange for safe and responsible child care;

(B) When the foster parent(s) are absent overnight, a person known and approved by SOSCF, of at least 18 years of age, capable of assuming foster care responsibilities, shall be present;

(C) When an absence of the foster parent(s) will be 72 hours or longer, the child placing agency must be given advance notice. This notice shall include dates of absence, telephone number where the foster parent(s) can be reached, and the name, telephone number, home address and qualifications of the alternate caregiver;

(D) At a minimum, alternate caregivers coming into the home shall consent to a computer based Oregon criminal history check.

(c) Food and Nutrition:

(A) Foster parent(s) shall provide well-balanced daily meals;

(B) Foster parent(s) shall provide for any special dietary needs of the children placed in their homes;

(C) Infants younger than seven months shall be held during bottle feedings.

(d) Clothing and Personal Belongings:

(A) Foster parent(s) shall provide each child with his or her own clean, well-fitting, attractive, seasonal clothing appropriate to age, gender, individual needs, and comparable to the community standards;

(B) School-age children shall be allowed to participate in choosing their own clothing;

(C) Foster parent(s) shall allow children to bring and acquire appropriate personal belongings;

(D) Foster parent(s) shall send all personal clothing and belongings with the children when they leave the foster home.

(e) Discipline and Guidance. Many children come into foster care because they have suffered abuse and severe punishment. It is vital that foster parents use positive discipline and guidance to help the child develop acceptable behavior:

(A) Foster parent(s) shall train and discipline children with respect, kindness and understanding;

(B) Foster parent(s) shall set clear expectations, limits and consequences of behavior in a non-punitive manner;

(C) Foster parent(s) shall teach and train each child with techniques that stress praise and encouragement;

(D) If time-out separation from others is used as a consequence for behavior, foster parent(s) shall provide it in an unlocked, lighted, well-ventilated room of at least 50 square feet and within hearing distance of an adult. The time limit shall take into consideration the child's age and emotional development. Time-out is to be used for short duration to allow the child to regain control;

(E) Physical Restraints. Physical restraints are to be used only by providers or agency staff who have been trained in agency approved techniques, and only in emergency situations to prevent a child from inflicting immediate and serious harm upon himself/herself or others, or property, or to safely transport a child using normally acceptable infant safety products. The foster parent shall report any use of a holding technique to the assigned service worker within 72 hours for case documentation. Use of physical restraint on a child is prohibited except under circumstances and conditions as defined in SOSCF policy I-B.1.6, Physical Behavior Management.\*

(f) No foster child or other child in a foster home shall be subjected to physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury or threats of harm as defined in ORS 418.740 and OAR 413-030-0120. Sexual abuse and sexual exploitation include all sexual acts defined in ORS Chapters 163 and 167.

(g) Foster parent(s) will provide positive discipline and guidance but shall not punish foster children. Examples of punishments include, but are not limited to:

(A) Physical force or threat of physical force inflicted in any manner upon the child;

(B) Verbal abuse, including derogatory remarks about the child or his or her family, which undermine a child's self-respect;

(C) Denial of food, clothing, or shelter;

(D) Denial of visits, telephone, or mail contacts with family members;

(E) Assignment of extremely strenuous exercise or work;

(F) Use or threatened use of restraining devices;

(G) Punishment for bed-wetting or punishment related to toilet training;

(H) Delegating or permitting punishment of a child by another child;

(I) Threat of removal from the foster home as punishment;

(J) Use of shower as punishment;

(K) Group discipline for misbehavior of one child; and

(L) Derogatory remarks about the child's/family's skin color, language, type of hair or traditions.

(h) Health Care:

(A) Medical and Dental:

(i) Foster parent(s) shall cooperate with the agency to plan the medical and dental care as indicated on the medical care identification form for the child in care;

(ii) Foster parent(s) shall work with the agency to ensure that health care needs of a child placed in their care are met, including making and arranging transportation to medical, dental and counseling appointments as needed;

(iii) Foster parent(s) shall be responsible to arrange for needed well child exams for children placed in the home;

(iv) Foster parent(s) shall report to the agency any corrective or follow-up medical or dental care the child needs and participate in obtaining necessary care;

(v) Foster parent(s) shall obtain prior consent from the child placing agency for medical treatment that is not routine, including surgery;

(vi) Foster parent(s) shall obtain necessary emergency medical care for children placed in their home.

(B) Medication Management:

(i) Foster parent(s) shall give children prescription medications only in accordance with a physician's prescription or authorization;

(ii) Foster parent(s) shall dispense and record the exact amount of any medication prescribed for a child by a physician or dentist;

(iii) Foster parent(s) shall inform the agency within one working day of any psychotropic medications prescribed for a child in placement;

(iv) For further information, refer to the Psychotropic Medication Management administrative rule in SOSCF policy I-E.3.3.1.

(C) Smoking:

(i) Foster parent(s) shall not provide tobacco products in any form to children under the age of 18 placed in their home. (It is unlawful for any person under 18 years of age to possess tobacco products.)

(ii) Foster children shall not be exposed to second hand smoke in the foster home.

(2) Other Activities:

(a) Religious, Ethnic and Cultural Heritage:

(A) Foster parent(s) shall recognize, encourage, and support the religious beliefs, ethnic heritage, cultural identity and language of a child and his/her family;

(B) In accordance with the case plan foster parent(s) shall participate with the agency to arrange transportation to

religious services or ethnic events for a child whose beliefs and practices are different from their own;

(C) Foster parent(s) shall not require a child to participate in religious activities or ethnic events contrary to the child's beliefs.

(b) Education:

(A) Foster parent(s) shall enroll each child of school age in public school within five school days of the placement of the child or in accordance with the case plan;

(B) The agency must consent in writing for any alternative educational plan;

(C) Foster parent(s) shall be actively involved in educational programs appropriate for the child's age, abilities, and in accordance with the case plan;

(D) Foster parent(s) shall plan with school personnel when there are issues with the child in school, and report to the agency serious situations which may require agency involvement.

(c) Recreation/Community:

(A) Foster parent(s) shall provide opportunities for recreational activities appropriate to the age and abilities of the child;

(B) Foster parent(s) shall encourage the children to participate in community activities both with the family and on their own.

\*Requires branch manager approval for an exception.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.625

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

## **413-200-0180**

### **Health and Fire Safety**

(1) Family Foster Home Location. The home shall be accessible to schools, recreation, churches, medical care and community facilities.

(2) Exterior Environment:

(a) The home shall be comparable in appearance to other homes and premises of the community in which it is located;

(b) The premises shall be free from objects, materials and conditions which constitute a danger to the occupants;

(c) Play Area and Equipment:

(A) The home shall have a safe outdoor play area on the property or within reasonable walking distance;

(B) Foster parent(s) shall provide safe play equipment suitable for the children in care.

(d) Swimming or Wading Pools:

(A) Foster parent(s) who have swimming pools, hot tubs and wading pools shall maintain them in a safe and clean

condition;

(B) Foster parent(s) shall make swimming, wading pools and hot tubs inaccessible to children in foster care except when responsibly supervised.

(3) Interior Environment:

(a) Kitchen:

(A) Foster parent(s) shall have the necessary equipment for the safe preparation, storage, serving and cleanup of meals;

(B) Foster parent(s) shall maintain all cooking and refrigeration equipment in working and sanitary condition;

(C) Foster parent(s) shall prepare and serve meals in a safe and sanitary manner that minimizes the possibility of food poisoning or food infection.

(b) Dining Area. The home shall have a dining area so that children in placement can eat together with the foster family;

(c) Living or Family Room. The home shall have sufficient living or family room space that is comfortably furnished and accessible to all members of the family;

(d) Bedrooms used by children in care:

(A) Shall be safe and have adequate space for each child;

(B) Shall have windows which open and provide sufficient natural light and ventilation;

(C) Shall have no more than four children to a bedroom;\* and

(D) Shall have a bed for each child, crib for each infant, and clean bed linens, blankets and pillows;

(E) Foster parent(s) shall not permit the following sleeping arrangements for children placed in their home:

(i) Children of different sexes in the same room when either child is over the age of five years of age;\* and

(ii) Children over the age of 12 months sharing a room with an adult.\*

(F) Foster parent(s) shall provide each child with adequate storage space for personal belongings and a designated space for hanging clothes in or near the bedroom occupied by the child;

(G) Foster parent(s) shall allow flexibility in the decoration of sleeping areas for the personal tastes and expressions of the children in care;

(H) A room used as a bedroom for a child placed in a foster home must be finished, attached to the house, and shall be used only as a bedroom.\*

(e) Bathrooms:

(A) The home shall have a minimum of one flush toilet, one wash basin with running water, and one bath or shower with hot and cold water;\*

(B) Foster parent(s) shall provide each child individual items necessary for personal hygiene and grooming.

(4) General Safety:

(a) The foster parents shall protect the children from safety hazards;

- (b) The home shall be well-heated and well-ventilated;
  - (c) Foster parent(s) shall have a working telephone and service;\*
  - (d) Foster parent(s) shall store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by children;
  - (e) Foster parent(s) shall restrict children's access to potentially dangerous animals. Only domestic animals shall be kept as pets. They shall be properly cared for and supervised. Foster parents shall ensure that household pets subject to rabies have had all required rabies shots as per local ordinances. Proof of rabies vaccination shall be available to SOSCF upon request.
  - (f) Foster parent(s) shall take measures to keep the house and premises free of rodents and insects;
  - (g) Foster parent(s) shall store any ammunition and unloaded and operable firearms in separate locked places. The foster parent(s) shall notify SOSCF within one working day whenever a firearm is brought to the premises for storage;\*
  - (h) Loaded firearms shall not be carried in any vehicle that is transporting a child in foster care. Ammunition shall be kept in a locked container while transporting such a child;\*
  - (i) Foster parent(s) shall have first aid supplies in a place easily accessible to adults;
  - (j) Bedroom doors for children in care shall not have locks, and there must be emergency access to any other room which has a lock;
  - (k) Stairways shall be equipped with handrails;
  - (l) Foster homes caring for one or more developmentally disabled, mentally retarded, or physically impaired child(ren) shall make all necessary provisions, including changes to the physical structure of the home, as determined by the agency in consultation with the appropriate building code official, deputy fire marshal or inspector, and/or other relevant professionals.\*
- (5) Fire Safety:
- (a) Foster parent(s) shall install and maintain working smoke alarms in every room in which a foster child sleeps and at least one on each floor of the home;
  - (b) A foster home shall have as a minimum at least one class 2-A-10BC rated fire extinguisher in the house;
  - (c) Foster parent(s) shall have a written home evacuation plan and shall share it with each child at the time of placement and at least once a year to make sure all children understand the procedures;
  - (d) Use of space heaters is limited to electric space heaters equipped with tip-over protection that are plugged directly into the wall. No extension cords are to be used with such heaters. No kerosene space heaters shall be used in the foster home;
  - (e) Family foster homes shall have two unrestricted exits in case of fire. A sliding door or window that can be used to evacuate children can be considered a usable exit. Barred windows used for possible exit in case of fire must be fitted with operable quick release mechanisms;
  - (f) Bedrooms in basements and above the second floor used by children in care shall have safe and direct exit to the ground;
  - (g) A foster home shall have a safe and properly installed and maintained operational heating system.

**(6) Sanitation and Health:**

- (a) Foster parent(s) shall keep the home clean and free of hazards to the health and physical well being of the family;
- (b) The foster home shall have a continuous supply of safe, clean drinking water. Private water sources and septic tank systems shall be safe and operable. The foster parent shall have private water sources tested and approved by an appropriate official. Documentation shall be made available to SOSCF upon request;
- (c) The foster parent(s) shall use only pasteurized or powdered milk for family consumption;
- (d) The foster parent(s) shall keep all plumbing in working order;
- (e) The home shall have an adequate supply of hot water for bathing and dish washing. Hot water heaters shall be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location.

**(7) Transportation Safety:**

- (a) Foster parent(s) shall provide or arrange with the agency safe transportation for children in placement to attend school, recreation and medical activities;
- (b) Foster parent(s) shall maintain all vehicles used to transport children in a safe operating condition;
- (c) Foster parent(s) shall have all motor vehicles used for transporting children owned by them insured to include liability;
- (d) Only licensed drivers shall transport children in care in motor vehicles;
- (e) When transporting children in foster care, the driver shall ensure that all passengers use seat belts or appropriate safety seats.

\*Requires branch manager approval for an exception.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.517

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

**413-200-0190****Inactive Referral Status; Suspension; Revocation****(1) Inactive Referral Status, Provider Initiated:**

- (a) Foster parents may request up to 12 months of inactive referral status. In such cases there can be no outstanding issues relating to non-compliance with certification rules;
- (b) Children will not be placed in the foster home during a foster parent's inactive referral status;
- (c) Foster parents shall be in compliance with all certification rules, including training requirements, prior to a return to active status.

**(2) Inactive Referral Status, Agency Initiated:**

- (a) the State Office for Services to Children and Families may require that a foster parent go on inactive referral status.

Inactive referral status could be required because of changes in the family such as death, divorce, relatives moving in with the family and similar circumstances that put additional stress or pressure on the family. This change in status must be in writing, be time limited, and be discussed with the foster parent prior to the change being made;

(b) There may be no conditions in the home that may compromise the safety of the children already placed in the home;

(c) Agency initiated inactive status can be for up to 180 days during which time no additional children will be placed in the home;

(d) A mutually agreed upon plan shall be developed to address the issues which led to the agency request for inactive status;

(e) Foster parents shall be in compliance with all certification rules, including training requirements, prior to a return to active status.

### (3) Suspension of Certificate:

(a) The State Office for Services to Children and Families may suspend a foster home certificate because of violations of one or more certification rules or because of conditions in the home that render it uncertifiable. A notice of suspension must be in writing and must list the violations, along with the actions necessary to reach compliance, and agency services available to assist the foster parent(s) to reach compliance;

(b) A certificate may be suspended for up to 180 days. Children in placement will be removed from homes with suspended certifications. No additional placements will be made during the period of suspension;

(c) Within 30 days of the effective date of the suspension, the foster parent(s) shall submit a written corrective action plan to SOSCF. This plan must list the steps that will be taken to reach compliance and the services and agencies that will be used. This action plan must be signed and approved by both the foster parent(s) and SOSCF. Failure to submit a plan will constitute a withdrawal from certification;

(d) At the end of the suspension period or when the foster parent complies with the plan to remedy the conditions that led to the suspension, the branch manager may:

(A) Reinstate the certification for the term of the original certification;

(B) Issue a new certificate;

(C) Deny a reapplication for certification; or

(D) Notify the foster parent(s) of the intent to revoke the certificate.

### (4) Revocation:

(a) The State Office for Services to Children and Families will revoke a foster home certification only after one or more of the above steps have been attempted or when child safety concerns warrant an immediate revocation. A notice of revocation shall be in writing and shall state the reasons for revocation. (Refer to the Contested Case Hearing Policy I-A.5.2, for the process for handling contested case hearings of denials, suspensions or revocations of foster home certificates);

(b) Foster parents whose certificate has been revoked may not reapply for certification for five years after the date of revocation.

(5) Appeal. Foster parents may appeal the suspension, denial or revocation of their certificate or application under Chapter 183, Oregon Revised Statutes, by making a written request to the branch manager. If SOSCF has not received a request for a hearing within 21 days of the date of mailing or other service of the notice, the foster parent shall have

waived the right to a hearing.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 183

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

## **413-200-0200**

### **Kinship Care - Statement of Purpose**

(1) Kinship care is the temporary placement of children under the custody and supervision of the State Office for Services to Children and Families with approved extended family members. Kinship care promotes family, community and cultural unity while reducing trauma to children. Its goal is to provide adequate safeguards for ongoing child protection without undue interference with family unity. Kinship placements are designed to be temporary care for children until they can be reunited with their birth families or have another permanent family.

(2) The approval of kinship resources for placement of children will be based upon the Rules Governing the Certification of Foster and Adoptive Homes. These rules serve as guidelines for the local branch to determine an adequate level of compliance, to provide a safe environment and appropriate care, and to meet the special needs of children needing placement.

(3) SOSCF shall complete a home study for approval on all kinship homes not eligible for foster care payments within 90 days of a child's placement. One additional 90 day period may be authorized by the branch manager to complete the study when necessary.

(4) No child under the custody of SOSCF shall remain in a kinship home not approved or certified by SOSCF within 180 days from the date of placement.

(5) The State Office for Services to Children and Families shall provide guidelines for the interpretation of these rules for kinship resources applying for certification and home approval.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-200-0210**

### **Family Group Home - Statement of Purpose**

The family group home program was developed to meet the needs of children in SOSCF custody who, because of emotional and/or behavioral characteristics, require a group living situation more structured than a foster home, but less structured than a group residential program. The purpose of family foster group home placement is to improve the child's functioning at home and in the community, to improve the child's relationship with his or her birth family, and to improve the child's ability to successfully solve the problems of daily living.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.625

**413-200-0220****Family Group Home Requirements**

- (1) Family group homes shall contract for a minimum of four and a maximum of eight of children. Children being transitioned to foster care shall be counted toward the total number of children in the home.
- (2) Family group homes shall not provide emergency or shelter care for children.
- (3) Family group homes shall establish intake procedures for children being placed. The intake procedure must include consultation between the SOSCF worker and the provider to discuss the child being referred, and a preplacement visit in the group home by the child being referred.
- (4) Treatment plans:
  - (a) Within 30 days of placement, the assigned group home worker, the placement worker, and the provider shall develop an individualized treatment plan for each child;
  - (b) Treatment plans will be goal-oriented and time-limited. Each plan shall identify desired behavior changes and shall estimate when the treatment goals will be achieved. Each treatment shall state and prioritize treatment goals, identify treatment services that will address each goal, and shall include the division's recommendations for treatment and after-care placement.
- (5) The group home will establish procedures for reviewing the child's treatment plan and after-care plan.
  - (a) Each element of each child's treatment plan shall be reviewed by the provider, the group home worker, and the placement worker at least every three months after the development of the plan. The treatment plan shall be revised or modified as necessary;
  - (b) The after-care plan shall be reviewed by the provider, the assigned group home worker, and the placement worker at the time of each treatment plan review, and the after-care plan shall be revised or modified as necessary.
- (6) Terminations:
  - (a) When a child has completed his or her treatment program, the child will be moved to the after-care resource in accordance with the after-care plan;
  - (b) If the child needs to be moved before the child has completed the treatment program, the provider, the assigned group home worker and the placement worker shall agree when and to where the child shall be moved. If an agreement cannot be reached, the agency shall decide when to move a child and where.
- (7) The group home will establish performance criteria, with input from the SOSCF group home worker and placement worker, for evaluating the needs of children served by the program. The performance criteria will be used to measure the goals set for the child and how well the child was able to meet the expected outcomes.
- (8) Staffing:
  - (a) A family group home will be staffed on a family-based model of care;
  - (b) There shall be a minimum of one adult to every five children in residence. If there are more than five children in residence, staffing shall be proportional. Example: If there are eight children in residence, there should be 1.6 adults. The additional .6 full-time equivalent adult shall be in the home during critical hours of family group home operation,

usually after school until bed time.

(9) Family group home parents must plan for a minimum of 48 hours per month away from child care responsibilities. Family group home parents shall prepare a written plan for respite care.

(10) At the beginning of each contract year, family group home parents will prepare an anticipated financial plan of expenditures for the coming year.

(11) The agency will conduct a quality assurance review of every family group home at least every two years in accordance with the established program evaluation outline.

(12) Each family group home parent shall participate in 30 hours of professional training each year. The agency and the family group home parent will agree upon a written training plan.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-200-0230**

#### **Review of Rules**

The administrative rules for certification of foster homes will be reviewed on an annual basis by the assistant administrator of Program Operations.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **Oregon Computerized Criminal History Checks and Nationwide Criminal Record Checks Through the FBI for SOSCF Foster Parents**

### **413-200-0300**

#### **Purpose**

(1) It is the desire of the State Office for Services to Children and Families (SOSCF) to reduce the risk of exploitation and/or abuse or safety of children entrusted in the care of or receiving services from the agency. Therefore, the State Office for Services to Children and Families will conduct criminal offender information background checks as described in these rules.

(2) These rules provide guidelines on the procedures by which SOSCF obtains criminal offender information on subject individuals seeking to be foster parents for SOSCF, and how SOSCF applies such information to its determination about the suitability of the subject individual.

(3) These rules also provide guidelines (3) on the procedures SOSCF will use when SOSCF receives requests to conduct criminal offender information record checks by other DHR divisions concerning persons where the information is

required to implement a federal or state statute, executive order or rule that expressly refers to criminal conduct, and how SOSCF will disseminate criminal offender information to authorized persons.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.557 & 409.015

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

## **413-200-0310**

### **Scope of Rules**

(1) Consistent with the purpose of these rules, SOSCF will issue decisions regarding the suitability for certification for subject individuals applying to be foster parents, applying for recertification as foster parents, or other persons, paid or unpaid, in the household.

(2) If SOSCF receives a request to conduct criminal offender record checks from a DHR division for subject individuals applying to be foster parents, SOSCF will supply the criminal offender record information to the appropriate DHR division employee authorized to receive that information pursuant to a valid agency agreement, and the DHR division will have the responsibility to make the suitability for certification decision.

(3) The criminal record check rules in OAR 413-200-0300 through 413-200-0370 shall be construed and implemented consistent with the existing certification requirements in OAR 413-200-0100 through 413-200-0230. If there is an inconsistency between these criminal record check rules and existing certification requirements, the rules in OAR 413-200-0300 to 413-200-0370 will supersede existing certification requirements.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.557 & 409.015

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

## **413-200-0320**

### **Definitions**

(1) "Agency" means the State Office for Services to Children and Families of the Department of Human Resources and its legislatively-designated successor after June 30, 1995.

(2) "Agency Agreement" means a written agreement between the Oregon State Police and a Criminal Justice or designated agency as defined by ORS 181.010 authorized to receive criminal offender information, specifying the terms and conditions of accessing and receiving Oregon Computerized Criminal History information to assure compliance with state and federal regulations.

(3) "Child or Children" means a person 18 years of age or under. A youth who is between 18 and 21 years of age, who is in SOSCF custody, is also considered a child for purposes of these rules.

(4) "Computerized Criminal History (CCH) System" means the administration and maintenance of on-line computer files of significant criminal offender information by OSP.

(5) "Contested Case Hearing" means a quasi-judicial hearing before an impartial hearing officer in which the complainant and/or his or her representative may present all pertinent facts and evidence in order to show why the

action or inaction of SOSCF should be reconsidered. As a result of the hearing, the hearings officer reports findings and recommendations to the SOSCF director, who makes a final order on the matter.

(6) "Criminal Offender Information" means records, including fingerprints and photographs, received, compiled and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons' records of arrest, the nature and disposition of criminal charges, sentencing, confinement and release, and includes the OSP Computerized Criminal History System.

(7) "Designated Agency" (for purposes of these rules) means any DHR division or the Director's Office, where applicable, required to access Oregon criminal offender information to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct, or for agency employment purposes, or licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.

(8) "DHR Division" means a division of the Department of Human Resources and the Director's Office, where applicable, which accesses criminal offender information as a designated agency or a criminal justice agency, and requests fingerprint-based criminal offender information from the FBI on persons or programs who provide care or treatment to children as regulated by that DHR division.

(9) "Director" means the director of SOSCF, who is the assistant director of the Department of Human Resources for the State Office for Services to Children and Families.

(10) "FBI" means the Federal Bureau of Investigation.

(11) "Fee" means the charges assessed DHR division, or DHR Director's Office, by SOSCF for processing each criminal offender information record check and/or fingerprint-based criminal offender record check request.

(12) "Fingerprint-Based Criminal Offender Information" means criminal offender information compiled and maintained by the Bureau of Criminal Identification regarding persons who have been arrested for crimes where law enforcement agencies have submitted fingerprints and other identifying data as required by ORS 181.515 and/or federal statutes, or as deemed appropriate by the submitting law enforcement agency for the purpose of identification.

(13) "Foster Parent" refers to a provider certified under OARs 413-200-0100 through 413-200-0230.

(14) "Information Required" means all information requested by the State Office for Services to Children and Families for processing criminal record checks, including fingerprint checks.

(15) "OSP" means the Oregon State Police.

(16) "Other Person in the Household" means a person age 18 or older living in the home or assisting in the home to enrich the care provided to children placed in the home by tutoring, providing recreation, relief care or other services such as household chores, whether paid or unpaid. It also means 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 home.

(17) "Recertification of a Certificate of Approval to Maintain a Foster Home for Children" means annual application for renewal of foster home certification under OAR 413-200-0100 through 413-200-0230.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.557 & 409.015

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

## **413-200-0330**

## **Subject Individuals**

For purposes of this rule, "Subject Individual" means a person who, as of November 1, 1994, applies to be a foster parent as described in OAR 413-200-0100 through 413-200-0230.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.557 & 409.015

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

## **413-200-0340**

### **Limitations of Inquiries**

(1) Only SOSCF or other DHR division employees who have been fingerprinted and cleared by the Oregon State Police shall access or have access to criminal offender information pursuant to a valid agency agreement. All such information shall be handled in compliance with the agency agreement and rules and procedures of the Oregon State Police relating to the criminal offender information (OAR 257-010-0010 to 257-010-0050). It is the responsibility of SOSCF, and other DHR divisions who request fingerprint-based criminal offender information through SOSCF, to assure strict compliance with federal and state laws, rules and procedures regarding criminal offender information access and dissemination.

(2) Criminal offender information obtained from OSP and/or the FBI will not be used for any purpose other than that for which it was obtained nor given to unauthorized persons or agencies. Any violation may cause immediate suspension of the DHR division's authorization to access such information.

(3) Criminal offender information, including fingerprint-based criminal offender information, shall be obtained by SOSCF to ascertain whether a subject individual has been convicted of a crime which is substantially related to their qualifications, functions, duties or responsibilities as a foster parent.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.557 & 409.015

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

## **413-200-0350**

### **Crimes to be Considered**

(1) SOSCF has determined that serious felonies and misdemeanors involving violence or unauthorized sexual conduct, especially with children or otherwise vulnerable persons, is fundamentally inconsistent with any responsibility for care, treatment or supervision of children or other vulnerable persons. Subject to section (5) of this rule, conviction of crimes listed in subsection (2)(a) and (b) of this section or a false statement about a conviction, shall disqualify a subject individual from serving as a foster parent. Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(2) Felony and Misdemeanor Crimes

(a) Oregon Revised Statutes:

ORS

- 162.165 -- Escape 1
- 162.185 -- Supplying Contraband
- 163.095 -- Aggravated Murder
- 163.115 -- Murder
- 163.115 -- Felony Murder
- 163.118 -- Manslaughter I
- 163.125 -- Manslaughter II
- 163.145 -- Criminally Negligent Homicide
- 163.165 -- Assault III
- 163.175 -- Assault II
- 163.185 -- Assault I
- 163.200 -- Criminal Mistreatment II
- 163.205 -- Criminal Mistreatment I
- 163.225 -- Kidnapping II
- 163.235 -- Kidnapping I
- 163.275 -- Coercion
- 163.355 -- Rape III
- 163.365 -- Rape II
- 163.375 -- Rape I
- 163.385 -- Sodomy III
- 163.395 -- Sodomy II
- 163.405 -- Sodomy I
- 163.408 -- Sexual Penetration II
- 163.411 -- Sexual Penetration I
- 163.415 -- Sexual Abuse III
- 163.425 -- Sexual Abuse II
- 163.427 -- Sexual Abuse I
- 163.435 -- Contributing to the Sexual Delinquency of a Minor

163.445 -- Sexual Misconduct

163.515 -- Bigamy

163.525 -- Incest

163.535 -- Abandonment of a Child

163.545 -- Child Neglect 11

163.547 -- Child Neglect 1

163.555 -- Criminal Non-Support

163.575 -- Endangering the Welfare of a Minor

163.670 -- Using Child in Display of Sexually Explicit Conduct

163.680 -- Paying for Viewing Sexual Conduct Involving a Child

163.732 -- Stalking

164.075 -- Theft by Extortion

164.225 -- Burglary I

164.325 -- Arson I

164.395 -- Robbery III

164.405 -- Robbery II

164.415 -- Robbery I

166.085 -- Abuse of Corpse II

166.087 -- Abuse of Corpse I

166.155 -- Intimidation II

166.165 -- Intimidation I

166.220 -- Unlawful Use of a Weapon

166.270 -- Certain Felons Forbidden to Possess Firearms

166.272 -- Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers

166.275 -- Possession of Weapons by Inmates of Institutions

166.382 -- Possession of Destructive Device

166.384 -- Unlawful Manufacture of a Destructive Device

166.429 -- Firearm Used in Felony

- 166.660 -- Unlawful Paramilitary Activity
- 166.720 -- Racketeering
- 167.012 -- Promoting Prostitution
- 167.017 -- Compelling Prostitution
- 167.062 -- Sadomasochistic Abuse or Sexual Conduct in Live Show
- 167.065 -- Furnishing Obscene Materials to Minors
- 167.070 -- Sending Obscene Materials to Minors
- 167.075 -- Exhibiting an Obscene Performance to Minors
- 167.080 -- Displaying Obscene Materials to Minors
- 167.087 -- Disseminating Obscene Material
- 167.090 -- Publicly Displaying Nudity or Sex for Advertising Purposes
- 167.212 -- Tampering with Drug Records
- 167.262 -- Adult using Minor in Commission of Controlled Substance Offense

(b) And any attempts or solicitations to commit any Felony or Misdemeanor crime listed in subsection (a) of this section.

(3) SOSCF has further determined that felonies and misdemeanors involving theft, fraud or deception, crimes against state and public justice, and major traffic violations listed in (4)(a) or (b) of this section (or the substantial equivalent of any of the crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number) substantially jeopardize the safety of children or other vulnerable persons. If any subject individual was convicted of a crime listed in subsection (4)(a) or (b) of this section all intervening circumstances and other background information related to criminal activity shall be reviewed by SOSCF subject to subsection (5) of this section. Based on this information, SOSCF shall make a decision whether to approve or deny the request to be certified as a foster parent.

#### (4) Felony and Misdemeanor Crimes

##### (a) Oregon Revised Statutes:

#### ORS

- 162.025 -- Bribe Receiving
- 162.065 -- Perjury
- 162.155 -- Escape 11
- 162.205 -- Failure to Appear I
- 162.235 -- Obstructing Governmental or Judicial Administration

- 162.265 -- Bribing a Witness
- 162.275 -- Bribe Receiving by a Witness
- 162.285 -- Tampering with a Witness
- 162.305 -- Tampering with Public Records
- 162.325 -- Hindering Prosecution
- 163.160 -- Assault IV
- 163.190 -- Menacing
- 163.195 -- Recklessly Endangering Another
- 163.465 -- Public Indecency
- 164.043 -- Theft 111
- 164.045 -- Theft 11
- 164.055 -- Theft I
- 164.057 -- Aggravated Theft I
- 165.013 -- Forgery in the First Degree
- 165.022 -- Criminal Possession of a Forged Instrument in the First Degree
- 165.032 -- Criminal Possession of a Forgery Device
- 165.055 -- Fraudulent Use of a Credit Card (over \$750)
- 165.065 -- Negotiating a Bad Check (Class Felony clause)
- 165.070 -- Possessing a Fraudulent Communication Device
- 165.074 -- Unlawful Factoring of a Credit Card Transaction
- 165.085 -- Sports Bribery
- 165.090 -- Sports Bribe Receiving
- 166.015 -- Riot
- 167.007 -- Prostitution
- 167.262 -- Adult Using Minor in Commission of Controlled Substance Offense (less than 5 grams marijuana)
- 471.410 -- Providing Liquor to a Person Under 21 or to Intoxicated Person; Mandatory Minimum Penalties.
- 475.992 -- Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses.
- 475.993 -- Prohibited Acts for Registrants; Penalties.

475.994 -- Prohibited Acts Involving Records and Fraud; Penalties

475.995 -- Penalties for Distribution to Minors

475.996 -- Crime Category Classification for Violation of ORS 475.992; Proof of Commercial Drug Offense

475.999 -- Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School in violation of a Permit

811.140 -- Reckless Driving

811.182 -- Criminal Driving while Suspended or Revoked or in Violation of a Permit

811.540 -- Fleeing or Attempting to Elude Police

811.700 -- Failure to Perform Duties of Driver when Property is Damaged

811.705 -- Hit and Run Vehicle (Injury)

813.010 -- Driving Under the Influence of Intoxicants

(b) And, any attempts or solicitations to commit any Felony or Misdemeanor crime listed in subsection (a) of this section.

(5) Factors to be considered by the SOSCF Administrative Office in determining suitability to be a foster parent based on information available to SOSCF and information provided by the subject individual include:

(a) Types and number of offenses;

(b) Passage of time since the crime was committed;

(c) Circumstances surrounding the commission of the crime;

(d) Intervening circumstances since the commission of the crime;

(e) Relationship of the facts under subsections (a) through (d) of this section to the specific certification requirements set forth for foster parents.

(6) Under no circumstances will SOSCF bar or refuse to certify an individual because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 or 419A.262.

(7) Subject individuals who apply for recertification of a Certificate of Approval to Maintain a Foster Home for Children issued on or before October 31, 1994, are subject to criminal record checks, including fingerprints, when they apply for renewal of their certificate. For those foster parents certified under an exception, they may be recertified, provided that the circumstances for which the original exception was granted are still valid, and no other convictions or false statements about convictions which would otherwise preclude recertification appear on the criminal offender records.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.557 & 409.015

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

**413-200-0360****Procedures**

- (1) Any subject individual applying for certification as defined in OAR 413-200-0330, and all other persons, paid or unpaid, in the household of the subject individual, shall consent to a criminal offender information records check, including fingerprints. All applicants will be notified of this requirement at the time they apply, and criminal record consent forms shall contain a notice that certification is subject to fingerprints, and that a criminal offender information records check will be conducted as required by ORS 181.537, 181.557 and 409.015. If the subject individual, or a person in the household of the subject individual, refuses to be fingerprinted, or makes a false statement about the non-conviction of a crime listed in OAR 413-200-0350(2) or (4), SOSCF shall not certify the subject individual.
- (2) Subject individuals shall provide all information required for a criminal offender information records check, including fingerprints, on forms and fingerprint cards provided by SOSCF and according to procedures established by SOSCF. Information required includes:
- (a) Two properly completed FBI fingerprint cards #FD 258 with red overprinting in the reason fingerprinted block which reads "ORS 181.537/ORS 409.015 Child Welfare Programs Regulation/Licensing/DHR Employees UF" from the subject individual and other persons in the household;
  - (b) A properly completed and signed CF form 1011 F from the subject individual and other persons in the household;
  - (c) If the subject individual or other person in the household acknowledges a prior conviction as listed in OAR 413-200-0350(2)(a) or (b) or (4)(a) or (b), an explanation of the relationship of the facts which support the conviction and all intervening circumstances and authorization for SOSCF or the appropriate DHR division to verify the information;
  - (d) As part of the consent to a criminal records check, SOSCF may request subject individuals or other persons in the household to consent to the use of their social security numbers in conducting the criminal record check.
- (3) SOSCF shall conduct an Oregon computerized criminal offender record check on all subject individuals, and shall request criminal offender information on subject individuals from OSP and the FBI as follows:
- (a) If the subject individual has lived outside the State of Oregon anytime during the five years prior to application, SOSCF shall instruct OSP to conduct a fingerprint criminal offender records check through the FBI; or
  - (b) If the subject individual has lived in Oregon more than five consecutive years, but the subject individual's Oregon record indicates that the subject individual has criminal offender information outside the State of Oregon, SOSCF shall instruct OSP to conduct a fingerprint-based criminal offender records check through the FBI; or
  - (c) If the subject individual's or other person in the household's Oregon record indicates a conviction for a crime listed in this rule, SOSCF shall forward the fingerprint cards to OSP for a positive identification verification prior to issuing a denial notice; or
  - (d) If a SOSCF branch manager, DHR division or the Director's Office requests, in writing, that SOSCF conduct a criminal record check outside the State of Oregon, subsection (3)(a) through (c) of this section notwithstanding, SOSCF shall instruct OSP to conduct a fingerprint-based criminal offender records check through the FBI.
- (4) SOSCF will charge all DHR divisions and the Director's Office a fee in an amount not to exceed the actual cost of acquiring and processing criminal offender information, including fingerprint-based criminal offender information records checks. The total fee charged, per request, shall be determined as follows:
- (a) A fee of \$15 shall be charged for each criminal record check request processed by SOSCF when the record check is requested by another DHR division;

- (b) An additional fee of \$12 shall be charged when SOSCF must forward fingerprint cards to OSP;
- (c) An additional fee of \$24 shall be charged when SOSCF must forward fingerprint cards through OSP to the FBI.
- (5) This rule provides that no applicant for certification as a foster parent will be provisionally certified prior to initiation of the criminal record check process, including fingerprint-based criminal offender checks for the applicant and under ORS 181.557, for any other persons in the household of the applicant.
- (6) SOSCF will review the criminal offender information, including fingerprint-based criminal offender information, of subject individuals under ORS 409.015(9)(A) for persons seeking certification as a foster parent, and under ORS 181.557 for other persons in the household. The SOSCF director or designee shall issue a statement of criminal history status and related impact on certification to the SOSCF branch foster parent certifier. A statement of criminal history status resulting in a determination that an applicant is not suitable, shall be considered preliminary by the SOSCF branch certifier until the applicant has been given notice of an opportunity to challenge the criminal record report, or to request a Contested Case Hearing pursuant to section (9) or (10) of this rule. A finding of suitability based on criminal history is only one factor SOSCF will use in deciding whether to certify or recertify a foster parent. The final determination to grant or deny certification based solely on criminal history, will be made by the SOSCF director or designee. Criminal offender information received from the OSP or the FBI is confidential and shall not be released to unauthorized persons or agencies.
- (7) Except as provided in section (6) of this rule, SOSCF shall receive criminal offender information, including returned FBI fingerprint cards, from the Oregon State Police. Pursuant to a valid agency agreement, SOSCF will, upon receipt from OSP, supply the criminal offender record information and forward applicant fingerprint cards to the appropriate DHR division employee authorized to receive that information pursuant to a valid agency agreement, and the DHR division will have the responsibility to make the suitability for certification decision. The requesting DHR division or Director's Office shall then be responsible for the fingerprint cards.
- (8) Subject individuals who have been determined not suitable pursuant to section (6) of this rule, shall be denied certification or shall have their provisional certification terminated.
- (9) If SOSCF determines that the subject individual is not suitable for certification based on criminal history or false statement on the application related to criminal history, the SOSCF Administrative Office will notify the subject individual, via certified mail, that the subject individual:
- (a) Has a right to inspect and challenge their Oregon criminal offender information through the Oregon State Police procedures as adopted per ORS 181.555(3) and OAR 257-010-0035;
  - (b) May also 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 SOSCF's determination of unsuitability, and/or indicate an intent to challenge information in the OSP or FBI report, by requesting a contested case hearing pursuant to ORS 183.413 to 183.470 and OAR 413-200-0370 provided that SOSCF receives their request for a contested case hearing in writing within 10 calendar days of mailing the notice. After said 10 days have elapsed, SOSCF will inform the SOSCF branch foster parent certifier that either:
    - (A) The subject individual has been notified that they are not suitable for certification based on criminal history or false statement in the application about criminal history and that the branch may not certify or recertify the subject individual because the subject individual has waived, or timely declined, to exercise their right to a contested case hearing regarding their suitability; or
    - (B) The subject individual has requested a contested case hearing and that the branch will be notified of the subject individual's suitability for certification upon issuance of the hearing decision.
- (10) Upon SOSCF's determination that a foster parent is not suitable based on the criminal history of a person in the

household or false statement of criminal history of a person in the household, SOSCF shall:

(a) Inform the person in the household whose record was reviewed of the right to inspect and challenge their Oregon criminal offender information through OSP procedures as adopted per ORS 181.555(3) and OAR 257-010-0035 and their rights under ORS 181.557(2)(b); and

(b) Inform the foster parent applicant whose certification is affected by the other person's criminal history or false statement about criminal history, via certified mail, that:

(A) SOSCF may not certify the foster parent applicant permitting the other person to remain in the household or to have contact with children in the home based on the information contained in the criminal record check about the other person or the person's false statement about criminal history; and

(B) The foster parent applicant may appeal in a contested case hearing SOSCF's determination of unsuitability based on the criminal history or false statement of criminal history concerning a person in the home, provided that SOSCF receives the applicant's request for a contested case hearing in writing within 10 calendar days of the date of mailing the notice to the applicant.

(c) Inform the SOSCF branch foster parent certifier, after said 10 days have elapsed, that either:

(A) The foster parent applicant has been notified that they are not suitable for certification based on criminal history of a person in the household, or false statement in the application of the other person, and that the branch may not certify or recertify the applicant because the applicant has waived or timely declined to exercise their right to a contested case hearing regarding their suitability; or

(B) The foster parent applicant has requested a contested case hearing and that the branch will be notified of the applicant's suitability for certification upon issuance of the hearing decision.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.557 & 409.015

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

## **413-200-0370**

### **Rights for Review and Contested Case Hearings**

(1) SOSCF shall conduct contested case hearings per ORS 183.413 to 183.470, and afford foster parent applicants the right to appeal a decision made by SOSCF that the applicant is not suitable for certification based on an authorized criminal offender information records check, or a false statement concerning such criminal records check of the applicant or other person in the household. Applicants must notify SOSCF of their request for a contested case hearing within 10 calendar days after the notice is mailed by SOSCF to the applicant.

(2) SOSCF has no jurisdiction in a contested case hearing over allegations that the criminal offender information received from OSP or the FBI is inaccurate, incomplete or maintained in violation of any federal or state law.

(3) SOSCF is entitled to rely on the criminal offender information supplied by OSP or the FBI until OSP or the FBI notifies SOSCF that information has been changed or corrected. If a subject individual has timely requested a contested case hearing, SOSCF will stay the hearing until the subject individual has been afforded a reasonable time to correct or complete the record, or has declined to do so.

(4) To preserve the confidentiality of the records and the privacy of the subject individual, any contested case hearing under this rule will not be open to the public.

(5) Prior to a contested case hearing being scheduled, a mandatory pre-hearing conference between SOSCF, the subject individual and their legal representation shall be convened to review all available information and determine the need for a contested case hearing. At the pre-hearing conference, the subject individual must verify whether they have used their right to inspect or challenge their criminal offender information record(s) or have declined to do so.

(6) The issues at a contested case hearing shall be limited to:

(a) Whether the subject individual or other person in the household has made a false statement in the application as to the non-conviction of a crime, or has refused to consent to the criminal records check, or refused to be fingerprinted; or

(b) Whether the criminal offender information provided to SOSCF by OSP or the FBI describes any crime which SOSCF has determined is relevant to the risk of exploitation and/or abuse or safety of children; and

(c) If the subject individual seeks certification and the subject individual and other persons in the household have admitted the commission of a crime which SOSCF has determined is relevant to the risk of exploitation and/or abuse or safety to children, whether the relationship between the facts which support the conviction and all intervening circumstances would permit the subject individual to be certified by SOSCF.

(7) Fingerprint cards required for evidence in a contested case shall be destroyed at the direction of adjudication, or within 90 days following case resolution, whichever is appropriate.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 181.537, 181.557 & 409.015

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 210**

**LICENSING - RESIDENTIAL CARE**

**Child Caring Agencies**

**413-210-0000**

**Purpose**

Applicability. OAR 413-210-0000 through 413-210-0250 set forth the State Office for Services to Children and Families standards for reviewing, inspecting and licensing those private child-caring agencies which offer residential care and treatment services for children and which are subject to the provisions of ORS Chapter 418.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

**413-210-0010**

**Definitions**

- (1) "Abuse" means physical injury caused by other than accidental means, neglect which leads to physical harm and sexual molestation, and includes physical punishment; threats, coercion or humiliation directed toward any resident, and the punitive withholding of a resident's regular meal, personal property, medication or aid to physical functioning.
- (2) "Administration of medication" means the act of an employee placing a medication internally in, or externally on, a resident's body upon written order of a physician.
- (3) "Administrator" means the director of the agency and the assistant director of the Department of Human Resources

for the State Office for Services to Children and Families.

(4) "Agency" means the State Office for Services to Children and Families.

(5) "Applicant" means the private child-caring agency applying for a license for the facility.

(6) "Care" means services provided to meet the needs of a child, i.e. food, shelter, clothing, medical care, schooling, protection, supervision, etc.

(7) "Child" means an unmarried person who has not reached his/her 18th birthday and who has not been emancipated by the Juvenile Court.

(8) "Criminal Offender Information" means words and related data received and compiled by the Bureau of Criminal Identification of the Oregon State Police, or other law enforcement agencies or courts, including names, records of arrests and the nature and disposition of criminal charges, including dismissals, sentencing, confinement, release, or probation.

(9) "Director" means the person designated by the private child-caring agency as the principal agent for the daily operation and maintenance of the facility.

(10) "Employee" means an individual holding a salaried position with a private child-caring agency.

(11) "Facility" means the physical setting, administration, staff, equipment, and program of a provider.

(12) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.

(13) "Fire and Life Safety Code" means the State of Oregon **Structural Specialty Code** and **Fire and Life Safety Code**. (Maintained by Fire Marshal.)

(14) "Handicapped Resident" means a child or adolescent who has any physical or mental impairment which would limit and/or prevent him or her from departing a building within a reasonable period when warned by a signal device.

(15) "License" means the legal authority given by the agency to the private child-caring agency to operate a residential child-caring agency.

(16) "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.

(17) "Non-prescription Drug" means any medication that does not require a written prescription for purchase or dispensing.

(18) "Nursing Care" means the care performed by a licensed nurse which requires substantial specialized skill and judgment and is prescribed by a physician. Nursing care does not include periodic routine treatment, such as changing dressings or injections.

(19) "Outdated Drug" means any medication whose designated period of potency, as indicated on the label, has expired.

(20) "Owner" is the person or board of directors responsible for operation of the private child-caring agency.

(21) "Private Child-Caring Agency" means any private organization providing day treatment, adoption placement, residential care, foster care or other similar services for children. Excludes foster homes certified by SOSCF. Excludes homes established and maintained by fraternal organizations for the exclusive use of the membership.

(22) "Recalled Drug" means any medication which has been removed from distribution by the Food and Drug Administration and is no longer to be sold or used.

(23) "Resident" means any child residing in a residential care or treatment facility.

(24) "Residential Care or Treatment" means 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.

(25) "Self-administration of medication" means the act of a resident placing a medication internally in, or externally on, his/her own body.

(26) "Separate and Distinct Part" means that part of a facility maintained and operated separately from any other part of the facility, with sleeping, dining and living areas used only by residents, employees and invited guests of the facility.

(27) "Significant Others" means relatives, friends, or interested members of the community.

(28) "Staff" means employees of the private child-caring agency who are responsible for providing direct care or treatment to residents.

(29) "Stock Supply of Drugs" means medications kept on hand in the facility which are not prescribed for a current resident of the facility.

(30) "Treatment" means a planned system of medical, psychological, social work and/or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional or behavioral disorders.

(31) "Unused Drug" 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.

(32) "Secure Care" means a facility or portion of a facility which uses locked doors or other physical measures for control.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0020**

### **License**

#### (1) License Required:

(a) No private child-caring agency shall provide or engage in residential care or treatment without a license from the agency;

(b) A private child-caring agency licensed by the agency shall neither assume a descriptive title nor purport under any descriptive title or claim to provide services governed by these rules except as it is permitted to do so within the scope of its license;

(c) All private child-caring agencies engaged in providing combined care for adults and children, where the care for children includes day or residential treatment, are subject to these rules;

(d) License shall state type of program, age, sex and capacity.

#### (2) Application:

(a) Application for a license shall be made on forms provided by the agency. The applicant shall provide the following information to the agency:

(A) Copies of Articles of Incorporation, corporation By-Laws, related policy statements, and any amendments thereto;

(B) The names of each officer or member of the board of directors of the corporation;

(C) Name of the executive or program director of the private child-caring agency;

(D) Location and mailing address of each residential care or treatment facility operated by the private child-caring agency;

(E) Type of services provided;

(F) Number, types, and minimum qualifications of all staff to be employed by the private child-caring agency;

(G) Maximum number of residents to be served at any one time in each facility operated by the private child-caring agency;

(H) Age range of residents to be served;

(I) Whether applicant intends to provide services to disabled residents;

(J) Proposed annual budget identifying sources of revenue;

(K) Such other information as the agency may reasonably require in individual cases.

(b) Each private child-caring agency shall promptly report to the agency any changes in the information described in paragraph (2)(a) (A) through (K) of this section.

(c) Submission of Plans:

(A) A set of plans and specifications for each residential care and treatment facility operated by the private child-caring agency shall be submitted to the agency and to the State Fire Marshal for approval:

(i) Prior to construction of a new building;

(ii) Prior to construction of any addition to an existing building;

(iii) Prior to any remodeling, modification, or conversion;

(iv) In support of any application for initial license of any private child-caring agency not previously licensed under this rule, unless exception is specifically granted by the agency.

(B) Plans shall be both in accordance with the current edition of the State Fire and Life Safety Code and with local fire and safety codes. Plans shall be drawn to a scale of one-fourth inch or one-eighth inch to the foot and shall specify the date upon which construction, modification, or conversion is expected to be completed. Plans for construction of a structure containing 4,000 square feet or more shall be prepared by and bear the stamp of an Oregon licensed architect or engineer;

(C) The water supply, sewage and garbage disposal systems shall be approved by a sanitarian registered with the State Sanitarians Registration Board;

(D) All structures must comply with the state and local building codes and restrictions, including any conditional use permits, electrical, plumbing and other health and safety standards;

## (E) Required Fees:

- (i) The agency shall require no fee to be paid by applicants for the agency's inspection to determine whether to grant, withhold, suspend or revoke licenses under these rules;
- (ii) The agency may impose fees upon applicants to cover costs of related inspections done for the division by other governmental agencies, such as county health departments and the State Fire Marshal.

## (F) Processing the Application:

- (i) Within 30 days of the receipt of an application and required documents as described above, the agency will begin its investigation to determine whether the private child-caring agency is in compliance with these rules. The agency may examine the records and files of the private child-caring agency, inspect and observe the physical premises, and interview children, private child-caring agency staff and persons in the community;
- (ii) The agency has the responsibility to obtain and consider criminal information, including state police files, on directors at the time of issuance and renewal of a license and on applicants for a position as director.

(G) The agency shall follow the criteria in rules 413-210-0030 through 413-210-0240 in making its decision whether to grant or deny an application for a license.

(d) Notification To Public Schools. Three months prior to establishing or expanding a facility for children who are wards of public or private agencies or changing the type of educational services provided or the category of children being served by the facility in any school district, the authorities of the public or private agency creating or altering such a facility shall notify in writing the superintendent or school board of any substantially affected district to determine the effect of the additional children and services upon the facilities and programs of the district. Written proof of compliance with ORS 339.175 shall be sent to the State Office for Services to Children and Families.

## (3) License Issued:

(a) If the agency determines from the application and its investigation that the private child-caring agency is in compliance with these rules, 413-210-0030 through 413-210-0240, the agency shall issue a license. A license shall be effective for two years from the date issued unless revoked or suspended.

(b) The license shall state:

(A) Name of the private child-caring agency;

(B) The address(es) of the facility(ies) to which the license applies;

(C) The maximum number of residents to be served at any one time in each facility;

(D) Whether disabled residents may be served;

(E) The type of services which the private child-caring agency is licensed to provide;

(F) The effective date and term of the license;

(G) Such other information as the agency may reasonably require.

(c) The license is not transferable or applicable to any other private child-caring agency, location, ownership, or facility other than that indicated on the application and license;

(d) No private child-caring agency shall admit to its residential care or treatment facilities any individuals not authorized by its license without the prior written consent of the agency. A private child-caring agency licensed for more than one

category of children or service shall comply with all applicable rules for those categories of children;

(e) A copy of the license shall be retained in each facility operated by the private child-caring agency as well as the private child-caring agency's administrative offices if separate from the residential facility, and made available for inspection at all times;

(f) Each license shall be returned to the agency immediately upon the agency's suspension or revocation of the license, the voluntary discontinuation of the license, or upon a change of ownership or location.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0030**

### **Civil Penalties**

(1) In addition to the actions described in OAR 413-210-0240, the director may impose a civil penalty on a private child-caring agency for any of the following:

- (a) Violation of any of the terms or conditions of a license issued under ORS 418.205 to 418.310 and these rules;
- (b) Violation of any of these rules; or
- (c) Violation of any final order of the director that pertains specifically to the private child-caring agency.

(2) The director may not impose civil penalty under this rule unless the violation involves:

- (a) Direct care and feeding of children (OAR 413-210-0140);
- (b) Staff to child ratios (OAR 413-210-0080);
- (c) Sanitation involving direct care (OAR 413-210-0110);
- (d) The violation has occurred on two consecutive surveys of the private child-caring agency.

(3) In imposing civil penalties under these rules, the director will consider the following factors:

- (a) The past history of the affected private child-caring agency 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 financial conditions of the affected private child-caring agency;
- (d) The immediacy and extent to which the violation threatens the health, safety, and well being of the children served by the affected private child-caring agency.

(4) The director in all cases shall establish 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 director.

(5) A civil penalty imposed under this rule may be canceled or reduced under terms or conditions determined by the director to be proper and consistent with the public's 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 private child-caring agency's right to request a hearing.

(7) The private child-caring agency, to which the notice of violation and assessment of penalties is addressed, shall have 10 days from the date of service of the notice in which to make a written request for a hearing before the director. 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 agency 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 director 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 private child-caring 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 agency 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 agency, the court shall then proceed as with judgments issued by the court. Enforcement proceedings available to the agency through this procedure shall include:

(a) Writ of Execution proceedings under ORS 23.030 to 23.105 and ORS 23.410 to ORS 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.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0040**

#### **Resident's Rights**

The private child-caring agency shall establish and maintain written rules which include:

- (1) Rights of children and parents;
- (2) A private child-caring agency or facility grievance procedure;

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0050**

#### **Incorporation**

- (1) Any private child-caring agency licensed under these rules shall also be incorporated and approved pursuant to ORS 418.205 to 418.310.
- (2) Out-of-state corporations intending to provide private child-caring services as described in these rules will be required to meet all other requirements of the Oregon Department of Commerce Corporation Division, including approval of the corporation and licensing by the agency.
- (3) The private child-caring agency's articles of incorporation must set forth the purposes of the organization, and together with the bylaws or other written statements, shall clearly indicate:
  - (a) The geographic area from which children will be served;
  - (b) The ages and categories of children to be served; and
  - (c) The type of care and services to be provided to the children.
- (4) A current copy of the articles of incorporation, bylaws, related policy statements and any proposed amendments shall be filed with the agency.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0060**

## **Administration**

### (1) Governing Body and Responsibilities:

(a) Private child-caring agencies shall be governed by a board of trustees or directors of not less than five responsible citizens, whose organization and responsibilities shall be set out in writing.

(b) The board of trustees or directors is responsible for the acts of the private child-caring agency. The board has the following responsibilities:

(A) To establish the treatment philosophy and methods of treatment to be employed;

(B) To see that the purposes of the private child-caring agency are carried out;

(C) To periodically re-evaluate the functions of the private child-caring agency in light of changing social conditions, and, when appropriate, to modify these functions to meet the needs of the children served;

(D) To keep informed of the operation of the private child-caring agency;

(E) To provide the organizational structure to carry out the purposes of the private child-caring agency;

(F) To formulate policy in consultation with staff, and to assure that policy does not take effect without approval of the board;

(G) To appoint an executive or program director to handle the daily operation and maintenance of the program of the private child-caring agency and to delegate responsibility for direct operations to such person, including the hiring of staff; and

(H) To approve, annually, a budget developed by the staff of the private child-caring agency.

(c) The board shall assure the maintenance of current and complete records which fully document the organization and fiscal activities of the private child-caring agency;

(d) The board shall establish and maintain insurance coverage that provides for reasonable protection of the physical and financial resources of the private child-caring agency.

### (2) Executive or Program Director:

(a) Each private child-caring agency shall be operated under the direct supervision of an executive or program director, appointed by the board of trustees or directors, who shall have the following qualifications:

(A) Knowledge of the requirements for providing care and treatment appropriate to the residents served by the private child-caring agency;

(B) Ability to maintain resident, personnel and private child-caring agency records in accordance with these rules;

(C) Ability to direct the work of support staff; and

(D) Good moral character, including honesty, fairness, respect for the rights of others, respect for local, state and federal laws, and no history of serious criminal activity which may have a detrimental effect on the person's ability to supervise the care of children.

(b) The executive or program director is responsible for:

(A) The daily operation and maintenance of the private child-caring agency and its facilities in compliance with these

rules and established program budget;

(B) Development and administration of policies and procedures to assure clear definition of support staff roles and responsibilities, lines of authority, and equitable workloads which assure adequate care and treatment for the residents;

(C) For obtaining background information on its employees who have contact with, care for, or oversee children. SOSCF will obtain criminal offender information on an employee, applicant, or volunteer, at the request of the agency's director or its board of directors. Such information shall be held in confidence;

(D) Recruiting, employing, training or arranging for training and terminating from employment staff who are unsuitable or who perform in an unsatisfactory manner;

(E) Reporting to the board of trustees or directors on the operation of the private child-caring agency and interpreting recognized standards of care and treatment;

(F) Providing for appropriate staff to assume the executive or program director's responsibility for the operation and maintenance of the private child-caring agency whenever the executive or program director is absent from the private child-caring agency;

(G) Assuring that the residents' personal money and personal property is not diverted for the use or benefit of any other person or the private child-caring agency;

(H) Preparing, maintaining and safely storing accurate records for all residents and personnel.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0070**

### **Staff**

(1) The private child-caring agency board of trustees or directors through the executive or program director, shall ensure that only staff or volunteers whose presence does not jeopardize the health, safety or welfare of the children served are employed or utilized by the private child-caring agency.

(2) The private child-caring agency, its board, and executive or program director will not deny employment, promotion, assignment or volunteer work to a person solely for the reason that person has been convicted of a crime, but will consider the relationship of the facts supporting the conviction to the specific occupational requirements for the job assignment as follows:

(a) In determining the person's suitability for employment or volunteer service, the private child-caring agency, its board, and executive or program director may consider facts relating to any crime, with particular emphasis upon convictions of child abuse, offenses against persons (such as homicide, assault, kidnapping), sexual offenses (rape, sodomy, sexual abuse), offenses against family (such as incest), abandonment of a child, child neglect, prostitution and related offenses; or other offenses against public health and decency (such as offenses involving narcotics and dangerous drugs). The private child-caring agency will take this information into consideration in judging a person's present fitness to work with children;

(b) If a person has been arrested or charged with one of the above crimes, with final disposition of the arrest and charge not yet reached, the private child-caring agency, its board of directors or executive or program director may withhold its decision to hire, promote or assign the person pending the outcome of the arrest or charge;

- (c) If a person was involved in a crime other than those listed above, or the charge on one of the above crimes was dismissed, the private child-caring agency, board or executive or program director will consider all intervening circumstances and other background information in judging a person's present fitness to work with children;
- (d) Any refusal to hire, promote, or assign a person under this section will be subject to the same procedures and rights of appeal as otherwise pertain to employees or volunteers.
- (3) Staff shall be granted sufficient autonomy and authority to provide administrative and clinical leadership to meet the treatment goals of the private child-caring agency.
- (4) Staff shall be provided with in-service and related programs designed to encourage their professional growth.
- (5) The private child-caring agency shall have a written policy statement and plan for staff development and training.
- (6) Staff shall receive periodic training in procedures for handling emergencies.
- (7) The private child-caring agency shall employ staff who have demonstrated qualities which enable them to work well with children in group care, such as: the capacity to give and receive affection, sensitivity, flexibility, emotional maturity, the ability to deal with frustration and conflict, a sense of humor, and a capacity to respect persons with differing lifestyles and philosophies.
- (8) The private child-caring agency shall employ staff who demonstrate a sound knowledge of the growth and development of children.
- (9) The private child-caring agency shall employ staff with knowledge and understanding of discipline and ways of helping a child build positive personal relationships.
- (10) The private child-caring agency shall have written personnel policies and maintain personnel records. Personnel policies and practices shall promote the objectives of the private child-caring agency. They shall include reference and employment checks to ensure hiring of staff who will not jeopardize the well-being of children. They shall include regular work evaluations.
- (11) The private child-caring agency shall have written position descriptions for all employees. Position descriptions shall be reviewed annually and revised when necessary to assure that they accurately reflect the duties and responsibilities of the position.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0080**

### **Staff/Child Ratio**

- (1) Staff child ratios shall be established to provide adequate supervision and protection for children and must be adequate in relationship to the type of program, location of program, age and type of children served, physical plant design, location and ability of supervisor to respond, electronic backup systems or any other means to assure a high standard of supervision and protection:
- (a) One direct care staff for up to 10 residents during the time children are awake and present in the program;
- (b) Shelter care ratios: children under 30 months, 1 direct care staff for 4 residents; 30 months to age 6, 1 to 6; age 6 and

over, 1 to 8;

(c) One direct care staff on duty in the facility for up to 14 children during sleeping hours. If staff are sleeping, they are considered "on call" staff and the facility must demonstrate that children are adequately supervised and protected. In this case an exception must be requested of the division. Approval of the exception is at the discretion of the division and will be a part of the licensing and renewal process;

(d) Exempt from subsection (c) of this section are those small family-type group homes with a ratio not exceeding five children to one direct care staff.

(2) At any time when there is only one staff person on duty in the facility, there shall be additional staff immediately available in emergencies upon request, with a maximum response time of 30 minutes.

(3) One staff age 18 or over and capable of taking appropriate action in an emergency, shall be on site at all times when one or more residents are present on the residential facility premises. This responsibility shall not be delegated to a resident.

(4) Subsequent to the effective date of these rules, the State Office for Services to Children and Families shall, at the licensing visit, renewal visit, or other visit, evaluate the facility's compliance with this rule. If SOSCF finds the facility not to be in compliance, and the operator wants an exception to the rule, it must be requested in writing at the time of initial evaluation for compliance. If SOSCF does not approve the requested exception, and an approvable exception cannot be negotiated between the operator and SOSCF, SOSCF shall evaluate the situation to determine if immediate action must be taken to assure the protection of children. If SOSCF finds immediate action to be necessary, the division will supply the operator with a date by which the requirements of this rule must be met. If immediate action is not deemed mandatory for the protection of children, the operator shall submit to SOSCF the facility's plan and schedule for achieving compliance.

(5) Complete compliance must be achieved by all facilities who do not have approved exceptions no later than June 1, 1988.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0090**

### **Combined Care of Children and Adults**

Special care shall be taken to provide adequate supervision of children programmed with adults. This is especially true of coed programs and the housing needs of children. Sleeping accommodations for children shall be completely separated between male-female and adults.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0100**

### **Building Requirements**

- (1) All buildings owned, maintained, or operated by the private child-caring agency as a residential facility shall comply with all applicable state and local buildings, electrical, plumbing, and zoning codes appropriate to the size allocation of the facility and the number of residents served.
- (2) All rooms used by residents shall have floors, walls, and ceilings which meet the interior finish requirements of the Fire and Life Safety Code and shall be free of harmful drafts, odors and excessive noise.
- (3) A separate dining room or area shall be provided for the exclusive use of residents, employees and invited guests, and shall:
  - (a) Seat at least one-half of the residents at one time with a minimum of 15 square feet per resident; and
  - (b) Have adequate ventilation.
- (4) A separate living room or lounge area shall be provided for the exclusive use of residents, employees and invited guests and shall:
  - (a) Provide a minimum of 15 square feet per resident; and
  - (b) Have adequate ventilation.
- (5) Bedrooms shall be provided for all residents and shall:
  - (a) Be separate from the dining, living, multi-purpose, laundry, kitchen and storage areas;
  - (b) Be an outside room, with an openable window of at least the minimum size required by the State Fire Marshal and building codes;
  - (c) Have a ceiling height of at least 7' 6";
  - (d) Have a minimum of 60 square feet per resident, with at least three feet between beds;
  - (e) Have permanently wired light fixtures located and maintained so as to give adequate light to all parts of room; and
  - (f) Have a curtain or window shade at each window to assure privacy.
- (6) Bathrooms shall be provided and be conveniently located in each building containing a resident bedroom, and shall have:
  - (a) A minimum of one toilet and one hand washing sink for each eight residents, and one bathtub or shower for each ten residents;
  - (b) Permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room;
  - (c) Arrangements for individual privacy for residents;
  - (d) A privacy screen at each window;
  - (e) A mirror, permanently affixed at eye level;
  - (f) Adequate ventilation; and
  - (g) Appropriate special equipment for use by the physically handicapped in facilities licensed to serve handicapped residents.

(7) A continuous supply of hot and cold water, installed and maintained in compliance with current rules of the Health Division, shall be distributed to taps conveniently located throughout the facility. All plumbing shall be in compliance with the State Plumbing Code.

(8) Laundry facilities, when provided, shall be separate from:

- (a) Resident living areas, including bedrooms;
- (b) Kitchen and dining areas; and
- (c) Areas used for the storage of unrefrigerated perishable food.

(9) Storage areas shall be provided appropriate to the size of the facility. Separate storage areas shall 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, rodenticides, insecticides and other toxic materials which shall be properly labeled, stored in the original container and kept in a locked storage area; and
- (f) Outdoor recreational and maintenance equipment.

(10) A usable out-of-doors activity area shall be provided which is protected from traffic and other hazards and of sufficient size and availability as appropriate to the age and the needs of the residents.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0110**

### **Safety**

(1) The private child-caring agency shall provide for each facility operated as a residential facility fire safety equipment appropriate to the number of residents served, and meeting the requirements of the Fire and Life Safety Code as follows:

- (a) Each building serving six or more residents shall meet the requirements of the State Fire Marshal; and
- (b) Each building serving five or fewer residents shall meet the requirements of a single-family occupancy dwelling, and in addition, shall provide:
  - (A) Fire detection equipment and alarms as may be required by the State Fire Marshal; and
  - (B) An "intercom" (remote enunciation system) at the building in which staff are present.

(2) A written emergency plan shall be developed and posted next to the telephone used by employees, and shall include:

- (a) Instructions in the event of fire, explosion, accident or other emergency, including the telephone numbers of the local

fire and police departments;

(b) The telephone number of the executive or program director and other persons to be contacted in case of emergency; and

(c) Instructions for the evacuation of residents and employees in the event of a fire, explosion or other emergency;

(d) Staff and residents shall be trained in the implementation of written emergency plans.

(3) Unannounced evacuation drills shall be conducted for all residents at least monthly and shall be in accordance with the emergency evacuation plan. The plan shall include at least one such drill every three months shall be conducted between the hours of 10:00 p.m. and 6:00 a.m. Written documentation shall be made at the time of the evacuation drills and kept in the private child-caring agency's record for at least one year following the drill, and shall include:

(a) The date and time of evacuation drill;

(b) The location of the simulated fire;

(c) The names of all employees present on the premises at the time of the drill and the amount of time required by all residents to evacuate; and

(d) Signature of the staff conducting the evacuation drill.

(4) Fire detection and protection equipment shall be inspected as required by the State Fire Marshal.

(5) Adequate screening for fireplaces and open-faced heaters as well as protection from guns, drugs, plastics bags and other potentially harmful materials shall be provided

(6) The temperature of hot water used for hand washing, bathing or showering shall be controlled so that it does not exceed 130 degrees Fahrenheit in all buildings serving residents. Direct supervision by staff will be provided for any resident who does not have the ability to adjust and control water temperature

(7) There shall be no exposed light bulbs in the residential facility where there exists a possibility of the bulb being bumped, struck, or posing a fire hazard.

(8) Operative flashlights sufficient in number shall be readily available to the staff in case of emergency.

(9) All flammable and combustible materials shall be properly labeled and stored in the original container in accordance with the rules of the State Fire Marshal.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0120**

### **Sanitation**

(1) Water. Maintenance of source, supply, and distribution system shall be in compliance with State Health Division rules on construction, operation, and maintenance of community and public water supply systems.

(2) All floors, walls, ceilings, windows, furniture and equipment shall be kept in good repair, clean, neat, orderly and

free from odors.

- (3) Each bathtub, shower, hand-washing sink and toilet shall be kept clean and free from odors.
- (4) No kitchen sink, hand-washing sink, bathtub or shower shall be used for the disposal of cleaning waste water.
- (5) Soiled linens and clothing shall be stored in an area separate from kitchens, dining areas, clean linens, clothing and food.
- (6) All measures necessary to prevent the entry into the residential facility of mosquitoes and other insects shall be taken.
- (7) All measures necessary to control rodents shall be taken.
- (8) The grounds of each residential facility shall be kept orderly and free of litter, unused articles and refuse.
- (9) Garbage and refuse receptacles shall be clean, durable, water-tight, insect and rodent proof and shall be kept covered with a tight-fitting lid.
- (10) All solid waste garbage shall be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality.
- (11) Sewage and liquid wastes shall be collected, treated and disposed of in compliance with the current rules of the Department of Environmental Quality.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0130**

#### **Resident Furnishings**

- (1) Furniture shall be provided for each resident and shall include:
  - (a) A bed, including a frame, a clean comfortable mattress and pillow;
  - (b) A private dresser or similar storage area for personal belongings which is readily accessible to the resident; and
  - (c) A closet or similar storage area for clothing and aids to physical functioning, if any, which is readily accessible to the resident.
- (2) Linens shall be provided for each resident and shall include:
  - (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) Individual personal hygiene equipment shall be provided or arranged for each resident, stored in a clean and sanitary

manner, and shall include:

- (a) A comb;
- (b) A toothbrush;
- (c) Soap;
- (d) Toothpaste or powder;
- (e) Toilet paper; and
- (f) Menstrual supplies, if needed.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0140**

#### **Records**

- (1) All private child-caring agency records shall be accurately prepared, safely stored and readily available within the private child-caring agency for inspection by authorized representatives of the agency, Registered Sanitarian and the State Fire Marshal or designee.
- (2) All entries in records required by this rule shall be in ink or indelible pencil, prepared at the time or immediately following the occurrence of the event being recorded, be legible, dated, and signed by the person making the entry.
- (3) All resident records are confidential. Any disclosure from records shall be in accordance with ORS 411.320 and 418.130.
- (4) Records and/or pertinent information for residents who have been released from the private child-caring agency shall be transferred with the resident if he or she goes to another facility, or stored in the private child-caring agency facility for a period of three years following the resident's release.
- (5) A permanent registry of all children accepted for care shall be maintained and shall include the resident's name, sex, birthdate, the names and addresses of parents or guardian, dates of admission and specific placement upon discharge.
- (6) If a private child-caring agency changes ownership or executive or program director, all resident and personnel records shall remain in the facility or facilities operated by the private child-caring agency.
- (7) Prior to the dissolution of any private child-caring agency, the executive or program director shall notify SOSCF in writing of the location and storage of resident records, or whether these records have been transferred with the residents to a new facility.
- (8) An individual resident record shall be maintained for each resident and shall include:
  - (a) A summary sheet which includes the resident's name, previous address, date of admission to the facility, sex, date of birth, religious preference, Social Security number;
  - (b) The name, address and telephone number of:

- (A) The resident's legal guardian or conservator, if any;
  - (B) The resident's parent, next of kin, or other significant persons;
  - (C) The resident's school program or employer, if any; and
  - (D) Any governmental agency staff supervising or providing services to the resident.
- (c) Care and treatment records including but not limited to, initial assessment and discharge summary, care or treatment plans, medical records as required in rule 413-210-0150, and permission to treat;
- (d) An individual written record for each resident of all money received or disbursed on behalf of the resident, which includes:
- (A) The dates of receipt and disbursement;
  - (B) Amounts;
  - (C) Source of income and purpose of disbursement; and
  - (D) Signature of support staff making each entry.
- (9) An individual personnel record shall be maintained for each employee and volunteer, and shall include the employee's name, address, telephone number, date of birth, Social Security number, date of employment, and documentation of regular performance reviews.
- (10) A private child-caring agency record shall be maintained and shall include:
- (a) Fiscal records which are accurately prepared and properly reflect all direct and indirect revenues and expenditures for the operation and maintenance of the private child-caring agency;
  - (b) Employee time sheets; and
  - (c) Reports of all inspections of the private child-caring agency and its facilities.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0150**

### **Food Services**

- (1) A nourishing, well-balanced diet shall be provided to all residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, and adjusted for sex, age, activity level and disability of each resident.
- (2) All modified or special diets shall be as ordered by a physician.
- (3) At least three meals shall be provided, daily, with mealtimes consistent with those normally existing in the community.
- (4) Menus shall be prepared in advance and shall provide a sufficient variety of foods served in adequate amounts for

each resident at each meal, and adjusted for seasonal changes. Records of menus as served shall be filed and maintained in the facility record for at least one year.

- (5) Supplies of staple foods for a minimum of one week, and of perishable foods for a minimum two-day period, shall be maintained on the premises.
- (6) Food shall be stored and served at proper temperatures.
- (7) Raw milk, vegetables, fish and meat which have been home canned shall not be served or stored in the facility.
- (8) The facility's food service program shall meet the requirements of the State of Oregon **Sanitary Code** for Eating and Drinking Establishments, with the following exceptions:
  - (a) Facilities holding a license from the division or from the Department of Human Resources under rules 410-010-0000 to 410-010-0130 on the effective date of these rules, and using a dishwasher that does not meet the standards contained in this rule, may continue using the dishwasher, as long as it continues to operate as it was designed. When the dishwasher no longer operates properly it must be replaced by a dishwashing procedure that conforms with this rule;
  - (b) A pump-recirculated final-rinse dishwasher with at least a 170°F. Temperature activated final rinse cycle may be used if it is operated according to the manufacturer's instructions, and all utensils and dishes placed in the machine are exposed to all dishwashing cycles.
- (9) All utensils, including dishes, glassware and silverware used in the serving or preparation of drink or food to residents, shall be washed, rinsed, sanitized and stored after each individual use.
- (10) Utensils shall be stored in such a manner as to prevent contamination.
- (11) All resident activities, other than normal cleanup, in food preparation areas shall be under the supervision of staff and shall be allowed only if they are part of the resident's service plan.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0160**

### **Health Services**

- (1) The private child-caring agency shall obtain the following medical history for each resident within 30 days following admission:
  - (a) Any significant findings of the most current physical examination;
  - (b) A record of the resident's known current immunizations and known past communicable diseases;
  - (c) Any known allergies;
  - (d) Dental health; and
  - (e) Physician's orders, if any.
- (2) In private child-caring agencies licensed to serve physically handicapped residents, a physician's statement shall be

obtained, on admission, describing the resident's general condition and certifying that the resident does not require nursing care.

(3) The private child-caring agency shall safeguard the health of each resident by providing for medical examination of each child by a qualified physician at the following intervals:

(a) Three examinations during the first year of the child's life;

(b) One examination at the age of four;

(c) One examination at the age of six;

(d) One examination at the age of nine; and

(4) Each resident shall be under the care of his or her own physician, or the private child-caring agency shall have an arrangement with one or more physicians to treat residents.

(5) Arrangements shall be made by the private child-caring agency for one or more alternate physicians to be called in the event the resident's own physician is not available.

(6) A written order, signed by a physician, is required before any prescription medication is administered to, or self-administered by, any resident.

(7) A written order, signed by a physician, is required for any medical treatment, special diet, therapy, aid to physical functioning, limitation of activity or use of chemical restraints.

(8) Medications prescribed for one resident shall not be administered to, or self-administered by, another resident or staff.

(9) A stock supply of prescription drugs may not be maintained in the facility. The facility may maintain a stock supply of non-prescription drugs located in a locked stationary container.

(10) The private child-caring agency shall provide and implement a policy and procedure which assures that each resident's prescription drugs are reviewed every 60 days by a physician, registered nurse or licensed pharmacist.

(11) No unused, outdated or recalled drugs shall be kept in the facility and shall be disposed of in a manner which assures that they cannot be retrieved, in accordance with all applicable state and federal statutes, laws or rules. A written record of all drug disposals shall be maintained in the private child care agency and shall include:

(a) A description of the prescribed drug, and the amount;

(b) The resident for whom the drug was prescribed;

(c) The reason for disposal; and

(d) The method of disposal.

(12) All prescription drugs stored in the facility shall be kept in a locked stationary container. Medication requiring refrigeration shall be refrigerated and secured by lock. If a locked container in a refrigerator is used, then it need not be stationary.

(13) When a resident self-administers his/her own prescription medication, self-administration shall be recommended by the private child-caring agency, approved in writing by the physician, and closely monitored by the staff. Staff shall advise parents or other custodians of medication schedules.

(14) In the case of a facility operated exclusively for residents who rely on prayer or spiritual means for healing in

accordance with the creed or tenets of a well-recognized church or denomination, no medical, psychological or rehabilitative procedures shall be required.

(15) A written record shall be kept for each resident listing all prescription drugs administered. The record shall include:

- (a) Resident's name;
- (b) Description of medication, and dosage;
- (c) Times and dates administered;
- (d) Method of administration;
- (e) Any adverse reactions to the medication; and
- (f) Where appropriate, continuing evaluation of the resident's ability to self-administer the medication.

(16) A written description of any injury, accident or unusual incident involving any resident shall be placed in the individual resident's record.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0170**

### **Admission and Discharge**

(1) Prior to admission, the private child-caring agency shall screen all prospective residents by:

- (a) Obtaining and reviewing reports of the resident's past and present behavior, physical and mental health;
- (b) Making a preliminary determination that the prospective resident has disorders, disabilities, or deficits due to mental, emotional, behavioral, or physical problems for which care, supervision, training, rehabilitation or treatment in a residential facility is needed to reduce the problem(s) or to maintain present level of functioning; and
- (c) Arranging an intake conference which may include the prospective resident and his or her family or significant others, the person making the referral, and representatives from past, present or prospective helping agencies. If an intake staffing conference is not convened, the reason will be stated in the initial assessment.

(2) At no time shall the number of residents served exceed the licensed capacity.

(3) Discharge of a resident shall be a planned participatory decision-making process between the resident, staff, family or significant others, and persons providing residential services. A discharge staffing shall be held, but when this is not possible, a report of circumstances surrounding the failure to convene a discharge staffing shall be entered in the discharge summary.

(4) The private child-caring agency's procedures for admission, discharge and follow-up shall be an integral part of the private child-caring agency service and service planning process.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0180**

### **Program and Services**

(1) Individual Care, Treatment, Training or Rehabilitation Service Plan. Each resident child shall be served according to an individual service plan, developed by private child-caring agency staff and including, whenever possible, or program director, child-care workers, other involved professionals, and the child and/or his/her family, as appropriate.

#### (2) Service Planning Timelines:

(a) A written intake assessment shall be completed on the date the resident is admitted to the facility, except in the case of an emergency placement, when the intake assessment shall be completed as soon as practicable following admission;

(b) A written initial service plan, including the problems to be addressed, shall be developed by private child-caring agency staff and others as described in section (1) of this rule within 30 days of admission;

(c) A more comprehensive assessment will be completed within the first quarter (3 months) and the service plan will be modified as necessary;

(d) The service plan shall be reviewed quarterly thereafter;

(e) The private child-caring agency shall develop, in writing, a process for review of service plans before their implementation.

#### (3) Areas of Emphasis in the Treatment Planning Process and Service Plan:

(a) It is the intent of the division that the private child-caring agency make every reasonable effort to insure participation by the child's family in all aspects of the service and service-planning process. To that end, the program staff shall:

(A) Encourage parent participation in the intake process;

(B) Insure participation in the intake process by those responsible for the environment in which the child or adolescent resides prior to placement with the private child-caring agency, if the child's parent cannot participate in the intake process;

(C) Support the family and/or those responsible for the environment in which the child lives during intervention activities, including alternate suggestions for any child 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 child and his/her family;

(F) Insure that information regarding significant events in the child or adolescent's family is passed on to appropriate staff members; and

(G) Review service plans, activities and progress with the family quarterly.

(b) The private child-caring agency shall make a reasonable effort to deliver services in settings natural to the child. To this end the treatment activities shall:

(A) Use community resources whenever possible; and

(B) Be located as close as possible to the child's home community.

(c) The private child-caring agency shall demonstrate the importance of the child's peer group as a change agent by providing peer group activity appropriate to the child's emotional needs and developmental level.

(d) Assure that the educational needs of the child are an integral part of the service plan.

(A) The plan should include a process for phasing the child into a community education program as soon as reasonable.

(B) The service plan shall recognize the child's right to social experiences appropriate to his/her age and developmental level.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0190**

#### **Discipline**

(1) In disciplining residents, staff and volunteers shall not use harsh punishment. Harsh punishment includes, but is not limited to: spanking; striking with any instrument, acts of physical or mental abuse designed to humiliate, degrade or undermine a child's self-respect; punishment in the presence of a group; deprivation of food, clothing, shelter, or parental visits; marching; and standing rigidly in one spot.

(2) A private child-caring agency shall have a written description of any specific security measures used by the facility and the reasons these measures are necessary to provide appropriate services to children. Descriptions should include use of physical restraints, isolation, seclusion or time out.

(3) Chemical restraints such as mace shall not be used.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0200**

#### **Personal Development**

(1) Residents shall be allowed and encouraged to provide independently for their own personal hygiene needs.

(2) Residents shall be allowed to feed themselves, if able.

(3) Residents shall be encouraged to provide independently for their own grooming.

(4) To the extent they are able, residents shall be encouraged to accept personal responsibility to independently utilize the community resources. Residents who require transportation, supervision or protection while in the community shall have these services provided by the private child-caring agency.

(5) The private child-caring agency shall schedule and make available to residents appropriate recreational and leisure-time activities, both within the facility and in the community.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0210**

### **Periodic Inspections**

(1) SOSCF's licensing coordinator or designee shall visit and inspect every private child-caring agency at least once every two years to determine whether it is maintained and operated in accordance with these rules. A formal report of the inspection will be sent to the private child-caring agency.

(2) The agency may also make other inspections and visitations at unannounced irregular intervals.

(3) Informal visits shall also be made by the agency, with notice to the private child-caring agency, in order that the agency may advise the private child-caring agency with regard to:

(a) Methods of child care;

(b) Types of housing and equipment; and

(c) Records of child care. The purpose of such advice is to offer counsel and assistance with child welfare problems, progressive methods and improvement of service.

(4) The SOSCF's licensing coordinator or designee shall have right of entrance, privilege of inspection, and access to all accounts, records of work, children, physical premises, and staff for the purposes of carrying out periodic inspections and investigations described in this rule.

(5) The State Fire Marshal or authorized representative shall be permitted access to any facilities maintained by the private child-caring agency and records of residents thereof that pertain to fire safety.

(6) An authorized Registered Sanitarian shall be permitted access to the facilities maintained by the private child-caring agency and to any records of the private child-caring agency or residents pertaining to sanitation, for the purpose of conducting a health and sanitation inspection as required in rule 413-210-0020.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0220**

### **Investigation of Complaints**

(1) If any reports concerning abuses, derelictions, or deficiencies in any private child-caring agency become known to SOSCF, SOSCF shall carefully investigate such reports.

(2) If abuses, derelictions, or deficiencies are found by SOSCF through its investigation, the division shall bring them to the attention of the private agency's board of directors or trustees. If they are not corrected within a reasonable time as determined by the SOSCF (based on the type and seriousness of the abuse, dereliction, or deficiency) the SOSCF shall suspend or revoke the private child-caring agency's license subject to the provisions of ORS Chapter 183 and rule 413-210-0230. In addition, SOSCF may impose civil penalties as provided in ORS 418.992 to 418.998.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0230**

#### **License Renewal**

(1) A license is renewable upon the private child-caring agency's submission to the division of an application for renewal prior to the expiration date of the current license.

(2) Submission of an application for renewal before the date of expiration of the license extends the effective date of expiration until SOSCF takes action upon such application.

(3) SOSCF shall not renew the license of the private child-caring agency, or that portion of the license which pertains to a specific licensed facility, if it finds that the private child-caring agency is not in substantial compliance with all applicable laws and rules.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **413-210-0240**

#### **Denial, Suspension or Revocation of License**

(1) SOSCF shall deny, suspend or revoke a private child-caring agency's license where it finds there has been substantial failure to comply with these rules. If a private child-caring agency operates more than one residential facility, SOSCF shall suspend, revoke or deny the license only as it applies to the facility or facilities which are not in compliance with applicable statutes, ordinances and rules. The private child-caring agency may appeal any decision to deny, suspend, or revoke a license subject to the provisions of ORS Chapter 183.

(2) Where SOSCF determines that the private child-caring agency's non-compliance poses an imminent danger to the health or safety of children or the public, SOSCF may immediately suspend or revoke the license without a hearing. If the licensee demands a hearing without having been given 90 days notice, SOSCF will provide the licensee with a hearing as soon as practicable.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

## **413-210-0250**

### **Exception and Variance**

(1) The private child-caring agency seeking an exception shall submit a written statement to SOSCF stating from which rule the exception is sought, and the reasons for the exception.

(2) SOSCF may approve an exception to these rules, if it determines that the private child-caring agency cannot comply with the rules and such non-compliance does not pose a threat to the health, safety or welfare of the residents. In determining whether to grant an exception, SOSCF shall take into consideration:

- (a) The private child-caring agency's value as a resource;
- (b) Innovative approaches of the private child-caring agency;
- (c) The availability of other resources for the residents;
- (d) The significance of the rule or exception sought;
- (e) Oregon State Statutes; and
- (f) Federal laws and regulations.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

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

### **Rate Classification Process**

## **413-210-0300**

### **Purpose**

The purpose of this policy is to have a standardized procedure for contracted providers and the State Office for Services to Children and Families (SOSCF) to consider rate classification requests.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.495

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

## **413-210-0310**

### **Definitions**

(1) "Provider" means a licensed child caring agency that contracts with SOSCF.

(2) "Rate Classification System" means a three level designation which indicates the level of supervision, treatment, and family involvement that the provider is rated for by SOSCF.

(3) "Rate Committee" means a committee composed of three members representing the State Office for Services to Children and Families and two members representing providers that make decisions regarding the rate paid to residential treatment providers.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.495

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

## **413-210-0320**

### **Policy**

The Rate Committee believes that providers should be appropriately classified and should provide the level of services identified in their purchase of care contract. Since the implementation of the Rate Classification System, there have been instances where it was appropriate to consider a change in classification due to a change in population SOSCF needed to have served or a change in the type of services SOSCF wished to purchase. There is a need to have a defined process to consider rate classification requests.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.495

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

## **413-210-0330**

### **Procedure**

- (1) A Provider and/or SOSCF may present a request for rate classification to the Rate Committee at any time.
- (2) Requests need to be in writing, sent to the Chairperson of the Rate Committee, and must include the following:
  - (a) A description of the population currently being served, and how and why the population served has changed since the program was last classified;
  - (b) A description of the level and type of service currently being provided, and how this differs from the level and type of service the program is classified to serve;
  - (c) The proposed classification and the rationale for making a change in classification;
  - (d) A statement of the fiscal impact on the program of providing services at the requested classification level;
  - (e) A statement by SOSCF of the fiscal impact on SOSCF if the classification were changed, including an indication of how any rate change will be funded;
  - (f) A recommendation by SOSCF as to whether the rate classification request should be approved.
- (3) The Rate Committee shall consider the request for classification at a special or regular meeting during which the

provider and SOSCF staff shall have an opportunity to present information and answer Rate Committee member's questions.

(a) The Rate Committee shall make a ruling on the proposed classification or delay a decision until further information is made available by the provider and/or SOSCF. The decision of the Rate Committee is final;

(b) If the proposed classification increases the program's rate and funding is not available to pay the provider at the current "paid" rate for the new classification level, the Committee may give conditional approval of the classification subject to action by the Legislature or Emergency Board to provide the needed funding.

(4) The Committee may request that SOSCF appoint a review team to conduct an on-site review of the provider's program to obtain additional information regarding the request for classification. Review activities may include:

(a) A fiscal audit by SOSCF auditor;

(b) Determination of the level of services currently being provided;

(c) An assessment of whether the provider has or can obtain and put in place within a reasonable period of time, the personnel, treatment methods, administrative management, and any other resources necessary to provide effective services at the proposed rate level;

(d) Other information relevant to the rate classification request; and

(e) The Rate Committee shall consider the additional information resulting from the study requested of SOSCF at a special or regular meeting may take action the proposed classification in accord with 413-210-0320(3).

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.495

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

## **413-210-0340**

### **Exceptions**

There are no exceptions to these procedures.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.495

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

## **Treatment Foster Care**

## **413-210-0400**

### **Purpose**

Treatment Foster Care is a program for children, youth and their families whose out-of-home treatment needs can be

met through services delivered by treatment foster parents, and/or professional staff trained, supervised and supported by an agency. These rules set standards for the operation of a Treatment Foster Care Program. All agencies under contract with SOSCF to provide this service, or proposing to provide this service, must adhere to these rules.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-210-0410**

### **Definitions**

- (1) "After Care": The plan which outlines the services and resources that will be needed when the child leaves the treatment foster care program.
- (2) "Agency": A public or private organization which contracts with SOSCF to provide treatment foster care services.
- (3) "Agency Staff": A person employed by the treatment foster care program who gives support to the treatment foster parent or the child/family, (for example, the treatment specialist or clinical supervisor).
- (4) "Clinical Supervisor": A person employed by the treatment foster care program who provides support, supervision and consultation to the treatment specialist and/or the TFC foster parent.
- (5) "Crisis-On-Call": Twenty four hours-a-day, seven days-a-week availability, either by phone or in person, for the provision of emergency and/or back-up services.
- (6) "Matching": The process of placing the child in a home that can specifically meet the individual treatment needs of that particular child. These needs include, but are not limited to, a foster parent's ability to speak the language of the child, the home's proximity to the child's family, and same race, ethnicity and culture.
- (7) "Permanent Plan": A plan designed to provide a safe and permanent family resource with the parents or other people who will assume legal responsibility for the child during the remaining years of the child's dependency.
- (8) "Respite Care": A temporary arrangement of 12 hours or more, to allow the treatment foster parent(s) time away from the child.
- (9) "Treatment": The coordinated provision of services designed to produce a planned outcome in a person's behavior, attitude or general condition. Treatment is based on a thorough assessment of factors contributing to the attitude, condition or behavior.
- (10) "Treatment Foster Care": The model of treatment in which a child receives treatment in the foster home from the foster parent who is under the supervision and support of a professional therapist of an identified program.
- (11) "Treatment Foster Care Program": A separately identifiable unit of a larger agency or an independent agency itself.
- (12) "Treatment Foster Parents": In-home treatment providers of a TFC program who implement treatment strategies identified in the treatment plan in addition to carrying out their regular foster care responsibilities.
- (13) "Treatment Plan": A course of individualized treatment which considers the child's needs and is developed by the treatment foster care program in conjunction with the treatment foster parent(s) and SOSCF.
- (14) "Treatment Specialist": A person employed by the treatment foster care program who provides training,

supervision, support and consultation to the TFC foster parent.

(15) "Treatment Team": Those people concerned with the care and treatment of the child. The team may be comprised of, but is not limited to, the treatment foster parent(s) and the treatment specialist.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-210-0420**

### **Policy**

Children and youth appropriate for treatment foster care have serious emotional and/or behavioral disorders. The level of supervisory treatment and family intervention needs of these children is comparable to those served in residential treatment facilities. Treatment foster care consists of:

- (1) A treatment foster care agency with staff who give support to the treatment foster parent and the child/family; and
- (2) Treatment foster families who implement treatment strategies identified in the treatment plan in addition to carrying out their regular foster care responsibilities.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-210-0430**

### **Treatment Foster Care Program**

A treatment foster care program must be a separately identifiable unit of a larger agency or be an independent agency itself.

(1) Eligibility.

(a) The program must meet OARs 413-210-0400 through 413-210-0480 to be eligible to be a treatment foster care program;

(b) Selection of a treatment foster care program will be made by the Department of Human Resources based on current need and ability to fund the program.

(2) Administration. The program must designate an individual who is responsible for the provision and oversight of all essential tasks and services described in these rules.

(3) Staff:

(a) Clinical supervisor's responsibilities/qualifications include:

(A) Clinical Supervision. The supervisor provides regular support, consultation and guidance to the treatment specialist.

The supervisor to treatment specialist ratio must not exceed one to five;

(B) Treatment Planning. The supervisor takes ultimate clinical responsibility for the development of a comprehensive treatment plan based on a thorough case assessment for each child/youth admitted to the program. She or he supervises ongoing treatment planning and implementation for each child, evaluating all progress reports and treatment plan updates;

(C) Treatment Team. The supervisor oversees and supports the treatment specialist as leader of the treatment team and shares ultimate responsibility for team plans and decisions;

(D) Crisis On-Call. The program provides coordination and back-up to assure that 24-hour on-call crisis intervention services are available and delivered as needed to treatment parents, children, youth and families;

(E) Qualifications. The supervisor must have a graduate degree in a human service field plus a minimum of two years' experience in the placement/treatment of children and families. The supervisor must be familiar with clinical research and practice. If the education and experience of the supervisor are not recognized, additional clinical consultation shall be provided. Clinical consultants must be licensed or otherwise recognized as qualified by the state in the human service field.

(b) Treatment specialist's responsibilities/qualifications include:

(A) Treatment Team. The treatment specialist takes primary day-to-day responsibility for leadership, training, support and consultation to the treatment team. The treatment specialist organizes and manages all team meetings. If the treatment specialist is prevented from participation in a team meeting by a crisis or personal leave reasons, the supervisor takes over that responsibility. As team leader, the treatment specialist manages team decision-making regarding the care and treatment of the child and services to the child's family;

(B) Treatment Planning. Under the supervision of the clinical supervisor, the treatment specialist takes primary responsibility for the preparation of each child's written comprehensive treatment plan and of quarterly written updates of the plan. The treatment specialist signs off on treatment plans and updates. The treatment specialist seeks to inform and involve other team members in this process including treatment parents, the child and the child's family;

(C) Support/Consultation to Treatment Parents. The treatment specialist will provide regular support and technical assistance to treatment parents in their implementation of the treatment plan and with regard to other responsibilities they undertake. The treatment specialist will provide at least weekly contact in person with the treatment parent of each youth on his/her caseload. The treatment specialist will visit the treatment home to meet with at least one treatment parent no less than once monthly;

(D) Caseload. The maximum number of youth that may be assigned to a single individual is ten;

(E) Contact with Child/Youth. The treatment specialist or other program staff shall regularly spend time, outside the presence of the treatment foster family, with children in care to allow them the opportunity to communicate special concerns, to make a direct assessment of their progress, and to monitor for potential problems in the current placement. Such face-to-face contact must occur at least twice monthly;

(F) Support/Consultation to the Families of Children/Youth. The treatment specialist will arrange for and encourage regular contact and visitation between children and their parents and other family members and provide for or coordinate treatment or training to the family as specified in the treatment plan. The treatment specialist will seek to involve the child's parents when appropriate, in treatment team meetings, plans and decisions and to keep them informed of the child's progress in the program;

(G) Community Liaison and Advocacy. The treatment specialist will determine which community resources are required and how they may be used to meet the objectives of the child's treatment plan. The treatment specialist will advocate for and coordinate the provision of such services and will provide technical assistance to community service providers as needed to maximize the benefit of these services to the child;

(H) Crisis On-Call. The treatment specialist or other professional staff, as designated by the agency, will be on-call to treatment parents, children and their families on an around-the-clock, seven-day-a-week basis;

(I) Qualifications. The treatment specialist shall have at a minimum a B.A. or B.S. degree in a human service field plus two years direct experience working with children and families, or an A.A. degree with three years experience working with children and families.

(4) Staff Training and Support:

(a) Agency Staff Development. Professional staff shall participate in a minimum of 40 hours of preservice training on treatment foster care prior to assuming responsibilities and participate in ongoing training as scheduled by the agency throughout the year. At a minimum there will be two hours per month of professional consultation provided by a licensed or qualified professional in the human service field;

(b) Liability Insurance. Professional staff shall be covered by liability insurance.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-210-0440**

### **Treatment Foster Parents**

Treatment foster parents serve as in-home treatment agents implementing strategies specified in a child's treatment plan including support of the child's family relationships.

(1) Qualifications and Selection:

(a) Treatment foster parent(s) must be certified as a SOSCF foster home as defined in OARs 413-200-0100 through 413-200-0190 (Certification Standards for Foster, Adoptive and Family Group Homes) or be approved as a foster home by the Treatment Foster Care Program; and

(b) Treatment foster parent(s) must be employees of, or have a contract with, a Treatment Foster Care Program;

(c) Prospective applicants, foster parent(s) and members of the household 18 years of age and older shall consent to a criminal record check by the agency. SOSCF may require a criminal record check for any employee, volunteer, or other adult having regular contact with children placed in the foster home. SOSCF may require a criminal history on members of the household under 18 years if there is reason to believe that member may pose a risk to children placed in the home. SOSCF may require that the applicant(s)/foster parent(s)/member(s) of the household provide fingerprints and processing fees for the purpose of a criminal record check;

(d) Language. At least one treatment parent must demonstrate effective communication in a language of the child in the treatment family's care, and in a language of the program/treatment team with which they work;

(e) Age. Treatment parents must be at least 21 years of age;

(f) Health. The physical health of treatment parents must be equal to the stress inherent in the care of a special needs child/ youth as evidenced by a physician's statement to that effect;

(g) Transportation. Treatment parents must have access to reliable transportation. If using a car, they must have a valid driver's license and document ownership of liability insurance as required by law;

(h) Physical Discipline. Treatment parents must agree not to use physical discipline with children placed in their care and to adhere to the agency's policies regarding the use of discipline generally.

(2) Responsibilities.

(a) List of Responsibilities. Prospective treatment parents must be provided with a written list of duties clearly detailing their responsibilities both as treatment parents and as foster parents prior to their approval by the program;

(b) Treatment Responsibilities:

(A) Treatment Planning. The treatment parent shall assist the treatment specialist and other team members in the development of treatment plans for the child or youth in their care;

(B) Treatment Implementation. The treatment parent shall assume primary responsibility for implementing the in-home treatment strategies specified in the youth's initial and comprehensive treatment plans and revisions thereof;

(C) Treatment Team Meetings. The treatment parent shall work cooperatively with other team members under the leadership of the treatment specialist and attend team meetings, training sessions and other gatherings required by the program or by the child's treatment plan;

(D) Record Keeping. The treatment parent shall systematically record information and document activities as required by the agency and the standards under which it operates;

(E) Contact with Child's Family. The treatment parent shall assist the child in maintaining contact with his/her family and work actively to support and enhance these relationships, unless contraindicated in the youth's treatment plan;

(F) Permanency Planning Assistance. The treatment parent shall assist with efforts specified by the treatment team to meet the child's permanency planning goal(s);

(G) Community Relations. The treatment parent shall develop and maintain positive working relationships with service providers in the community such as schools, departments of recreation, social service agencies, and mental health programs and professionals;

(H) Advocacy. The treatment parent, in concert with the agency treatment specialist and other staff, shall advocate on behalf of the child to achieve the goals identified in the child's treatment plan, to obtain educational, vocational, medical and other services needed to implement the plan, and to assure full access to and provision of public services to which the child is legally entitled;

(I) Notice of Request for Child Move. Unless a move is required to protect the health or safety of the child or other treatment family members, the treatment parent shall provide at least 14 day's notice to program staff if requesting a child's removal from the home so as to allow a planful and minimally disruptive transition. SOSCF shall be notified of such change.

(c) Foster Parent Responsibilities. Treatment foster parents must fulfill the responsibilities of foster parents as defined in OARs 413-200-0100 through 413-200-0190.

(3) Treatment Foster Parent Training:

(a) Training of treatment parents shall be a systematic, planned and documented process which includes competency-based skill training and is not limited to the provision of information through didactic instruction;

(b) Preservice Training. Prior to the placement of children in their homes, all treatment parents must satisfactorily complete 20 preservice hours of primarily skill-based training consistent with the agency's treatment methodology and the service needs of the children;

(c) Inservice Training. A written, agency approved, professional development plan shall be on record in each agency which describes the content and objectives of inservice training for all agency treatment parents. All treatment parents must satisfactorily complete a minimum of 40 hours of inservice training annually based on the training needs identified in the agency's professional development plan and the specific services treatment parents are required to provide. Inservice training should emphasize skill development, as well as knowledge acquisition, and may include a variety of formats and procedures including in-home training provided by agency casework staff;

(d) Evaluation of Training. All treatment parents must be provided an opportunity to evaluate mandated training.

#### (4) Treatment Parent Support.

(a) Information Disclosure. All information the TFC program receives concerning a child to be placed with a treatment family shall be shared with and explained to the prospective family prior to placement. Agency staff will discuss with the prospective treatment parents the child's strengths and assets, potential problems and needs, and initial intervention strategies for addressing these areas. As full treatment team members, treatment parents have access to full disclosure of information concerning the child. With this access goes the responsibility to maintain agency standards of confidentiality;

(b) Respite. Treatment parents shall have access to both planned and crisis respite care for their treatment foster children by providers who have been selected and trained by the program in providing respite care. Respite providers must be informed of the youth's treatment plan and supervised in their implementation of the in-home strategies it specifies;

(c) Counseling. Treatment parents and their children shall have assistance in finding counseling when requested, for personal issues/problems caused or exacerbated by their work as treatment parents. Such issues may include, for example, marital stress, or abuse of their own child(ren) by a child placed in their care by the TFC program.

(d) Support Network. The TFC program shall facilitate the creation of formal or informal support networks for its treatment parents as, for example, through the coordination of parent support groups or treatment parent "buddy" systems;

(e) Financial Support. Agency financial support to treatment parents must cover the cost of care as well as payment for the difficulty of care associated with their treatment responsibilities and the special needs of the children they serve;

(f) Damages and Liability. The program must have a written plan concerning compensation for damages done to a treatment family's property by children placed in their care. This plan must be given and explained to prospective treatment parents as part of their preservice orientation. The agency must provide or assist treatment parents in obtaining liability coverage. Treatment parents are required to document that they carry home/apartment, automobile (if they have a motor vehicle), property and liability insurance themselves in addition to any liability and damage coverage provided by or through their TFC program.

(5) Treatment Home Capacity. The number of treatment foster care children placed in one treatment home shall not exceed two unless there is a need to place a sibling group. The total number of children living in a treatment foster home, including the foster parents' own children, will not exceed five. Exceptions to the total number of children including the foster parents' own children will be granted to foster homes who provided treatment foster care prior to July 1, 1992. Treatment parents have the right to refuse placement of any child they feel is inappropriate for the home or endangers the safety of children currently in the home. On a case-by-case basis, a treatment foster care child may be eligible to remain in the treatment foster care home as an on-going foster care placement upon completion of the treatment foster care program if there is special justification and it is in the best interests of the child. At no time will there be more than one on-going foster care placement in a treatment foster care home with two treatment foster care children.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

**413-210-0450****Children, Youth and Their Families**

## Placement and Support.

- (1) **Matching.** Placement of a child will be made only after careful consideration of how well the prospective treatment family will meet the child's needs and preferences and will represent a reasonable "match" for the child.
- (2) **Placement Decisions.** Children, youth and their families shall be consulted as to their preference for a child's placement with specific treatment families.
- (3) **Assessment.** To achieve sound placement decisions and planning for relevant treatment services to children/youth, program staff must receive and review the following case material prior to a child's admission: current case plan(s), legal documents and relevant police records, etc., social history information, previous and current (within a year of referral date) psychological assessments if available, school information, medical information, previous placement history and outcomes, potential problems and information on the child's/youth's skills, interests, talents and other assets.
- (4) **Records.** For children/youth admitted to treatment foster care, an individual case record will be kept which includes the above information as well as the following:
  - (a) Personal identifying information;
  - (b) A pre-admission psychological evaluation (if available);
  - (c) A child social and family history;
  - (d) Educational history including school reports and available standardized test results;
  - (e) Medical information including sight, hearing and dental exam reports, current medications and allergies, child's physical description, immunization records, medical history and Medicaid/SSI number, if applicable;
  - (f) Authorizations for routine and emergency medical care, dental care and other medical procedures;
  - (g) Other required authorizations such as authorization for out-of-state travel, participation in special activities, publicity releases, etc.;
  - (h) Correspondence with/from agencies involved with the child, including a statement of the placing agency's service goals for the child and family;
  - (i) The initial treatment plan;
  - (j) The comprehensive treatment plan;
  - (k) Progress reports;
  - (l) Case notes including contacts with the child's family/extended family;
  - (m) Incident logs or records on serious behavior problems, police and relevant juvenile court records and reports when possible, illnesses or injuries.
- (5) **Child's Access to Agency Staff.** Treatment foster children/youth shall have access to designated program staff at all

times to discuss concerns including any problems they are experiencing with their treatment family. Provider staff will provide regular one-to-one contact with each child on at least a twice monthly basis.

(6) **Child-Family Contact/Relationships.** Unless specifically proscribed by court or custodial agency decision, treatment foster children/youth shall have access to regular contact with their families as described in the treatment plan. The TFC program shall work actively to support and enhance child-family relationships and work directly with families toward reunification where that is the goal of the placing agency. Specific activities to be undertaken in this regard shall be described in the child's treatment plan.

(7) **Rights of Children and Youth in Treatment Foster Care.** Children in treatment foster care have the same basic rights as all foster children including the right to privacy, to humane treatment, to adequate shelter, clothing, nutrition, essential personal care items and allowances, and access to religious worship services of their choice. The program shall explain to each child what his/her rights are in a manner consistent with the child's level of understanding, and make this information available to the child in writing.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-210-0460**

### **Treatment**

(1) **Initial Treatment Plan.** An initial written treatment plan shall be completed by the time of the youth's admission to the program. The plan shall describe specific tasks to be carried out by the treatment team during the first 45 days of placement. It shall describe strategies to ease the child's adjustment to the treatment home and to directly assess the child's strengths, skills, interests and needs for treatment within the home. The initial plan should assess short-term goals for the first 45 days of placement, identify potential problems likely to be encountered with the child and specify how the treatment team is to respond to them.

(2) **Comprehensive Treatment Plan.** A written comprehensive treatment plan shall be completed for each youth admitted within 45 days of admission addressing the long-term goals of treatment including criteria for discharge, projected length of stay in the program, projected post-TFC setting and aftercare services. It shall address the child's permanency plan, regarding the goals of placement. The plan shall identify and build on the child's strengths and assets as well as respond to presenting problems. The comprehensive treatment plan shall include proactive short term treatment goals which are measurable and time-limited along with specific strategies for promoting and regularly evaluating progress.

(3) **Quarterly Progress Reports/Updates.** Each child's/youth's treatment plan shall be specific, reviewed via quarterly reports and revised as necessary. Quarterly reports shall document progress on specific short term treatment goals, describe significant revisions in goals and strategies, and specify any new treatment goals and strategies initiated during the period covered. The quarterly progress report shall summarize progress and note changes regarding long-term placement and treatment goals. The interagency team members will be invited to participate in the process to review and approve the quarterly report.

(4) **Aftercare Plan.** All planned discharges from treatment foster care will be reviewed and discussed by the treatment team, including the child/youth and family. An approved aftercare plan shall be ready for implementation prior to the child's planned departure from the program. The plan shall specify the nature, frequency and duration of aftercare services and designate responsibility for service delivery. The TFC program shall provide these aftercare services directly or provide consultation to the person/ agency assuming responsibility for working with the youth following discharge from the program. An aftercare plan also shall be developed in a timely fashion for children whose discharge is not planned, with follow-up services provided or assisted as described here.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-210-0470**

### **Program Statement**

All treatment foster care programs shall have a written program statement which describes its mission, organizational structure, services, policies, record-keeping and evaluation procedures. The program statement shall describe:

- (1) The agency's treatment philosophy and the specific treatment modality(ies) it employs.
- (2) The services the program provides.
- (3) The children it is designed to serve with regard to age, gender, geographic service area and types of special needs the program is prepared to address. Clients served must exhibit an identifiable special need.
- (4) A staffing pattern which allows for the intensity of service required in treatment foster care and designates the individual responsible for program administration.
- (5) How the services to be provided will reflect the cultural diversity of the community and be responsive to the needs of the community.
- (6) A policy assuring that the program staff and treatment parents adhere to practices that respect and promote positive family relationships and positive cultural or ethnic identity.
- (7) A policy on discipline and physical restraint which includes a description of acceptable methods.
- (8) A policy on the use of physical restraint prohibiting the use of mechanical restraint or seclusion (e.g., in a locked room) and stating that passive physical restraint is justified only to protect the child or others from injury or to prevent serious damage to property. The policy shall further state that if necessary and justified, physical restraint will be used only by persons who have been trained in its use and will not be employed as a punishment.
- (9) The plan for crisis intervention procedures.
- (10) The protocol for investigating, responding to and reporting allegations of misconduct and/or abuse by treatment parents, program agency staff, or their children.
- (11) The policy advising children and parents of their rights and the grievance procedures available to them.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-210-0480**

### **Program Evaluation**

(1) **Documentation of Service Delivery.** A treatment foster care program must clearly document delivery of all services described in its program statement as well as compliance with all minimum operating standards described above.

(2) **Individual Treatment.** Treatment foster care programs must document the implementation of all treatment plans and track progress on all long and short-term treatment goals throughout each child's/youth's tenure in care.

(3) **Performance Evaluations.** Programs will provide to treatment parents and professional staff written performance evaluations at least annually which include descriptive assessments of their performance of specific job responsibilities and goals for improved performance.

(4) **Program Evaluation.** TFC programs shall have a program evaluation plan which describes information to be collected, summarized and analyzed at least annually. The plan will identify who will have access to the evaluation and how it will be used. The evaluation shall include demographics on current children, youth and their families, treatment families and professional staff; aggregated information describing in-program events such as placement disruptions; and a summary of information collected through follow-up tracking of children/youth discharged from the program. The plan also will provide for periodic evaluations of program services by treatment parents, children/youth and their families.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **Residential Schools**

### **413-210-0500**

#### **Purpose**

(1) OAR 413-210-0500 through 413-210-0620, as printed here or as they may be amended or added to, set forth the State Office for Services to Children and Families standards to be used for reviewing and, if appropriate, certifying those private schools or other organizations offering residential programs for children which are subject to the provision of ORS 418.327.

(2) SOSCF has the duty and function to attempt to obtain and consider criminal offender information on certain employees and volunteers of a private residential school in order to protect the best interest of children.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

### **413-210-0510**

#### **Definitions**

(1) "Criminal Offender Information" is information received from the Oregon State Police through the Law Enforcement Data System, or other law enforcement agencies or courts, including records of arrests, convictions and disposition of criminal charges including dismissal, sentencing, confinement and release, and includes the OSP

## Computerized Criminal History System.

(2) "School and Residential School" means any private (i.e., non publicly operated) school which assumes responsibility for the residential care of all or any students during the non school hours. "Responsibility for" includes providing, administering, or supervising the residential quarters. The terms "School" and "Residential School" include any persons or private or parochial (i.e., non-publicly-operated) facilities or other entities which offer planned, scheduled academic or vocational course work or practice, for the purposes of educating persons under age 18 in subjects and to the extent that, if courses were satisfactorily completed, the course work or practice would be generally accepted by the public or private schools, colleges, or universities in the state as resulting in or contributing to the certificates, diplomas, or degrees generally offered by such public or private schools, colleges, or universities; but the terms do not include any facility exempted by subsection (8) of ORS 418.327 or any recreational camp affiliated with a national organization including, but not limited to, the Boy Scouts of America, the Girl Scouts of America, the YMCA or the YWCA.

(3) "Staff" means an individual applying for a salaried position with a private residential school, or having a salaried position and being considered for an assignment within a private residential school.

(4) "Volunteer" means an individual applying for or requesting to work on assignments for a child-caring agency on an unsalaried basis.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## **413-210-0520**

### **Certificate**

(1) No person or organization shall operate a residential school without a current, valid Certificate of Approval issued by the State Office for Services to Children and Families.

(2) Upon finding that a residential school meets SOSCF's standards for the physical health, care, and safety of children as set forth in rules 413-210-0530 through 413-210-0610, the State Office for Services to Children and Families shall issue a Certificate of Approval.

(3) The certificate of approval shall specify the location and type of school authorized to provide residential care. All certificates expire on June 30 of each year unless sooner suspended or revoked, except as provided in ORS 418.327.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## **413-210-0530**

### **Administration**

(1) SOSCF shall review all Articles of Incorporation or other legal materials describing the school and its stated purpose. After review, the agency shall determine when a school shall be classified as a residential school, or some other appropriate category of residential care for children.

(2) There shall be written policies for the administrator and staff which shall include:

(a) Personnel policies and procedures;

(b) Program details and operational procedures; and

(c) Emergency procedures. These shall be kept current and be made easily accessible to all staff.

(3) Staff:

(a) School staff and volunteers shall be responsible, mature persons who demonstrate the knowledge and ability to care for children within the generally accepted professional standards of child care;

(b) In disciplining children, school staff and volunteers shall not use harsh punishment. Harsh means spanking, belting, physical/mental abuse, acts designed to humiliate, degrade, or undermine a child's self-respect, or punishment in the presence of a group, deprivation of parental visits, or placing the child in lock-up for punishment;

(c) School staff shall utilize staff and volunteers whose presence does not jeopardize the health, safety, or welfare of children;

(d) Board of Directors:

(A) The board of directors or school will not deny employment, promotion, assignment, or assignment as a volunteer, to a person solely for the reason that person has been convicted of a crime, but will consider the relationship of the facts supporting the conviction to the specific occupational requirements of the job assignment;

(B) In determining a person's suitability for employment or a volunteer, the board of directors of the school will consider the facts relating to any crime, with particular concern to convictions of child abuse, offenses against persons, such as homicide, assault, kidnapping, sexual offenses (rape, sodomy, sexual abuse); offenses against family, such as incest, abandonment of a child, neglect, prostitution, and related offenses, or other offenses against public health and decency, offenses involving narcotics and dangerous drugs including distribution of controlled substance to minors. The board of directors or school will take this information into consideration in judging a person's fitness to work with children and their inclination to behave in such a way as to endanger the welfare of children;

(C) If a person has been arrested or charged with one of the above crimes, with final disposition of the arrest and charge not yet reached, the board of directors or school may withhold its decision to hire or assign the person pending the outcome of the arrest or charge;

(D) If a person was involved in a crime other than those listed above, or the charge on one of the above crimes was dismissed, all intervening circumstances and other background information will be considered in judging a person's fitness to work with children and their inclination to behave in such a way as to endanger the welfare of children;

(E) The board of directors or schools' refusal to hire or assign a person will be based upon records from the court(s) of original record;

(F) Any refusal to hire, assign a person by the board of directors or school under rule 413-210-0530 will be subject to the same rights and procedures of appeal as otherwise pertain to employees or volunteers.

(4) Criminal Offender Information:

(a) SOSCF has the duty and function to obtain and consider criminal information, including police files, on applicants for administrator and current administrator of the school at the time of annual licensing, or when SOSCF believes an arrest has occurred:

(A) All criminal offender information received from the State Police will be available only to the SOSCF section

responsible for certification of private residential schools, in accordance with applicable State Police rules and procedures relating to criminal offender information;

(B) SOSCF will advise the board of directors or school of applicants or current administrator that have criminal records.

(b) The administrator will be responsible for obtaining background information on school employees who have contact with, care for, or oversee children. SOSCF will obtain criminal information on an employee or applicant at the request of the administrator, its Board of Directors, or the certification unit of SOSCF.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## **413-210-0540**

### **Social Living**

(1) Children shall be grouped as much as possible according to age.

(2) The child's religious faith shall be respected.

(3) Residential supervision shall be provided as follows:

(a) Ratio of child care staff in living units shall be at least one staff member to 20 children;

(b) During sleeping hours, one staff member must be readily available, if needed, and at least one other person available for backup in case of emergency.

(4) No staff shall be hired or retained if there is known history or incidence of child abuse, child molestation, or unconventional behavior which might have a detrimental effect on a child(ren).

(5) There shall be no harsh punishment of children. Harsh means unacceptable punishment that in the determination of SOSCF exceeds the norms of commonly acceptable discipline that might be used by a family. Harsh punishment includes:

(a) Slapping, spanking, belting, marching, standing rigidly in one spot, or any physical abuse;

(b) Acts designed to humiliate, degrade, or undermine a child's self-respect (including ridicule, shaming, name calling, or punishment in the present of the group);

(c) Deprivation of parental visits;

(d) Isolation or lock-up.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## **413-210-0550**

## Health and Safety

- (1) Each school shall post written directions for dealing with medical or other emergency problems with emergency phone numbers posted at all phones. All staff shall be familiar with these.
- (2) A licensed physician shall be available on reasonable notice for care of residents.
- (3) Medical consent forms shall be obtained from parents or guardians for all residents, which are acceptable to physicians and hospitals. Such forms must be readily available to staff.
- (4) Children who become ill and require nursing services shall be provided such service at the school, or transferred without delay to an appropriate facility.
- (5) At least one staff shall hold a current advanced American Red Cross First Aid Card or its equivalent.
- (6) A standard 24 unit First Aid Kit shall be placed in all living areas, offices, and vocational shops.
- (7) Fire drills shall be conducted at irregular times, at a minimum of once a month in all buildings. A written record of drills shall be maintained.
- (8) The **Oregon Safety Code** for Places of Employment shall be complied with.
- (9) A staff training safety program shall be conducted on a regular basis.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## 413-210-0560

### Living Units

- (1) All new construction or major remodeling floor plans of living quarters shall be submitted to SOSCF central office for review and approval of items listed below in this rule prior to construction.
- (2) Living and dining areas in each unit shall be provided large enough to accommodate all residents at one time. Such room(s) must have mechanical ventilation or a window which can be opened.
- (3) There shall be outdoor recreational space for all children with equipment suitable for the ages and number of children.
- (4) There shall be indoor recreational space, including area(s) for arts and crafts, with a minimum of 100 sq. ft. per child.
- (5) A private or semi-private room shall be provided each child, or dormitory-type rooms may be used with prior approval of SOSCF central office.
- (6) When common sleeping areas are used, it is recommended that not more than 20 children be together. In no case shall the number exceed 25.
- (7) All sleeping rooms for children shall be outside rooms with adequate sleeping space, ventilation, and lighting as required by public health standards. Each child shall have a separate bed, with no less than 60 square feet per child,

excluding closet space, with at least three feet between beds.\* Individual closet and storage for personal belongings shall be provided for each child in his sleeping room.

\***NOTE:** Exceptions to the 60 square feet per child space requirement will be reviewed by SOSCF central office and allowed if crowding is not evident and other living space is available which can substitute.

(8) When children's sleeping rooms are on more than one floor or in more than one building, a proportionate number of toilets, hand washing sinks, and bathing facilities shall be on each floor and in each building.

(9) Bathroom facilities, aside from meeting specific public health requirements, shall provide at least one toilet, bathtub or shower, or wash basin for each seven children in the unit, with suitable provision for privacy:

(a) There shall be hot water at all shower and hand washing facilities;

(b) Toilet and shower rooms shall have walls and floors of impervious material and shall be adequately ventilated. If toilet room windows can be opened they shall be operational;

(c) Use of wooden racks over shower floors is prohibited. If impervious mats are used they must be cleaned and dried daily;

(d) Bath and toilet rooms shall be properly lighted, measuring no less than ten foot candle power;

(e) In gang-type lavatories, paper towels or air blowers shall be provided. In shower rooms, soap and personal towels shall be provided each child. Soap shall be provided for each lavatory;

(f) Toilet seats shall be open front or U-shaped and made of non-absorbent materials, with easily cleanable finish. All seats, hinges shall be maintained in good repair.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## 413-210-0570

### General Requirements for Buildings

(1) All buildings shall comply with state and local codes, including structural, electrical, plumbing, water, sewage, solid waste, and zoning.

(2) By June 30, 1978, and thereafter, all existing buildings having sleeping areas must be equipped with fire alarm and particles of combustion detection systems as specified in the **National Fire Protection Association (NFPA) Standards No. 72A and 72E, 1974 editions**. The required fire detectors shall be installed in all sleeping areas and paths of exit travel.

(3) Prior to use, all new or remodeled facilities shall be equipped with fire alarm and detection systems, as specified in section (2) of this rule.

(4) Plans and installations of the above required systems shall be approved by the State Fire Marshal or his designated representative.

(5) All buildings having sleeping areas in them shall be equipped with emergency exit lighting. Emergency lighting shall be composed of an electrical circuit(s) used only for exit illumination with two independent electric sources so on failure of one the other will operate automatically. One source shall be a public utility or similar outside power source

and the other an approved storage battery, automatically charged. Unit devices with individual batteries providing the same functions as above are acceptable. In the event of utility failure, there shall be emergency lighting available for at least one half hour of one foot-candle measured at the floor of exit systems.

- (6) Plans for new or remodeled buildings shall be approved by the State Building Division, State Department of Environmental Quality, and SOSCF central office before contracts are let or construction begun.
- (7) Both new and existing buildings shall be of sound and durable construction, well maintained, with special attention to fire-resistant materials, fire prevention systems and protective devices, and with furnishing of comfortable design.
- (8) The buildings shall be ventilated by natural or mechanical means and have a heating capacity of maintaining a mean temperature of 68°F. at a point 24 inches above the floor of rooms.
- (9) Window screens shall be no less than 16 meshes per linear inch.
- (10) All screen doors shall be equipped with self-closing devices which do not restrict exit ways.
- (11) There shall be no exposed light bulbs in permanently wired fixtures.
- (12) Exposed non-current carrying metal parts of cord-and-plug connected equipment shall be grounded with a grounding conductor in the flexible cord terminating in a grounding plug.
- (13) Flexible cord shall not be used as a substitute for fixed wiring of a building.
- (14) Each disconnecting means for motor and appliances and each service feeder or branch circuit shall be legibly marked to indicate its purpose.
- (15) Floors shall be clean and in good repair, so slipping is minimized at entrances or other areas when wet. All interior surfaces shall be readily cleanable.
- (16) Corridors shall be kept unobstructed; storage of supplies in corridors is prohibited.
- (17) Stairs shall be in good repair, with handrail. Storage on stairs or stairwells is prohibited.
- (18) Storage for combustibles shall be separated from other areas and be free from sources of ignition.
- (19) All dangerous cleaning supplies, pesticides, solvents, medicines, shall be stored in well-labeled containers in a locked area, away from food supplies and inaccessible to children.
- (20) There shall be no painting with lead paint in kitchen or food storage areas.
- (21) All equipment and furniture shall be clean and in good repair.
- (22) All clean linen shall be stored in clean cupboards with soiled linen in a separate area, away from food preparation and storage areas.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

**413-210-0580**

**Food Service**

- (1) Requirements of **State Sanitary Code for Eating and Drinking Establishments** shall be met in the preparation, storage, and service of food.
- (2) All resident activities in food preparation areas shall be under the direct supervision of the staff.
- (3) A food service plan, including daily menus, shall be written at least one week in advance. Meal records of the previous three weeks shall be kept for SOSCF inspection.
- (4) Meals shall be nutritionally adequate, according to current dietary allowances of **Food & Nutrition Board of National Research Council** adopted January 11, 1975.
- (5) Serving of raw milk is prohibited.
- (6) No home-canned vegetables, meats, or fish shall be stored or served by the facility. This does not prohibit freezing of produce nor canning of fruit, jams, and jellies, nor commercial canning other homegrown food.
- (7) All utensils, including dishes, glass, and silverware, shall be properly cleaned and sanitized after each use, and protected from dust or other contamination.
- (8) All kitchen equipment for food preparation shall be of easily cleanable construction. All surfaces shall be smooth and impervious.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## **413-210-0590**

### **Site and Grounds**

- (1) Grounds shall be kept free of litter, solid waste, and refuse. Site shall be free of debris, ditches, or other conditions presenting a potential physical hazard.
- (2) Barbed wire fencing is prohibited.
- (3) Maintenance equipment shall be stored in a secure location.
- (4) Bicycle racks shall be in a safe place separate from auto parking areas.
- (5) There shall be barriers between the outdoor activity area and traveled roads, drainage channels, or any other existing hazards.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## **413-210-0600**

**Health**

## (1) Water:

(a) Maintenance of source, supply, and distribution system shall be in compliance with State Health Division rules on construction, operation, and maintenance of community and public water supply systems;

(b) Water of drinking fountains shall be of sufficient volume that persons using it do not come in direct contact with the orifice guard;

(c) No kitchen or bathroom sink, bathroom tub, or shower shall be used for disposal of cleaning waste water.

## (2) Sewage:

(a) All sewage shall be disposed of in accord with the State Department of Environmental Quality rules;

(b) Subsurface sewage disposal systems shall be maintained and operated in accordance with Department of Environmental Quality rules and regulations governing such disposal.

## (3) Garbage:

(a) All solid waste shall be disposed of in accord with the State Department of Environmental Quality Rules and regulations, and stored in water-tight, non-absorbent, and easily washable containers, with close-fitting lids;

(b) Kitchen waste shall not be saved for eventual use as swine food unless the collector is licensed by the State Department of Agriculture to use cooked kitchen waste.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

**413-210-0610****Education**

(1) Residential schools must provide a comprehensive educational program which meets the minimum standards required of public educational institutions, and/or provide an educational program suitable for the individual children in residence, as determined by the State Department of Education.

(2) School buildings shall be adequate in size and arrangement for the program offered:

(a) Conventional classrooms for elementary schools shall be not less than 30 square feet per student, exclusive of storage space;

(b) For junior high and high schools, not less than 40 square feet per student, exclusive of storage and preparation areas.

(3) Plans for non-traditional classrooms, when submitted for the State Office for Service to Children and Families central office approval, shall include explanation of program for which they are intended.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

## 413-210-0620

### Enforcement

(1) In order to ascertain continued compliance with these standards, SOSCF shall have right of entry, privilege of inspection, and access to staff and all records of work with children.

(2) Upon failure to meet standards and correct deficiencies, the State Office for Services to Children and Families may revoke, suspend, or refuse to renew the Certificate of Approval. Any revocation, suspension, or refusal to renew by SOSCF shall be subject to the provisions of ORS Chapter 183.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.327

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 220**

**LICENSING -- ADOPTION/FOSTER CARE AGENCIES**

**Private Child-Caring Agency Licensing Standards**

**413-220-0000**

**Purpose**

(1) OAR 413-220-0000 through 413-220-0160 as printed here, or as they may be amended or added to, set forth the State Office for Services to Children and Families standards to be used for reviewing, and if appropriate, certifying those private agencies offering residential care programs, adoption services, foster home placement and supervision, or day treatment programs for children, which are subject to provisions of ORS Chapter 418.

(2) A major goal of the State of Oregon is to promote the well-being of its citizens. Children, particularly those who need the services of child care agencies, are the most vulnerable group in our society, and special efforts must be made to assure that the practices of child care agencies produce positive results for children served. A second goal concerns children coming to Oregon from other states and nations. Special efforts must be made to assure that the practices of child care agencies produce the most positive results for these children. They are being removed from familiar territory and in some cases have language barriers. Adoptive families must be well prepared to accept them.

(3) In addition, the well-being of biological and adoptive parents, and foster parents is of significant concern to the state, and child care agencies must provide them the protection and support that they need.

(4) The following rules are intended to help achieve the above goals by setting standards of practice for agencies. It is recognized that the highest standards of child welfare practice are achieved when agencies have skilled professional staff, who have the capacity to determine the individual needs of a child, and the creativity and flexibility to plan to meet these needs in the best manner.

(5) SOSCF has the duty and function to attempt to obtain and consider criminal offender information on certain employees and volunteers of private child-caring agencies in order to protect the best interest of children.

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

## **413-220-0010**

### **Definitions**

(1) "Adoption Services" are a social service provided by a licensed private agency for the children who cannot be reared by their natural parents and who need and can benefit from new and permanent family ties established through legal adoption and who can be legally freed for adoption.

(2) "Child-Caring Agency" means any agency, society, institution, organization or group under private management organized in whole or in part for the temporary or continued care in a residential facility, or placement of children in foster homes or adoptive homes. The specific service must be authorized by the State Office for Services to Children and Families by the certification.

(3) "Criminal Offender Information" means words and related data received and compiled by the Bureau of Criminal Identification of the Oregon State Police, or other law enforcement agencies or courts, including names, records of arrests and the nature and disposition of criminal charges, including dismissals, sentencing, confinement, release or probation.

(4) "Employee" means an individual applying for a salaried position with a child-caring agency, or having a salaried position and being considered for an assignment within a child-caring agency.

(5) "Foster Family Care" includes care, food and lodging provided on a 24 hour basis for a child in an agency-approved foster home, and includes social services provided by a licensed private agency for the children whose parents are unable or unwilling to provide direct care for them, and who require the continuing services of the placement agency because of the child's special needs.

(6) "Independent Adoption" means any adoption in which placement is made by other than SOSCF or a licensed child-caring agency and consent to legal adoption is given by other than SOSCF or a licensed child-caring agency. An independent adoption is an arrangement to adopt a child made between adoptive and biological parents directly or in cooperation with an intermediary not authorized to place children for adoption, except as provided in ORS 418.300 and OAR 413-220-0100.

(7) "Interstate Compact on Placement of Children" is a cooperative agreement between member states for placement of a child in foster care or possible adoption, in accordance with Interstate Compact provisions.

(8) "Volunteer" means an individual applying for or requesting to work on assignments for a child-caring agency on an unsalaried basis.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

## **413-220-0020**

### **Certificate**

- (1) No private child-caring agency or organization shall provide adoption placement or foster care placement services in Oregon without a current, valid certificate of approval issued by SOSCF.
- (2) After written application by an applicant for a certificate of approval SOSCF shall, within a reasonable time, issue a certificate of approval after satisfactory investigation of the applicant to determine that the applicant meets the provisions, requirements, standards and conditions of state law and SOSCF rules. In such investigation SOSCF may examine the records and files of the agency; inspect and observe the physical premises; interview children, agency staff, and persons in the community.
- (3) The certificate of approval shall specify the type of care and/or service, location of care for which the agency is authorized to provide care and services. All certificates expire on June 30 of each year unless sooner suspended or revoked, except as provided in ORS 183.430.
- (4) Certificates shall terminate automatically upon the closure of the agency.
- (5) Upon failure to meet standards or correct deficiencies, SOSCF may deny, revoke, suspend, or refuse to renew the certificate.
- (6) The private child-caring agency or organization has the right to appeal any decision to deny, suspend, or revoke a certificate, subject to the provisions of Chapter 183, **Oregon Revised Statutes**.
- (7) SOSCF shall terminate all payments to the agency for care given children after the date of suspension or revocation of the certificate.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

### **413-220-0030**

#### **Administration**

- (1) There shall be written policies for the administrator and staff of the agency, which shall include:
  - (a) Board of Directors' functions;
  - (b) Agency organizational charts;
  - (c) Agency purpose;
  - (d) Program details and operational procedures;
  - (e) Personnel policies and procedures;
  - (f) Position descriptions for all employees.
- (2) Child-caring agency employees or volunteers shall be responsible, mature persons who demonstrate the knowledge and ability to care for children within the generally accepted professional standards of child care.
- (3) In disciplining children, employees and volunteers shall not use harsh punishment. Harsh means spanking, belting, physical/mental abuse acts designed to humiliate, degrade, or undermine a child's self-respect, punishment in the presence of a group, deprivation of parental visits, or placing the child in lock-up for punishment.

(4) Private child care agencies shall utilize employees or volunteers who's presence does not jeopardize the health, safety or welfare of children.

(5) Employment:

(a) The agency or its board of directors will not deny employment, promotion, assignment, or assignment as a volunteer to a person solely for the reason that person has been convicted of a crime, but will consider the relationship of the facts supporting the conviction to the specific occupational requirements of the job assignment;

(b) In determining a person's suitability for employment, or as a volunteer, the agency or its board of directors will consider facts relating to any crime, particularly convictions of child abuse, offenses against persons, such as homicide, assault, kidnapping, sexual offenses (rape, sodomy, sexual abuse); offenses against family, such as incest, abandonment of a child, child neglect, prostitution, and related offenses; or other offenses against public health and decency, offenses involving narcotics and dangerous drugs, including distribution of controlled substances to minors. The agency will take this information into consideration in judging a person's fitness to work with children and their inclination to behave in such a way as to endanger the welfare of children;

(c) If a person has been arrested or charged with one of the above crimes, with final disposition of the arrest and charge not yet reached, the agency or its board of directors may withhold its decision to hire or assign the person pending the outcome of the arrest or charge;

(d) If a person was involved in a crime other than those listed above, or the charge on one of the above crimes was dismissed, all intervening circumstances and other background information will be considered in judging a person's fitness to work with children and their inclination to behave in such a way as to endanger the welfare of children;

(e) The agency or its board of director's refusal to hire or assign a person will be based upon records from the court(s) of original record;

(f) Any refusal to hire, or assign a person by the agency and its board of directors under rule 413-220-0020 will be subject to the same rights and procedures of appeal as otherwise pertain to employees or volunteers.

(6) SOSCF has the duty and function to obtain and consider criminal information, including state police files; on applicants for position as administrators and on current administrators at the time of annual certification; and on current administrators when SOSCF believes an arrest has occurred:

(a) Criminal offender information received from the State Police will be available only to the SOSCF section responsible for certifying private child-caring agencies, in accordance with the State Police rules and procedures relating to criminal offender information;

(b) SOSCF will advise the child-caring agency or its board of directors if applicants or the current administrator have criminal records.

(7) The administrator of the child-care agency will be responsible for obtaining background information on its employees who have contact with, care for, or oversee children. SOSCF will obtain criminal offender information on an employee, applicant, or volunteer at the request of the administrator, its Board of Directors or the Certification Unit of SOSCF.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

**413-220-0040**

## General Provisions

- (1) Private adoption agencies shall not locate a child for prospective adoptive parents, or an adoptive family for biological parents wishing to relinquish a child, for the purpose of arranging an independent adoption.
- (2) Children placed for adoption shall be legally free and in the legal custody of an organization or person who has authority to place for adoption and consent in loco parentis.
- (3) If there is any known legal impediment to the adoption of a child, the prospective adoptive parents must be informed by the private agency verbally and documented in the case record of the legal status of the child.
- (4) All private agencies offering adoptive services shall have:
  - (a) Social service supervisory staff qualified by a master's degree in social work and one year's child welfare experience; or
  - (b) A master's degree in social sciences and two years child welfare experience, including one year in adoptive work; or
  - (c) A bachelor's degree in social sciences and four years experience in child welfare work, including two years experience in adoptive work;
  - (d) Casework staff qualified by a B.A. degree in social sciences and one year of child welfare experience; or
  - (e) A combination of education and experience in child welfare equal to four years of in-service training programs approved by SOSCF;
  - (f) All casework staff responsible to a qualified supervisor;
  - (g) If the agency does not employ paid social service staff, then the agency must present a plan of action using consultants which will be approved by SOSCF and be consistent with the above standards established for paid staff.
- (5) No agency will require a prospective adoptive parent to use the services of a particular attorney.
- (6) No fee shall be paid to the child's parents, and social services provided for them by the agency shall not be contingent upon their relinquishing their child for adoption. The mother's medical care is not considered a fee or a social service.
- (7) The private adoption agency shall make reasonable efforts to provide adoption services to every child in its care who needs it without exclusion by reason of age, religion, race, nationality, or disability.
- (8) Insofar as is practicable a child should be placed in a family of the religious faith requested by the releasing parents. With an older child who has religious commitments, the agency shall make every attempt to place the child in a family of his/her faith. No child, however, shall be denied an adoptive placement because of religion alone.
- (9) No employee of a private child-caring agency shall disclose to the biological parent, adoptive parent, or child, the names, identities, or whereabouts of the others without the written permission of all persons involved. Information about an applicant shall not be released to any other agency without the written authorization of the applicant.
- (10) The private agency will determine whether or not an adoption study of an applicant should be completed, and the following items shall be included if the study is completed:
  - (a) The adoption study in a written report shall include personal contacts, a visit to the home, and applicant's preparation for adoption, and an evaluation of them as adoptive parents;
  - (b) No child shall be placed in an adoptive home which has not had prior study, and approval by the private agency.

(11) All materials and records concerning adoptions shall be kept confidential. At time of adoption a copy of the report sent to the court shall be sent to SOSCF's Central Office.

(12) Suitable living arrangements shall be available to children awaiting adoption, either with approved foster families, or other arrangements best suited to their individual needs.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

### **413-220-0050**

#### **Services for Biological Parents**

Services shall be provided for the parents to effect relinquishment of the child or termination of parental rights. These services include:

- (1) A statement regarding their legal rights, obligations, and responsibilities.
- (2) Help in understanding the finality of their decision to relinquish their parental rights and what the decision means to them and their child.
- (3) Clarification of the confidential aspects of the services provided for them and their child, as defined in state law.
- (4) Post-decision services, upon request.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

### **413-220-0060**

#### **Services for Children**

Services shall be provided to the child to prepare him to move into adoption. These shall include:

- (1) A study of the child to assess his/her physical and emotional needs to determine the type of family to meet his needs.
- (2) Provide a physical examination, medical, and dental care.
- (3) Obtain psychological and psychiatric examinations, when needed.
- (4) Preparation for the child's acceptance of leaving his present family/country.
- (5) Prior to placement in Oregon, services shall be subject to the laws of that state or nation having jurisdiction.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

## **413-220-0070**

### **Services to Adoptive Applicants**

Services shall be provided to persons who wish to adopt a child that are mutually beneficial to the applicants and the child available for adoption. These include:

- (1) Orientation to adoption, its impact and meaning, the adoption process, agency procedures and steps taken to ensure protection to the child.
- (2) Interpretation of the meaning of the adoption study process and the basis upon which the agency assesses their capacity to meet the needs of an adopted child.
- (3) Preparation of the adoptive family for the child's placement.
- (4) Provide a post-placement period prior to legal adoption to offer help to the adoptive family in both the development of the parent/child relationship and resolution of problems inherent in adoption.
- (5) Explanation of the legal process of adoption.
- (6) Provide post-adoption service upon the request of the adoptive family.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

## **413-220-0080**

### **Legal Completion of the Adoption**

- (1) A private agency acting in loco parentis may consent to the adoption of a child who has been:
  - (a) Surrendered to it for the purpose of adoption under ORS 418.270 - 418.285, if in compliance with provisions of those statutes; or
  - (b) Permanently committed to it by order of a court; or
  - (c) Surrendered to it for the purpose of adoption under ORS 418.270 - 418.285 by one parent, if in compliance with the provisions of those sections, and permanently committed to a private agency by a court having jurisdiction over rights of the other parent.
- (2) Provisions of ORS 109.305 to 109.400 shall be met where appropriate.
- (3) Upon decision to give consent, the private agency shall cause to be filed in the appropriate court:
  - (a) A certified copy of the court order permanently committing the child to the private agency, or the surrender of the child, signed by its parent(s) or guardian, or both, as the case may be;
  - (b) Written consent to the proposed adoption signed by the private agency administrator or his designee;

(c) A written report to the court showing that sufficient and satisfactory study of the proposed adoption has been completed, or a recommendation that the adoption be granted.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

### **413-220-0090**

#### **Interstate Compact on Placement of Children in Oregon**

Private agencies placing children for foster care or adoption in Oregon must be licensed to provide such service in their own state, and comply with the Interstate Compact in the state receiving the child. The private agency in the receiving state must also be licensed to provide the particular service. If the sending state is not a member of the Compact, ORS 418.290 (child placement by non-resident) shall apply.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

### **413-220-0100**

#### **Intercountry Adoptions**

- (1) Private adoption agencies shall comply with the laws and procedures of the foreign nation of the child involved when assisting families in an intercountry adoption.
- (2) The following conditions shall be met by the authorized adoption service or person in another country before a child can be placed for adoption in Oregon:
  - (a) The child shall be qualified for adoption and be in the permanent custody of an authorized organization or person in the foreign country;
  - (b) A duly constituted governmental unit or a judicial court of the child's country has authorized the organization or person to arrange the adoption, who shall observe the laws or customs of the foreign country;
  - (c) There shall be proper emigration and immigration permits;
  - (d) There shall be social and medical history of the child, if available.
- (3) Adoption agencies in Oregon and those authorized agencies placing children in Oregon shall be subject to the preceding rules. Children adopted through the court of jurisdiction in a foreign country are not subject to the Interstate Compact on Placement of Children or ORS 418.290. In addition, agencies shall:
  - (a) Be responsible for making another adoptive plan if the placement is not yet finalized and fails;
  - (b) Provide foster care until other appropriate legal steps are completed for the child's permanent care if the adoption fails;

- (c) Arrange for needed medical care for a child if the adoptive parents decide not to keep the child;
- (d) Advise parents of the need to have the child naturalized in the U.S.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

#### **413-220-0110**

##### **Requirements of Foster Family Applicants**

- (1) No person(s) who is known to physically abuse or sexually molest or exploit a child will be approved by the agency. (For definition of child abuse law see ORS 419B.005)
- (2) Foster parents shall be responsible, mature individuals of good moral character, who exercise sound judgment and display the capacity to provide good care for children. No person who displays behavior which might have a detrimental effect on children will be approved by the agency.
- (3) Foster parents shall be persons who can provide a stable, harmonious living situation, wholesome models, and a healthy environment conducive to rearing children.
- (4) Foster parents shall have child-rearing practices and attitudes about behavior that will serve the best interest of foster children.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

#### **413-220-0120**

##### **Foster Parent Applicants' Requirements in Relation to Foster Children**

Foster parent applicants shall agree to:

- (1) Provide one responsible adult (over 18) for direct supervision of children, or on call at all times.
- (2) Provide opportunity for the child to attend religious services of the child's choice, if the child so desires.
- (3) Provide the foster child an ample, well balanced and nutritious diet, as determined by each child's needs.
- (4) If milk other than pasteurized or from a licensed raw milk dairy is used by foster children (such as milk from family cows or goats), foster parents shall obtain a signed form from a licensed veterinarian and/or animal technician, verifying that TB and brucellosis tests administered within the previous year were negative.
- (5) Not require a foster child to do work which is hazardous to the child's health, interferes with the child's education, or places unreasonable limitations upon the child's recreational opportunities.
- (6) Not administer severe or harsh punishment, or otherwise abuse a foster child.

- (7) Not reveal information about the child or the child's family except when authorized by the private child-caring agency by whom they are approved.
- (8) Have sufficient income to meet their family's needs without the maintenance payment made for the foster child, and agree to use the foster care maintenance payment for the foster child's needs.
- (9) Have the time, competence, stamina and motivation to meet the needs of the children placed with them.
- (10) Be available and accessible to the agency workers for contacts.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

### **413-220-0130**

#### **Foster Home Requirements**

- (1) The foster home shall furnish sleeping facilities which:
  - (a) Provide the foster child with a well-ventilated, heated, and well-lighted bedroom with an outside window and within call of a responsible adult;
  - (b) Provide sufficient bedroom space to assure that children of the opposite sex over age six do not occupy the same bedroom, except as prior authorized by the private agency staff person, such as when care of disabled children may necessitate otherwise;
  - (c) Provide each foster child with an individual bed, except as prior authorized by the private agency staff person, when siblings of the same sex may share a double bed temporarily;
  - (d) Insure that sleeping quarters of children over age two shall not be in the same room with an adult except in the case of a child's illness when special care is necessary, or as prior authorized by the private agency staff person.
- (2) Foster homes shall provide:
  - (a) Individual drawer space and sufficient closet space for the foster child's clothing and possessions;
  - (b) Space for study as appropriate to the child's age or school needs;
  - (c) A safe area for indoor play appropriate to child's age or needs;
  - (d) Adequate screening for fireplaces and open-faced heaters;
  - (e) Protection of children from guns, drugs, poisons, disinfectants, plastic, or other potentially dangerous materials;
  - (f) Sleeping and eating facilities for foster children attached to the main house;
  - (g) A telephone unless exception is authorized by the private agency.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

## **413-220-0140**

### **Combination of Care**

Foster care of children shall not be combined with boarding, day care, nursing, or convalescent care for adults or day care for children, except as prior authorized by the agency's administrative staff.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

## **413-220-0150**

### **Private Agency Requirements Related to Foster Home Applicants**

- (1) The agency shall obtain and personally contact references of such number and nature to be satisfied as having enough reference information to make a judgment whether to deny or approve an applicant.
- (2) The agency may request reports on any member of the family/household who has received mental health services or for whom the agency requests a mental health evaluation.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

## **413-220-0160**

### **Enforcement**

- (1) In order to ascertain continued compliance with these standards, SOSCF shall have right of entry, privilege of inspection and access to staff and all records of the agency.
- (2) If serious abuse, dereliction or deficiencies are found in any agency pursuant to ORS 418.260, SOSCF shall advise said agency in writing of the nature of the complaint; and further, shall specifically set forth the condition(s) which must be remedied or corrected.
- (3) Upon failure of the agency to meet standards and correct deficiencies, SOSCF may revoke, suspend, or refuse to renew the certificate of approval. Any revocation, suspension, or refusal to renew by the agency shall be subject to the provisions of ORS Chapter 183.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205-418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**ADMINISTRATIVE SUPPORT**

**DIVISION 300**

**GENERAL ADMINISTRATION**

**Internal and External Audits**

**413-300-0000**

**Purpose**

The purpose of these rules is to describe the audit functions of the State Office for Services to Children and Families (SOSCF). It outlines the procedures for compliance audits, requesting audit services, scheduling audits, reviewing audit reports with appropriate management and distribution of the completed audit reports.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-300-0010**

**Purpose and Function of the Audit Unit**

The Audit Unit provides audit services for the State Office for Services to Children and Families in accord with HB 2004, which authorizes SOSCF to make all necessary rules and regulations for administering child welfare services. Included in audit services are provider audits, cost and rate studies, internal audits, and technical assistance.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-300-0020**

### **Audit Requirements**

(1) Audits of a contractor's financial records pertaining to SOSCF programs will be conducted for compliance to SOSCF contracts and in accord with current federal regulations, specifically, but not limited to, Federal Register OMB Circular A-122.

(2) Contractors required by the contract must maintain fiscal records and reports consistent with accepted accounting practices and controls which will properly reflect all direct and indirect costs and funds expended in performance of contracts with SOSCF and all revenue received for programs under contract with SOSCF. The contractor shall make these fiscal records and reports available at all reasonable times to state and federal auditors, and other persons authorized by the SOSCF. The contractor will collect statistical data of a fiscal nature on a regular basis and make fiscal statistical reports at the time and in the form prescribed by the agency.

(3) Grievance procedures for clients and contractors are covered in rules 413-010-0400 through 413-010-0490.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-300-0030**

### **Audit Scheduling**

Audit schedules will be established by the manager of the audit unit and approved by the assistant administrator of Management Operations. In order to provide adequate notification of a routine audit, a list of contractors that would routinely be subject to audit during the six month periods beginning January 1 and July 1 of each calendar year will be sent to each affected contractor. The list will include specific requests for audits and audits scheduled on a routine basis. Official notification of audit will be sent to the affected provider ten working days in advance of the audit. The criteria for conducting routine audits are as follows:

(1) Contractors have been classified by complexity of programs and fund sources. Category "A" contractors are those with multiple SOSCF and non-SOSCF programs who have multiple funding sources. Category "B" contractors are those with multiple funded SOSCF programs. Category "C" contractors are those with single funded SOSCF programs. Category "D" contractors are Professional Family Shelter Homes funded by SOSCF, and Category "E" consists of all other contractors.

(2) Routine audits will be conducted of all contractors in Category A, B, and C with reasonable frequency, but not less than once every two years. Audits will be conducted of contractors in Categories D and E on request. Requests for an audit of a specific contractor and requests for management inquiry will take precedence over scheduled audits.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-300-0040**

### **Requests for Audit Service**

Requests for audit services must be initiated or approved by the Director, the Deputy Administrator or an assistant administrator of the agency. All requests should be made in writing to the assistant administrator of Management Operations. Within ten working days following receipt, the assistant administrator of Management Operations will inform the requestor in writing whether the request will be honored, giving an approximate date when the audit work will commence. Requested audits will be performed as soon as possible.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-300-0050**

### **Requests for Management Inquiry**

The agency's Director may request the audit unit to perform a Management Inquiry on specific subject areas. The inquiry will be conducted in an informal manner, unlike an audit where complete documentation and strict audit practices are followed. Results of the Management Inquiry will be forwarded in memo form directly to the Director.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-300-0060**

### **Pre-Audit and Post-Audit Briefings**

(1) The Contract Services Section and the SOSCF manager responsible for the contract will be given advance notice of the audit. The Contract Services Section will be given a pre-audit briefing prior to the audit. The only exception to this is when an unannounced audit is conducted. The purpose of the pre-audit briefing is for the auditor to obtain management's preference for specific areas to be audited and to inform management of the Auditor's planned scope of audit.

(2) A post-audit briefing with the contractor will also be held prior to completion of a draft audit report. A post-audit briefing with the Contract Services Section will also be held following every audit prior to publication and distribution of the audit report. The purpose of these meetings is to discuss findings and any recommendations for corrective action to ensure that the auditor has all the facts correctly stated.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-300-0070****Disposition and Format for Reports of Audit**

Copies of all contractor audit reports will be given to the Contract Services Section for the development, with the contractor, of any required corrective action. When the corrective action has been approved and the audit report has been formally closed by the Contract Services Section and auditor, copies of the audit report will be sent to the Director, Deputy Administrator, and appropriate assistant administrators. Reports of Audit will include the following major sections:

- (1) Scope of Audit. Description of subject areas audited, the time periods covered and the name of the audit requestor, if appropriate.
- (2) Findings and Comments. Narrative of the results of the audit, including an overall summary of the satisfactory areas and areas needing improvement.
- (3) Recommendations (optional). Recommendations consist of the auditor's suggested action(s) to correct the discrepancies noted in the findings and comments section. The specific recommendations are not directive in nature but are presented as an aid to management in making improvements. Corrective action in some form, however, will be required.
- (4) Exhibits to Audit Reports. As appropriate, and whenever it will serve to demonstrate the findings of the audit report, there will be information schedules attached to the reports. Examples of such schedules would be revenue and expenditure statements, schedules of overpayments or details of audit discrepancies.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

**413-300-0080****Corrective Actions on Audit Findings**

- (1) The Contract Services Section is responsible for the administration and enforcement of all provider contracts entered into by SOSCF. The Contract Services Section is also responsible to see that the appropriate action is taken to correct the deficiencies noted in the audits conducted of fiscal and other related records. Upon receipt of the final audit, the Contract Services Section will send the audit to the contractor who will, when appropriate, develop a corrective action plan within 20 working days. When the corrective action plan is received from the contractor, the Contract Services Section will send a copy of the corrective action plan to the audits unit for evaluation and further disposition. The auditor will provide consultation and technical assistance in developing corrective action plans.
- (2) When a corrective action plan has been received from the Contract Services Section, the auditor will evaluate the plan to determine that all the audit issues have been addressed and that the actions are appropriate.
- (3) The auditor will prepare a closing report of the audit within 15 working days after receipt of the corrective action plan. This report will provide a formal document of audit findings and contractor's corrective action plan. Information copies of the closing audit reports will be distributed.
- (4) All closing reports of audit will include the following major sections as required:

- (a) Scope of audit;
  - (b) Findings;
  - (c) Recommendations;
  - (d) Contractor's corrective Action Plan;
  - (e) Auditor's Response to Corrective Action Plan.
- (5) In the case of overpayments, a memo will be forwarded by the Assistant Administrator of Management Operations at the same time the corrective action plan (30 days) is sent describing collection action, if any, to be taken by Management Operations.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **413-300-0090**

#### **Auditing Standards**

- (1) The audit unit will follow the American Institute of Certified Public Accountants (AICPA) statement on auditing standards.
- (2) The examination is to be performed by a person or persons having adequate technical training and proficiency as an auditor.
- (3) In all matters relating to the assignment an independence in mental attitude is to be maintained by the auditor or auditors.
- (4) Due professional care is to be exercised in the performance of the examination and in the preparation of the report.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **Audits of the Agency**

### **413-300-0100**

#### **Purpose**

The purpose of these rules is to describe the process for coordinating external audits of the State Office for Services to Children and Families (SOSCF).

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-300-0110**

### **Audit Report Control**

The control and responsibility for scheduling and coordinating audits of the SOSCF conducted by agencies from outside the SOSCF is delegated to the assistant administrator of Management Operations. This includes development of standard procedures for preparing and distributing corrective action plans.

- (1) Notifications concerning possible audits of the agency, received by any unit of the SOSCF, shall be immediately forwarded to the agency director, who will notify Management Operations.
- (2) Management Operations will acknowledge receipt of the notification and will coordinate and schedule the audits.
- (3) Audit reports concerning the SOSCF will be forwarded to the SOSCF director who will notify Management Operations.
- (4) Notifications and reports received will be given to the assistant administrators for action within their areas of responsibility.
- (5) Corrective action plans for correcting deficiencies will be prepared by the responsible manager of the area audited. The corrective action plans will be submitted to the appropriate assistant administrator for approval.
- (6) Assistant administrators will submit their corrective action plans to the assistant administrator of Management Operations for consolidation with other responses.
- (7) Management Operations will receive, coordinate and forward all responses from the SOSCF to the agency conducting the audit.
- (8) Management Operations will monitor progress on corrective action plans until the audit discrepancy has been corrected or resolved.
- (9) Upon full implementation of corrective action plans, Management Operations will prepare a report to the director indicating the action taken and that the audit has been satisfactorily closed.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

## **413-300-0120**

### **Quality Control Review of SOSCF Records**

Adult and Family Services Division Quality Control/Error Reduction Sub-unit will review samples of SOSCF GA-FC, state subsidized adoption and independent living case records for conformity to eligibility criteria for Title XIX medical benefits.

- (1) The State Office for Services to Children and Families branches will make case records available to AFS Quality

Control personnel.

(2) The AFS Quality Control Offices will contact the SOSCF central office to arrange for mailing of SOSCF records. Where records are to be mailed to an AFS Quality Control Office, they shall be sent by first class mail.

(3) The expected turnaround time for the Quality Control review is three working days. Should the record be needed before the normal return time, AFS, upon notification, will return the case record promptly.

(4) All error citations will be forwarded to the local SOSCF office and the central SOSCF office of federal affairs for review and concur/nonconcur response.

(5) The State Office for Services to Children and Families must be involved in correction action planning and the corrective action plan as required by federal regulation.

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

### **Child Abuse Multidisciplinary Intervention (CAMI)**

#### **413-300-0200**

##### **Purpose**

These rules outline the implementation of the Child Abuse Multidisciplinary Intervention (CAMI) account, as well as sets forth eligibility criteria for county multidisciplinary teams to access these funds.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

#### **413-300-0210**

##### **Definitions**

(1) "Advisory Council on Child Abuse Assessment" is a legislatively authorized council of seven members appointed by the Assistant Director for the Oregon Health Division. The council advises the Health Division, as well as the State Office for Services to Children and Families, on the disbursement of moneys to develop community or regional child abuse assessment centers and other plans under the CAMI program.

(2) "Advocacy" is the process of assisting the child abuse victim and his/her family members through the criminal justice, child protection and other social service systems. This can include providing information and support during the criminal prosecution, providing support and information to a non-offending parent to obtain needed services, i.e. victim assistant programs, court-appointed special advocates, the district attorney or others.

(3) "Advocacy Center" is a community center where, by mutual agreement, all community agencies involved in handling child abuse allegations coordinate their services in a child-sensitive, professional manner. Specific services at

the center may vary from county to county. The advocacy center model may include elements of assessment centers. (ORS 418.780-418.794)

(4) "Assessment" is the fact-gathering process including, but not limited to, the collection of information for forensic, risk assessment or treatment purposes. This can involve a medical examination; interviews of the victim, other witnesses and the accused; obtaining a search warrant; or other processes in obtaining information about the alleged abuse.

(5) "Assessment Center" is either a regional and/or community assessment center that insures that every child reasonably suspected to have been subject to child abuse receives a skilled, complete and therapeutic assessment. Assessment centers are defined in ORS 418.782, Sections 2 and 3. A "community assessment center" is a center where a child may receive a medical assessment for the purpose of determining whether the child has been abused or neglected. A "regional assessment center" is a center where a child will receive a thorough assessment consisting of a medical evaluation and a videotaped interview by trained professionals in a neutral, child-sensitive setting. An assessment center model may also include elements of advocacy centers. (ORS 418.780-418.794)

(6) "Children's Justice Act Task Force" is a task force that is required under the federal **Child Abuse Prevention and Treatment Act** (see P.L. 102-295, Section 109) to assure Oregon's eligibility for funds under this act, and to advise the State Office for Services to Children and Families (SOSCF) on disbursement of moneys under the CAMI program.

(7) "Conditional Eligibility" is the conditional approval of the applicant's comprehensive CAMI plan. The plan must demonstrate a strategy to correct deficiencies in meeting the eligibility requirements set out in ORS 418.746 and these administrative rules.

(8) "Multidisciplinary Team" is a county investigative/assessment team for child abuse. Pursuant to ORS 418.747, (1), the team shall include, but not be limited to, law enforcement personnel, child protective services workers, district attorneys, school officials, health department staff and personnel from the courts.

(9) "Treatment" means those services that provide for the medical and psychological needs of the victim or other family members. For the purposes of this rule, treatment is intended to refer to shortterm, crisisoriented treatment.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

## **413-300-0220**

### **Eligibility**

(1) To receive funds, the applicant must:

(a) Meet the requirements of ORS 418.746;

(b) Demonstrate existence of a functioning multidisciplinary team responding to allegations of child abuse pursuant to ORS 418.747;

(c) Submit an application that includes a comprehensive CAMI plan which meets all requirements of ORS 418.746 (5) (a) and this administrative rule, and clearly states long and short-term goals which further the purposes of ORS 418.747, 418.780, 418.790 and 418.792.

(2) If an applicant submits an application, but fails to meet all requirements, the applicant will be asked to develop a plan that meets the unmet requirements indicated by SOSCF and/or the screening committee. If this plan is approved by the screening committee, then SOSCF may conditionally award funds to the applicant:

- (a) A comprehensive CAMI plan must be submitted to receive funds;
- (b) Conditional eligibility status may not be extended beyond two years for each unmet requirement.
- (3) Funds may be denied if an applicant:
  - (a) Fails to provide verification of an ongoing, fully functioning multidisciplinary team;
  - (b) Fails to provide verification of an ongoing child fatality review process as described under ORS 418.747, (8-13);
  - (c) Fails to submit an approved comprehensive CAMI plan;
  - (d) Fails to submit the annual report as specified by ORS 418.746, (7) or the semi-annual report as required by these rules; or
  - (e) Fails to meet any of the other conditions ORS 418.746

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

### **413-300-0230**

#### **Notice and Time Limits on Application**

- (1) The State Office for Services to Children and Families will send application materials to a designated representative of the county's multidisciplinary team at least two months before the application due date.
- (2) Awards and applications will be made annually.
- (3) If the screening committee finds deficits in the application, the applicant will be informed in writing. The applicant will have one month to respond with a plan to correct these deficits.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

### **413-300-0240**

#### **Transfer of Funds**

- (1) Upon approval of the application, the State Office for Services to Children and Families will enter into an intergovernmental agreement, contract or other legally binding agreement, with a designated entity authorized to carry out the local administrative function for the multidisciplinary team's comprehensive plan. Regardless of who is designated to administer the funds at the county level, the multidisciplinary team retains the authority for allocation of funds and final accountability for implementation of the CAMI-funded portion of the comprehensive intervention plan. The State Office for Services to Children and Families will not contract with a local service provider for the delivery of services.

(2) Funds will be transferred from the State Office for Services to Children and Families to the district attorney's office or to the authorized entity that has been designated by the multidisciplinary team. Funds will be transferred quarterly unless an alternate payment schedule has been approved.

(3) The locally designated administrative body with whom the State Office for Services to Children and Families contracts may request 5% of the county CAMI funds for administration. This must have the approval of the county multidisciplinary team and be included in the CAMI plan.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

## **413-300-0250**

### **Reports**

(1) Six Month Report. The chair of each county's multidisciplinary team will assume responsibility for the multidisciplinary team's submission of semi-annual progress reports. The report must be received by the State Office for Services to Children and Families 30 days after the date specified in the letter of formal award. See subsection (2)(b) of this rule for report format.

(2) Annual Report. The annual report shall be submitted within 45 days of the end of the annual funding period (e.g. January 1, 1994 - December 31, 1994). The report must document how the funds were utilized and describe the extent to which the programs were able to meet anticipated outcomes in terms of benefits to children and families. This information will be used to determine eligibility for future funding:

(a) To adequately prepare this report, the county should include, as part of the first year's application, a description of the measurable objectives to be achieved and the means by which those program outcomes will be measured;

(b) The semi-annual and annual reports will address the following areas:

(A) Statement of Purpose/Objective/Goal of Project or Activity;

(B) Problems/Changes/Adjustments;

(C) Results/Accomplishments/Evaluations;

(D) Conclusions/Recommendations;

(E) Attachments.

(3) Failure to submit the required reports will result in the applicant being placed on "conditional status." The applicant will be given written notice of this action. No further funds will be allocated until the required reports are received by the State Office for Services to Children and Families.

(4) Submitting false or misleading information will result in denial of further funding until the applicant demonstrates that problem areas are identified and corrected. The applicant will be given written notice of this action.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

**413-300-0260****Method of Review/Role of Advisory Boards**

(1) Each county application will be reviewed by the State Office for Services to Children and Families. A committee comprised of members of the Children's Justice Act Task Force and the Advisory Council on Child Abuse Assessment will review and submit to the State Office for Services to Children and Families a recommendation regarding approval of each county's plan. The committee will determine if the application:

(a) Meets the established eligibility requirements;

(b) Responds to the county's needs as identified in their coordinated CAMI plan for comprehensive services to the victims of child abuse; and

(c) Substantially furthers the goals and purposes of ORS 418.747, 481.780, 418.790, and 418.792.

(2) The final responsibility for approval, conditional approval or denial shall rest with the State Office for Services to Children and Families.

(3) Formal notification of approval, conditional approval or denial will be given to counties within two months of the deadline for application submission.

(4) The State Office for Services to Children and Families and/or members of the task force and council may, at any time, conduct a site visit, and may review any records relating to the provision of services and expenditure of dollars under this project. All information and records pertaining to individual families/children, reviewed by the State Office for Services to Children and Families or a designated body in the exercise of its duties related to the CAMI program, will be held confidential by such parties, except with the client's written permission or pursuant to a court order.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

**413-300-0270****Grievance Procedures**

(1) Applicants have a right to a review of decisions regarding their eligibility for CAMI funds.

(2) Each applicant will be informed of this grievance procedure at the time a decision is made regarding their eligibility for CAMI funds.

(3) No applicant will be subject to reprisal for seeking a review of a grievance.

(4) To request a grievance review, the applicant should make a written request to the CAMI account program coordinator within 30 days after receiving notification of the conditional eligibility or denial.

(5) When the State Office for Services to Children and Families is notified that an applicant has a grievance, a meeting will be scheduled with members of the CAMI application screening committee. This meeting will involve the applicant and other members of the county's multidisciplinary team as the applicant should deem necessary to present their case, the CAMI account program coordinator, and members of the CAMI application screening committee.

(6) If the matter is not resolved through the above described procedure, the applicant can request a review of the issue by the program manager of the Program Development and Grants Support Unit. The applicant should make a written request to the CAMI account program coordinator within 30 days following notification of the results of meeting with the CAMI screening committee.

(7) If discussion and review with the program manager does not resolve the matter, then the applicant may request a review by the assistant administrator of the Program and Policy Office. Request for such a review should be made in writing to the assistant administrator of the Program and Policy Office, and should include a statement of the problem and the desired resolution. This request should be made within 30 days of receiving written notification of the decision of the program manager.

(8) If the applicant is dissatisfied with the assistant administrator's decision about the grievance, the applicant may request that the administrator of the State Office for Services to Children and Families review the assistant administrator's decision. This request should be made in writing to the division administrator within 30 days after receiving written notice of the decision of the assistant administrator.

(9) The decision of the administrator is final and is not appealable. The decision of the administrator is not an order under the Administrative Procedures Act.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

## **413-300-0280**

### **Reallocation of Moneys Not Applied for or Used**

(1) The CAMI funds collected in one year are used in the following year. To assist the multidisciplinary team in its planning for the use of these funds, a projection is made of the amount that is likely to be collected. This projection forms the basis for the funding allocation made to each county in the following year.

(2) If a county does not expend all of its allocated funds, it must explain in the following year's plan why the funds were not expended, and how they will be incorporated into the next year's comprehensive plan:

(a) If sufficient explanation is provided, the funds will become part of the next year's expenditure plan;

(b) If a significant carry-over continues for more than one year, the county will be asked to reevaluate its county plan and make necessary adjustments to utilize the funds. If there continues to be significant carryover of funds without reasonable plans for their use, the county's allocation may be reduced by the amount of excess funds.

(3) Funds which were not allocated due to the county's failure to request its CAMI funds, or to submit its comprehensive CAMI plan, will be distributed to other eligible counties as a supplemental award within two months from the date of the initial award transfers. These funds will be offered to eligible counties on a percentage basis according to the percent each eligible county receives from the total CAMI funds available.

(4) If an application is determined to be ineligible, the allocation will be held for that county for 12 months, during which time the applicant may reapply. If the applicant has not obtained at least conditional eligibility within the 12 months, the funds will be distributed to other eligible counties.

(5) Any excess funds which result from an under-projection of CAMI collections will be awarded within two months after the State Office for Services to Children and Families has received the annual collection report. County

multidisciplinary teams must submit an addendum to the comprehensive plan showing how these funds will be spent.

(6) If there is an over-projection in the anticipated collection of CAMI funds, the applicant's award for the year will not be less than the projected amount. Revenue collected in the current year will be used to make up the deficit. The following year's allocation will then be reduced accordingly.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.746 - 418.794

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

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**Oregon Administrative Rules  
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**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 310**

**FINANCIAL MANAGEMENT**

**General Receipting**

**413-310-0000**

**Purpose**

These rules describe the procedures to be followed when processing money which is owed to the SOSCF or its clients.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

**413-310-0010**

**General**

State Law (ORS 293.265) provides that collections arising from activities of state agencies must be deposited "forthwith" to the credit of the State Treasurer. This has been interpreted to mean that deposits are to be made at least weekly, and more frequently when necessary to adequately protect state funds.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

**413-310-0020****Fidelity Coverage**

The Department of Administrative Services - Risk Management Division, provides a blanket fidelity coverage policy covering all classified or appointed employees of SOSCF to assure the faithful performance of their assigned duties. The coverage includes, but is not limited to, protection for the state against losses arising from improper handling of collections.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

**413-310-0030****Collection Clerk**

(1) Each branch office shall designate a collection clerk who will be responsible for issuing receipts, prepare bank deposits, and be accountable for pre-numbered receipts (CF 291).

(2) Deposits will be made any time \$100 in cash or \$500 in cash and other negotiable instruments are on hand. In no case will deposits be made less often than weekly if any cash or negotiable instruments have been received.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

**413-310-0040****Separation of Cash Receipting Duties**

Cash, checks, and other negotiable instruments received through the mail will be listed on a worksheet by the mail clerk. The collection clerk will then prepare the receipts, CF 291's, and make the bank deposits using the pre-numbered bank deposit slips. At least monthly the branch manager or office manager, independent of the cash receipting function, will compare the deposit slips validated by the bank with the record of receipts prepared by the collections clerk and the worksheet prepared by the mail clerk. Errors or discrepancies will be analyzed immediately and if not resolved within one working day, a report of the error or discrepancy will be made to the manager of accounting services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

**413-310-0050****Receipt Utilization Control**

CF 292, General Receipt Utilization Control will be updated daily by the collections clerk. Every pre-numbered receipt form, CF 291, and bank deposit slip used during the month will be accounted for. The CF 292's completed for the past month will be mailed promptly at the beginning of the month to the collections unit in accounting services for verification of receipts and deposits processed through the accounting system.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

## **413-310-0060**

### **Banking**

Bank deposits must be made in a bank designated by accounting services. Branch offices will deposit in either the First Interstate Bank or U.S. Bank except when neither of these is available. In such cases, use of another bank will be authorized by accounting services. Banking facilities may not be changed without authorization from accounting services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

## **413-310-0070**

### **Classification of Collections**

Collections will be classified on the CF 291 by collection clerks in accordance with the code numbers listed in IIS Users Guide. Questions concerning classification of collections should be referred to the accounting services collections unit.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

## **413-310-0080**

### **Collection of Non-Sufficient Funds (NSF) Checks**

The state treasurer will return unpaid (NSF) checks to accounting services where an invoice will be issued and mailed directly to the maker of the check. Accounting services will be responsible for the collection of these checks.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

**413-310-0090****Collection of Over-Payments or Erroneous Expenditures**

(1) Through error or oversight, SOSCF may make a payment for child care to which the payee is not entitled. If a branch office discovers such a payment, the details should be reported to accounting services for review, establishment of an account receivable, and preparation of an invoice. (See Administrative Support Manual III-B.3.1 Erroneous Payments Based on Error or Fraud)

(2) Accounting services will assume responsibility for the recovery of over-payments and erroneous expenditures. A copy of the invoice and recovery action correspondence will be sent to the branch office for information only.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

**413-310-0095****Cancellation of SOSCF Checks**

While every effort is made to avoid improper payments, it sometimes happens that a payee will return a check to a branch office for reissuance or cancellation. When this occurs, the branch collections clerk is to telephone the SOSCF Central Collections Unit and inform them of the overpayment and send the check to the collections clerk in accounting services with a written explanation.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.265

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

**Miscellaneous Payments****413-310-0100****Purpose**

The purpose of these rules is to allow for expense reimbursement payments to be paid to foster parents to participate in training.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 292.235 & 292.240

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

## **413-310-0110**

### **Definitions**

- (1) "Agency" means the State Office for Services to Children and Families (SOSCF) of the Oregon Department of Human Resources.
- (2) "Foster Parents" refers to a provider certified under OAR 413-200-0100 through 413-200-0230.
- (3) "Training" means structured educational opportunities designed to enhance awareness, understanding and skill.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 292.235 & 292.240

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

## **413-310-0120**

### **Policy**

The State Office for Services to Children and Families may, at its discretion, reimburse foster parents for pre-approved training expenses related to participation in foster parent training. These expenses may include mileage, per diem, honorariums, tuition and child care.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 292.235 & 292.240

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

## **413-310-0130**

### **Procedure**

The following procedures must be followed to obtain reimbursement for training:

- (1) Individual Reimbursement. The regional foster and adoptive parent trainers will notify foster parents of the amount available for reimbursement from central office and regional office monies. Individual reimbursements for expenses will be processed using the CF 228, "Travel Expense/Training Request" form.
- (2) Maximum Payments. Payments to foster parents for child care will not exceed \$2.00 per child per hour. Mileage and per diem expenses will not exceed the represented OPEU employee rates.
- (3) Cash Advances. Requests for cash advances by foster parents shall be made in accordance with the cash advance policy in III-B.2.2.2. Such requests must have the prior approval of the regional foster parent trainers.
- (4) Exceptions. Any exceptions to this policy must be approved by the regional administrator or designee.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 292.235 & 292.240

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

## **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.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.235 - 293.245 & 45 CFR, part 228

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

### **413-310-0210**

#### **Definitions**

- (1) "Unintentional Error": Errors in payments or billings made without intent to deceive.
- (2) "Fraud": Intentional acts, claims, statements, or payments resulting in misrepresentation and/or willful withholding of material facts for the purpose of deceiving.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.235 - 293.245 & 45 CFR, part 228

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

### **413-310-0220**

#### **General**

- (1) In instances of unintentional error or fraud, SOSCF will endeavor to recover money inappropriately paid out.
- (2) When it is suspected that fraud or willful deception is involved, a referral will be made to the Adult and Family Services (AFS) Division Investigation Unit.
- (3) A referral to the Investigation Unit is intended to clear any suspicion of wrongful action, seek recovery of improperly expended funds and possible prosecution.
- (4) At all times the civil rights and personal liberties of a person who is suspected of employing fraud or willful deception in order to obtain services or payments will be protected.
- (5) The AFS Investigation Unit will have access to any information available to SOSCF regarding a case referred for investigation.
- (6) Any referral for prosecution will be undertaken by the AFS Investigation Unit in accordance with AFS policy.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.235 - 293.245 & 45 CFR, part 228

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

### **413-310-0230**

#### **Initiating an Investigation**

- (1) Any employee who becomes aware of what appears to be a payment based on incorrect or fraudulent information shall notify his/her supervisor immediately. The worker having responsibility for payment and his/her supervisor will determine whether the payment was based on incorrect information.
- (2) If it appears that fraud may be involved, a referral for investigation will be prepared and forwarded to the branch or section manager for approval and submission to the Adult and Family Services Investigation Unit.
- (3) The branch or section manager will determine if the regional manager, Management Operations Assistant Administrator and/or program manager should be notified.
- (4) In all cases of suspected employee fraud, the branch or section manager will notify the director.
- (5) If the investigation of the referral can best be accomplished by an audit, the AFS Investigation Unit will refer all or part of the investigation to SOSCF Management Operations for action.
- (6) Under no circumstances will the worker or supervisor investigate a matter beyond the point necessary to establish the possibility that fraud exists. The client, claimant, or payee shall not be contacted unless directed by the AFS investigator or a law enforcement agency to do so.
- (7) When incorrect information has been provided which effects the payment or when a client or provider is unwilling to resolve the incorrect payment problem, consideration shall be given to terminating services, or to terminating the contract. The decision to terminate service or the contract will be made by the regional administrator or assistant administrator responsible for the program.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.235 - 293.245 & 45 CFR, part 228

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

### **413-310-0240**

#### **Employee Responsibility**

- (1) It is the responsibility of each employee of the agency to be alert to the possibility of incorrect payments.
- (2) It is the responsibility of all supervisors to insure that each employee is aware of this responsibility.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.235 - 293.245 & 45 CFR, part 228

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

## Uncollectible Accounts Receivable

### 413-310-0300

#### Purpose

These rules describe the actions which will be taken by the State Office for Services to Children and Families Accounting Services Section when "writing off" accounts receivable balances owed to the agency.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.235 & 293.240

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

### 413-310-0310

#### Criteria for Determining Amounts Owed

(1) The State Office for Services to Children and Families will follow ORS 293.235, ORS 293.240 and the criteria established by the Secretary of State and the Attorney General of the State of Oregon for determining and certifying accounts owed as uncollectible.

(2) Accounts to be written off are submitted to the Secretary of State subject to the following requirements:

(a) The debt must exceed \$5 plus any interest or penalties thereon;

(b) The agency must ascertain, after appropriate inquiry that the debtor has no money or other assets that can be credited to his obligation;

(c) The agency must determine that one of the determinations listed in OAR 413-310-0320 is applicable to the debt;

(d) The agency will assign the debt to the Department of Revenue upon approval for write-off by the Secretary of State.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.235 & 293.240

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

### 413-310-0320

#### Determinations for Write Off

One of the following determinations of uncollectibility must apply to each debt submitted for write off:

(1) The cost of collection is not economically feasible.

(2) The debtor is dead and his/her estate has no assets from which money could be collected.

- (3) The debtor is an inactive or dissolved corporation and there are no assets from which money could be collected.
- (4) The debt has been filed and discharged as a result of the debtor's bankruptcy proceeding.
- (5) The SOSCF has not been able to locate the debtor or any of the debtor's assets in Oregon.
- (6) The SOSCF, after repeated attempts, has been unsuccessful in collecting the amount due. Expenditures for further attempts would not be justified.
- (7) The legal adviser to the SOSCF has reported that the debt is legally uncollectible or that collection is not economically feasible.
- (8) The SOSCF has obtained judgment liens and has exerted every effort to collect for the past 10 years without significantly reducing the money due.
- (9) After assigning the account to the Department of Revenue under ORS 293.250, the department has determined the account to be uncollectible or the costs of collection to be economically unfeasible.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 293.235 & 293.240

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

## **Trust Accounts**

### **413-310-0400**

#### **Purpose**

These rules describe how the State Office for Services to Children and Families (SOSCF) establishes and maintains trust accounts for children who are in its custody. SOSCF is authorized by ORS 416.820, 416.030, 418.032, and 419B.400 through 419B.406 to accept and disburse funds on behalf of children who have been placed in custody of SOSCF. SOSCF maintains a Trust Account in which all money for a child is deposited. Money received may be court ordered, voluntary, donations, Social Security Administration, Supplemental Security Income (SSI), Veterans' benefits, Railroad benefits, Indian benefits or any other source available for the child.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

### **413-310-0410**

#### **Definitions**

(1) "Application": Process of matching the cost of care with a child's Trust and Agency Maintenance Account, withdrawing available money up to the cost of care, and transferring the money to the State Office for Services to Children and Families' Other Funds account.

- (2) "Care": Services provided to meet the needs of a child, i.e. food, shelter, clothing, medical care, schooling, protection, supervision, etc.
- (3) "Collected Support Arrearage": The amount of child support arrearage collected by SED or CSS/AFS, or, the Department of Revenue which is passed on to SOSCF for posting to the child's Trust Account.
- (4) "Collectible Unreimbursed Assistance (CUA)": The unpaid portion of child support established by court order or administrative order by SED to be paid by the obligor as child support.
- (5) "Financial Accountings": A detailed accounting of all money spent by SOSCF on a child's behalf and the amount of Trust and Agency money, by funding source, reimbursed to SOSCF for these items.
- (6) "Legal Custody":
- (a) 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; and
- (D) To authorize medical, dental, psychiatric, psychological, hygienic, or 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.
- (b) Legal custody includes temporary custody of a child under an order of temporary custody or commitment from a juvenile court pursuant to ORS 419.B.230 through 491B.239 and 419B.328 through 419B.337.
- (7) "Paid Placement": The home or facility utilized by SOSCF to provide care for a child where there is a cost to the agency.
- (8) "Pre-Adoptive Status": Trial placement of a child with a prospective adoptive applicant.
- (9) "Recovery Services Section (RSS)": A section within Adult and Family Services (AFS) responsible for receiving and recording support money paid by an obligor and the transferring these money to the proper representative payee.
- (10) "Special Account Money": A sub-section of a child's Trust Account to receive money intended for a child's extra personal needs. This money may come from family, friends, the student's own earnings, etc.
- (11) "Support Arrearages": The amount of unpaid support which has been established by court order or voluntary agreement for the purpose of maintaining a child(ren).
- (12) "Support Enforcement Division (SED)": A division in the Department of Justice responsible for enforcing the support obligation of parents whose children are receiving public assistance.
- (13) "Termination of Custody": Relinquishment of SOSCF custody as a result of a court order, emancipation through attaining legal age, marriage, retraction of voluntary commitment or legal adoption.
- (14) "Unreimbursed Assistance (UA)": The total expenditures made by the state on behalf of a child less any amount reimbursed from the child's Trust Account.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

## **413-310-0420**

### **Policy**

A Trust Account will be established automatically when a child is placed in SOSCF's custody. This account will include both a maintenance and a special sub account in which all revenue received on a child's behalf will be recorded.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

## **413-310-0430**

### **Maintenance Account**

(1) All money received for the purpose of care of the child and interest earned thereon will be deposited into the child's maintenance account. Money may be received from an individual, state, federal or private agency and is used to support that child while in SOSCF's care. The maintenance account will provide sub accounts to segregate money and interest earned by source as follows:

- (a) Court Ordered Support;
- (b) Social Security Administration (SSA);
- (c) Other Sources;
- (d) Supplemental Security Income (SSI).

(2) An application will be made against the child's Trust Account for the maintenance costs SOSCF has expended for that child. Any balance remaining in the account shall be used to offset the cost of other expenses paid by SOSCF for that child. These expenses include but are not limited to clothing, school expenses, medical needs, etc.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

## **413-310-0440**

### **Special Account**

Money received for a child that has been identified for a specific purpose other than maintenance shall be deposited into the Special Account (i.e., child's earnings, restricted money gifts, inheritances, restricted money brought with the child when entering SOSCF's custody, interest earned on the special account money, etc.). All donations not specifically designated for a special purpose will be considered for the care of the child and will be deposited in the child's maintenance account.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

## **413-310-0450**

### **Trust Action-Trust Disbursement Request, CF 198**

(1) A CF 198 will be used to withdraw funds from the child's Trust Account. Blank CF 198s must be:

(a) Maintained under lock and key;

(b) Copies of used CF 198s must be kept on file;

(c) All voided CF 198's must be sent to Central Office, Accounting Services.

(2) In cases where the "payee" is not SOSCF, Adult and Family Services (AFS), or being returned to the source, the CF 198 must be signed by the caseworker or the caseworker's supervisor. All other transactions may be signed by the Trust Clerk or other designee. CF 198s which do not have a full signature will not be processed. They will be returned to the sender for proper authorization. (Initials do not constitute a full signature.)

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

## **413-310-0460**

### **Obtaining Money on a Child's Behalf**

(1) Federal Benefits - (SSA, SSI, RRB, VA, etc.):

(a) The local branch office will make application for SOSCF to become Representative Payee on behalf of a child in substitute care placement. Application for Social Security Administration benefits (SSA), Supplemental Security Income (SSI), Veteran's benefits (VA), Railroad Retirement benefits (RRB), military allotments or other similar recurring benefits must be filed with the payor organization on behalf of the director of the State Office for Services to Children and Families using the local SOSCF branch address. The signature on the application for these benefits will appear as: "branch manager name", branch manager, for the director, the State Office for Services to Children and Families.

**NOTE:** SOSCF shall remain Representative Payee for a child until SOSCF's custody is terminated, even if the child does not remain in a paid placement.

(b) The first check received following application may be a "lump sum" covering several months which may or may not include time that the child is in the custody of SOSCF. A letter of explanation from the payor organization will accompany or follow this first check. If this information is not received, the branch office shall contact the local benefit office.

(c) Upon receiving the first regular monthly benefit check, or award letter stating the benefit amount, the branch office shall initiate action to establish a Direct Deposit by completing the appropriate worksheet(s) (CF 297, Social Security

Benefits (SSA or SSI); CF 298, Veterans Benefits; or CF 299, Railroad Benefits). Before submitting the worksheet to the cashier in Central Office, the branch office shall enter the benefit information on the IIS system using the ICMC screen. Upon receiving the work sheet, the Central Office cashier will review the transaction to insure that the correct benefit number, amount and "D" for direct deposit were entered.

(d) The cashier in Central Office will complete the Authorization for Direct Deposit of Social Security (SF1199) or Civil Services, Railroad Retirement and Veteran's Affairs (SF1199A) and submit it to the bank which will process and forward the forms to the appropriate payor agency for action.

(e) All federal benefit checks received by the branch office are to be credited into the Maintenance Section subaccount of the appropriate Trust Account and deposited directly into the local bank. SSI benefits are to be recorded as current month receipts and all other Federal Benefits are to be identified as prior months' receipts.

(2) Court Ordered Support (Recovery Services Section):

(a) Court ordered support payments are generally collected by the Recovery Services Section (RSS), Adult and Family Services Division, Department of Human Resources. Money collected through RSS is transmitted daily via computer tape to the SOSCF IIS Fiscal System. These amounts will appear as a "70" receipt code on the IFDD Screen;

(b) Each branch must review the Trust Accounts every year to identify children who have had support money collected through RSS to insure that the appropriate application against the cost of care has been made. When Lump Sum arrearage money is received from RSS, and the fiscal subsystem can not make automatic application, the Trust Clerk will be responsible for preparing a CF 198 to reimburse SOSCF for any unreimbursed cost of care.

(3) Voluntary Payments:

(a) This includes money sent voluntarily by the family, relative or friends directly to the branch office for support of a child in SOSCF custody. This money is to be identified as support for the child and is to be credited to the maintenance account in the child's Trust Account;

(b) Money may also be sent which is designated for a specific purpose (e.g., to purchase a bicycle for the child, child's earnings, etc.). This money is to be credited to the special account of the child's Trust Account.

(4) Interest:

(a) Trust Accounts accrue interest monthly based upon earnings made by the State Treasurer's Office on investment of all trust money held;

(b) Interest is posted to each Trust Account, by source, based upon the daily balance in each account. Interest earned on Maintenance Account Sources is available to reimburse cost of care. Special account interest is available for the child's needs or special purposes as identified by the donor.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

## **413-310-0470**

### **Use of Money Available For a Child**

(1) Maintenance Account:

(a) Money in the maintenance account is available to provide for the current needs of the child. The following transactions may be processed against the child's maintenance account;

(b) Retroactive Lump Sum Benefits. SOSCF may use retroactive lump sum benefits either from federal benefits or support to offset the cost of care as follows:

(A) Federal benefits may be applied retroactively back to the initial date of paid placement;

(B) Retroactive support benefits may be applied back to the date of the court order ordering support or date of substitute care placement whichever date is later;

(C) For SOSCF to be reimbursed from arrears maintenance money prior to July 1, 1984, a Financial Accounting as outlined in Section G or H must be completed and a CF 198, payable to SOSCF must be processed;

(D) If the lump sum benefit is not equal to SOSCF's cost of care, the application is to be applied back as far as possible. If the lump sum benefit is greater than SOSCF's cost of care, the balance will be left in the maintenance account to cover future costs.

**NOTE:** The Social Security Administration provides a publication, "Your Duties as a Representative Payee", which is available upon request through your local Social Security office. A copy will be kept in the branch office for reference.

(c) Trust Fund Applications. Following each check run the amounts paid by SOSCF for the child's cost of care are automatically compared to the balance in the child's trust maintenance account. If the cost of care exceeds the balance, the entire trust maintenance balance will be applied. If the cost of care is less than the maintenance balance, the cost of care will be deducted from the account with the balance remaining for future use. The application shall not exceed the cost of care:

(A) Foster Care: Payments generated from the CF 308, Plan/Service Authorization are made at the end of every month and the application will be for the same month that the payment references. (For Example: A 308 may generate a foster care payment dated 5/31/85 for May 1985 care. The foster care application on 5/31/85 will deduct amounts from the maintenance account to reimburse SOSCF for May 1985 care);

(B) Purchase of Care Payments: Applications for Purchase of Care payments are made for the prior month. Invoices for purchased services are received for payment at the first of every month. Payment is then made to the provider for the prior month's care. Money available in the maintenance account is deducted for the month the payment was made. (For Example: Cost of care for May 1985 is billed to the agency on June 1, 1985 and payment is made in June. At that time the cost of May care is compared to the balance in the maintenance account and the application is made to reimburse SOSCF for May 1985 care);

(C) Trust Application Registers: A trust application Register is received in Central Trust Section daily. This report is reviewed to insure that the applications against the Maintenance Accounts were appropriate and accurate.

(d) Misapplications. If a payment is made under the wrong case number in error, the application will also be made to the wrong Trust Account. When this happens a reverse application must be made by Central Office. To initiate a reverse application the branch must prepare a memo to the manager of Accounting Services stating the circumstances of the misapplication, month(s) involved, amount(s), incorrect case number, correct case number, name of the payee, payee number and child's name;

(e) Manual Maintenance Payments. Children in SOSCF custody who have been moved from a paid placement to an unpaid placement may have monthly needs met from their Maintenance Account. The caseworker must determine that a financial need exists and document this need in the child's case file. (Also see SSI Regulations - Guidelines - Limitations in E.3. e, f, and g below.) The caseworker must complete a CF 198 any month money is to be forwarded to the non-SOSCF paid home or facility. The maximum amount to be forwarded shall not exceed the month's benefit or the foster care rate established by SOSCF for the child, whichever is the lesser.

**NOTE:** Court ordered support may not be used for this purpose.

(2) Special Account:

(a) Money Received for a Special Purpose. Money deposited in the special account is designated for a specific purpose with the exception of interest earnings prior to 4-1-82. When money is expended for the specified purpose, documentation is to be maintained in the child's case file. Money from the child's special account shall not to be used to offset the cost of care:

(A) Money Transferred to SOSCF With the Child: When a child enters SOSCF custody and brings an amount of money with him/her, it must be deposited in the child's special account unless specified by court order or other documentation that the money is available for maintenance of the child;

(B) Inheritance: If a child in SOSCF custody receives an inheritance, and a conservator is not appointed, these funds are to be deposited in the child's special account unless there is evidence that the money is available for the maintenance of the child.

(b) Restitution. When a child is mandated by a judge to repay for damages caused to a person or property only the child's earnings deposited in his special account may be used;

(c) Special Account money does not include:

(A) Any portion of a child's benefits or support money. Any benefit or support (OAR 413-310-0460) received, which is in excess of the monthly maintenance costs, may not be deposited into the special account. Excess benefits/support must be left in the maintenance account to meet the current, future and past cost of care needs of the child. If any such items are found in the special account, they must be transferred to the maintenance account with any accrued interest;

(B) SSI Weatherization. In Late 1979 and early 1980 the Social Security Administration awarded an additional month's benefit to SSI recipients to be used on behalf of the recipient to acquire items in preparation for winter weather. This additional benefit should have been credited into the maintenance account. If the benefit is found to be credited to the special account it must be transferred to the maintenance account with any accrued interest;

(C) Interest Earnings (other than special). Prior to April 1982, interest earned on both the maintenance and special account balances was posted to the special account only. When preparing financial or final accountings and it is discovered that interest earned on the maintenance account balance was posted to the special account and the money remains in the special account, that amount of money must be transferred to the maintenance account.

(3) SSI Regulations - Guidelines - Limitations:

(a) Asset Limitation:

(A) Eligibility for SSI benefits is to be terminated any time a child's assets (SOSCF Trust Account) reach the following balance on the first day of a calendar month:

(i) Prior to 1-1-85 \$1,500;

(ii) Beginning 1-1-85 \$1,600;

(iii) Beginning 1-1-86 \$1,700;

(iv) Beginning 1-1-87 \$1,800;

(v) Beginning 1-1-88 \$1,900;

(vi) Beginning 1-1-89 \$2,000;

(B) Exceptions to the limit are:

(i) Lump sum benefits received from Social Security Administration for back SSI benefits. The agency is allowed six months to reduce the trust balance below the asset limitation.

(ii) Funds in a separate irrevocable Trust Account;

(iii) Court ordered support (see subsection (d) of this rule);

(iv) Any SSI money received after reaching the limitation must be returned to the Social Security Administration until the asset limitation is reduced below the limitation and SSI has completed a re-evaluation and reinstated the grant.

(b) Trust Accounts with a Balance of \$1,000 or more. To monitor accounts approaching the SSI limitation, Report CPO313FI "Client Trust Account Monitoring Report" is produced monthly for each branch. It lists all trust accounts with a balance of \$1,000. Each of the listed accounts are to be reviewed by the branch for the following:

(A) Expenditures made by SOSCF for which reimbursement was not made;

(B) Medical payments made by AFS for the child's medical needs. If medical payments have been made but not charged to the Trust Account, money is to be drawn on the child's account by preparing a CF 198 payable to AFS. (Contact the central trust clerk for detailed medical expenditures on specific cases);

(C) Child is no longer in SOSCF's custody and a final accounting is to be made and money disbursed to the source or the child. (See OAR 413-310-0500, Clearing a Trust Account).

(c) Appointment of a Conservator. A conservator should be chosen for any child receiving SSI benefits when a large inheritance is received or when a Trust Account has money in excess of \$1,000. A conservator may be a parent, relative, lawyer or other person who will establish an irrevocable trust on the child's behalf. The irrevocable trust must not allow access to any money until the child reaches 18 years of age. Excess money should then be drawn from the SOSCF Trust Account, by preparing a CF 198, payable to the conservator. The SOSCF Trust Account should not be drawn below \$500;

(d) Support Not Considered Income for SSI. Court ordered support to satisfy the state debt incurred when a child is in a SOSCF paid placement will not be considered income to a child for SSI benefit determinations;

(e) Placement With a Relative. When a child is placed with a relative and is receiving SSI benefits, the Social Security Administration must be notified by the branch office so benefits can be reduced by 1/3. These reduced benefits may be forwarded by the branch to the relative if required to meet the child's current needs. (See subsection (1)(e) of this rule, Manual Maintenance Payments);

(f) Pre-Adoptive Status. When a child is placed in pre-adoptive status, the Social Security Administration must be notified by the branch office so SSI benefits can be reduced by 1/3. Monthly assistance for the amount of the Social Security benefit may be forwarded to the pre-adoptive parent if required to meet the child's current needs. (See subsection (1)(e) of this rule, Manual Maintenance Payments);

(g) Placement With Parent. When a child is placed with the parent(s) on a trial basis, Social Security Administration must be notified by the branch office. A complete redetermination of SSI eligibility will be made based upon the parent's income plus any maintenance money which may be sent to the parent through SOSCF. If the redetermination finds the child eligible for SSI benefits and the money is required to meet the child's current needs, SOSCF may forward the SSI benefits to the parent(s). (See subsection (1)(e) of this rule, Manual Maintenance Payments).

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

**413-310-0480****Transfer of Money Between Maintenance and Special Trust Sub Accounts**

- (1) The only instance in which money may be transferred between the maintenance and special subaccounts is when money was credited to the wrong account in error.
- (2) Transfer of funds from one account to another is made by completing a CF 198 and providing an explanation for the transfer in the comments section of the CF 198.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

**413-310-0490****Financial Accounting**

Financial accountings are required on all cases where a client was in a paid placement. This is required even if no money was received into the child's Trust Account from any source during placement with SOSCF. All paid placement cases are referred to SED, (except for Good Cause), and SED will pursue collection of support on SOSCF's behalf.

- (1) Priority for Completing Financial Accounting:
  - (a) Requests from Central Office:
    - (A) Challenged tax withholdings (within 3 workdays);
    - (B) Potential Lawsuits and/or SED Requests (within 10 workdays);
    - (C) Other (within 15 work days).
  - (b) Transfer of Cases from One Branch to Another (within 30 days);
  - (c) Current Closures (within 90 days);
  - (d) Prior Closures:
    - (A) Closures since 3-1-82 (all);
    - (B) Closures prior to 3-1-82 (accounts with cash balance only).
  - (e) Current Active.
- (2) Restriction on Cost-of-Care Computations. When preparing a financial accounting for a child who was placed in Hillcrest, MacLaren, or the camps, the cost of care will not be considered for time prior to April 1, 1982, unless there was a court order requiring support at time the child was placed in Hillcrest, MacLaren, or a camp.
- (3) Distribution of Financial Accountings:

- (a) Retain one copy in the branch preparing the financial accounting;
- (b) Forward original to the Central Trust Unit;
- (c) Forward one copy to the branch or training school to which the case is transferred.

(4) Financial Records Retention, Pre-adoption or Adoption Status:

- (a) For children in foster adoption or pre-adoption status or whose adoption has been finalized, it is necessary to retain all financial records until the financial accounting has been completed.
- (b) When the adoption is finalized, all financial documents must be removed from the record and held in a separate file in the branch. This file is to be retained for seven (7) years after the Trust Account reaches zero (0).

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

## **413-310-0500**

### **Clearing a Trust Account**

- (1) When a child whose custody from SOSCF is terminated, the funds available in the Trust Account shall be disbursed and the account "zeroed out" using the following guidelines.
- (2) Prepare Closing Financial Accounting. In order to insure proper disbursement of Trust Account balances when a child leaves SOSCF custody, a closing financial accounting must be prepared. Starting with the first month and working forward, monthly expenditures will be reimbursed with maintenance money in the following priority:
  - (a) Court ordered support;
  - (b) Social Security;
  - (c) Other:
    - (A) Voluntary support;
    - (B) Veterans;
    - (C) SAIF;
    - (D) Civil Service Annuities;
    - (E) Military Allotments;
    - (F) Railroad;
    - (G) Other.
  - (d) SSI.
- (3) If a child has had interim financial accountings prepared, the closing financial accounting will only have to cover the period of time not covered by the interim accountings.

(4) Maintenance Account. Where there is any balance in the Maintenance Account it must be analyzed to determine whether the balance represents money received while the child was in care and whether it should have been used to offset the cost of care:

(a) Manual Application for Cost of Care:

(A) If it is determined that part or all of the Maintenance Account balance should have been used to offset the cost of care, a CF 198 shall be prepared made payable to SOSCF FC (Foster Care) or PC (Purchase of Care). If PC (Purchase of Care) include provider number and explain in Comments section of the CF 198 the period of time covered and amount of money applicable to each provider;

(B) If a balance still remains, AFS shall be reimbursed for any medical expenditures which were made on behalf of the child. (See OAR 413-310-0470(3)(b)(B)).

(b) Manual Disbursing of Maintenance Account Balance. When it is determined that part or all of the balance in the Maintenance Account does not belong to SOSCF for cost of care, determine the source of the income and proceed as follows:

(A) SSA and SSI. Conserved funds are to be disbursed back to the payor organization when SOSCF custody of the child terminates:

(i) Payor Organization: The Trust Clerk shall determine the type of Social Security funds and prepare a letter or CF 296 showing money received, disbursed, and the amount to be refunded. Include child's name, claim number, and explanation of the refund. The Trust Clerk should then complete the CF 198 payable to the Social Security Administration, in care of "Claim Number". Send the letter and the CF 198 to Central Office Trust Section. When the check is issued, SOSCF Central will send the letter and check to the appropriate agency;

(ii) Child or His/Her Guardian: SOSCF may not disburse excess benefits from SSI or SSA to the child or guardian without written authorization from the organization. If an extreme financial hardship will be placed upon the child or guardian, the branch office should contact the local benefactor organization by telephone or letter stating the circumstances, claim number, child's name, and amount of excess benefits. When written authorization is received to release benefits to the child or child's guardian the branch office will then initiate a CF 198, payable to the appropriate person. Send a copy of the written authorization and the CF 198 to the SOSCF Central Trust Clerk.

(B) Support Money:

(i) If the balance represents support received after the child left custody it will be necessary to determine if those payments are for arrearages covering a period when the child was in care. Arrearages can be verified on the AFS SMUX Screen. If the above information is not understood or is confusing, contact SOSCF Central Trust Clerk for assistance;

(ii) If SOSCF is not entitled to the current child support, the funds must stay in the account until returned to RSS. This occurs after the Support and Enforcement Division (SED) has been notified by the appropriate branch updating IIS showing that the child is no longer in SOSCF's custody. SED will take the necessary steps to change the court order and RSS will enter the new order redirecting the support into their system. Since SOSCF is due maintenance money for any costs of care incurred during the last month that the child is in paid placement, the branch must notify the Central Trust Unit of costs outstanding. The Central Trust Unit will then notify RSS of the outstanding costs and they will retrieve the excess support and send it to the new obligee.

(C) Other Support. Money received as voluntary support intended for maintenance of the child in an out-of-home care placement shall be disbursed to the parent/guardian or the child when SOSCF's custody of the child is terminated. A letter of explanation shall accompany the money.

(5) Special Account. Balances in the Special Account are to be paid directly to the legal guardian or child as directed by the branch office. A letter of explanation shall be sent to the person(s) designated to receive this money.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

## **413-310-0510**

### **Unclaimed Trust Account Balances**

(1) In accordance with the **Uniform Disposition of Unclaimed Property Act of 1957** (ORS 98.302-98.436) the State Office for Services to Children and Families will:

(a) Identify each account which has been "unclaimed" and abandoned five years from the date SOSCF's custody was terminated;

(b) Every year from June 30 until November 1, unclaimed Trust Account balances will be cleared and disbursed to the Division of State Lands after completing the following:

(A)(i) Review the account to determine if the

balance represents money received while the child was in care and whether it should have been used to offset the cost of care;

(ii) If it is determined that the balance should have been used to offset the cost of care, follow instructions under OAR 413-310-0500.

(B) Determining whether the balance represents child support or federal benefits, and whether appropriate actions were taken at the time SOSCF's custody was terminated per instructions under OAR 413-310-0500, Clearing a Trust Account;

(C) When money remains in the Trust Account, a notice must be sent to the client's last known address stating that there is a Trust Account balance with SOSCF. Allow the client 30 days from the date of the notice to respond.

(c) If the notice is returned because the child has moved leaving no forwarding address, or the 30 days has elapsed without a response, the branch is to dispose of the balance in the following manner:

(A) Balances of \$3 or less are to be disposed of by preparing a memorandum entitled "Unclaimed Trust Balances," which includes: the child's name; eligibility; branch; case number; person letter; and date case closed and submitting it to the SOSCF Central Trust Clerk for processing. These minor balances which result primarily from final interest postings will be reversed from the client's Trust Account and added back to the next Monthly Interest Distribution;

(B) Balances over \$3 shall be sent to the Division of State Lands. Prepare a CF 198, payable to "Division of State Lands" in care of the child's name. In comments record date case closed and that this is an unclaimed balance. A Division of State Lands Form 2A listing the details of the accounts being transferred must accompany the 198's and be sent to the SOSCF Central Trust Clerk. Separate 2 A's are to be prepared for:

(i) Accounts which have balances under \$10;

(ii) Accounts which have balances of \$10 or more.

(C) SOSCF accounting will prepare the Form 1A, 3A, and accumulate the trust checks which are to accompany the Form 2A's to the Division of State Lands.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 416.820, 416.030, 418.032 & 419B.400 - 419B.406

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 320**

**PROPERTY MANAGEMENT**

**Parking Facilities Controlled by SOSCF**

**413-320-0000**

**Purpose**

The provisions of these rules shall govern all of the parking facilities owned or leased by the State Office for Services to Children and Families (SOSCF), State of Oregon. Parking, which is leased to another state agency or business by SOSCF, is not subject to the provisions of these rules.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 276.591

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

**413-320-0010**

**Definitions**

- (1) "Car or Van Pool" means any regular ride-sharing arrangement between two or more commuters engaged in to reduce total auto mileage, commuting costs and traffic congestion, and operates no fewer than two-thirds of the working days in each calendar month.
- (2) "Commuter" means any employee, officer, board or commission member, or voluntary worker of the state, local government, or private industry who is commuting for the purposes of employment.
- (3) "Handicapped" means an individual who, because of physical disability, qualifies for a disability motor vehicle

license plate or decal issued by the Motor Vehicles Division.

(4) "Parking Facilities" means any lot, grounds, structure, area, or other place used or available for the storage of vehicles; principally, automobiles, motorcycles or bicycles.

(5) "Responsible Manager" means any branch, region or central office manager responsible for control and maintenance of the property assigned to the local offices.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 276.591

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

## **413-320-0020**

### **Parking Facility Management**

(1) Each responsible manager shall review the parking facilities leased or assigned to the manager's local office and determine if fees are appropriate according to ORS 276.591.

(2) The responsible manager shall develop a plan for managing the local parking facility which shall be subject to review and approval by Management Operations upon request. The plan shall specify:

(a) The number of spaces controlled by the responsible manager which are subject to fees;

(b) A justification for charging no fee if local parking does not meet the intent of ORS 276.591;

(c) Rates to be charged;

(d) A fiscal statement indicating the approximate cost of leasing and maintaining the parking facility and the estimated rates to be collected each month.

(3) Duly appointed staff members, whether temporary or permanent, shall be eligible for one reserved parking space in a parking facility related to the assigned work location subject to availability and in accordance with Assignment Priority Section below. Members of a car or van pool shall consider the pool space as their one reserved space unless ample space is available to assign an additional personal space and if there is no waiting list for spaces.

(4) A staff person with a reserved space may temporarily sublease the space to another staff person for a period not to exceed three months within the period of a year at a price that does not exceed what the assigned person pays for the space. It is expected that when a person no longer needs a reserved space ongoing, the space will be released for reassignment.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 276.591

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

## **413-320-0030**

### **Establishing Fees for Parking**

(1) The responsible manager shall establish a base rate as part of the parking plan that includes the following considerations:

(a) Recognizes agency costs;

(b) Recognizes local market conditions and community standards;

(c) Does not cause hardship or eliminate demands for state parking.

(2) If the responsible manager determines that charging fees is not appropriate, this must be fully documented as part of the parking plan required by Parking Facility Management Section of this rule.

(3) To encourage the use of car or van pools, the responsible manager may offer car pool incentive reductions to the base rate based upon the number of participating commuters.

(4) In order to qualify for an incentive reduction, each car or van pool must include at a minimum, two commuters and certify at least annually that the car or van pool operates no fewer than two-thirds of the working days of each calendar month.

(5) Each certified pool shall be registered in the name of all the agency employee participants who shall be individually responsible that their share of the fees are paid through payroll deductions. Where there is a waiting list for spaces, each person participating in a pool should also enter their name on the waiting list to establish personal eligibility in case they discontinue participation in the pool and a personal space is needed.

(6) Motorcycles and Bicycles - A single rate shall be established for motorcycles not to exceed the lowest incentive rate. A parking space for bicycles or a bicycle rack shall be made available at each local office. No fee shall be charged for the use of these areas.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 276.591

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

## **413-320-0040**

### **Other Parking**

Each responsible manager shall assure that the following types of additional parking are made available:

(1) Specially marked designated free parking for the temporary use of handicapped individuals visiting state offices. Vehicles occupying such spaces shall bear the appropriate identifying plates or decal sticker issued by the Motor Vehicles Division.

(2) Time limited, free, or metered spaces by persons transacting business in the state office. No state employee or commuter shall abuse this class of parking.

(3) Free spaces designated for commercial loading and service vehicles use only.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 276.591

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

**413-320-0050****Payment of Fees**

- (1) State employees shall pay for parking by payroll deduction. Deductions must be initially authorized in writing by the employee on the form prescribed by the Division. This authorization shall remain in force until the employee cancels it in writing or terminates his/her state employment. Deductions, once authorized, are automatically made monthly in arrears for parking charges.
- (2) Monthly rates will be prorated to the nearest half-month for persons who begin or stop parking after the fifteenth calendar day of the month.
- (3) Authorization forms for payroll deductions are available from Management Operations, State Office for Services to Children and Families, Human Resources Building, 4th Floor, 500 Summer Street NE, Salem, Oregon 97310-1017. This form also includes a section for certifying car and van pool participants.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 276.591

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

**413-320-0060****Assignment Priority**

The responsible manager shall observe the following priority in assigning the available parking spaces:

- (1) Agency held state cars which receive frequent daily in-and-out use;
- (2) Responsible manager certifies that the employee must have a vehicle at the work site and is required to use their own vehicle to perform assigned duties;
- (3) Agency director and assistant administrator(s), at the central office, and branch managers at the assigned branch offices;
- (4) Certified handicapped employees in locations where special handicap parking privileges are not otherwise provided (e.g., curbside parking provided by the city);
- (5) Car and van pool vehicles with four or more commuters;
- (6) Car and van pool vehicles with two or three commuters;
- (7) Single occupant commuter vehicles.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 276.591

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

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**Oregon Administrative Rules  
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**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 330**

**CONTRACT ADMINISTRATION**

**Criteria for Personal and Professional Services Contracting**

**413-330-0000**

**Definitions**

- (1) "Consideration": To perform or provide something of value in exchange for something of value.
- (2) "Independent Contractor": An independent contractor is distinguished from an employe by the following characteristics:
  - (a) An independent contractor is free from control and direction as to the methods or strategy used to provide the agreed-upon service; and
  - (b) Such independent contractor is customarily engaged in an independently-established business of the same nature as that involved in the contract of service.
- (3) "Personal and Professional Service Contract": Contracts for services performed as an independent contractor in the professional capacity, including but not limited to the services of an attorney, physician or dentist; contracts for services of a specialized, creative, and research oriented, non-commercial nature; contracts for services as a consultant or trainer; and contracts for human care and treatment, education services, consultation and training.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

**413-330-0010****Contract Principles**

- (1) Personal Services Contracts are defined in OAR 125-310-0092. Requirements for writing SOSCF contracts are defined in the following rules. The state can pay for personal and professional services provided by a private individual or organization only if an appropriately written, fully signed contract is executed prior to services being rendered. Any person who authorizes services to be performed prior to a contract being signed in accordance with these rules, is personally responsible to pay for the services.
- (2) The State Office for Services to Children and Families (SOSCF) contracts shall be in writing to create an enforceable means of assuring that each of the parties faithfully discharge the obligations they have assumed and receive the benefits and protections guaranteed to them by the contract.
- (3) Contracts will be written prospectively. SOSCF is not bound to pay for services which were given beyond or outside of a legal contract. Contracts will not be written retroactively to cover work performed prior to the effective date of the contract.
- (4) Contracts may be amended during the term of the contract to extend the contract term ending date or to modify the statement of work to be performed, the consideration to be paid, or any other provision of the contract to reflect the intentions of the parties, or to reflect the actual nature of the services being provided and the parties agreement.
- (5) A contract may not be amended to change the effective date to a date prior to the date the contract was approved by the Department of Administrative Services and the Department of Justice. A contract may not be amended to authorize and pay for work not already covered by that contract and already performed without benefit of an effective contract. (Example: If a current contractor undertakes to provide SOSCF with additional kinds of services, or to develop a new program, etc., without first obtaining SOSCF approval and executing a contract for that new work, an existing contract may not be amended to retroactively authorize and pay for that work.)
- (6) Contracts will be written with contractors who have the power to enter into a binding agreement. For SOSCF contracts, such contractors include an individual acting for her/himself, husband and wife acting together, a partnership, a corporation; and may include others acting "jointly and severally" under certain conditions. The contracting parties will be clearly identified. Contracting individuals, partners, and the president or board chair person of a corporation are assumed to be authorized to sign contracts. If any other person is designated to sign for the contractor, the SOSCF representative obtaining the signature will require the signer to produce an official document (e.g., corporation by-laws, minutes of a board meeting, etc.) authorizing such signature.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

**413-330-0020****Approved Programs**

Contracts for services shall be executed only in support of those programs that have been approved for contracting by SOSCF. When federal funds will be claimed for contract services, the services will be in support of a program for which the federal funds are authorized.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **413-330-0030**

#### **Authorizing Contract Funds**

Funds for the services shall be authorized in a legislatively approved budget or have been approved for the services by the Emergency Board of the Legislature.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **413-330-0040**

#### **Independent Contractor**

Contracts will be entered into with independent contractors only as defined in ORS 670.600 and in accordance with Department of Administrative Services Administrative Rules 122-020-0050, 122-020-0055 and 122-020-0060. Contracts will not be written with persons who are, by definition, SOSCF employees.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **413-330-0050**

#### **Contracts with Individuals**

Contracts with individuals to provide services similar to services regularly provided by state employees will not be approved since, in most cases, an employer-employee relationship will exist and the services must be obtained through the personnel hiring system.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **413-330-0060**

#### **Authority to Sign Contracts and to Represent SOSCF**

(1) The agency director is the only person in SOSCF who, by virtue of the position, is authorized to sign contracts for SOSCF. The director may delegate signatory authority to others. The delegation will be in writing and will identify any conditions or limitations which may apply. A current record of such delegation shall be maintained on file in the DHR

## Contracts Section.

(2) SOSCF personnel may be assigned to represent SOSCF in matters related to developing and administering contracts. Such persons are agents of the state and the state is responsible for and is obligated by their actions when they act in accord with state law and pertinent agency rules and directives. Persons committing the state to pay for services rendered outside of a contract written in accordance with these rules, or acting outside their authority may be held personally responsible and liable for obligations incurred by them for the state.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **413-330-0070**

#### **Contract Approval**

(1) At minimum, all contracts shall be signed by an authorized representative of the provider and an authorized representative of SOSCF prior to the beginning of services. SOSCF has no authorization to pay for services performed prior to the date of any required approval signature or outside the effective dates of a contract.

(2) The Department of Administrative Services shall approve all personal service contracts of state agencies before any such contract becomes binding and before any service may be performed under the contract, except for the following:

(a) Architectural, engineering, and related services contracts described in ORS 279.712(2);

(b) Client Service Contracts;

(c) Standard Fee Contracts;

(d) Expert Witness Contracts;

(e) Contracts up to \$1,000, unless they are with a contractor who has contracts totaling more than \$2,000 in a fiscal year;

(f) Any contracts for which the Department of Administrative Services has granted an exemption;

(g) Any other contracts for which the Department of Administrative Services has delegated authority.

(3) The Attorney General shall review personal service contracts for legal sufficiency, when the contract establishes payment in excess of \$25,000. The approval of the Attorney General must be given prior to the effective date of the contract or the contract is not binding on the state of Oregon and no service can be performed under the contract.

(4) The Attorney General shall review all intergovernmental agreements with other states and countries.

(5) The Department of Administrative Services has granted SOSCF exemption from requirements to get approval from and report contracts to the Department, in the following categories:

(a) Contracts for day care when the approved contract form is used;

(b) Family Foster Care and Shelter Care Contracts when the approved contract form is used;

(c) Title XIX Psychiatric Residential Treatment provider agreements;

(d) Title IV-E Independent Living Facilitator Contracts, CF 12A.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **413-330-0080**

### **Responsibility to Implement Contracts**

(1) The appropriate SOSCF manager from whose budget the contract is to be funded, or designee, will be responsible to determine the need to contract, what is to be purchased, and the maximum amount which may be spent.

(2) The DHR Contracts Section will be responsible to assure compliance with SOSCF rules and policy in contractor selection and in writing and processing the contract.

(3) The DHR Contracts Section will be responsible to assure the legal sufficiency of all standard contracting forms including the CF 44 (Emergency Contract) and the CF 996 (Family Foster Home/Shelter Care Contract). Any changes to these forms must have the approval of Management Operations.

(4) The DHR Contracts Section will prepare and process all contracts between SOSCF and another party or agency except those listed in paragraphs (5) through (8) of this rule.

(5) Family Foster Home/Shelter Care Contracts will be prepared and processed by field staff in accordance with OAR 413-330-0100, with the use of the CF 996 (Family Foster/Shelter Care Contract).

(6) Emergency contracts will be prepared and processed by field and/or Central Office staff as needed in accordance with OAR 413-330-0500 through 413-330-0540, with use of a CF 44 (Emergency Contract).

(7) The administrator or employee authorizing payment for services requiring a contract, but did not have a fully signed contract in place before service begin date, must attach the following statement of understanding to any request for payment:

"I (administrator/management) fully understand that having allowed or authorized services to be performed outside a contract that if SOSCF receives an audit exception or is otherwise contested for the action, I will be personally liable for the amount of the payment.

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Signature of Administrator/Manager

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 5-1997, f. 6-19-97, 7-1-97; SCF 7-1997(Temp), f. & cert. ef. 8-11-97

[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

## **Contracts Exempt from Department of Administrative Service Requirements**

### **413-330-0100**

#### **Policy**

(1) Contracts for family foster home and shelter care have been exempted from the Department of Administrative Services requirements when the standard forms are used and are completely processed by SOSCF field staff.

(2) Before any services are performed by a provider and payment is made by SOSCF for any family foster home care, and shelter care, the provider shall sign a contract with SOSCF. The contract is effective only during the period the contractor holds a valid certificate or registration:

(a) Foster Family Home/Shelter Home Contracts:

(A) The CF 996 must be used to contract with all family foster homes and shelter homes;

(B) The CF 996 must be signed prior to children being placed in the home and is effective for the duration of the foster home provisional and/or regular Certificate of Approval. The certifier shall review the contract with the foster parent at the time of recertification;

(C) The beginning date in paragraph one of the contract (CF 996) must be identical to or following the date on the Foster Home Certificate of Approval. This includes provisional certificates. Termination or revocation of the Certificate of Approval automatically terminates the contract;

(D) Contracts must be signed by foster parents and certification worker in duplicate and approved in writing by the supervisor:

(i) One copy will be retained by foster parents;

(ii) One copy will be retained in the foster parents' record in branch office.

(E) Contracts may be modified only by the Resource and Regulatory Manager or designee with approval from the DHR Contracts Section.

(b) Special Rate Payments. Special Rate payments will be made only to foster parents who:

(A) Have a signed current contract (CF 996) on file; and

(B) Have negotiated and signed a separate CF 172A for each child receiving a special rate.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **Screening and Selection of Contractors**

**413-330-0200****Purpose and Policy**

- (1) These rules describe the process of screening and selecting personal services contractors.
- (2) The State Office for Services to Children and Families shall use competition to the maximum extent practicable when selecting contractors to provide personal and professional services. When the cost of services is less than \$25,000, price quotations and statements of qualifications shall be solicited from at least three sources before selecting a contractor. When the cost of services is \$25,000 or more, proposals shall be solicited as outlined in these rules.
- (3) Competition is presumed not to exist when:
  - (a) Less than two qualified persons or organizations respond to an advertised request for proposal; or
  - (b) After following the procedures in these rules, it is established that there is only one source available to provide the service.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

**413-330-0210****Definitions**

- (1) "Offeror": A prospective contractor who has submitted a proposal for delivery of specified services.
- (2) "Qualified Offeror": An offeror who meets the minimum requirements stated in the Request for Proposals (RFP).
- (3) "Personal Service Contracts": Contracts for human care services, educational services, consultation, training, etc. See OAR 125-310-0092.
- (4) "Proposal": A written statement, usually in response to a Request for Proposals (RFP), which describes how an offeror (prospective contractor) proposes to deliver the specified services, the offeror's qualifications, and the offeror's price for the services.
- (5) "Quotation": An oral or written statement by a prospective contractor of the price and any conditions for delivery of specified services.
- (6) "Request for Proposals (RFP)": The document which specifies requirements for services and solicits proposals for meeting the requirements from prospective contractors.
- (7) "Competitive Proposal": Proposals received from two or more qualified offerors in response to an RFP.
- (8) "Noncompetitive Proposal": A proposal which is the only one received from a qualified offeror in response to an RFP.
- (9) "Specification": A clear, accurate, detailed description of a service.
- (10) "Standard": A statement expressed in measurable terms which sets the required level of performance of a service.
- (11) "Statement of Qualifications": An oral or written statement by a prospective contractor of the contractor's

education, training, experience and other qualifications related to provision of specified services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0220**

### **Soliciting Quotations**

(1) Quotations and statements of qualifications will be used to select contractors to provide the following services:

(a) Regular, customary professional services of a physician, psychiatrist, psychologist or similar professional person, for any amount;

(b) Other personal services contracts of less than \$25,000.

(2) Timely notice of all contract solicitations in excess of \$1,000 shall be given to the Advocate for Minority, Women, and Emerging Small Business for the Oregon Opportunity Register and Clearinghouse.

(3) Quotations and statements of qualifications are not required for:

(a) The services of certified providers of family foster care and shelter care. When special rates are authorized, the basis for the special rates must be documented;

(b) Educational services provided by a public school or school district;

(c) Housekeeper and other services provided by qualified providers at federal minimum wage;

(d) A person making a speech at a conference or other event where honorariums are to be paid. This does not include a person giving a training presentation;

(e) Contracts for \$1,000 or less;

(f) The services of county, municipal and other local government agencies, which the agencies are authorized to provide within their jurisdiction including but not limited to sanitarian, health, safety and welfare services;

(g) Service for which satisfactory documentation shows that only a single source is available or practical. Competition is presumed not to exist when it can be documented by a professional certification or licensing agency or is confirmed by a professional third party who is knowledgeable of available providers;

(h) Amending an existing contract;

(i) Recontracting when the conditions of rule 413-330-0300(2)(c) are met.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0230**

### **Service Definition**

Contract services shall be defined in writing before any action is taken to solicit quotations and statements of qualifications from prospective contractors.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0240**

### **Competition**

Competition shall be used in obtaining services to the maximum extent practicable. As used herein, competition means obtaining quotations and statements of qualifications from a reasonable number of prospective contractors when considering the nature of the services and value of the contract. When practicable, quotations and statements of qualifications should be obtained from at least three sources except as outlined in OAR 413-330-0220(3).

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0250**

### **Selecting the Contractor**

The contractor who has been judged best able to provide the services at a reasonable price will be selected to perform the contract. Consideration should be given to the quality of the services, and the results which the services are expected to produce.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0260**

### **Obtaining Quotations and Statements of Qualifications**

Informal means, such as letter or telephone, may be used to obtain quotations and statements of qualifications when appropriate. The following shall be recorded and made a part of the contract records using the CONTRACTOR SELECTION STATEMENT, form CF 11-A:

(1) Names of individuals or firms solicited, and price quoted by each.

(2) Basis for selection of the contractor (e.g., lowest price quoted, best qualified at reasonable price, only known contractor able to provide the services at the required time and place, etc.). When only one contractor is known, the method used to search out other contractors will be explained. If a better qualified contractor is selected over a contractor whose price is equal or lower, the better qualifications will be explained.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0270**

### **Soliciting Proposals**

Proposals will be solicited through the RFP process outlined below for contracts of \$25,000 or more unless the procedures in rule 413-330-0220 apply, or unless the programs or services are exempted in OAR 413-330-0300. Competitive proposals will not be solicited for information or planning purposes.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0280**

### **Service Definition**

Contract services shall be defined in writing before any action is taken to solicit proposals from prospective contractors.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0290**

### **Competition**

(1) Competition shall be used in obtaining services to the maximum extent practicable. As used herein, competition means obtaining proposals from two or more sources capable of providing the services.

(2) Agreements with state and other government agencies are not included in the definitions of public and personal services contracts and therefore do not come under the requirements for competition in contractor selection.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

**413-330-0300****Programs and Services Exempted from Seeking Competitive Proposals**

(1) A Request for Proposals (RFP) is not required:

(a) For services listed in OAR 413-330-0220(1) and (2);

(b) If the SOSCF director or the responsible assistant administrator and the Department of Administrative Services is satisfied that only a single source is available or practical and waives, in writing, the requirement to use an RFP. The prospective contractor will submit a proposed description of services to be provided and a proposed budget which will be evaluated in accordance with OAR 413-330-0350;

(c) To contract for personal services when the responsible assistant administrator has determined that federal funds are not involved and use of quotations and statements of qualifications will provide a reasonable basis for selecting the contractor;

(d) When two or more certified or licensed child care providers capable of providing the services, exist in the area where the services are required and SOSCF uses the services of each of the providers. Competition is presumed not to exist for the services of such providers, and competitive proposals are not required;

**NOTE:** ORS 418.205 - 418.327 establishes certification and licensing requirements to be met by child caring providers.

(e) To amend an existing contract;

(f) To recontract for the services of a licensed or certified child care provider with which SOSCF has a current contract, when:

(A) Competition to provide the services does not exist;

(B) The provider's services have been reviewed by the responsible SOSCF manager, and the provider and SOSCF have agreed to a detailed description of the provider's services in a form acceptable to SOSCF sufficient for recontracting; and

(C) The provider's current management of SOSCF funds as shown in recent audit(s) and expense statements indicates that SOSCF funds are being used for contractually allowable costs, or a satisfactory corrective action agreement from the provider indicates that SOSCF funds will be appropriately used in the future.

(2) Except as prohibited by law or administrative rule, the responsible SOSCF assistant administrator may waive part or all of the requirements of these rules relating to soliciting proposals, for any specific service, upon determining that:

(a) Such waiver is necessary to carry out an authorized SOSCF program in a timely manner; and

(b) It is unlikely that such a waiver will encourage favoritism in awarding a contract or substantially diminish future competition;

(c) Waiver of rules relating to soliciting proposals may not be made to recontract for a second contract period. Proposals will be solicited in accordance with these rules prior to recontracting;

(d) The waiver shall be made a part of the contract records.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0310**

### **Request for Proposals (RFP)**

(1) When the RFP process is used, whether for more or less than \$25,000, it shall be used in accordance with this policy, OAR 413-330-0310 through 413-330-0360, and shall be processed by the Contracts Section.

(2) RFP's should include the following, when applicable:

(a) Statement of the required work, including a clear description of the services to be provided, standards by which performance of the services will be measured and conditions affecting delivery of the services;

(b) Minimum standards and qualifications which contractors must meet to be eligible to provide the services;

(c) Information which prospective contractors must submit in their proposals to support their capability, such as experience providing the same or similar services (when, where, for whom, type of service, etc.);

(d) Funding information and budget requirements. If rates of payment will be based on a budget or if for other reasons an offeror budget is requested, a budget form should be included;

(e) The form and organization of proposals, when and where proposals are to be submitted, and when award of a contract is expected;

(f) The method and criteria to be used in evaluating proposals and the weighting assigned to each criterion if competitive proposals may be received;

(g) Notice that all costs incurred in the preparation of a proposal will be the responsibility of the offeror and will not be reimbursed by SOSCF;

(h) Notification whether late proposals may be considered, or whether late proposals will not be considered;

(i) Contract General Provisions.

(3) Offerors will be instructed to submit proposals in two parts:

(a) The technical proposal which describes how the services will be provided, contractor's qualifications, experience, etc.; and

(b) The cost and pricing proposal which states the price for the services and describes the basis for the price including all significant elements of cost.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **413-330-0320**

### **Publicizing the RFP**

(1) Timely notice of the RFP shall be given to the Advocate for Minority, Women, and Emerging Small Business for the Oregon Opportunity Register and Clearinghouse.

(2) A copy of the RFP will be mailed or delivered to known, prospective contractors who are considered qualified to provide the services in the area where the services are required.

(3) Except as stated in section (4) of this rule, RFP's will be publicized by placing a short notice, describing the services and stating where a copy of the RFP may be viewed or obtained, in an appropriate newspaper, trade journal, or other publication for at least one issue of the publication using DAS master contract, and advertising on the Vendor Information System.

(4) Publicizing is not required for services of child caring agencies or for other child caring services when, because of SOSCF' certification/licensing responsibilities, or for other reasons, SOSCF is aware of all qualified providers of the services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

### **413-330-0330**

#### **Offeror's Conference**

When competition to provide the services may exist, an offeror's conference may be conducted to explain the procedures related to preparation, receipt and evaluation of proposals, and to answer any general oral questions which the offerors may have. The conference should be scheduled sufficiently in advance of the date of receipt of proposals to allow offerors to make use of the information in preparing their proposals. Offerors should be instructed to submit questions related to interpretation of RFP requirements in writing early enough for a written answer to be furnished to each offeror in time for the offeror to use the information in the proposal.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

### **413-330-0340**

#### **Receipt and Protection of Proposals**

Proposals received in response to an RFP will be stored unopened and protected from public disclosure until the final date and time set for receipt of proposals. (When necessary, proposals may be opened for identification and resealed thereafter.) Proposals received after the date and time specified in the RFP are "late proposals." SOSCF is under no obligation to accept or consider late proposals, but may do so if the RFP authorizes SOSCF to consider them and if the proposal is received early enough so contract award will not be delayed.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

**413-330-0350****Evaluation of Noncompetitive Proposals**

Noncompetitive proposals will be evaluated to determine the extent to which the service requirements of the RFP have been satisfied, and to establish if the price is reasonable. The offeror will be required to submit information to explain any questionable elements of service or cost.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

**413-330-0360****Evaluation of Competitive Proposals**

- (1) Competitive proposals will be evaluated by a committee of not less than three persons, appointed by the responsible manager, who are not in a conflict of interest position with any person or organization submitting a proposal, who are knowledgeable of the service requirements and are expected to exercise expert, objective judgment.
- (2) Evaluation committee members will be notified of their selection, by the DHR contracts officer, furnished a copy of the RFP and advised of the method of evaluation. The committee will review the RFP and evaluation methodology prior to receipt of proposals.
- (3) After the time for receipt of proposals has passed, a copy of each technical proposal, describing how the offeror proposes to provide the services, will be furnished to each evaluation committee member. Evaluation of the technical proposals will be conducted in two steps:
  - (a) Committee members will independently evaluate and rate each evaluation criterion described in the RFP, using a rating scale of 0 to 5 with 5 the highest rating;
  - (b) After independent evaluations have been completed, the contracts officer will conduct a meeting of the committee to resolve differences in independent evaluations. The rating will be multiplied by the weighting for each criterion shown in the RFP to determine the score for the criterion. Criterion scores will be totaled to obtain the technical proposal score. The committee may interview offerors as considered necessary for clarification, and will perform any necessary review and verification. Offerors will be tentatively ranked in order of preference to provide the services based on the technical proposals.
- (4) The evaluation committee will next consider the cost and pricing proposals, other fiscal information, and comments of any reviewing personnel. To assure objective evaluation of the technical proposals, offerors' price and other fiscal information should not be revealed to the committee until after technical proposal evaluations are complete.
- (5) Final ranking of offerors will be based on all information obtained by the committee during the evaluation process. Price will be considered but will not necessarily govern. Only those offerors whom the committee finds to possess the current or potential ability to perform successfully under the proposed contract will be considered for award of a contract.
- (6) The contracts officer will prepare a report of the evaluation committee's findings and recommendations for approval by the responsible assistant administrator. The report will identify the RFP, the services required, proposal evaluation methodology, and evaluation results; and will contain recommendations regarding negotiations and award or nonaward

of a contract. The responsible assistant administrator will notify the contracts officer of his/her decision regarding the committee's recommendation(s) and the contracts officer will then notify all offerors of their being awarded or not awarded a contract.

(7) A copy of the RFP, each proposal, and the evaluation report will be maintained as part of the contract record.

(8) Regardless of the method of contractor selection, contracts will be awarded only to responsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed contract and who meet appropriate certification/licensing requirements.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & ORS 291.021

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

## **Contract Writing**

### **413-330-0400**

#### **General Requirements**

The written contract will describe the agreement in such a way that no questions remain regarding the agreement or what the parties intend to accomplish by the agreement. Contracts (except standard forms, e.g., Family Foster/Shelter Care) must include, at minimum, a contract approval page, a schedule section and a general provisions section.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **413-330-0410**

#### **Contract Content**

(1) The Contract Signature Page:

(a) Gives official identification of the parties to the contract;

(b) Shows the inclusive beginning and ending dates of the contract;

(c) Identifies all attached documents which are a part of the contract;

(d) Provides specific places for required signatures:

(A) Signature places for the State Office for Services to Children and Families, DHR contracts officer, the contractor, and SOSCF authorizing signature are always required;

(B) Signature place for the assistant attorney general is required when the contract amount is \$25,000 or more;

(C) Signature place for the Department of Administrative Services is required unless the contract is an Intergovernmental or Interagency agreement or is a contract for which SOSCF has delegated authority (see OAR 413-330-0070);

(D) All signature places must include space for dates.

(e) Provides space identified for contractor federal tax I.D. number or Social Security number.

(2) The Contract Schedule:

(a) An accurate description of the services to be provided by the contractor must be given using specific measurable terms. Questions of quantity, quality, expected results, where services are to be provided, and other expectations will be answered in this section. When necessary, an elaboration of how services are to be provided will be outlined in an exhibit attached to the contract and identified on the contract approval page;

(b) Sufficient financial information must be included to calculate the amount due to the contractor for the quantity of services provided during a specific payment period. The contract must state the maximum amount which may be paid to the contractor during the term of the contract except in family foster care and other contracts when approved by the management operations assistant administrator;

(c) Instructions must be included covering applicable information such as time, frequency, method and address for reports and billings and collections and distribution of fees. In child care contracts, the schedule should include a disclaimer against any guaranteed number of children to be placed or served.

(3) The General Provisions:

(a) The DHR Contracts Section will compile the general provisions to be used with each type of contract. These provisions will contain statements and conditions required by federal and state laws and rules, and by agency policy and standards. These provisions shall not be altered or deleted without approval of the contracts officer.

(b) The DHR Contracts Section will include, in each contract with professional consultants and organizations where printed or photographic material is a product of the contract, a clause giving the State Office for Services to Children and Families the royalty free rights to materials delivered under the contract.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **413-330-0420**

### **Responsibility for Preparing Contracts**

The DHR Contracts Section will:

(1) Prepare and process all contracts between SOSCF and another party or agency except for contracts using standard forms which field staff are authorized to initiate and sign.

(2) Assist responsible managers in developing standard contract wording for decentralized ongoing programs, including family foster/shelter care. Standard contract wording shall not be altered without approval of the contracts officer.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **413-330-0430**

### **Controlling Contract Documents**

The DHR Contracts Section will control all contract actions during the approval process, except those contracts which SOSCF field or program staff have been authorized to approve. The Contract Data Base will be the control document.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **Emergency Contracts**

## **413-330-0500**

### **Conditions for Emergency Contracting**

- (1) An emergency contract may be used to obtain services only under the most urgent conditions when the regional manager or designee has approved the action, after finding that all of the following conditions exist:
  - (a) All other approved contracting methods would result in unacceptable delay which would seriously endanger a child's health, safety or welfare;
  - (b) Appropriate care and/or treatment is not obtainable from any suitable public institution, or from any suitable private contractor under an existing contract;
  - (c) Funds are available and authorized for the type of services and client(s) to be served by the contract, and the cost is reasonable;
  - (d) Appropriate licensing/certification requirements have been satisfied.
- (2) Emergency contracts shall not be used in place of contracts such as regular foster/shelter care, which SOSCF field offices are authorized to approve.
- (3) Contractual services will not be obtained and the state will not be obligated for payment for the services until the contract has been approved, reduced to writing, and signed by persons authorized to bind the contractor and SOSCF. Persons authorizing services prior to the contract being signed or obtaining unauthorized services, may be held personally liable for the cost of the services.
- (4) An emergency contract may only be executed for a period up to 90 days, and shall not exceed \$15,000.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 5-1996(Temp), f. & cert. ef. 9-11-96; SCF 2-1997, f. & cert. ef. 4-7-97

**413-330-0510****Required Information**

To assist the regional manager or designee to reach an appropriate decision, the following information will be provided by the requesting office staff. This information must then be forwarded to the DHR Contracts Section to become a part of the contract file.

- (1) Nature of emergency and need for services;
- (2) Alternate resources explored and results;
- (3) Expected consequences if emergency action is not taken;
- (4) Probable terms of placement -- temporary or for an extended period of time;
- (5) Basis for selection of contractor; and
- (6) Basis for agreed price for the services, including an itemized list of costs when appropriate.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

**413-330-0520****Executing the Contract**

Emergency contracts will be prepared, following receipt by the branch of a log number from the DHR Contracts Section, using CF 44. The log number will be phoned to the branch after authorization is received from the regional office and the budget office.

- (1) No alteration of the printed form is authorized.
- (2) If any information entered on the contract form (description of services, contract term, dollar amount, etc.) is changed by either the contractor or manager after the other has signed the contract, both parties must agree to and initial the change before the contract is binding and before any services begin.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

**413-330-0530****Contract Approval**

- (1) The Department of Administrative Services has delegated to SOSCF the authority to approve emergency contracts.

(2) Authority to sign emergency contracts on behalf of SOSCF is delegated to region and branch managers for emergency contracts processed by field office staff.

(3) When the contract is prepared in the central office, authority to sign emergency contracts on behalf of SOSCF is limited to persons to whom contract signing authority has been delegated in writing.

(4) Following signature of three copies of the contract by the contractor and appropriate SOSCF manager or assistant administrator, one copy will be provided to the contractor and the other two will be forwarded to the DHR Contracts Section. The DHR Contracts Section will make the final distribution.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **413-330-0540**

#### **Superseding Contract**

When continuing, uninterrupted services are required, the emergency contract term will be for the full 60 days, and a superseding, definitive contract will be completed and approved as required before the ending date of the emergency contract. All actions must be completed in time to allow for adequate review and approval prior to the beginning date of the superseding contract. In no case will a second emergency contract be used to continue the services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **Contract Amendments**

### **413-330-0600**

#### **Use of Amendments**

(1) A contract is binding and can be changed only if both parties agree to the change, except for situations recognized in the contract. (Example: Termination or other corrective actions when prescribed procedures are followed.) When both parties agree, the change must be accomplished by reducing it to writing in an amendment.

(2) A contract may be amended when the nature and extent of the change is consistent with the intent of the contract. Examples of amendments which may be appropriate are:

- (a) To extend or shorten the term (duration) of the contract;
- (b) To increase or decrease the number of units of service;
- (c) To add, delete or further change a service or condition of service.

(3) An amendment will not be used to change the basis or purpose of a contract, to exercise a right, or to carry out an

obligation authorized in the contract. (For example, an amendment will not be used to change services from child care to staff training, or to terminate a contract when the method of termination to be used is authorized in the contract.)

(4) An amendment will not be used to retroactively increase the cost SOSCF will pay for services performed by a contractor under a contract which has already terminated.

(5) Oral agreements do not constitute a valid contract amendment. SOSCF staff may not authorize or require any services from a contractor which are not specified in the contract or an amendment executed in accordance with this policy. Staff persons requiring services outside a valid contract or contract as properly amended, may be held personally liable for the cost of those services.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **413-330-0610**

### **Preparing Amendments**

(1) Amendments will be requested in accordance with Administrative Support Manual III-D.3.1.

(2) Amendments will be prepared by the contracts office from information furnished by the responsible manager or designee on the CF 11 and will contain the following:

(a) Amendment date;

(b) Names of parties to the contract;

(c) Contractor's address;

(d) Date and number of contract being changed;

(e) Effective date of the change;

(f) Identification of parts of contracts being changed;

(g) Description of change or a printing of the part being changed with the new wording;

(h) Statement: "This amendment shall not become effective until approved by the Department of Administrative Services, State of Oregon." (Unless exempt from approval by the Department of Administrative Services.)

(3) Amendments will be signed by all parties to the contract, and approved as required. A copy of the amendment will be attached to the contract.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

### **Contract Termination**

## **413-330-0700**

### **Policy**

- (1) All contracts must state the terms and conditions for terminating the contract prior to the stated ending date.
- (2) Contracts may be terminated at any time by mutual consent of the parties to the contract. All other terminations must be strictly in accordance with the terms of the contract. Failure to comply with the contract termination provision may nullify the termination.
- (3) Only the parties to the contract may terminate the contract unless that right has been specifically delegated to someone else in the contract. Unless otherwise stated in the contract, SOSCF-initiated notices of termination, and mutual consent terminations initiated by either party, will be signed by a person authorized to sign the contract.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **Sub-Contracting**

## **413-330-0800**

### **Subcontract Requirements**

- (1) A subcontract is required before a contractor may have some other person or firm provide a service which the contractor has agreed to provide.
- (2) A subcontract is not required for the following:
  - (a) For services provided by an employee of the contractor while performing his duties as an employee, or by a firm for which the contractor is responsible;
  - (b) For the purchase by the contractor of articles, supplies, equipment and services which are incidental to performance of the services required by the contract.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **413-330-0810**

### **Advance Approval**

- (1) If the proposed subcontracting is identified in the contract, approval of the contract is all that is necessary. If the subcontracting is not identified in the contract, the contractor must obtain SOSCF's written approval before

subcontracting with another party to provide services required of the Contractor.

(2) Subcontracting will be authorized only when the purpose of the contract will be best served by subcontracting. The approval will be in writing, signed by the responsible person, and will list all conditions which must be met by the contractor and subcontractor in regard to the subcontract. A copy of the written approval must be filed in the contracts office.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **413-330-0820**

### **Authority to Approve Subcontracting**

The manager responsible for obtaining the services covered by the contract is authorized to approve subcontracting unless some other person has been given that authority in the contract.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

## **413-330-0830**

### **Contractor's Request to Subcontract**

In order to determine if subcontracting should be authorized, a written request to subcontract will be obtained from the contractor. The request will include the following information:

- (1) A description of the services to be subcontracted.
- (2) Explanation why the subcontractor, rather than the contractor, should provide the services.
- (3) Assurance that subcontracting will not increase the cost to SOSCF.
- (4) A statement that the contractor accepts full responsibility for the subcontractor's performance.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 291.021

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

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**Oregon Administrative Rules  
1998 Compilation**

**DEPARTMENT OF HUMAN RESOURCES, STATE OFFICE FOR SERVICES TO  
CHILDREN AND FAMILIES**

**DIVISION 350**

**INFORMATION MANAGEMENT**

**Inspection and Copying of Records**

**413-350-0000**

**Purpose**

The purpose of these rules is to establish procedures for viewing and copying public records and describe fees charged by the State Office for Services to Children and Families (SOSCF) for providing copies of paper and electronic public records to the public.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 192.420

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

**413-350-0010**

**Definitions**

- (1) "Custodian" means the SOSCF manager responsible for the service location at which the record is located.
- (2) "Public Record" includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by a public body regardless of physical form or characteristics.
- (3) "Writing" means handwriting, typewriting, printing, photostatting, photographing and every means of recording including letters, words, pictures, sounds or symbols, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums or other documents.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 192.420

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

## **413-350-0020**

### **Access**

Any person has a right to inspect any public record of the State Office for Services to Children and Families.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 192.420

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

## **413-350-0030**

### **Access to Electronic Public Records**

If the public record is maintained in a machine readable or electronic form, SOSCF shall provide copies of the public record in the form requested, if available. If the public record is not available in the form requested, it shall be made available in the form in which it is maintained.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 192.440

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

## **413-350-0040**

### **Exemptions From Disclosure**

(1) Per ORS 192.496, the following records are exempt from disclosure:

- (a) Records less than 75 years old which contain information about the physical or mental health or psychiatric care or treatment of a living individual, if the public disclosure thereof would constitute an unreasonable invasion of privacy. The party seeking disclosure shall have the burden of showing by clear and convincing evidence that the public interest requires disclosure in the particular instance and that public disclosure would not constitute an unreasonable invasion of privacy;
- (b) Records less than 75 years old which were sealed in compliance with statute or by court order. Such records may be disclosed upon order of a court of competent jurisdiction or as otherwise provided by law;
- (c) Records of a person who is or has been in the custody or under the lawful supervision of a state agency, a court or a unit of local government, are exempt from disclosure for a period of 25 years after termination of such custody or supervision to the extent that disclosure thereof would interfere with the rehabilitation of the person if the public interest in confidentiality clearly outweighs the public interest in disclosure. Nothing in this subsection, however, shall be construed as prohibiting disclosure of the fact that a person is in custody;

(d) Student records required by state or federal law to be exempt from disclosure.

(2) Per ORS 192.501, the following public records are exempt from disclosure:

(a) Records of a public body pertaining to litigation to which the public body is a party if the complaint has been filed, or if the complaint has not been filed, if the public body shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery or disposition statutes to a party to litigation or potential litigation.

(b) Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:

(A) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(B) The offense with which the arrested person is charged;

(C) The conditions of release pursuant to ORS 135.230 to 135.290;

(D) The identity and biographical information concerning both complaining party and victim;

(E) The identity of the investigating and arresting agency and the length of the investigation;

(F) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

(G) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

(c) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given and if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected;

(d) Investigatory information relating to any complaint filed under ORS 659.040 or 659.045, until such time as the complaint is resolved under ORS 659.050, or a final administrative determination is made under ORS 659.060;

(e) Investigatory information relating to any complaint or charge filed under ORS 243.676 and 663.180;

(f) A personnel discipline action, or materials or documents supporting that action;

(g) Computer programs developed or purchased by or for any public body for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program. "Computer program" does not include:

(A) The original data, including but not limited to, numbers, text, voice, graphics and images;

(B) Analyses, compilations and other manipulated forms of the original data produced by use of the program; or

(C) The mathematical and statistical formulas which would be used if the manipulated forms of the original data were to be produced manually.

(h) Data and information provided by participants to mediation under section 5, chapter 967, Oregon Laws 1989;

(i) Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.

(3) Per ORS 192.502, the following records are exempt from disclosure:

(a) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure;

(b) Information of a personal nature such as, but not limited to, that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy;

(c) Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure;

(d) Information or records of the Department of Corrections, including the State Board of Parole and Post-Prison Supervision, to the extent that disclosure thereof would interfere with the rehabilitation of a person in custody of the department or substantially prejudice or prevent the carrying out of the functions of the department, if the public interest in confidentiality clearly outweighs the public interest in disclosure;

(e) Any public records or information the disclosure of which is prohibited by federal law or regulations;

(f) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law;

(g) Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable;

(h) Employee and retiree address, telephone number and other non-financial membership records and employee financial records maintained by the Public Employees' Retirement System pursuant to ORS 237.001 to 237.320.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 192.496, 192.501 & 192.502

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

## **413-350-0050**

### **Supervisory Review**

Prior to any person viewing or copying a public record held by SOSCF, the supervisor shall determine which material in the record is exempt from disclosure. If the supervisor has any doubt as to whether information contained in the record is exempt from disclosure, the supervisor shall consult with designated regional or state office staff in appropriate program or administrative role, depending on type of record in question.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 192.496, 192.501 & 192.502

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

## **413-350-0060**

### **Time Frame**

SOSCF provides opportunity for the inspection and copying of records. To protect its records and prevent interference with the regularly scheduled duties of its staff, SOSCF and the person requesting to inspect the record shall establish a reasonable time at which the records may be inspected. The time frame for inspection shall normally be within 10 working days. When this time frame is not possible, the custodian will discuss the reasons with the requester and establish an expected date for availability. If copies are requested, SOSCF shall make them within a reasonable time period, not to exceed five working days of the request for the specific material, and shall mail the material to the requester.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 192.430

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

## **413-350-0070**

### **Viewing and Copying Procedures**

(1) When SOSCF is required or permitted to make records available pursuant to ORS 419B.035, the identities of the abuse reporters and victims will be deleted from the material provided for examination. Prior to allowing examination or copying of the public record, SOSCF shall separate any material which is exempt from disclosure from non-exempt material, and make the non-exempt material available for examination.

(2) Names, addresses and other identifying information of mandatory abuse reporters, as well as voluntary abuse reporters and persons making complaints who requested confidentiality, must be covered to protect their identity. Names of alleged perpetrators if the perpetrator is a juvenile in SOSCF custody, and victims included in such complaints must also be covered.

(3) SOSCF shall provide the person requesting examination a place to review the record. A person designated by SOSCF shall sit with the person reviewing the record in order to assure it is not altered in any way.

(4) The person viewing the record may designate pages to be copied, or may request copies of specific information contained in the record. Only SOSCF staff shall copy the designated material.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.035

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

## **413-350-0080**

## Charges

(1) SOSCF shall charge for the cost of making the record available. Charges for record review and copying are limited to the actual cost of making the record available. "Actual cost" may include a charge for the time spent in locating the requested records, reviewing the records in order to delete exempt material, supervising a person's inspection of original documents, or copying records. When an Attorney General's review of the records is required by SOSCF, a charge will be made to cover the cost of that service. "Actual cost" includes the cost of search and review time even if the records located are subsequently determined to be exempt from disclosure.

(2) SOSCF shall inform requester of estimated charges and may require a deposit before acting on the request, or may require prepayment of actual costs before making the record available for inspection.

(3) Estimates of charges for record review and copying are based on current salaries of staff most likely to be given these duties. For example, costs in fiscal year 1993-1994 would be:

(a) Preparing, copying, and refiling the record at a rate of \$14.68 per hour (clerical specialist);

(b) Record review at a rate of \$22.95 per hour (social service specialist);

(c) Record review at a rate of \$24.93 per hour (field supervisor);

(d) Data processing to machine readable form at a rate of \$24.45 per hour (systems analyst); and/or

(e) Cost per page for copies shall be the copy cost established by SOSCF. Cost in fiscal year 1993-1994 is 10 cents per page. If the actual charges are less than the deposit or prepayment, any overpayment will be promptly refunded; if actual charges exceed the deposit or estimate, the additional charge may be recovered from the requester.

(4) The requester may ask SOSCF for a waiver of the charges for the cost of making the record available. While it is in the public interest to make the information available, it is also in the public interest to obtain reimbursement for the actual costs of making the record available. SOSCF shall consider the following when evaluating a request for a fee waiver:

(a) The requester's commercial interest and ability to pay;

(b) The extent of time and expense and interference with the business of the agency;

(c) The extent of the sheer volume of the records;

(d) The necessity to segregate exempt from non-exempt materials; and

(e) The extent to which an examination of the record by the requester is insufficient for the public interest or for the particular needs of the requester.

(5) If SOSCF denies the request for a waiver of all or part of the actual cost of providing the record, the requester may petition the Attorney General for a review of the denial of the waiver.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 192.440

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

**413-350-0090**

## Availability of Alternative Print Format

Upon request of a person with a disability for public records otherwise available to the requester under these rules, SOSCF will consult with that individual about making the requested records available in alternative print format at no additional cost to the requester.

Stat. Auth.: HB 2004

Stats. Implemented: Americans with Disabilities Act

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

## Expunction of Records

### 413-350-0100

#### Purpose

(1) Any juvenile court may order record expunction for any ward or former ward per ORS 419A.260 through 419A.262. This rule describes SOSCF processes for handling these orders.

(2) SOSCF files, manual and electronic, are modified so that an inquiry, subsequent to the expunction order, will result in the reply "No record of contacts." "Contacts" has a specific legal definition for purposes of expunction (see ORS 419A.260(1)).

(3) SOSCF complies with expunction orders by sealing or marking "expunged" on the records, not by destroying them. The intent of the expunction is not to erase all traces of SOSCF's relationship to the individual, but rather to prevent subsequent dissemination of expunged information to third parties.

(4) ORS 419A.260 defines "records" and "exceptions." Information held at SOSCF that is not expunged includes: material related to federal financial participation, records related to support obligations, medical records, remand orders, materials on termination of parental right, and Oregon Court of Appeals and Supreme Court records.

(5) The SOSCF record is not expunged when the reason for the wardship was commission of child abuse, as defined by ORS 419B.005, that would constitute one of the offenses listed in ORS 419A.260 if committed by an adult.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.260 & 419A.262

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

### 413-350-0110

#### Release of Information

(1) Anyone who inquires about a person whose record has been expunged shall be told "No record of contacts exists" except when the information is required for state or federal audits, or when ordered by a court of competent jurisdiction to release the information.

(2) When an expunged record is provided, a copy of the audit identifier or court order will be placed in the record. On

the outside of the record, enter the notation: "Expunged records" of (client's name) accessed on (date) in compliance with (court order/audit identifier).

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.260 & 419A.262

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

### **413-350-0120**

#### **Responsibilities**

- (1) The SOSCF director has authorized the deputy administrator or designee to sign and return the Expunction Order Statement to the Court.
- (2) The agency expunction coordinator shall be the central contact person in SOSCF and shall be responsible for assuring the order is carried out within required timelines.
- (3) The manager of each unit/branch which has responsibility for complying with expunction orders shall appoint an expunction processor to ensure that the expunction is carried out within required timelines.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.260 & 419A.262

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

### **413-350-0130**

#### **Timelines**

- (1) Within 21 calendar days of SOSCF's receipt of the order, the court issuing the expunction order is to receive an SOSCF Expunction Order Statement certifying the expunction has been completed.
- (2) The local expunction processor for each SOSCF organizational unit/branch must process the order, sign and return the notification to the agency expunction coordinator within three working days of receipt. Even if there is no record, the notification must be signed and returned within the three days.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.260 & 419A.262

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

### **413-350-0140**

#### **Procedures**

- (1) The agency expunction coordinator receives and logs incoming orders and distributes notification forms to the branch(es), contracts unit and the trust unit. The expunction processor at each branch shall:

- (a) When no record is found, return the signed notification form within three working days of receipt;
- (b) When the record has been transferred elsewhere notify the agency expunction coordinator by phone within one working day after the notice is received. Process any records remaining at the site as described in section (2) of this rule;
- (c) The local expunction processor shall notify the agency expunction coordinator by phone on the same day the notice is received, of the other locations where the case was open.
- (2) If a record is found for the person named in the order, the following actions will be taken within three working days:
- (a) **Single-Person Records.** Place all individual records, cards and other information in a sealed envelope. On the front of the envelope, in red ink, write: person's name, case number, person letter, date of expunction (following the same retention rules as other records), date destruction due, and the word "Expunged." Place envelope in file, not accessible to general staff;
- (b) **Multi-Person Records.** Mark all master cards in red ink with word "Expunged" by name of person. Clearly label the case file folder with the name of person whose record was expunged and the date of the order;
- (c) **Foster Home Certification File.** If the person named in the order was ever in foster care, record in red ink in each foster home file the person's name, case number, person letter, the word "Expunged" and date of the order;
- (d) **Agency Contracts Office Records.** Contract files related to the subject of the expunction order are sealed;
- (e) **Agency Trust Unit Records.** Trust files related to the subject of the expunction order are sealed;
- (f) **Electronic Records.** The agency expunction coordinator will seal references to contacts in the electronic file. This is done by changing the security on the case record so access is limited to the expunction coordinator and each branch's security officer. Subsequent access to contacts must be authorized by the expunction coordinator or the security officer.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419A.260 & 419A.262

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

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