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ADOPTION

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DIVISION 350

INFORMATION MANAGEMENT

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DIVISION 1

PROCEDURAL RULES

413-001-0000

Notice of Rulemaking

See the current version of OAR 407-001-0000 and 407-001-0005 which apply to notices of rulemaking for rules in chapter 413.

Stat. Auth.: ORS 183.341, 409.050 & 418.005

Stats. Implemented: ORS 183.330, 183.335, 183.341 & 409.050

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 10-2006, f. & cert. ef. 6-1-06

DIVISION 10

CLIENT RIGHTS

Confidentiality of Client Information

413-010-0000

Purpose

The purpose of these rules is to describe the circumstances in which SOSCF may and may not disclose client information without a court order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.255 & 409.225

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

413-010-0010

Definitions

(1) “**Adult**” means a person who is 18 years of age or older.

(2) “**Child**” means a person who is under 18 years of age.

(3) “**Client**” means a person to whom SOSCF provides services and includes children, parents, legal guardians, and legal custodians of unemancipated minor children who receive services. Individuals who apply for and individuals who are granted certifications to operate foster homes are not clients. Adoptive parents are clients when:

(a) SOSCF has placed a child with them on a designated adoption basis; or

(b) They have signed a legal risk adoption agreement.

(4) “**Client File**” means a file that SOSCF marks with the names of one or more clients, into which SOSCF places all of the named clients’ records. A client file may contain confidential information about other clients and persons who are not clients.

(5) “**Client Information**” means confidential information about a client or identified with a client.

(6) “**Client Record**” means any “record,” as defined in section (11) of this rule, which includes client information and is created by, requested by, or held by SOSCF. A client record does not include general information, policy statements, statistical reports or similar compilations of data, which are not identified with an individual child, family or other recipient of services.

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

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

(9) “**Disclose**” means reveal or provide client information to a person, agency, organization or other entity. Disclosing includes, but is not limited to:

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

(b) Orally transmitting client information.

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

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

(12) “**Service**” means assistance that SOSCF provides clients and includes, but is not limited to homemakers, intensive family service workers, foster parents, child care centers, private child care agencies treatment centers, mental health professionals, volunteers, student interns, child protection teams, physicians and other health care providers, and Indian social service and child welfare agencies.

(13) “**Voluntary Services**” means services that SOSCF provides at the request of a person or persons and there is no open and related juvenile court proceeding.

Stat. Auth.: ORS 418.005

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

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

413-010-0030

Protection of Information

In the interest of family privacy and to protect children, families and other recipients of services, except as provided by Oregon statutes and these rules:

(1) Client information is confidential.

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

(3) Oregon statutes and these rules regulate SOSCF’s disclosure of client information by prohibiting disclosure of some client information, mandating disclosure of some information, and giving SOSCF discretion to disclose some information, as summarized below:

(a) Summary of some “prohibited disclosures”: See OAR 413-010-0035, generally, which includes but is not limited to:

(A) Information compiled for criminal law enforcement purposes, See OAR 413-010-0035(3);

(B) Alcohol and drug abuse treatment records. See OAR 413-010-0035(6);

(C) Information in records sealed by a court order of expunction, See OAR 413-010-0035(7);

(D) Adoption records. See OAR 413-010-0035(8);

(E) Adoption assistance records. See OAR 413-010-0035(9);

(F) Information identifying a person who reported suspected child abuse. See OAR 413-010-0035(10);

(G) Records and reports of child abuse. See OAR 413-010-0035(11); and

(H) Juvenile court records. See OAR 413-010-0035(121).

(b) Summary of some “mandatory disclosures.” See OAR 413-010-0045 which includes but is not limited to:

(A) A client 18 years or older, See OAR 413-010-0045(2)(a);

(B) A parent or guardian of a child receiving voluntary services, See OAR 413-010-0045(2)(b);

(C) A juvenile or tribal court. See OAR 413-010-0045(2)(d);

(D) A child’s attorney in a juvenile proceeding. See OAR 413-010-0045(2)(e);

(E) A parent or guardian of a child provided services in certain circumstances. See OAR 413-010-0045(2)(b), (c); and

(F) A Court Appointed Special Advocate (CASA). See OAR 413-010-0045(4).

(c) Summary of some “mandatory disclosures if it is in the child’s best interest.” See OAR 413-010-0055, generally, which includes but is not limited to:

(A) DHR employees as needed to perform their duties and provide services to the child or family, See OAR 413-010-0055(1)(a); and

(B) Persons providing services to the family to the extent necessary to provide those services described in OAR 413-010-0055(1)(c).

(d) Summary of some “discretionary disclosures.” See OAR 413-010-0065 generally, which includes but is not limited to:

(A) SOSCF and other state employees for audits, program reviews, or quality control;

(B) Law enforcement or district attorney’s offices for child abuse assessments and investigations and proceedings connected with administering the child welfare laws. See OAR 413-010-0065(2)(b);

(C) The public if a child in SOSCF’s custody has been abducted or is believed abducted. See OAR 413-010-0065(2)(c);

(D) General information, policy statements, statistical reports or similar compilations not identified with a client. See OAR 413-010-0065(3);

(E) Adult’s presumed waiver of confidentiality. See OAR 413-010-0065(4);

(F) Review of SOSCF records for research purposes. See OAR 413-010-0065(5); and

(G) Investigation of Other Crime. See OAR 413-010-0065(6).
Stat. Auth.: ORS 418.005 & 418.340
Stats. Implemented: ORS 7.211, 409.225, 419A.255, 419A.260, 419B.035, 430.763 & 432.420
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

413-010-0035

Prohibited Disclosures

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

(2) SOSCF shall not disclose client information:

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

(b) When disclosure is neither required nor authorized by:

(A) ORS 419B.035 (governing confidentiality of child abuse records), set out below in OAR 413-010-0035(11);

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

(C) The information is protected by other law.

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

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

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

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

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

(8) Disclosure of Adoption Records:

(a) SOSCF shall neither disclose nor release identifying information 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 that 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, except as otherwise provided by law.

(b) 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 109.507 and OAR 413-130-0300 to 413-130-0360.

(c) When an adoption is finalized, the records must be sealed and may be opened only pursuant to a court order. Only the SOSCF central office adoption staff shall 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.

(d) SOSCF shall not disclose information about adoptive placements.

(9) Disclosure of Adoption Assistance Records:

(a) Records and information obtained or created by SOSCF for the purposes of determining eligibility or making payment for adoption assistance are confidential. Only the SOSCF central office adoption staff shall have access to the files. SOSCF shall not use or disclose the information except for purposes directly connected with the administration of the adoption assistance program (42 USC 671(a)(8));

(b) Notwithstanding subsection (1) of this rule, use and disclosure of adoption records are governed by ORS 7.211, 432.420.

(10) 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 shall only be disclosed to a law enforcement officer or district attorney in order to complete an investigation report of child abuse.

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

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

(b) 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; and

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

(c) A report, record, or findings of an assessment of child abuse shall not be disclosed until the assessment is completed, except for the reasons stated in subsections (e)(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.

(d) 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; and

(B) 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. Before providing information to a citizen review board, SOSCF shall assure that the board has informed participants of their statutory responsibility to keep the information confidential, and will maintain records in an official, confidential file.

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

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

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

(12) Juvenile Court Records in SOSCF files:

(a) The juvenile court's "record of the case" is the "legal file," which includes the summons, other process, the petition, all papers in the nature of pleadings, motions, orders of the court and other papers filed with the court.

(b) The legal file is confidential and unavailable for public inspection, but is open to inspection by the child's parent, guardian, court appointed special advocate, surrogate, intervenor under ORS 109.119(1) and their attorneys.

(c) The juvenile court's social file includes reports and other material relating to the child's history and prognosis.

(d) The social file shall, except at the request of the child, not be disclosed directly or indirectly to anyone other than the juvenile judge and staff acting under the judge's direction, service providers in the case, and the attorneys of record for the child or the child's parent, guardian, court appointed special advocate, surrogate or intervenor under ORS 109.119(1).

(e) No information in the legal and social files may be disclosed to any other person not described in subsections (2) and (4) of this rule without the consent of the court, except:

(A) For evaluating the child's eligibility for special education under ORS Chapter 343; or

(B) In connection with a proceeding in another juvenile court concerning the child.

(f) The following information in the juvenile court's file is not confidential and must be disclosed upon request:

(A) The name and date of birth of the child;

(B) The basis for the juvenile court's jurisdiction over the child;

(C) The date, time and place of any juvenile court proceeding in which the child is involved.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 7.211, 409.225, 419A.102, 419A.255, 419A.260, 419B.035, 430.763 & 432.420

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

413-010-0045

Mandatory Disclosure

(1) SOSCF shall disclose client information if disclosure is required by ORS 419A.255 or 419B.035.

(2) Unless a client record is exempt from disclosure under the Public Records Law, ORS Chapter 192, SOSCF shall disclose the client record in the circumstances described below:

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

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

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

(b) Upon the request of a child's parent or legal guardian, SOSCF shall disclose a child's client records to the parent or legal guardian if the child is receiving voluntary SOSCF services;

(c) Upon the request of a child's parent or legal guardian, SOSCF shall disclose a child's client records to the parent or legal guardian if the child is or has been in SOSCF custody except:

(A) If the child objects;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 192, 409.225, 419A.170 & 419B.035

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

413-010-0055

Mandatory Disclosure if In the Child's Best Interest

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

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

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

(c) Treatment providers, foster parents, adoptive parents, school officials or other persons providing services to the child or family to the extent that such disclosure is necessary to provide services to the child or family. Such services include, but are not limited to, those provided by homemakers, intensive family service workers, foster parents, child care centers, private child carrying 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.

(2) Sensitive Review Committee. Unless client information is exempt from disclosure under ORS Chapter 192 or another provision of law, and if disclosure is in the child's best interest, the Director or the Director's designee shall direct disclosure of relevant client information to persons appointed to a sensitive review committee convened by the Director to determine whether SOSCF acted appropriately and made recommendations to SOSCF regarding policy and practice.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.225

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

413-010-0065

Discretionary Disclosure

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

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

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

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

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

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

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

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

(4) Presumed waiver of protection of ORS 409.225(1). SOSCF may disclose the information described in section (4)(f) of this rule if the Director or the Director's designee determines that all of the following circumstances are present:

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

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

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

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

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

(f) If disclosure is authorized, SOSCF may disclose the following: information about the person making or causing the public disclosure, not already disclosed, but related to the information made public.

(5) Review of SOSCF records for research purposes. The Director or the Director's designee may authorize a person or organization to review SOSCF records for research purposes. SOSCF may not approve the request until the researcher has agreed, in writing, to maintain the confidentiality of individual clients, not to copy SOSCF records, and not to include identifying information about any client in the report(s) of the research.

(6) Investigation of Other Crime:

(a) Except as authorized by OAR 413-010-0065(2)(b), and ORS 409.225, SOSCF employees shall not disclose to law enforcement client information obtained from client records, conversations with clients or other sources if the employee(s) acquired the information because a person is or has been an SOSCF client of the agency;

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

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

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

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

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

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

413-010-0068

Disclosure of Information Exempt Under the Public Records Law

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

413-010-0075

Disclosure Procedures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Stats. Implemented: ORS 418.005 & 419A.255

Hist.: SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99

Release of Adoption Home Study Reports

413-010-0081

General Principles Regarding Release of Adoption Home Study Reports

(1) These rules (OAR 413-010-0081– 413-010-0086) establish the Department of Human Services (Department) procedures for the release of adoption home study reports prepared by the Department. The Department will make these reports available only as provided in these rules.

(2) Adoption home study reports are needed to ensure that children who are in the legal custody of the Department are placed in the care of families who will provide permanency, safety, attachment, and well being. In addition, adoption home study reports prepared by the Department are sometimes used to assist the persons who are the subject of the report to be considered for the placement of children who are in the custody of a public agency in another state or under the jurisdiction of a juvenile court in another state.

(3) Interpretation of these rules is guided by the following principles:

(a) Children deserve to be placed into adoptive families in a timely manner to meet their needs for permanency, safety, attachment, and well being.

(b) When the Indian Child Welfare Act, 25 USC sections 1901–1935 (1978), applies to a child, the child's tribe will be invited

to participate in the selection of the adoptive family. The level of tribal involvement in the selection process may vary from case to case. Tribes that choose to be involved in the selection process need information about the prospective adoptive families.

(c) The Department, CASAs, children's tribes, and children's attorneys, who may have different statutory obligations, work to assure that children in the custody of the Department who have adoption as their permanency plan are placed into adoptive families who can meet their need for permanency, safety, attachment, and well being.

(d) To ensure that the Department can achieve suitable matches with adoptive families for children who are in the legal custody of the Department and have no current caretaker or potential relative adoptive resources, the Department must make recruitment efforts tailored to the individual needs of the child.

(e) The Department values the information contributed about the child by CASAs, children's tribes, and children's attorneys during the process of selecting an adoptive family.

(f) Prospective adoptive families provide sensitive, personal information to the Department while it prepares adoption home study reports. This information and home study reports are confidential and should be released only as outlined in these rules.

(g) The Department must compare the needs of families for privacy with the need for CASAs, children's attorneys, and children's tribes to represent children.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0082

Definitions

As used in OAR 413-010-0081 – 413-010-0086:

(1) An "adoption committee" is a committee responsible for decisions regarding adoptive placement selections. Adoption committees include staff from the Department, licensed adoption agencies, and community partners knowledgeable about the adoptive placement selection for children. Each of the following is considered an adoption committee:

(a) A Central Office Adoption Committee.

(b) A Local Permanency/Adoption Committee.

(c) Preliminary and subsequent Current Caretaker Committees.

(d) A Permanency/Adoption Council.

(2) "CASA" means Court Appointed Special Advocate, a volunteer who is appointed by the court, is a party to the juvenile proceeding, and is an advocate for the child pursuant to ORS 419A.170.

(3) The "adoption home study report" (report) is a document containing an assessment of a family as an adoptive resource, used to determine the suitability of the family to adopt a child in the Department's custody, in the custody of a public child welfare agency in another state, or under the jurisdiction of a juvenile court in another state. The report is used as a tool to determine a match between the family and a child. The requirements for an adoption home study report are found in OAR 413-120-0200.

(4) "Third party information" is information provided to the Department by persons other than immediate household members of the prospective adoptive family and includes information from references, employers, and adult children of the prospective adoptive parents, as well as reports from health and mental health professionals.

(5) "CET" is a DHS employee who provides consultation, education, and training services to DHS child welfare staff.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0083

Release and Review of Adoption Home Study Reports

(1) An adoption home study report may be released only to:

(a) A child's CASA, child's tribe, and a child's attorney as provided in these rules (OAR 413-010-0081 – 413-010-0086).

(b) A public or private adoption agency;

(A) A report may be released to a public or private adoption agency if the agency is considering the family who is the subject of the report for adoption of a child in the custody of a public child welfare agency or under the jurisdiction of a juvenile court, regardless of whether the child is under the supervision of the public agency or a

private agency providing supervision on behalf of the public agency, if the agency submits a written request for the report and the Department has an authorization for disclosure of the report signed by family members who are the subject of the report.

(B) The Department will redact information as provided in OAR 413-010-0084 from the report before releasing the report to a private or public adoption agency if the Department does not have an authorization signed by family members who are the subject of the report for disclosure of the entire report.

(2) Requests by the family who is the subject of a report.

(a) An adoption home study report may be reviewed for accuracy by the family who is the subject of the report if the family makes a written request for the report. Upon written request of the family, the DHS worker, CET, or supervisor will prepare a copy of the report with third party information removed and make that copy of the report available to the family within a reasonable time for the family to review.

(b) The Department may not release a copy of the report to the family who is the subject of the report.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0084

Pre-Release Redaction of Adoption Home Study Report

(1) Before releasing an adoption home study report to a child's CASA, child's tribe, or child's attorney, and before releasing a report to a public or private adoption agency without an authorization signed by family members who are the subject of the report, the Department shall redact from the report information that is confidential by federal or state law. Information that must be redacted under this provision includes:

(a) Protected health information;

(b) Mental health information;

(c) Substance abuse information;

(d) Criminal record check information; and

(e) Social security numbers.

(2) Before releasing an adoption home study report to a child's CASA, child's tribe, or child's attorney, or releasing a report to a public or private adoption agency without an authorization signed by family members who are the subject of the report, the Department may redact information from the report to ensure that the prospective adoptive family cannot be identified as a result of the release of the report. Personal information about the prospective family, the disclosure of which would be unreasonable, will not be disclosed and sensitive information provided by others will be protected. Information that may be redacted under this provision includes:

(a) The identity of references for the prospective adoptive family;

(b) Information obtained from adult children of the prospective adoptive family;

(c) Names of schools, businesses, or other places or things that could help identify a person named in the report or who provided third party information for the report;

(d) Dates of birth;

(e) Last names of persons;

(f) Addresses;

(g) Personal identification numbers;

(h) Telephone numbers;

(i) Personal information that would likely embarrass members of the prospective adoptive family if the identity of the family became known; and

(j) Other information that could be used to identify a person, such as a job title, nickname, ceremonial title, a well known achievement or subject of notoriety.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0085

Circumstances in Which Release of an Adoption Home Study Report May Be Inappropriate and a Summary Should Be Used

The Department may determine that release of an adoption home study report, even if redacted, is not appropriate. In those circumstances, the Department may instead provide a summary in lieu of the

full report. The decision to use a summary will be made on a case-by-case basis by the Department's Central Office Adoptions Manager or designee upon recommendation of the Department's local field office staff. Release of a summary is justified when the Department determines that the interest in protecting information in the report outweighs the benefits to the child of a release of a redacted report, and protection of information cannot be achieved through redaction.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

413-010-0086**Process for Release of Adoption Home Study Report to CASA, Child's Tribe, and Child's Attorney**

The following procedures will be followed to effect the release of an adoption home study report to a child's CASA, child's tribe, and child's attorney:

(1) The Department will inform the child's CASA or local CASA program director, the child's tribe, and the child's attorney, as applicable, that the Department has selected report(s) to submit to an adoption committee. The information will be provided as soon as practicable after selection of a report that will be considered by an adoption committee but not later than 10 business days before the adoption committee meets to consider the selected families.

(2) If the child's CASA, child's tribe, or child's attorney want copies of the adoption home study reports on the families that will be considered by the adoption committee, the child's CASA, child's tribe, or child's attorney must make a request to the Department as soon as possible but no later than seven business days prior to the scheduled adoption committee.

(3) The Department will make the selected reports, which have been redacted as provided in OAR 413-010-0084, or a summary of the report as provided in OAR 413-010-0085, available to the child's CASA through the local CASA program director, to the child's tribe or the child's attorney as soon as possible but no later than three business days prior to the scheduled adoption committee.

(4) If the child's worker subsequently selects another adoption home study report to submit to the adoption committee, the worker will notify the child's CASA, child's tribe, and child's attorney as soon as possible that the additional report(s) have been selected, even though the three business day requirement in OAR 413-010-0085(3) cannot be met. If the child's CASA, child's tribe, or child's attorney want a copy of the additional home study, the worker will provide a redacted copy or summary of the report, as provided in OAR 413-010-0084 and 413-010-0085, prior to the committee meeting.

(5) Prior to the release of a report under these rules (OAR 413-010-0081 – 413-010-0086), the Department will redact the report following the standards in OAR 413-010-0084 and will release only the redacted version unless the provisions of OAR 413-010-0085 apply, in which case the Department will release a summary of the report.

(6) The redacted report or summary of the report will be released to the child's CASA through the local CASA program director.

(7) The local CASA program director must retain the report or summary, keep it secure, and allow the child's CASA to review and take notes from the report at the office of the local CASA program.

(8) The local CASA program director, the child's tribe, and the child's attorney are responsible for securing and monitoring the disclosure of information in an adoption home study report or summary, may not make copies of the report or summary and may not disclose the report, summary, or information in the report or summary to any person not authorized by the Department rules to have the report or summary.

(9) The child's CASA, local CASA program director, child's tribe, and child's attorney may not redisclose any information contained in the report for any purpose other than discussing the needs of the child with employees of the Department, the child's CASA, CASA's supervisor, the local CASA program director, the statewide CASA program director, the child's tribe, the child's attorney, the court, or the adoption committee.

(10) The local CASA program director, child's tribe, and child's attorney must return the report or summary to the Department or destroy the report or summary upon completion of the adoption home selection process.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

Hist.: CWP 4-2006(Temp), f. & cert. ef. 2-6-06 thru 7-31-06; CWP 7-2006(Temp), f. & cert. ef. 4-13-06 thru 7-31-06; CWP 18-2006, f. & cert. ef. 8-1-06

Rights of Children**413-010-0170****Purpose**

Each child placed in the legal custody of the State Office for Services to Children and Families (SOSCF) is entitled to receive from SOSCF the protection that would be provided a child by a responsible parent. SOSCF recognizes that children are individuals who have rights. These rules supplement the statement of clients rights established in SCF policy #I-A.1.

Stat. Auth.: OL 1993, Ch. 676

Stats. Implemented: OL 1997, Ch. 873

Hist.: SOSCF 6-1998, f. 2-10-98, cert. ef. 2-15-98

413-010-0180**Policy**

Basic Rights of Children in SOSCF's Custody. Each child placed in the legal custody of SOSCF has the following rights:

(1) To be physically placed in the least restrictive environment that can appropriately meet the child's needs;

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

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

(4) To be provided ordinary medical, dental, psychiatric, psychological, and hygienic care and treatment when the child's condition requires it;

(5) To be provided with free and appropriate education;

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

(7) To be provided services which will reunite the child with his or her own family except when there is clear evidence that the family will not protect the child's welfare;

(8) To be provided services to develop a safe, permanent alternative to the child's own family, when suitable family resources are not available;

(9) To be accorded the least restrictive legal status that is consistent with the child's need for protection or the protection of the community, and to receive advocacy and/or legal representation, when needed, to assure that the child's best interests are presented to the court;

(10) To receive respect and be nurtured in accordance with his or her background, religious heritage, race and culture;

(11) To visit and communicate with members of his or her family within reasonable guidelines as set by the service plan and by the court;

(12) To be involved, in accordance with his or her age and ability and with the law, in making major decisions that affect his or her life;

(13) To receive encouragement and be afforded reasonable opportunities to participate in sports, youth activities in school and neighborhood, and other enrichment programs;

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

Stat. Auth.: OL 1993, Ch. 676

Stats. Implemented: OL 1997, Ch. 873

Hist.: SOSCF 6-1998, f. 2-10-98, cert. ef. 2-15-98

**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 Services.

(2) "Client" means any person receiving services from the agency including parents, legal guardians, or custodians of an unemancipated minor client.

(3) "Contract Provider" means any person or organization under contract or agreement with the agency providing services to a SOSCF client.

(4) "Director" means the director of the State Office for Services to Children and Families, Department of Human Services.

(5) "Formal Grievance Review" means resolution of a grievance by the procedures described in OARs 413-010-0450 and 413-010-0460.

(6) Except as provided in OAR 413-010-0430, "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.

(7) "Informal Grievance Review" means resolution of a grievance by the procedures described in OAR 413-010-0440.

(8) "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 in which the client or provider may participate.

(9) "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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01

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 substantive 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 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 branch manager may, as allowed under OARs 413-010-0000 through 413-010-0140 disclose information from 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.

(8) At any time during an informal or formal grievance review, the parties can agree to resolve the grievance through Alternate Dispute Resolution.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01

413-010-0430

Grievances Not Subject to These Rules

No grievance may be reviewed or resolved through the grievance procedures set forth in these rules (413-010-0400 through 413-010-0490) if:

- (1) The client or provider is entitled to a contested case hearing.
- (2) The matter, which would be the subject of the grievance review, is presently the subject of a juvenile court proceeding.
- (3) The client or provider has initiated court action or filed notice of intent to file a tort claim.
- (4) The subject matter of the grievance should be or already has been decided by a judge.
- (5) The subject matter of a provider's grievance is a term or condition of a contract or agreement with the agency.
- (6) The subject matter of the grievance is subject to review under OAR 413-010-0700 to 413-010-0750 (Review of Founded Dispositions); or
- (7) The subject matter of the grievance is subject to review under OAR 413-120-0060 (Review of Adoption Committee Decision).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01

413-010-0440

Informal Grievance Review

- (1) To request an informal grievance review the client or provider need only inform the supervisor or his or her 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 and the branch manager did not participate in the informal grievance review, 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01

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 his or her 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 Assistant Administrator for Field Operations.
- (2) The Assistant Administrator for Field Operations or designee shall:
 - (a) 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.
 - (b) Contact the client or provider to schedule an appointment for the grievance review with the client/provider, his or her representative, if any, and, if appropriate, the assigned service worker and supervisor(s).
 - (c) Send to the client or provider written notice stating the date, time, and location of the review at least 10 working days prior 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 Assistant Administrator or designee shall make a decision in accordance with the procedures described in rule 413-010-0460.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01

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 Assistant Administrator or designee reschedules the review pursuant to rule 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 Assistant Administrator or designee.
- (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 Assistant Administrator or designee shall consider only information that concerns the actual grievance.
- (7) The Assistant Administrator or designee shall prepare a written decision within 20 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01

413-010-0470

Appeal to the Administrator

- (1) If the client/provider is dissatisfied with the Assistant Administrator or designee's decision, the client/provider may request the Director, or deputy administrator in the Director's absence, to review the Assistant Administrator or designee's decision.
- (2) A written request by the client/provider for review must be received by the director within 30 calendar days of the client's/provider's receipt of the Assistant Administrator or designee's decision, and must contain a statement of the client's/provider's reasons for requesting further review of the decision.
- (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) The director shall review the written decisions of the Assistant Administrator or designee. 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.
- (5) The director shall reach a decision and shall prepare a written report of his/her decision within 20 working days of receipt of the findings and decision of the Assistant Administrator or designee. The director shall give copies of the decision to the client/provider, the Assistant Administrator or designee, the branch manager, the service worker and the supervisor.

(6) The decision of the director is final, and is not subject to further review by the agency.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01

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

413-010-0500

Contested Case Hearings

The State Office for Services to Children and Families has adopted the Attorney General's Model and Uniform Rules, OAR chapter 137, division 1, in effect as of January 1, 2000. As required by Oregon Laws 1999, Chapter 847 (house bill 2525), the State Office for Services to Children and Families follows the Attorney General's Model Rules 137-003-0501 through 137-003-0700 (the Hearing Panel Rules) for the conduct of its contested case hearings.

NOTE: For cases not covered by the Contested Case Hearing rules, refer to the "Grievance Review" policy, I-A.5.1.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.310 - 183.500

Hist.: SOSCF 32-2001, f. 6-29-01 cert. ef. 7-1-01

Notice and Review of CPS Founded Dispositions

413-010-0700

Purpose

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0705

Definitions

For the purposes of OAR 413-010-0700 to 0750, the following terms have these meanings:

(1) A "Local Child Welfare Office Review Committee" is a group of three child welfare employees selected by an SDA Child Welfare Manager or a designee. One of the members must be a Manager and one must be staff trained in CPS assessment and dispositions. No one may serve on the Local Child Welfare Office Review Committee in the review of an assessment in which he or she was involved. Further requirements of the Local Child Welfare Office Review Committee are found in OAR 413-010-0735 and 413-010-0738.

(2) A "Central Office Review Committee" is a group of three child welfare employees selected by the Department's Manager for Child Protective Services or a designee, none of whom was involved in either the Local Child Welfare Office Review Committee or in the assessment that resulted in the CPS founded disposition under review. Further requirements of the Central Office Review Committee are

found in OAR 413-010-0745 and 413-010-0746. The three child welfare staff on the committee must include:

(a) Either the Assistant Director for the Department's child welfare programs or a designee;

(b) Either the Manager for Child Protective Services or a designee; and

(c) A CPS consultant.

(3) "CPS" refers to the Department's Child Protective Services program, that is responsible for, among other duties, the assessment of alleged child abuse.

(4) "CPS Disposition" is a determination that completes a CPS assessment. Dispositions are discussed in OAR 413-015-1000 and include founded, unfounded, and unable to determine.

(a) "Founded disposition" means there is reasonable cause to believe that child abuse occurred;

(b) "Unfounded disposition" means no evidence of child abuse was identified or disclosed; or

(c) "Unable to Determine" means there are some indications of child abuse, but there is insufficient data to conclude that there is reasonable cause to believe that child abuse or neglect occurred.

(5) "CPS Founded Disposition" means that the Department determined, after completing a CPS assessment, that there is reasonable cause to believe that child abuse occurred.

(6) "Department" means the Department of Human Services.

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

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

(9) "Legal proceeding" means a court or administrative proceeding that may result in a legal finding.

(10) "Local Child Welfare office" means the Department's child welfare office that conducted the CPS assessment that resulted in the CPS Founded Disposition subject to review under these rules.

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

(12) "Person Requesting Review" or "Requestor" means a perpetrator, his or her attorney, or, if a juvenile is identified as the perpetrator, the person who may request a review on behalf of the juvenile, who requests a review of the founded disposition because they believe the founded disposition is in error.

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; SOSCF 9-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05

413-010-0710

Required Forms

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

(2) To be effective, a form required by these rules must be complete.

(3) The following forms are required to be used by these rules:

(a) Form CF 313, "Notice of CPS Founded Disposition."

(b) Form CF 314A, "Notice of Local Child Welfare Office Review Committee Decision to Retain as Founded."

(c) Form CF 314B, "Notice of Local Child Welfare Office Review Committee Decision to Change Disposition."

(d) Form CF 314C, "Notice of Local Child Welfare Office Review Committee Decision to Change Abuse Type."

(e) Form CF 315A, "Notice of Central Office Review Committee Decision to Retain as Founded."

(f) Form CF 315B, "Notice of Central Office Review Committee Decision to Change Disposition."

(g) Form CF 315C, "Notice of Central Office Review Committee Decision to Change Abuse Type."

(h) Form CF 316, "Notice of Waived Rights."

(i) Form CF 317, "Notice of Legal Proceeding."

(j) Form CF 318, "Notice of Legal Finding."

(k) Form CF 319, "Notice of CPS Founded Disposition for an Employee."

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2005, f. & cert. ef. 2-1-05

413-010-0712

Overview of the Procedures Required by These Rules

These rules regulate the following subjects:

(1) Applying Department employee policies if the person identified as responsible in a CPS founded disposition is an employee of the Department (see OAR 413-010-0714);

(2) Providing notice of a CPS founded disposition as a result of a CPS disposition (see OAR 413-010-0715);

(3) Providing notice of a CPS founded disposition and other documents to juveniles (see OAR 413-010-0716);

(4) Inquiring about a review of CPS founded disposition completed before August 4, 2000, (see OAR 413-010-0717);

(5) Inquiring about a review of a CPS founded disposition when a person believes they have not received a notice (see OAR 413-010-0718);

(6) Local Child Welfare office responsibilities when a person inquires about a review of a CPS founded disposition (see OAR 413-010-0719);

(7) Information included in the notice of CPS founded disposition (Form CF 313) (see OAR 413-010-0720);

(8) Making a Request for a review of a CPS founded disposition (see OAR 413-010-0721);

(9) Determining when legal findings preclude a right to request a review and providing notice of legal proceeding (see OAR 413-010-0722);

(10) Providing a notice of legal finding (see OAR 413-010-0723);

(11) Local Child Welfare office responsibilities related to notices and reviews (see OAR 413-010-0732);

(12) Local Child Welfare office reviews of CPS founded dispositions (see OAR 413-010-0735);

(13) Providing a notice of the local Child Welfare office's decision (see OAR 413-010-0738);

(14) Requesting a Central Office Review Committee review of CPS founded disposition (see OAR 413-010-0740);

(15) Local Child Welfare office responsibilities in the case of a request for Central Office Review Committee review (see OAR 413-010-0743);

(16) Central Office Review Committee review (see OAR 413-010-0745);

(17) Providing notice of Central Office Review Committee decisions (see OAR 413-010-0746);

(18) Discretion of program manager to review CPS founded disposition (see OAR 413-010-0748); and

(19) Revising CPS founded dispositions in the Department's records (see OAR 413-010-0750).

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0714

Department Employee — Application of Department Employee Policies

When the perpetrator is a Department employee, the Department will follow the Department employee policies (see policies in III-E.4.8.12.).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0715

Providing Notice of a CPS Founded Disposition

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

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

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

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

(2) A notice of CPS founded disposition (Form CF 313) is not required if:

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

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0716

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

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

(a) The juvenile's parent; or

(b) The juvenile's guardian.

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

(a) The juvenile's attorney; and

(b) The juvenile's parent, unless there is cause to believe such communication will be detrimental to the juvenile (see OAR 413-020-170(2)(c)).

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

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

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0717

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

(1) The Department will not deliver a "Notice of Founded CPS Disposition" (Form CF 313) to a person identified as a perpetrator in a CPS founded disposition completed prior to August 4, 2000, unless

a person makes an inquiry to the Department about an opportunity for review and qualifies for a review as described in section (2) of this rule.

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0718

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

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

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

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

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

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0720

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

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

(1) The case and sequence numbers assigned to the CPS assessment that resulted in the CPS Founded Disposition;

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

(3) A statement that the CPS disposition was recorded as "founded" including a description of the type of child abuse or neglect identified;

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

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

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

(7) A statement that the Department will not review a CPS founded disposition when a legal proceeding is pending and that the person requesting a review maintains the right to request a review for 30 days

following resolution of the pending legal proceeding unless the proceeding results in a legal finding that is consistent with the CPS founded disposition.

(8) A statement that the person waives the right to request a review if the request for review is not received by the local Child Welfare office within 30 calendar days from the date of receipt of the "Notice of CPS Founded Disposition," as documented by a returned receipt.

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

(10) A statement that the review committee will not re-interview the victim; interview or meet with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conduct a field assessment of the allegation of child abuse; and

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0721

Making a Request for a Review of a CPS Founded Disposition

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

(1) Date the request for review is written;

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

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

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

(5) The person's current name (if it has changed from the name noted in subsection (c) of this section);

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

(7) The person's signature.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0722

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

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

(2)(a) If the Department is aware that a legal proceeding is pending, the Local Child Welfare Office Review Committee will not review the disposition until the legal proceeding is completed.

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

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

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

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

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.005
 Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05

413-010-0723

Providing a Notice of Legal Finding (Form CF 316)

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

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

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.005
 Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05

413-010-0732

Local Child Welfare Office Responsibilities Related to Notices and Reviews

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

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

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

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

(c) The date a Request for a local Child Welfare office review was received by the local Child Welfare office;

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

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

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

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

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.005
 Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05

413-010-0735

Local Child Welfare Field Office Review Committees and Reviews of CPS Dispositions

(1) The Local Child Welfare Office Review Committee must conduct a review and issue a "Notice of Local Child Welfare Office Review Committee Decision" (Form CF 314) to the requestor within 30 days from the date the local Child Welfare office receives a request for review of a CPS founded disposition.

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

(3) The Local Child Welfare Office Review Committee must operate as follows:

(a) The committee must consider relevant documentary information contained in the Department's child welfare case file including the CPS assessment and disposition, screening information, assessment

information and narrative, related police reports, medical reports, and information provided by the person requesting review.

(b) The Review Committee may not re-interview the victim; interview or meet with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conduct a field assessment of the allegation of child abuse or neglect.

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

(d) All decisions of the committee must be decided by majority vote of the participating committee members.

(e) The Review Committee must determine:

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

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

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

(f) Based upon its review of the CPS founded disposition and its determinations under subsection (d) of this section, the Review Committee must either retain the founded disposition or change the disposition to unfounded or unable to determine. The Review Committee also may change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS disposition was founded.

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

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.005
 Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05

413-010-0738

Notice of Local Child Welfare Office Review Committee Decision

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

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

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

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

(c) The decision of the Local Child Welfare Office Review Committee whether to change or retain the CPS founded disposition;

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

(e) If the Local Child Welfare Office Review Committee decides that the CPS founded disposition should be retained but that the type of abuse for which the disposition was founded should be changed, the type of abuse that should be founded and the reason for this change.

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

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

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

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

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

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

(5) When a Local Child Welfare Office Review Committee decision is made to change a CPS founded disposition, the Child Welfare supervisor or designee forwards the "Notice of Local Child Welfare

Office Review Committee Decision,” (Form CF 314) to the Department’s Office of Information Services (OIS) or other appropriate organizational unit to make changes in the Department’s Integrated Information System (IIS), Families and Child Information System (FACIS), or other appropriate information system.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0740**Requesting a Central Office Review Committee Review**

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

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

(3) A person requesting a review by the Central Office Review Committee of a CPS founded disposition must deliver the request to the local Child Welfare office within 30 days of the date the “Notice of Local Child Welfare Office Review Committee Decision” (Form CF 314) was received by the requestor, as evidenced on a United States Postal Service return receipt.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0743**Local Office Responsibilities in a Request for Central Office Review Committee Review**

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

(1) The request for review; and

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0745**Central Office Review Committee Review**

(1) The Central Office Review Committee will conduct a review and issue a “Notice of Central Office Review Committee Decision” (Form CF 315) within 60 days from the date the CPS Program Unit receives a request for a review by the Central Office Review Committee.

(2) The Central Office Review Committee operates as follows:

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

(b) The Central Office Review Committee considers relevant documentary information contained in the Department’s child welfare case file, including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information provided by the person requesting review with the request.

(c) The Central Office Review Committee will not re-interview the victim; interview or meet with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conduct a field assessment of the allegation of child abuse or neglect.

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

(e) All decisions of the Central Office Review Committee must be decided by majority vote of the participating committee members.

(f) The Central Office Review Committee determines:

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

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

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

(g) Based upon its review of the CPS founded disposition and the determinations required by subsection (e) of this section, the Central Office Review Committee will either leave the founded disposition unchanged or change the disposition to “unfounded” or “unable to determine.” The Central Office Review Committee also may change the type of abuse for which the CPS disposition was founded.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0746**Notice of Central Office Review Committee Decision**

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

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

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

(c) The decision of the Central Office Review Committee whether to change the CPS founded disposition;

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

(e) If the Central Office Review Committee decides that the CPS founded disposition should be retained but the type of abuse for which the disposition was founded should be changed, the new type of abuse and the reason for this change;

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

(g) A summary of the information used by the Central Office Review Committee and its reasoning in reaching its decisions; and

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

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

(3) If the Central Office Review Committee determines that the CPS founded disposition should be changed, the Central Office Review Committee sends the decision (Form CF 315) to the CPS Program Coordinator.

(4) The CPS Program Office maintains a comprehensive record of the reviews of CPS founded dispositions conducted by the Central Office Review Committee. The record includes the date of the review, case number, sequence number, a copy of the materials reviewed by the committee in reaching its decision, and the committee decision for each review conducted by the Central Office Review Committee.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-010-0748**Review Initiated by the Department**

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 16-2004, f. & cert. ef. 10-1-04; CWP 2-2005, f. & cert. ef. 2-1-05

413-010-0750

Revising Founded Child Abuse Dispositions in the Integrated Information System (IIS)

When a Central Office Review Committee decision is made to change a CPS founded disposition, the CPS Program Coordinator or designee forwards the necessary information to the Department's Office of Information Services (OIS) or other appropriate organizational unit to make changes in the Department's Integrated Information System (IIS), Families and Child Information System (FACIS) or other appropriate information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

DIVISION 15

INTRODUCTION TO CPS RULES

413-015-0100

Child Protective Service Authority and Responsibility

Reports of alleged child abuse or neglect are received by Child Welfare and screened for Department response. The processes and time lines for completion are provided in division 015 of this chapter of rules. OAR 413-015-0100 to 413-015-0125 provide an overview of division 015, which implements ORS 409.185, 418.015 and 419B.005 to 419B.050.

Stat. Auth.: ORS 418.005

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

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

413-015-0105

Purpose of Child Protective Services

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

Stat. Auth.: ORS 418.005

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

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

413-015-0110

Introduction to Rules Governing Child Protective Services

The rules of this division are organized as follows:

- (1) Introduction to Child Protective Services, OAR 413-015-0100 to 413-015-0125.
- (2) Screening, OAR 413-015-0200 to 413-015-0225.
- (3) Cross Reporting, OAR 413-015-0300 to 413-015-0310.
- (4) Child Protective Services Assessment, OAR 413-015-0400 to 413-015-0485.
- (5) Child Abuse Assessment Dispositions, OAR 413-015-1000.
- (6) Access to LEDS in Local Child Welfare Offices, OAR 413-015-1100 to 413-015-1125.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0115

Definitions

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

- (1) "Caregiver" means a guardian, legal custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a child.
- (2) "Child" means a person under 18 years of age.
- (3) "Child abuse or neglect" means any form of abuse, including abuse through neglect and abuse or neglect by a third party, of a person under age 18.
- (4) "Child protective services (CPS)" means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.
- (5) "Child protective services assessment" means activities and interventions that identify and analyze safety threats, determine if there is reasonable cause to believe child abuse or neglect occurred, and

assure child safety through protective actions or ongoing safety planning.

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

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

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

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

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

(11) "Designated medical professional" means (as defined in ORS 418.747(8)) a physician, physician assistant, or nurse practitioner who has been designated by the local multi-disciplinary team and trained to conduct child abuse medical assessments (as defined in ORS 418.782), and who is — or who may designate another physician, physician assistant, or nurse practitioner who is — regularly available to conduct these medical assessments.

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

(13) "FACIS" means the Family and Child Information System.

(14) "Former foster child" means a person under 21 years of age, who was in substitute care in Oregon, including substitute care provided by the Federally Recognized Tribes, after the age of 14 and remained in substitute care for an accumulative 180 days or longer.

(15) "Guided Assessment Process (GAP)" is a tool used to document the CPS assessment.

(16) "Harm" means any kind of impairment, damage, detriment, or injury to a child's physical, sexual, emotional, or mental development or functioning. Harm is the result of child abuse or neglect and may vary from mild to severe.

(17) "ICWA" means the Indian Child Welfare Act.

(18) "Initial contact" means the first face-to-face contact between a CPS worker and a family. The initial contact includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, and other children and adults living in the home; accessing the home environment; identifying safety threats; and determining if a protective action is needed.

(19) "Legal 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; and

(d) Make other decisions of substantial legal significance concerning the child (but a guardian is not a conservator of the child's property or estate).

(20) "Multi-disciplinary team (MDT)" means a county investigative team described in ORS 418.747 that includes law enforcement personnel, child protective service workers, district attorneys, school officials, health department staff, and juvenile department personnel.

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

(22) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more safety threats to which the child is vulnerable and determined the parent or caregiver is unable or unwilling to protect the child. An ongoing safety plan can be in-home or out-of-home and is adjusted when necessary to provide the least intrusive interventions.

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

(24) "Personal representative" means a person who is at least 18 years of age and is selected to be present and supportive during the CPS assessment by a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of

the crime. The personal representative may not be a person who is a suspect in, party or witness to, the crime.

(25) "Protective action" means an immediate, same day, short-term plan sufficient to protect a child from a safety threat in order to allow completion of the CPS assessment.

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

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

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

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

(30) "Report" means an allegation of child abuse or neglect provided to Child Welfare that the screener evaluates to determine if it constitutes a report of child abuse or neglect as defined in ORS 419B.005.

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

(32) "Safe" means there is an absence of safety threats, the child is not vulnerable to identified safety threats, or there is sufficient parent or caregiver protective capacity to protect the vulnerable child from the identified safety threats.

(33) "Safety service provider" means a participant in a protective action or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety or increasing the protective capacities of the child's parent or caregiver.

(34) "Safety services" mean the actions, assistance, and supervision provided by safety service providers to manage the identified safety threats to a child.

(35) "Safety threat" means family behavior, conditions, or circumstances that could result in harm to a child.

(36) "Screener" means a Child Welfare employee with training required to provide screening services.

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

(38) "Severe harm" means 'substantial', as used in ORS 419B.005; immobilizing impairment; life-threatening damage; or significant or acute injury to a child's physical, sexual, psychological, or mental development or functioning.

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

(40) "Suspicious physical injury" (as defined in 2007 Oregon Laws Chapter 674) includes, but is not limited to:

- (a) Burns or scalds;
- (b) Extensive bruising or abrasions on any part of the body;
- (c) Bruising, swelling, or abrasions on the head, neck, or face;
- (d) Fractures of any bone in a child under the age of three;
- (e) Multiple fractures in a child of any age;
- (f) Dislocations, soft tissue swelling, or moderate to severe cuts;
- (g) Loss of the ability to walk or move normally according to the child's developmental ability;
- (h) Unconsciousness or difficulty maintaining consciousness;
- (i) Multiple injuries of different types;
- (j) Injuries causing serious or protracted disfigurement or loss of impairment of the function of any bodily organ; or
- (k) Any other injury that threatens the physical well-being of the child.

(41) "Third-party abuse" means abuse by a person who is not the child's parent, not the child's caregiver or other member of the child's household, and not a person responsible for the child's care, custody, and control. Examples of persons who could be considered as a third-

party under this definition include school personnel, day-care providers, coaches, and church personnel.

(42) "Unsafe" means there is a safety threat to which the child is vulnerable and there is insufficient parent or caregiver protective capacity to protect a vulnerable child from the identified safety threats.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050, 2007 OL 674

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08

413-015-0125

Department Responsibility Ends

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

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

(2) The CPS assessment has determined that there is an absence of safety threats, the child is not vulnerable to identified safety threats, or the parent or caregiver can and will protect the vulnerable child from the identified safety threats; or

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

Stat. Auth.: ORS 418.005

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

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

Screening

413-015-0200

Screening Rules, Purpose

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-015-0205

Screening Activities

The screener must complete the following activities:

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

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

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

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

(3) Determine the type of information received, Child Protective Services, Family Support Services, or Interstate Compact on the Place-

ment of Children, and where and when to document the information received.

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

(A) Child Protective Services information is documented in FACIS using the Guided Assessment Process (GAP).

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

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

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

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

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

(A) This information is documented in FACIS using a screening form.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Request for Interstate Compact on the Placement of Children (ICPC) supervision and services. This type of information is not a report of child abuse or neglect. Information falls within the ICPC category when a screener receives a request from central office to provide ICPC supervision and services. This information is documented in FACIS using a screening form.

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

(a) The screener must use the GAP screening template to collect the following information, which is critical to effectively identify if

there is a report of child abuse or neglect as defined in ORS 419B.005 and if the information indicates a child is unsafe:

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

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

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

(D) Reported parent or caregiver functioning and behavior.

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

(c) Research Department history of every identified child, parent, caregiver, and household member for information about current or previous Department involvement relevant to the current child abuse or neglect report.

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

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

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

(g) Immediately refer to Child Welfare Policy I-B.2.2.3 when information is related to a Department approved and certified home that is a foster home, relative caregiver home, or adoptive home.

(h) Immediately refer to Child Welfare Policy II-E.1, "Child-Caring Agencies", OAR 413-210-0000 to 413-210-0250 when information is related to a licensed child caring agency.

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

(5) Explain to reporters:

(a) That the Department will not disclose the identity of the reporter unless disclosure is to an LEA for purposes of investigating the report, disclosure is required because the reporter may need to testify as a witness in court, or the court orders the Department to disclose the identity of the reporter;

(b) That anyone making a report of child abuse or neglect in good faith, who has reasonable grounds to make the report, is immune from liability in respect to making the report and the contents of the report;

(c) The Department's decision about whether the report will be assigned for a CPS assessment. If this decision has not been made when the report is completed, the screener must notify the reporter that, if contact information is provided, diligent efforts will be made to contact him or her at a later date and inform him or her of the decision;

(d) If applicable, that the information reported does not meet the screening criteria to be documented and retained in the child abuse information system; and

(e) That mandatory reporters should consider maintaining a record of their report to document compliance with ORS 419B.010 and 419B.015.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0210

Determining Department's Response and Required Time Lines for CPS Information

(1) After the screener completes screening activities required by OAR 413-015-0205, the screener must determine the Department response, either CPS assessment required or close at screening. If a CPS assessment is required, the screener must then determine the time line for the Department response, either within 24 hours or within five calendar days.

(2) CPS assessment required. A CPS assessment is required if:

(a) The screener determines that information received constitutes a report of child abuse or neglect, as defined in ORS 419B.005, in which a child is alleged to be unsafe; or

(b) A Tribe or LEA requests assistance from Child Welfare with an investigation of child abuse or neglect, and a CPS supervisor agrees that assistance from Child Welfare is appropriate.

(3) If the screener determines that a CPS assessment is required, the screener must:

(a) Determine the CPS assessment response time line. The time line for the Department response refers to the amount of time between when the report is received at screening and when the CPS worker is required to make an initial contact.

(A) Within 24 hours: This response time line is required when the information received constitutes a report of child abuse or neglect as defined in ORS 419B.005 in which a child is alleged to be unsafe, unless paragraph (B) of this subsection applies.

(B) Within five calendar days: This response time line must only be used when the screener can clearly document how the information indicates the child's safety will not be compromised by not responding within 24 hours. The screener's judgment must take into account the location of the child, how long the child will be in that location, access that others have to the child's location, and whether an intentional delay to allow for a planned response is less likely to compromise the safety of the child.

(b) Complete a GAP screening form immediately when a within 24 hour response time line is assigned or the same day when a within five calendar days response time is assigned, unless a CPS supervisor grants an extension as provided in OAR 413-015-0220.

(c) Refer the CPS assessment to the appropriate county as described in OAR 413-015-0213.

(4) Close at Screening: A report will be closed at screening if either subsections (a) or (b) of this section apply:

(a) The screener determines that information received does not constitute a report of child abuse or neglect, as defined in ORS 419B.005, in which a child is alleged to be unsafe, and the screener determines that the information received meets any of the following criteria:

(A) It is a report of one or more factors that may negatively impact parenting behavior.

(B) It is a report of third party child abuse or neglect that does not require a CPS assessment because the information indicates the child is safe, the alleged perpetrator does not have access to the child, the parent or caregiver has the information necessary to protect the child, and a parent or caregiver will continue to assure child safety.

(C) It is a report that an expectant mother's newborn child will be at risk when born because the expectant mother or a household member has a history of prior termination of parental rights, substance abuse, or prior aggravated circumstances, and the expectant mother has no children in her care.

(b) The screener, after extensive efforts, is unable to obtain sufficient information to locate the child. Name and exact address are not necessary if a location is obtained.

(5) If a report is closed at screening, the screener must:

(a) Document the current information that supports the decision to close the report at screening.

(b) Decide whether other services are appropriate and make service or resource referrals, as necessary. Document what service or resource referrals are made, if any.

(c) If contact information was provided, make diligent efforts to contact the reporter and inform him or her of the decision to close the report at screening when the reporter was not informed of the decision prior to completing the report.

(d) Complete a GAP screening form no later than the next working day after the screening determination is made, unless a CPS supervisor grants an extension, as provided in OAR 413-015-0220.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0211

Additional Screening Activities

In the specific circumstances described below, the screener must complete additional activities to complete the screening process.

(1) The screener receives information on an open CPS assessment.

(a) When a screener receives duplicate information (same alleged victim, same alleged perpetrator, same allegation of child abuse or neglect, and same incident dates) on an open CPS assessment, the screener must:

(A) Inform the reporter that a new report will not be assigned because the information has already been received;

(B) Provide the reporter with the assigned caseworker's name and phone number; and

(C) Provide contact information about the reporter and any information the screener received to the assigned caseworker.

(b) When a screener receives information that constitutes a new report of child abuse or neglect as defined in ORS 419B.005 on an open CPS assessment:

(A) The screener must document the information in a new GAP screening form unless paragraph (B) of this subsection applies.

(B) If a CPS worker assigned to an open CPS assessment reports child abuse or neglect in the household that is the subject of the open CPS assessment, the screener must direct the CPS worker to incorporate the new information into the existing, open CPS assessment.

(2) The screener receives new information on an open Child Welfare case.

(a) When a screener receives new information on an open Child Welfare case, the screener must:

(A) Consult with a CPS supervisor;

(B) Notify each assigned case worker and their respective supervisors of all new information received on the same day the information is received, and document this notification in FACIS case notes; and

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

(b) When a screener receives a new report of child abuse or neglect, as defined in ORS 419B.005, but there is no open CPS assessment, the screener must document the information in a new GAP screening form.

(3) The information received by a screener on an open Child Welfare case that will not be documented in the GAP but must be documented in FACIS case notes includes:

(a) Additional information on an open case that does not meet the criteria for a new CPS assessment or closed at screening;

(b) When an in-home ongoing safety plan is violated, but the violation is not a new incident of child abuse or neglect;

(c) Reports of an ongoing concern in an open case, which Child Welfare is currently addressing;

(d) Reports of child runaways; and

(e) Any requests for case information received by the screener.

(4) When a screener receives information related to the home of a Department certified foster parent or relative caregiver, the screener must notify and document that the screener has notified each assigned case worker, assigned certifier, and their respective supervisors of all information received (see Child Welfare Policy I-B.2.2.3).

(5) When a screener receives the report of a child fatality alleged to be the result of abuse or neglect or involving a child known to the Department, the screener must:

(a) Consult with a CPS supervisor;

(b) Refer to the Child Welfare "Fatality Protocol";

(c) Complete a GAP screening form documenting the "allegation" as a "fatality" in addition to other allegations that apply;

(d) Notify the CPS consultant; and

(e) Complete subsections (a) through (d) of this section even when there are no siblings to the deceased child and no other children in the home where the fatality occurred.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0212

Screener Consultation with a CPS Supervisor

Screeners may consult with a CPS supervisor about any screening determination. Screeners must consult with a CPS supervisor in each of the following situations:

(1) The screener receives a report of child abuse or neglect involving a child, parent, caregiver, or perpetrator who was a child, parent, caregiver, or perpetrator in a CPS assessment that resulted in a founded disposition in the preceding six months.

(2) The screener reviews Department records on a family that is the subject of a child abuse or neglect report and finds multiple consecutive reports were closed at screening, and the information received in the current report, in combination with the prior reports regarding the same family, may meet the criteria to refer the report for a CPS assessment.

(3) The screener receives a new report involving a family that has an open Child Welfare case.

(4) The screener receives a report involving the home of a Department certified foster parent or relative caregiver. The screener must immediately refer to and follow Child Welfare Policy I-B.2.2.3.

(5) The screener receives a report involving a licensed child-caring agency. The screener must immediately refer to and follow Child Welfare Policy II-E.1, "Child-Caring Agencies".

(6) The screener receives a report of a child fatality.

(7) The screener decides not to refer for assessment a report of a baby who is born with substances in his or her system.

(8) The screener receives a report of child abuse or neglect in which a community partner or an employee of any program, office, or division of the Department or the Oregon Youth Authority is the alleged perpetrator.

(9) The screener receives a report of child abuse or neglect that is expected to receive media attention or that already is being reported by the media.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0213

Determining the County to which the CPS Assessment will be Referred

(1) Except as described in section (2) of this rule, the screener must refer the CPS assessment to the local Child Welfare office in the county where the child resides, and that county is responsible for completing the CPS assessment.

(2) When the alleged child abuse or neglect occurred in a foster home or a residential care facility, the screener must refer the CPS assessment to the local Child Welfare office in the county where the alleged child abuse or neglect occurred, and that county is responsible for completing the CPS assessment.

(3) The District Managers in the affected counties must jointly approve any exception to sections (1) or (2) of this rule. When a joint decision cannot be made, the CPS Program Manager or designee must approve the exception.

(4) As a courtesy, and to assist with the CPS assessment process, when the child resides in a different county than the county where the alleged child abuse or neglect occurred, CPS workers may be assigned in the county of the child's residence and the county where the alleged child abuse or neglect occurred. The county who is responsible for completing the CPS assessment is described in sections (1) and (2) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0215

Notifications to Specific Agencies or Entities

The screener must notify specific agencies or entities of reports that the screener determines will be referred for a CPS assessment or will be closed at screening.

(1) LEA. The screener must cross report to LEA as required by OAR 413-015-0305(1).

(2) Child Care Division. The screener must notify the Child Care Division when a report involves a registered day-care home or a licensed day-care center, as required by ORS 418.747(2)(e) and 419B.020(1).

(3) Child Caring Agency Licensing Program. The screener must notify the Department's Child Caring Agency Licensing Program when a report involves a licensed child caring facility (see OAR 413-2000-0000).

(4) Senior and People with Disabilities Division (SPD). The screener must notify the Office of Investigations and Training with the Public Health Division of the Department when a report involves a child with developmental disabilities in an SPD licensed group home.

(5) ICWA. If the screener knows or has reason to know that the child is an Indian child, the screener must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted.

Stat. Auth.: ORS 418.005, 419B.017

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0220

Screening Extensions

(1) Except as provided in section (2) of this rule, the CPS supervisor may grant an extension to the deadline in OAR 413-015-0205 if the screener is unable to complete all required screening activities the same day that the report alleging child abuse or neglect is received because critical information (such as information that the child is unsafe and the child's location) is still needed to determine the Department response. The screener must document in GAP the reason for the extension, including the critical information that remains to be collected, and the CPS supervisor's approval.

(a) The CPS supervisor may grant a one-business day extension up to two times; and

(b) Screening activities may not exceed two business days beyond the day the report alleging child abuse or neglect is received by Child Welfare.

(2) If the screener has the critical information needed to determine the Department response or has information that indicates the child is unsafe, no extension to the deadline in OAR 413-015-0205 may be allowed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

413-015-0225

Supervisory Review

The CPS supervisor must review all closed-at-screening reports within five days of the completion of screening activities and electronic submission of the reports for review.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

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

Cross Reporting

413-015-0300

Cross Reporting Defined

The Department and law enforcement agencies are required by ORS 419B.015 to notify each other when a report of child abuse or neglect, as defined in ORS 419B.005, is received. This process is known as cross reporting, and the notification is called a cross report. OAR 413-015-0300 to 413-015-0310 explain when and how a report of child abuse or neglect received by Child Welfare or a law enforcement agency is cross reported. Information is not cross reported until it is received.

Stat. Auth.: ORS 418.005 & 419B.015

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0302

Purpose of Cross Reporting

The purpose of the cross report is to share reports of alleged child abuse or neglect between Child Welfare and law enforcement agencies.

Stat. Auth.: ORS 418.005, 419B.017

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0305

Cross Reporting Requirements

(1) Who is Required to Cross Report and to Whom.

(a) When a report of child abuse or neglect is received by a Child Welfare screener, the screener or designee must cross report to a law enforcement agency in the county where the report was made. If the abuse or neglect is alleged to have occurred in a different county, the

screeners must cross report a second time to the law enforcement agency in the county where the alleged abuse or neglect occurred.

(b) When a report of child abuse or neglect is received by a law enforcement agency, the law enforcement agency must cross report to the local office of Child Welfare in the county where the report was made.

(2) What to include in a Cross Report. A cross report from either Child Welfare or law enforcement agencies must include:

(a) The information provided by the person making the report of child abuse or neglect. This may include, the name of and contact information for the confidential reporter, the names and addresses of the child, the names and addresses of the child's parent or caregiver, the child's age, the nature and extent of the abuse or neglect, any evidence of previous abuse or neglect, the explanation given for the abuse or neglect, where the abuse or neglect occurred, identity and whereabouts of the alleged perpetrator, and any other information provided by the person making the report that would be helpful in establishing the cause of the abuse or neglect and the identity and whereabouts of the alleged abuser; and

(b) The name and contact information for the assigned CPS worker and officer, if known.

(3) When and How to Cross Report.

(a) The Department. When and how the Department must cross report to a law enforcement agency is described below.

(A) The same day.

(i) Child Welfare must cross report to a law enforcement agency on the same day the screener determines that a report of alleged child abuse or neglect requires a within 24 hours response by the Department or immediate notification to law enforcement. This requirement includes, but is not limited to any reports of:

(I) Moderate to severe physical abuse;

(II) Visible injuries to a child;

(III) Sexual abuse; or

(IV) Suspicious or unexpected death of a child.

(ii) The reports of child abuse or neglect that the Department cross reports on the same day must be cross reported in one of the following ways:

(I) Verbal Cross Report. When a cross report is verbal and Child Welfare and law enforcement do not respond to the report of child abuse or neglect together, a completed screening report must be sent to the law enforcement agency.

(II) Electronic Transmission.

(III) Hand Delivery.

(B) No later than ten days.

(i) All other reports of child abuse or neglect, including reports assigned for CPS assessment and closed at screening, must be cross reported within a time frame that ensures the receipt of the cross report by law enforcement no later than ten days after receiving the report.

(ii) The reports of child abuse or neglect that the Department cross reports within a time frame that ensures the receipt of the cross report no later than ten days must be cross reported in one of the following ways:

(I) Electronic transmission.

(II) Hand delivery.

(III) Mail.

(C) Department cover sheet. In order for law enforcement agencies to quickly and easily prioritize reports and respond accordingly, all written cross reports from the Department must have a cover sheet. The following information must be included on the cover sheet:

(i) Date and time of the cross report;

(ii) How the cross report is made;

(iii) If additional cross reports occurred, and if so, to what agencies;

(iv) Name and number of the screener or designee making the cross report;

(v) If the report was assigned or not assigned;

(vi) Name and number of the assigned caseworker;

(vii) Cross reporting time frame;

(viii) If the report is an original or follow-up cross report; and

(ix) Date of the original cross report, if it is a follow-up cross report.

(D) Supplemental cross reporting by the Department. Child Welfare may receive information not previously cross reported but apparently related to a report of child abuse or neglect involving the same

victim and the same alleged perpetrator that has been previously cross reported. If the information relates to the same incident of abuse or neglect, the screener must make a supplemental cross report of the additional information to each law enforcement agency that received the prior cross report. Supplemental information that is determined to be critical, given the information in the original report, must be cross reported immediately. All other supplemental information must be cross reported within a time frame that ensures the receipt of the information no later than ten days after the information was received.

(b) Law Enforcement. When and how law enforcement agencies must cross report to Child Welfare is described below.

(A) Immediate.

(i) Law enforcement agencies must cross report to Child Welfare immediately when a law enforcement agency determines that a report of alleged child abuse or neglect requires a joint immediate response.

(ii) The reports of child abuse or neglect that law enforcement agencies cross report immediately must be cross reported by verbal cross report to the local office of Child Welfare without delay.

(B) Next Business Day.

(i) Law enforcement agencies must cross report to Child Welfare all other reports of child abuse or neglect no later than the end of the next business day after receiving the report.

(ii) The reports of child abuse or neglect that law enforcement agencies cross report no later than the end of the next business day must be cross reported in one of the following ways:

(I) Verbal report.

(II) Electronic transmission.

(III) Hand delivery.

Stat. Auth.: ORS 418.005, 419B.017

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0310

Department Documentation and Verification Requirements

Documentation and Verification:

(1) If the Department cross reports a report of child abuse or neglect on the same day the report is received, the Department screener or designee must document in FACIS:

(a) The date the cross report is made from Child Welfare to law enforcement;

(b) To which law enforcement agency the cross report is made; and

(c) How the cross report is made.

(2) Copies of the cover sheet for a cross report must be maintained in the case record.

(3) If the cross report is faxed, the screener or designee must attach the fax transmittal confirmation sheet to each cover sheet.

Stat. Auth.: ORS 418.005, 419B.017

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

CPS Assessment

413-015-0400

Purpose and Overview of the CPS Assessment Rules

(1) These rules, OAR 413-015-0400 to 413-015-0485 describe the activities required to sufficiently complete a CPS assessment.

(2) Completing a CPS assessment involves the following:

(a) Making initial contact within the assigned response time lines, which includes:

(A) Face-to-face contact with the alleged victim, his or her siblings, his or her parent or caregiver and other children and adults living in the home;

(B) Access to the home environment;

(C) Determining if there is a safety threat;

(D) Determining if the child is unsafe; and

(E) Establishing a protective action when the child is unsafe.

(b) Gathering safety-related information through interviews and observation;

(c) Determining child vulnerability and explaining the basis for that determination;

(d) Determining if the parent or caregiver can or cannot and will or will not protect and explain the basis for that determination;

(e) Determining if there is reasonable cause to believe that child abuse or neglect occurred and explaining the basis for that determination;

(f) Completing a safety analysis; and

(g) Developing an ongoing safety plan when a child is unsafe.

(3) A CPS assessment must only be completed by a Department employee whose current position is a CPS worker, a CPS supervisor, or an employee who meets the definition of CPS worker and has recent experience completing CPS assessments.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0405

CPS Assessment Response Time Lines

(1) The time line for the Department response refers to the amount of time from the receipt of a report at screening to the time when the CPS worker is required to make an initial contact.

(2) Except as provided in sections (3) and (4) of this rule, every CPS assessment must be assigned one of the following response time lines and the CPS worker must make an initial contact within the assigned response time line:

(a) Within 24 hours: This response time line is required when the information received constitutes a report of child abuse or neglect as defined in ORS 419B.005 in which a child is alleged to be unsafe, unless subsection (b) of this section applies.

(b) Within five calendar days: This response time line must only be used when the screener has clearly documented how the information indicates the child's safety will not be compromised by not responding within 24 hours. The screener's judgment must have taken into account the location of the child, how long the child will be in that location, access that others have to the child's location, and whether an intentional delay to allow for a planned response is less likely to compromise the safety of the child.

(3) A supervisor may change the initial contact time lines established in section (2) of this rule as follows:

(a) The supervisor may change the response time line from within five calendar days to within 24 hours.

(b) The supervisor may change the response timeline from within 24 hours to within five calendar days, but the supervisor must explain in writing why the time line was changed and how the child's safety needs were considered when the change was approved.

(4) If a screener was granted an extension to complete the screening process, the CPS supervisor may adjust the initial contact time lines as follows:

(a) Within 24 hours: The CPS worker must make an initial contact within 24 hours of the end date of either the last screening extension or the date the CPS assessment was assigned, whichever is earlier.

(b) Within five calendar days: The CPS worker must make an initial contact within five calendar days of the end date of either the last screening extension or the date the CPS assessment was assigned, whichever is earlier.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 15-2005(Temp), f. & cert. ef. 10-20-05 thru 3-31-06; CWP 17-2005(Temp) f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 1-2006, f. & cert. ef. 2-1-06; Suspended by CWP 3-2006(Temp), f. & cert. ef. 2-1-06 thru 6-30-06; CWP 12-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0409

Exception to Completing CPS Assessment Activities

(1) The only exception to completing the CPS assessment activities required by these rules on an assigned referral is when a CPS worker, in consultation with a CPS supervisor or designee, determines within the response time line that the referral does not require a CPS assessment because:

(a) The referral was opened in error;

(b) The CPS worker has, through reliable collateral contacts, received information that indicates there is and was no safety threat; or

(c) The referral content will be addressed in an open CPS assessment.

(2) The CPS worker must document the determination and explain the basis for the determination that a CPS assessment is not necessary.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0410 [Renumbered to 413-015-0455]

413-015-0415

CPS Assessment Activities

The required CPS assessment activities are outlined below. The activities are described in a logical order in these rules, but the order in which they occur is controlled by the specific circumstances in a given case.

(1) Review Records.

(a) The assigned CPS worker must:

(A) Thoroughly review the documentation in the referral;

(B) Thoroughly review the paper and electronic records maintained by Child Welfare for historical information on the family and the child that may be useful in completing the CPS assessment; and

(C) Thoroughly review available Self Sufficiency records.

(D) Make diligent efforts to contact another state's child welfare agency to obtain records, if any, when the CPS worker has information that the family has lived in another state.

(b) The CPS worker must review the documents to identify information related to:

(A) Safety threats;

(B) History or a pattern of abuse or neglect;

(C) Child and family support systems and protective capacity; and

(D) Worker safety.

(2) Contact Collateral Sources.

(a) The CPS worker must contact collateral sources who can clarify or supplement the information in the referral and in records already reviewed.

(A) The CPS worker must contact the assigned self sufficiency worker, if any.

(B) The CPS worker may contact other collateral sources including, but not limited to:

(i) Individuals who have regular contact with the child;

(ii) Doctors or others who have evaluated or maintain records on the child;

(iii) People who are in an established personal or professional relationship with the parent or caregiver and who can judge the quality and nature of the parent or caregiver behavior; and

(iv) People who have records or information about the parent or caregiver as a result of their involvement with, or exposure to, the parent or caregiver.

(b) The CPS worker must gather information from collateral sources throughout the CPS assessment.

(c) The CPS worker must:

(A) Protect the identity of collateral sources to the extent possible.

(B) Consult with the district attorney or the assistant attorney general to obtain a court order for records from a collateral source, if the source is unable or unwilling to share information with Child Welfare.

(3) Consult with CPS Supervisor.

(a) The CPS worker must consult with a CPS supervisor or designee:

(A) When the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department or Oregon Youth Authority (OYA);

(B) When a referral involves the home of a Department certified foster parent or relative caregiver;

(C) When a referral involves allegations that child abuse or neglect occurred in a licensed child caring agency;

(D) Prior to a decision to place a child in protective custody, or after placement if consultation before placement will delay the safety intervention;

(E) Prior to initiating court action, or after initiating court action if consultation before will delay the safety intervention;

(F) When the referral involves a child fatality;

(G) When making dispositions in complicated or sensitive situations or cases; or

(H) Prior to a decision to close a case during or at the end of the CPS assessment.

(b) Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at additional key points during the assessment, such as:

(A) Before making initial contact with the family; or

(B) When a referral indicates potential danger to the worker.

(4) Contact and Work with Other Entities. The CPS worker may need to work with representatives of other entities to develop a sufficient protective action or ongoing safety plan, to analyze safety threats, and to complete the CPS assessment.

(a) The CPS worker may, as appropriate, notify or consult with other Department programs or other agencies, including but not limited to the Office of Vocational Rehabilitation Services and Animal Control.

(b) The CPS worker must contact and work with other entities as follows:

(A) Child Care Division. The CPS worker must notify and coordinate with the Child Care Division when a report involves a registered day-care home or a licensed day-care center, as required by ORS 418.747(2)(e) and 419B.020(1).

(B) Oregon Youth Authority (OYA). The CPS worker must notify OYA when the allegation involves an OYA certified foster home.

(C) Seniors and People with Disabilities Division (SPD).

(i) The CPS worker must notify the Office of Investigations and Training with the Department when the allegation involves a child with developmental disabilities in an SPD licensed group home.

(ii) The CPS worker must make a report to the Office of Investigations and Training with the Department when the CPS worker has reasonable cause to believe:

(I) That any person 18 years of age or older with a mental illness or a developmental disability whom the CPS worker comes into contact with, while acting in an official capacity, has suffered abuse.

(II) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness or developmental disability.

(iii) The CPS worker must make a report to SPD when the CPS worker has reasonable cause to believe:

(I) That any person 65 years of age or older with whom the CPS worker comes into contact, while acting in an official capacity, has suffered abuse.

(II) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 65 years of age or older.

(D) Child Caring Agency Licensing Program. The CPS worker must notify the Department's Child Caring Agency Licensing Program when the allegation involves a licensed child caring facility.

(E) Indian Tribes. If the CPS worker knows or has reason to know that the child is an Indian child, the CPS worker must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted unless the screener documented completion of this notification in the referral.

(F) Probation and Parole. The CPS worker must contact probation and parole when the allegation involves a parent or caregiver, or alleged perpetrator who is supervised by probation or parole.

(G) Law Enforcement. If the screener did not cross report, the CPS worker must contact one or more law enforcement agencies in accordance with the protocols of the local MDT agreement and in accordance with cross reporting rules, OAR 413-015-0300 to 413-015-0310. When there is a joint response involving a CPS worker and LEA staff, the CPS worker is still responsible for all of the activities necessary to complete a CPS assessment which are summarized in OAR 413-015-0400. Whenever possible, the CPS worker must coordinate assessment activities with LEA in the following situations:

(i) Presence of danger. When the CPS worker has information that indicates that the child is unsafe right now.

(ii) Family cooperation. When the CPS worker has information that the family may not allow the CPS worker to observe the alleged victim or other children in the home.

(iii) Protective custody. When the CPS worker has information that a child may need to be placed in protective custody.

(iv) Child interview. When the CPS worker and the LEA officer must each interview a child, it is preferable to coordinate the interviews to reduce the number of interactions with the child.

(v) Worker safety. When the CPS worker has information that indicates the family behavior, circumstances, or situation could pose a danger to the CPS worker.

(vi) Crime committed. When the CPS worker suspects or receives a report that a crime may have been committed.

(H) Public or Private Schools. The CPS worker may interview a child at school when the worker believes it will be the best environment in which to assure a child's safety when making contact with the child. ORS 419B.045 provides requirements for CPS investigations that are conducted on school premises. The CPS worker must do following:

(i) Notify the school administrator that a CPS assessment must be conducted. If the school administrator is a subject of the CPS assessment, then notification is not required.

(ii) Report to the school office, provide identification, inform school personnel of the CPS assessment, and provide the name of the child to be interviewed.

(iii) Request information from school personnel regarding the disabilities of the child, if any, prior to an interview with the affected child.

(iv) Interview the child out of the presence of other persons, unless the CPS worker believes the presence of a school employee or other person would facilitate the interview. If the CPS worker believes that a school employee does not need to be present, but the school employee insists on being present during the interview, the worker should confer with the CPS supervisor for assistance in handling the situation.

(v) Discuss further actions with the child at the conclusion of the interview.

(vi) Inform school personnel when the interview has been completed.

(vii) Inform school personnel if the child is taken into protective custody.

(viii) Inform school personnel that the CPS worker will notify parents of the interview.

(ix) Contact the CPS supervisor if school officials refuse to allow the assessment to take place on school property.

(I) Multi-Disciplinary Teams (MDTs). Department district managers must develop interagency agreements regarding assessment of child abuse and neglect, as necessary, with local MDTs. Requirements for MDT protocols are set out in ORS 418.747.

(5) Obtain Interpreters and Translation. The CPS worker must obtain the services of a competent interpreter and competent written translation service for families, including hearing-impaired family members, who have limited or no means of communicating in or reading English.

(6) Determine ICWA Status and Comply with ICWA, if Applicable.

The CPS worker must initiate the process to determine the child's ICWA status and notify the Indian child's tribe if ICWA applies. To initiate this process, the CPS worker must:

(a) Complete a form CF 1270, "Verification of ICWA Eligibility," to assist in determining ICWA eligibility.

(b) Contact the child's tribe when an Indian child is the subject of a CPS assessment. Federally recognized tribes must be notified within 24 hours after information alleging abuse or neglect is received by Child Welfare.

(c) If the Indian child is enrolled or eligible for enrollment in a federally recognized tribe, notify the child's tribe if the child may be placed in protective custody.

(d) Consult with the local Department ICWA liaison, a supervisor, or the ICWA manager if the worker has questions regarding the involvement of a tribe or the ICWA status of a child.

(e) Make a diligent attempt to address the following when determining the placement resource:

(A) Contact the Tribe's social services department;

(B) Search for relative resources;

(C) Search for available Indian homes; and

(D) Contact other Indian tribes and other Indian organizations with available placement resources; and

(f) Unless the Indian child's tribe has established a different order of preference, comply with the ICWA placement preference, which is:

(A) Placement with a member of Indian child's extended family.

(B) Placement with a foster family that is licensed, approved or specified by the Indian child's tribe.

(C) Placement with an Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(D) Placement with an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(7) Determine Refugee Status and Comply with the Refugee Children Act, if applicable. During a CPS assessment, the CPS worker must consider whether the child is a refugee child. Under ORS 418.925, a "refugee child" is a "person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion."

(a) If it appears that a child is a refugee child:

(A) The CPS worker must ask about the child or parents' country of origin, length of time the child or parents have been in the United States, and the reasons why the child or parents came to the United States. The CPS worker does not have to make a legal determination that the child and parent are refugees, but if the child or the parents indicate they are refugees, then the CPS worker must proceed as if they are, until or unless it is known that they are not refugees.

(B) The CPS worker is not required to determine whether the child is a refugee child, but if the child appears to be a refugee child the CPS worker must proceed as if they are, until or unless it is known that the child is not a refugee child.

(b) The CPS worker may not take a refugee child into protective custody unless, in addition to the other requirements for taking a child into custody, the CPS worker determines that:

(A) Removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(B) Reasonable efforts to alleviate the harm through remedial or preventive services do not alleviate the harm, have failed, or are not practical in an emergency situation.

(c) No refugee child may remain in placement more than five days unless there has been a judicial determination, supported by clear and convincing evidence that:

(A) Preventative or remedial services provided by the Department have failed to alleviate the need for removal; and

(B) Return to the home will likely result in psychological or physical damage to the child.

(d) When a refugee child is placed in care, the juvenile court petition must include, in addition to the information required by ORS 419B.809, the following information:

(A) A specific and detailed account of the circumstances that led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;

(B) Specific actions the Department has taken or is taking to alleviate the need for removal;

(C) Assurance that the Department has complied with placement preferences listed in ORS 418.937 and listed in subsection (e) of this section; and

(D) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected refugee family members and to the Refugee Child Welfare Advisory Committee that the petition has been filed.

(e) The CPS worker must consider the refugee child's culture and tradition when making any placement decision for a refugee child and, unless shown to be inappropriate and inconsistent with the best interests of the child, place the child with the following in order of preference:

(A) Natural parents.

(B) Extended family member.

(C) Members from the same cultural heritage.

(D) Persons with knowledge and appreciation of the child's cultural heritage.

(f) The CPS worker may determine that placement under subsection (e) of this section is inappropriate and inconsistent with the best interests of the child if:

(A) The preferred placement presents safety threats to the child;

(B) The extreme medical, physical, or psychological needs of the child cannot be met in the placement; or

(C) There is an informed request from either of the child's biological parents not to use a placement, if the request is consistent with stability, security, and the individual needs of the child.

(g) The CPS worker must staff the case with the Refugee Child Welfare Advisory Committee (RCWAC). The CPS worker must contact the Cultural Competency Coordinator for Child Welfare to arrange a time for the staffing. In preparation for the staffing, the CPS worker must:

(A) Invite the CPS supervisor to the staffing; and

(B) Be prepared to discuss the reasons for the CPS referral, the information indicating that family members are refugees, and their country of origin.

(8) Take Photographs.

The CPS worker must, during the CPS assessment, take photographs and document, as necessary, child abuse, neglect, and observable safety threats.

(a) As provided in ORS 419B.028, a law enforcement officer or the CPS worker may take photographs for the purpose of documenting the child's condition at the time of the CPS assessment.

(b) As provided in ORS 419B.028, if a law enforcement officer or the CPS worker conducting an investigation of an allegation of child abuse or neglect under ORS 419B.020 observes a child who has suffered suspicious physical injury and the law enforcement officer or CPS worker has a reasonable suspicion that the injury may be the result of abuse, the law enforcement officer or CPS worker, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, will immediately photograph or cause to have photographed the suspicious physical injuries:

(A) During the investigation of a new allegation of abuse, each time, during the investigation, an injury is observed that was not previously observed by a person conducting the investigation; and

(B) Regardless of whether the child has previously been photographed or assessed during an investigation of an allegation of abuse.

(c) When a child is photographed pursuant to subsection (b) of this section:

(A) The person taking the photographs or causing to have the photographs taken shall, within 48 hours or by the end of the next regular business day, whichever occurs later:

(i) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional; and

(ii) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in the child welfare record labeled with the case name, case number, sequence number, person letter, child's name, and date taken.

(B) If a county multidisciplinary team staffing of the case is held, photographs of the injury will be made available to each team member involved in the case staffing at the first meeting regarding the child's case.

(d) The CPS worker must document injuries, hazardous environments, and any observable safety threats in the assessment narrative by use of photographs, written description, or illustrations.

(e) Photographs of the anal or genital region may be taken only by medical personnel.

(9) Obtain Medical Assessment. The CPS worker must, during the CPS assessment as required in this section, facilitate a medical assessment of the child and obtain the child's medical history when necessary to assure child safety, determine treatment needs, reassure the child and family, or assist in analyzing safety threats.

(a) When the CPS worker determines that the child is in need of a medical assessment as part of a CPS assessment, the CPS worker must consult with a CPS supervisor as soon as possible, but not at the expense of delaying medical treatment.

(b) If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person has a reasonable suspicion that the injury may be the result of abuse, the person must, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, ensure that:

(A) A designated medical professional conducts a medical assessment within 48 hours of the observation of the suspicious physical injury, or sooner if dictated by the child's medical needs; or

(B) An available physician conducts a medical assessment if, after reasonable efforts to locate, a designated medical professional is not available to conduct a medical assessment within 48 hours. The CPS worker is required to document in FACIS efforts to locate the designated medical professional when an available physician is used.

(c) The CPS worker must facilitate an assessment by a medical professional if the alleged child abuse or neglect involves injury to the anal or genital region.

(d) When there are indications of severe physical trauma to the child, the CPS worker must make arrangements to immediately transport the child to a medical facility, which may include calling 911. The CPS worker must also make arrangements for medical examination of a child for mild or moderate physical trauma.

(e) To make arrangements for the medical examination of a child, the CPS worker must do the following, unless completing the action would delay medical treatment for the child:

(A) Discuss with the parent or caregiver the need for medical examination or treatment.

(B) Ask the parent or caregiver to take the child to a medical facility for a medical examination or treatment.

(C) Request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Information."

(D) Contact an LEA immediately and seek a juvenile court order to obtain protective custody of the child for the purpose of obtaining a medical examination or treatment when:

(i) The parent or caregiver refuses to obtain needed medical examination or treatment;

(ii) The parent or caregiver may flee with the child;

(iii) Delaying medical examination or treatment could harm the child; or

(iv) The CPS worker has reason to believe medical examination will reveal evidence of child abuse or neglect.

(E) Immediately seek medical care and consultation when the child may have a life-threatening condition, or a deteriorating condition that may become life-threatening.

(F) As soon as possible and not later than 24 hours after learning of the exposure, make arrangements to have the child tested for chemical exposure to harmful substances when there is reason to believe a child has been exposed to dangerous chemicals such as those found in a chemical drug lab.

(f) When a report of suspected medical neglect of an infant with a disability and with life-threatening conditions is referred for CPS assessment, the assigned CPS worker must comply with Child Welfare Policy I-B.2.2.2, "Investigation of Suspected Medical Neglect-Infants", OAR 413-030-0600 to 413-030-0650.

(g) When it is medically indicated to subject a child in the custody of the Department to HIV testing, the CPS worker must comply with Child Welfare Policy I-B.5.1, "HIV Testing of Children in Custody and HIV Confidentiality", OAR 413-040-0400 to 413-040-0450.

(h) As provided in ORS 147.425, a child who is the victim of a person crime and is at least 15 years of age at the time of the abuse may have a personal representative present during a medical examination. If a CPS worker believes that a personal representative would compromise the CPS assessment, a CPS worker may prohibit a personal representative from being present during the medical examination.

(i) When the CPS worker is assessing a CPS allegation of medical neglect, the CPS worker must consult with a health care professional as part of the assessment.

(10) Obtain Psychological and Psychiatric Evaluations.

(a) The CPS worker must make a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child by a mental health professional to assure child safety, determine treatment needs, or assist in analyzing safety threats when during the CPS assessment the CPS worker identifies a specific condition or behavior that requires additional professional evaluation. This includes but is not limited to:

(A) Unusual or bizarre forms of punishment;

(B) Mental illness;

(C) Suicidal ideation;

(D) Homicidal ideation; or

(E) Unusual or bizarre child or parental behavior that is indicative of emotional problems.

(b) The CPS worker must obtain consent of the parent or caregiver prior to making a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child, unless the evaluation is court ordered.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050, 2007 OL 674

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08

413-015-0420

Make Initial Contact

The CPS worker must make an initial contact within the assigned response time line.

(1) To make an initial contact, the CPS worker must:

(a) Have face-to-face contact with and interview the alleged victim, his or her siblings, and other children living in the home. The purpose of the face-to-face contact and interview with the alleged victim, his or her siblings, and other children living in the home is to gather information regarding possible child abuse and neglect, assess if the children are vulnerable to identified safety threats, and assess the children's immediate safety. If it is not possible during the initial contact for the CPS worker to make a face-to-face contact with and interview the siblings or other children living in the home, the CPS worker must document why contact was not made and must complete the face-to-face contact and interview as soon as possible.

(b) Interview and observe children as follows:

(A) The CPS worker must notify parents of the intent to interview a child, unless notification could compromise the child's safety or a criminal investigation.

(B) The CPS worker must make diligent efforts to contact the child at home, school, day care, or any other place where the worker believes the child may be found. If the CPS worker is unsuccessful, the CPS worker must document in the assessment activities section of the GAP all attempts made to contact the child and the dates of those attempted contacts.

(C) When the CPS worker contacts the child at home and the parent or caregiver is not present:

(i) The CPS worker must consult with a CPS supervisor and seek assistance from LEA if the referral indicates that: there may be severe harm or threat of severe harm to the child; there is reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling; or the child is inadequately supervised and there is an immediate need to evaluate the child's health and safety.

(ii) The CPS worker must wait until the parent is present in the home to complete a child interview in the home if the referral does not indicate severe harm or threat of severe harm to the child or if there is not reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling or that the child is inadequately supervised.

(D) When the CPS worker is denied access to the child or to the child's residence, the CPS worker must:

(i) If the referral indicates that the child may be unsafe, request assistance from LEA in assessing the situation and in taking the child into protective custody if needed.

(ii) If the referral indicates that the child is presently safe, the CPS worker must do the following:

(I) Attempt to contact other persons who may have relevant information regarding the referral;

(II) Persist in attempts to gain cooperation from the family or caregivers, depending on the known child safety information; and

(III) Seek LEA assistance.

(iii) Consult with the CPS supervisor, the district attorney, assistant attorney general, or the county juvenile department to discuss possible juvenile court action; or

(iv) Seek a protective custody order from the juvenile court.

(E) The CPS worker must notify the parents or caregivers the same day a child is interviewed. If the same day notification could make a child or adult unsafe, a CPS supervisor may authorize an extension for one day to allow a planned notification that is less likely to compromise safety. The CPS worker must document the supervisory approval and an explanation describing the basis for the approval.

(F) The CPS worker must conduct interviews in a manner that assures privacy for the child.

(G) If the parent or caregiver is the alleged perpetrator or if the presence of the parent or caregiver might impede the interview, the CPS worker must attempt to interview children outside the presence of their parents or caregivers.

(H) A CPS worker must allow a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the abuse to have a personal representative be present during an interview. If a CPS worker believes that the personal representative would compromise the CPS assessment, the CPS worker may prohibit a personal representative from being present during the interview.

(I) The CPS worker must observe the child's injuries or signs of neglect. The CPS worker may need to remove a child's clothing to make adequate observations. In that event, the CPS worker must:

- (i) Use discretion and make the child as comfortable as possible.
- (ii) Seek parental consent and assistance, when possible and appropriate.
- (iii) Consider requesting a worker or other support person, who is the same gender as the child, be present to serve as a witness and provide comfort for the child.

(J) The CPS worker may observe injuries to a child's anal or genital region if the child is not school aged and if the injury can be observed without the CPS worker touching the child's anal or genital region.

(c) Have face-to-face contact with and interview the non-offending parent or caregiver and all adults living in the home. The purpose of this face-to-face contact and interview is to find out what the non-offending parent or caregiver and other adults living in the home know about the alleged child abuse or neglect, gather information related to the safety of the child, and gather information to determine if the parent or caregiver can or cannot and will or will not protect the child. If it is not possible during the initial contact for the CPS worker to make face-to-face contact with and interview the non-offending parent or caregiver and other adults living in the home, the CPS worker must document why the contact was not made and must complete the face-to-face contact and interview as soon as possible.

(A) Whenever practicable, the CPS worker must interview both parents and caregivers in person, as follows:

- (i) Interview each person individually;
- (ii) Ask questions about domestic violence in separate interviews only; and
- (iii) Provide all adults living in the home with a written notice that a criminal records check may be conducted on them.

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

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

(d) Have face-to-face contact with and interview the alleged perpetrator. Except as provided in this subsection, the CPS worker must make face-to-face contact with and interview the alleged perpetrator during the initial contact when he or she is the child's custodial parent, caregiver, any person living in the home, or is present in the home when the CPS worker makes contact. The purpose of this interview is to evaluate the alleged perpetrator's reaction to allegations of abuse or neglect as well as to the child and his or her condition, and to gather further information about the alleged perpetrator and the family in relation to the safety of the child.

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

- (i) The alleged perpetrator is not a custodial parent, caregiver, anyone living in the home, or is not present in the home when the CPS worker makes contact. The CPS worker still must interview the alleged

perpetrator, but may complete the interview during the course of the CPS assessment; or

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

(B) The decision not to interview an alleged perpetrator as provided in subparagraphs (A)(i) or (ii) of this subsection must be approved by a CPS supervisor, and the CPS worker must document both the approval and the reason for not completing the interview.

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

- (i) Coordinate the interviews of the alleged perpetrator with LEA when law enforcement is conducting an investigation;
- (ii) Consult with a CPS supervisor if an interview with the alleged perpetrator could make a child or adult unsafe;
- (iii) Provide the alleged perpetrator with a written notice that a criminal records check may be conducted on them; and
- (iv) Make inquiries about the employment status of the alleged perpetrator. If the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department or OYA, the CPS worker must notify a CPS supervisor. The CPS supervisor must confirm the person's employee status by contacting a Central Office Field Services representative. If the CPS supervisor determines the alleged perpetrator is an employee of the Department or OYA, the CPS supervisor must notify the Department Office of Human Resources at the time of the assessment and at the time the assessment is reviewed as required in OAR 413-015-0475. The CPS supervisor must document the notifications in FACIS.

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

(e) Gather safety-related information through interviews and observation.

(A) The CPS worker must gather relevant information and facts necessary to complete all parts of the CPS assessment. The CPS worker must gather information through interview and observation about the following:

- (i) The extent of the child abuse or neglect;
- (ii) The circumstances surrounding the child abuse or neglect;
- (iii) Child functioning;
- (iv) Adult functioning;
- (v) Parenting practices and skills; and
- (vi) Disciplinary practices.

(B) Interview. If possible, family members should be interviewed separately in the following order, using information gathered from one interview to assist in the next interview:

- (i) Alleged victim.
- (ii) Siblings and other children in the home.
- (iii) Non-offending parents and caregivers, including all of the non-offending adults in the home.
- (iv) Non-custodial legal parent.
- (v) Alleged perpetrator.

(C) The CPS worker must, to the extent possible, do the following during interviews with family members:

- (i) Present identification to the family at the beginning of the interview and provide a business card or other document to the parents and caregivers containing the CPS worker's name and phone number.
- (ii) Clearly state the reason for the interview, provide statutory authority to assess reports of child abuse and neglect, and give an explanation of the alleged child abuse or neglect.
- (iii) Allow the parent or caregiver to respond to each allegation.
- (iv) Assure the privacy of the persons being interviewed.
- (v) Focus the interview on the safety of the children.
- (vi) Assess whether the parents or caregivers are involved in domestic violence.
- (vii) Summarize and discuss the initial impressions and intentions resulting from the interview with appropriate family members or caregivers.
- (viii) Obtain from the parents or caregivers the names of persons who can provide additional information in determining child safety and completing the CPS assessment.

(ix) Ask the parents and caregivers to sign an authorization to release information to enable Child Welfare to obtain confidential information from physicians, mental health providers, school employees, or other service or treatment providers.

(x) Inform the parents and caregivers about the Child Welfare grievance procedure.

(D) Observation. The CPS worker must observe the identified child, parent or caregiver, and the home environment. Specific areas for observation are:

(i) Physical condition of the child, including any observable effects of child abuse or neglect;

(ii) Emotional status of the child, including mannerisms, signs of fear, and developmental status;

(iii) Reactions of the parents or caregivers to the Department concerns;

(iv) Emotional and behavioral status of the parents or caregivers during the interviewing process;

(v) Interactions between family members, including verbal and body language;

(vi) Condition of the child's living space, including where the child sleeps; and

(vii) Physical condition of the home.

(f) Determine if there is a safety threat. During the initial contact, the CPS worker must determine, based on the information obtained at that time, if there is a safety threat to the child.

(A) To determine that there is a safety threat, the CPS worker must analyze the information gathered and conclude that:

(i) A specific, observable, describable family behavior, condition, or circumstance is present; and

(ii) The specific, observable, describable family behavior, condition, or circumstance reasonably could result in harm to a child.

(B) If the CPS worker determines during the initial contact that there is no safety threat and the child is safe, then the CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(C) If the CPS worker determines there is a safety threat to the child, the CPS worker must determine if, because of the safety threat, the child is unsafe and a protective action is required. The CPS worker must then continue the activities required to sufficiently complete the CPS assessment.

(g) Determine if the child is unsafe. If the CPS worker determines, based on the available information, that there is a safety threat to the child, the CPS worker must determine if the safety threat makes the child unsafe.

(A) To assess the child's safety, the CPS worker must analyze the information gathered, and

(i) Determine if the child is vulnerable to harm resulting from the identified family behavior, condition, or circumstance, as described in OAR 413-015-0425.

(ii) Determine if the child's parent or caregiver can or cannot and will or will not protect the child from harm resulting from the identified family behavior, condition, or circumstance, as described in OAR 413-015-0430.

(B) If the CPS worker determines that the child is not vulnerable to harm resulting from the identified safety threat, then the child is safe and the CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(C) If the CPS worker determines that the child's parent or caregiver can and will protect the child from harm resulting from the identified safety threat, then the child is safe. The CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(D) If the CPS worker determines that the child is vulnerable to the identified safety threat and the child's parent or caregiver cannot or will not protect the child from harm resulting from the identified safety threat, the child is unsafe and the CPS worker must initiate a protective action as described in OAR 413-015-0435. The CPS worker must then continue the activities required to sufficiently complete the CPS assessment.

(2) Documentation of the Initial Contact. The CPS worker must document the dates of the initial contact using the GAP. The CPS worker must document attempted and successful contacts.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050, 2007 OL. 674

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08

413-015-0425

Determine Child Vulnerability

(1) Requirements to Determine Child Vulnerability. The CPS worker must determine whether and how the child is or is not vulnerable to identified safety threats. The child's vulnerability to identified safety threats is determined by considering the child's physical and emotional development, ability to communicate needs, mobility, size and dependence, and an analysis of the identified safety threats in relation to the child's personal characteristics.

(a) If the CPS worker determines that the child is not vulnerable, then the child is safe, and the CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(b) If the CPS worker determines that the child is vulnerable, the CPS worker must determine if the parent or caregiver can or cannot and will or will not protect the child, as described in OAR 413-015-0430.

(2) Documentation of Child Vulnerability. The CPS worker must document the determination and explain the basis for the determination that the child is or is not vulnerable to the identified safety threats prior to completing the CPS assessment.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0430

Determine Whether the Parent or Caregiver Can or Cannot and Will or Will Not Protect the Child

(1) Requirements to Determine Whether the Parent or Caregiver Can or Cannot and Will or Will Not Protect the Child. The CPS worker must determine whether a parent or caregiver can or cannot and will or will not protect the child against identified safety threats.

(a) If the CPS worker determines that the parent or caregiver can and will protect the child, then the child is safe, and the CPS worker must continue the activities required to sufficiently complete the CPS assessment.

(b) If the CPS worker determines that the parent or caregiver cannot or will not protect the child, the CPS worker must initiate a protective action.

(2) Documentation of Whether the Parent or Caregiver Can or Cannot and Will or Will Not Protect the Child. The CPS worker must document the determination and explain the basis for the determination that a parent or caregiver can or cannot and will or will not protect the child against identified safety threats prior to completing the CPS assessment.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0435

Establish a Protective Action

(1) If the CPS worker determines the child is unsafe, the CPS worker must immediately initiate a protective action. This usually occurs during the initial contact, but must occur at any time during the CPS assessment if it is determined that the child is unsafe. The purpose of the protective action is to assure that children are safe while CPS intervention continues and a fuller understanding of the family is obtained. A protective action may or may not involve taking the child into protective custody. A protective action occurs the same day that it is determined the child is unsafe and provides a child with responsible adult supervision and care. Typically a protective action will include a straightforward immediately achievable arrangement such as: arranging and confirming that the parent or caregiver who is the alleged perpetrator will leave and remain away from the home; arranging for a parent or caregiver who is not the alleged perpetrator to leave home with the child; using people and resources available to the family to immediately protect the child; or placing the child in a relative placement, foster care, or appropriate temporary shelter facility.

(2) Requirements for a Protective Action. The CPS worker must assure that the protective action:

(a) Is in place before the CPS worker leaves the home;

(b) Is focused on the particular family behaviors, conditions, or circumstances that present the safety threat;

(c) Controls the identified safety threats until sufficient information can be gathered and analyzed to determine whether there is a need for an ongoing safety plan;

(d) Does not use a parent or caregiver who is the alleged perpetrator of physical abuse, sexual abuse, or domestic violence to provide protection;

(e) Includes safety service providers who can provide protection for the child and have been confirmed to be suitable to do so;

(f) Does not continue or remain in place after the CPS assessment is complete; and

(g) Has been approved by a CPS supervisor.

(3) **Additional Protective Action Requirements When Assessing Allegations of Sexual Abuse.** When assessing an allegation of sexual abuse, if a CPS worker develops a protective action that includes a parent or caregiver, who is the alleged perpetrator, consenting to leave the family home, the CPS worker must notify the local district attorney responsible for the MDT in the county where the child resides that a protective action of this type has been developed. The notice to the District Attorney must:

(a) Be in writing; and

(b) Be provided within three business days of the date the parent or caregiver leaves the family home.

(4) **Modifying the Protective Action.** The CPS worker must modify the protective action, as necessary, to continue to control the identified safety threats until sufficient information can be gathered and analyzed to determine whether there is a need for an ongoing safety plan.

(5) **Documentation of the Protective Action.** The CPS worker must provide a detailed description of the protective action taken to manage the safety threat. Documentation must be completed within five business days following the identification of the safety threat and must include:

(a) A detailed description of the safety threat;

(b) The location of the child;

(c) The names of all safety service providers, their contact information, their relationship to the family, and how they were determined to be suitable to provide safety for the child;

(d) The specific details of the protective action;

(e) A summary of the parents' and caregivers' agreement to and acceptance of the protective action;

(f) An explanation of why the protective action is the most suitable, least intrusive action that will protect the child; and

(g) The plan to oversee the protective action.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0440

Determine Disposition of the CPS Assessment

(1) After gathering all the information necessary to complete the CPS assessment, the CPS worker must determine the disposition.

(2) **Requirement to Determine Disposition of the CPS Assessment.** The CPS worker must determine if there is reasonable cause to believe that child abuse or neglect occurred and explain the basis for that determination. The requirements for determining dispositions are described in OAR 413-015-1000, "The CPS Assessment Dispositions".

(3) When a disposition is founded for child abuse or neglect, the CPS worker must refer all victims three years old and under to Early Intervention. In completing the referral, the CPS worker must use the "CPS to Early Intervention Referral Form" (DHS 323) when a release of information is not signed.

(4) **Documentation.** The CPS worker must document that determination and explain the basis for the determination in the disposition narrative section of the GAP prior to completing the CPS assessment.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0445

Safety Analysis

(1) After all the necessary information is gathered for the CPS assessment and the disposition has been determined, the CPS worker

must analyze the safety-related information. The purpose of completing the safety analysis when all the information is gathered is to fully and accurately understand and explain how safety threats are occurring in the family and to determine the necessary level of ongoing safety intervention required to assure child safety.

(2) **Requirements of the Safety Analysis.**

(a) The CPS worker must again determine if the child is safe or unsafe by analyzing the information gathered and identified safety threats, which requires the worker to consider the following factors:

(A) The length of time the family behaviors, conditions, or circumstances have posed a threat to child safety;

(B) The frequency with which the family behaviors, conditions, or circumstances pose a threat to child safety;

(C) The predictability of the family behaviors, conditions, or circumstances that pose a threat to child safety;

(D) Specific times (during the day or week), if any, that require special attention due to the way the family behaviors, conditions, or circumstances are occurring;

(E) Identified individual or family behaviors, conditions, or circumstances that prevent a parent or caregiver from adequately functioning in their primary parenting role; and

(F) Anything else that is associated with, occurs at the same time as, or influences the family behaviors, conditions, or circumstances that pose a threat to child safety.

(b) After considering all of the factors described in subsection (a) of this section, the CPS worker must conclude that the child is safe when:

(A) The CPS worker determines there is no safety threat;

(B) The CPS worker determines the safety threat identified previously has been eliminated;

(C) The CPS worker determines the child is not vulnerable to the identified safety threat; or

(D) The CPS worker determines that the parent or caregiver can and will protect the child from the identified safety threat.

(c) If the CPS worker determines that the child is safe, the CPS worker must:

(A) Dismiss the protective action if one is in place; and

(B) Complete and close the CPS assessment.

(d) After considering the factors listed in subsection (a) of this section, the CPS worker must conclude that the child is unsafe when:

(A) The CPS worker determines that there is a safety threat, or the CPS worker determines that a previously identified safety threat has not been eliminated;

(B) The CPS worker determines the child is vulnerable to the identified safety threat; and

(C) The CPS worker determines that the parent or caregiver cannot or will not protect the child from the identified safety threat.

(e) If the CPS worker determines that the child is unsafe, the CPS worker must:

(A) Review the protective action and make modifications if necessary to assure child safety until an ongoing safety plan is developed;

(B) Use the safety analysis to support the development of an ongoing safety plan;

(C) Complete the CPS assessment; and

(D) Open a case.

(3) **Documentation of the Safety Analysis.** The CPS worker must document the conclusions from the safety analysis prior to completing the CPS assessment.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0450

Develop an Ongoing Safety Plan

(1) At the completion of the CPS assessment when the CPS worker determines, through an analysis of the safety-related information, that a child is unsafe, the CPS worker must develop and document an ongoing safety plan. The purpose of the ongoing safety plan is to control safety threats as they are uniquely occurring within a particular family.

(2) **Requirements to Develop an Ongoing Safety Plan.**

(a) When developing an ongoing safety plan, the CPS worker must:

(A) Use a Child Safety Meeting;

(B) Re-evaluate the protective action, if one is in place, to determine if it is appropriate and sufficient as an ongoing safety plan;

(C) Explain how the ongoing safety plan is the least intrusive means that can effectively manage identified safety threats occurring within the family;

(D) Re-confirm all commitments with all safety service providers identified in the protective action if the protective action is to become an ongoing safety plan;

(E) Involve the child's parent or caregiver when developing the ongoing safety plan; and

(F) Use the Indian child's tribe as a resource, unless the tribe declines, when the CPS worker knows or has reason to know the child is an Indian child.

(b) The CPS worker must assure child safety by developing either an in-home or out of home ongoing safety plan.

(A) An in-home ongoing safety plan is required when safety services can assure a child can be protected in the child's own home. All of the following criteria must be in place for an in-home ongoing safety plan to manage safety:

(i) The home environment is stable enough for safety services and safety service providers to be in the home and be safe.

(ii) The parent or caregiver is:

(I) Willing to accept an in-home ongoing safety plan;

(II) Willing to allow the safety services to be provided in the home according to the in-home ongoing safety plan;

(III) Willing to cooperate with the safety service providers carrying out the in-home ongoing safety plan;

(IV) Agreeable to the designated actions and time requirements in the in-home ongoing safety plan; and

(V) Agreeable to the expectations detailed in the in-home ongoing safety plan.

(iii) The CPS worker has determined that he or she can rely upon the willingness of the parent or caregiver to comply with the in-home ongoing safety plan.

(B) An out-of-home ongoing safety plan is required when separation of the child from the identified safety threats, including separation of the child from the child's home or the child's parents or caregivers, is necessary to assure the child's safety. Separation of the child from the child's parent or caregiver may occur only when the parent or caregiver cannot or will not protect the child. One of the following criteria must be present before an out-of-home ongoing safety plan is required:

(i) Safety threats as analyzed are occurring within the family in such a way as to prevent in-home safety management;

(ii) The nature of the home environment is so out of control as to prevent in-home safety management;

(iii) The parent or caregiver is unwilling to accept an in-home ongoing safety plan;

(iv) The parent or caregiver is unwilling to accept people, resources, or safety services that are necessary to implement an in-home ongoing safety plan; or

(v) The willingness of a parent or caregiver to accept an in-home ongoing safety plan cannot be confirmed or relied upon.

(c) An ongoing safety plan may be a combination of an in-home and an out-of-home ongoing safety plan in order to assure the least intrusive intervention.

(d) The ongoing safety plan, whether in-home or out-of-home, must:

(A) Be a written document between the parent or caregiver and the Department;

(B) Specify the safety threat;

(C) Describe how identified safety threats will be managed, including what safety services are necessary to implement the ongoing safety plan;

(D) Identify the safety service providers and the safety services necessary to implement the ongoing safety plan;

(E) Establish the time commitments and availability of those involved;

(F) Identify safety services that will have immediate impact with respect to controlling identified safety threats;

(G) Not use a parent or caregiver who is the alleged perpetrator of physical abuse, sexual abuse, or domestic violence to provide protection;

(H) Include safety service providers that have been confirmed to be suitable to provide safety for the child; and

(I) Be approved by a CPS supervisor.

(3) Documentation of the Ongoing Safety Plan. The CPS worker must document the ongoing safety plan. This documentation must include an explanation of how the ongoing safety plan is the most suitable, least intrusive action available.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0455

Protective Custody and Juvenile Court Action

(1) Protective Custody.

(a) The CPS worker may take a child into emergency protective custody when there is severe harm or threat of severe harm to a child in the present and law enforcement assistance is not available. If there is any resistance or threatened resistance to taking the child into protective custody, which creates a substantial risk of physical injury to any person, the CPS worker may not take the child into custody, but must wait for law enforcement assistance or obtain an order of protective custody from the juvenile court.

(b) As provided in ORS 419B.171, when a child is taken into protective custody without a court order, the person taking the child into custody must promptly file a brief written report with the court. A written report is required even if the child is released to a parent or other responsible person prior to a shelter care hearing. The written report must be completed and sent to the court the day the child is taken into custody, or no later than the morning of the next working day.

(c) If the child is not released to a parent or other responsible person, but is retained in protective custody, a shelter hearing must be scheduled as required by ORS 419B.183.

(d) If a child is placed in protective custody, the CPS worker must notify the child's parents, including a non-custodial parent; the child's caregivers; and the child's tribe, if applicable, in writing.

(e) The CPS worker or designee must immediately make diligent efforts to identify the child's legal parents and any putative fathers after a child is taken into protective custody. Information about putative fathers must be recorded on form CF 418, "Father(s) Questionnaire" and filed in the case record.

(2) Juvenile Court Petition. When a child is taken into protective custody or juvenile court intervention is necessary to assure the child and family receive appropriate services, the CPS worker must make arrangements for a juvenile court petition to be filed, as provided in ORS 419B.809.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050, 419B.171,

419B.183, 419B.809

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; Renumbered from 413-015-0410, CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0460

Visitation

(1) If an out-of-home ongoing safety plan is developed, the CPS worker must arrange for visitation between the child and the child's family.

(2) The CPS worker must refer to Child Welfare Policy I-E.3.5, "Visits and Other Types of Child and Family Contact", OAR 413-070-0800 to 413-070-0880.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0465

Medical Assessment, Dental Assessment, and Mental Health Assessment for All Children in Substitute Care

(1) The child's caseworker must refer a child placed in substitute care for:

(a) A medical assessment within 30 days of entering care;

(b) A dental assessment within 30 days of entering care; and

(c) A mental health assessment within 60 days of entering care.

(2) The assigned caseworker must assure that the child receives all required, covered medical treatment recommended in the assessments described in section (1) of this rule. (See Child Welfare Policy I-C.4.1, "Medical Services Provided through the Oregon Health Plan".)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050
Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0470**Notifications**

(1) Requirements for Providing Notifications. The CPS worker must:

(a) Unless the Department determines that disclosure is not permitted under ORS 419B.035, notify the reporter, if the reporter provided the Department with contact information, whether contact was made, whether the Department determined that child abuse or neglect occurred, and whether services will be provided.

(b) Notify the child's parents, including a non-custodial legal parent, and caregivers of all CPS assessment dispositions (unfounded, unable to determine, or founded).

(c) Provide perpetrators written notification of founded dispositions. This written notification must include information about the founded disposition review process as outlined in Child Welfare Policy I-A.6.1, "Notice and Review of CPS Founded Dispositions", OAR 413-010-0700 to 413-010-0750. If the notification could make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.

(2) Documentation of Notifications. The CPS worker must document that the notifications described in this rule have been made or attempted prior to completing the CPS assessment.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050
Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0475**CPS Assessment Documentation and Supervisory Review Requirements**

(1) The CPS worker must record assessment activities and information gathered during the assessment process.

(2) The CPS worker must complete the CPS assessment, including FACIS input, and electronically submit the CPS assessment for review by a CPS supervisor, within 30 days of the day that the information alleging child abuse or neglect is received by the screener, except as provided in OAR 413-015-0480, "CPS Assessment Extensions".

(3) A CPS supervisor or designee must review and approve a completed CPS assessment within five working days of the electronic submission of the assessment by the CPS worker. After the assessment is reviewed by a CPS supervisor, if the alleged perpetrator is an employee of any program, office or division of the Department or OYA, the CPS Supervisor must inform the Department's Office of Human Resources of the disposition. If the disposition is founded, the CPS supervisor must also inform the Department's Office of Human Resources of the type of abuse. The CPS supervisor must document the notification in FACIS.

(4) Each local Child Welfare office may designate an individual to electronically enter into FACIS the verification of the completed review and approval of a CPS assessment by a CPS supervisor or designee.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050
Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0480**CPS Assessment Extensions**

The CPS supervisor may approve a one-time extension of an additional 30 days for completion of the CPS assessment if critical information (information necessary to determine child safety or a child abuse or neglect disposition) is outstanding. Additional extension of time may be approved by the Child Welfare program manager if the ability to obtain critical information is beyond the reasonable control of the CPS worker.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050
Hist.: CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0485**Confidentiality**

Information gathered and records and reports compiled during a CPS assessment are confidential and may be disclosed only as provided

in ORS 419B.035. The identity of the person reporting child abuse or neglect may not be disclosed.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050
Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; Renumbered from 413-015-0740, CWP 3-2007, f. & cert. ef. 3-20-07

413-015-0740 [Renumbered to 413-015-0485]**The CPS Assessment Dispositions****413-015-1000****The CPS Assessment Dispositions**

(1) This rule describes child abuse and neglect for the purpose of making CPS assessment dispositions.

(2) As part of completing the CPS assessment, the CPS worker must determine whether there is reasonable cause to believe child abuse or neglect occurred. The possible determinations are:

(a) "Founded," which means there is reasonable cause to believe that child abuse or neglect occurred.

(b) "Unfounded," which means no evidence of child abuse or neglect was identified or disclosed.

(c) "Unable to determine," which means there are some indications of child abuse or neglect, but there is insufficient data to conclude that there is reasonable cause to believe that child abuse or neglect occurred.

(3) When determining whether there is reasonable cause to believe child abuse or neglect occurred, the CPS worker shall consider, among others, the following parent or caregiver behavior, conditions, and circumstances:

(a) Abandonment, including parental behavior showing an intent to permanently give up all rights and claims to the child.

(b) Child selling, including the selling of a child that consists of buying, selling, bartering, trading, or offering to buy or sell the legal or physical custody of a child.

(c) Mental injury (psychological maltreatment), including cruel or unconscionable acts or statements made, threatened to be made, or permitted to be made by the parent or caregiver that has a direct effect on the child. The parent or caregiver's behavior, intentional or unintentional, must be related to the observable and substantial impairment of the child's psychological, cognitive, emotional, or social well-being and functioning.

(d) Neglect, including failure, through action or omission, to provide and maintain adequate food, clothing, shelter, medical care, supervision, protection, or nurturing. Chronic neglect is a persistent pattern of family functioning in which the parent or caregiver does not sustain or meet the basic needs of a child resulting in an accumulation of harm that can have long term effect on the child's overall physical, mental, or emotional development. Neglect includes each of the following:

(A) Physical neglect, which includes each of the following:

(i) Failing to provide for the child's basic physical needs including adequate shelter, food, and clothing.

(ii) Permitting a child to enter or remain in or upon premises where methamphetamines are being manufactured.

(iii) Unlawful exposure of a child to a substance that subjects a child to severe harm to the child's health or safety. When the CPS worker is making a determination of physical neglect based on severe harm to the child's health due to unlawful exposure to a substance, this determination must be consistent with medical findings.

(B) Medical neglect is a refusal or failure to seek, obtain, or maintain necessary medical, dental, or mental health care. Medical neglect includes withholding medically indicated treatment from infants who have disabilities and life-threatening conditions. However, failure to provide the child with immunizations or routine well-child care alone does not constitute medical neglect. When the CPS worker is making a determination of medical neglect, the CPS worker must consult with a health care professional.

(C) Lack of supervision and protection, including failure to provide supervision and protection appropriate to the child's age, mental ability, and physical condition.

(D) Desertion, which includes the parent or caregiver leaving the child with another person and failing to reclaim the child, or parent or caregiver failure to provide information about their whereabouts, providing false information about their whereabouts, or failing to establish a legal guardian or custodian for the child.

(E) Psychological neglect, which includes serious inattention to the child's need for affection, support, nurturing, or emotional development. The parent or caregiver behavior must be related to the observable and severe harm of the child's psychological, cognitive, emotional, or social well-being and functioning.

(e) Physical abuse, including an injury to a child that is inflicted or allowed to be inflicted by non-accidental means that results in harm. Physical abuse may include injury that could not reasonably be the result of the explanation given. Physical abuse may also include injury that is a result of discipline or punishment. Examples of injuries that may result from physical abuse include:

- (A) Head injuries;
- (B) Bruises, cuts, lacerations;
- (C) Internal injuries;
- (D) Burns or scalds;
- (E) Injuries to bone, muscle, cartilage, and ligaments;
- (F) Poisoning;
- (G) Electrical shock;
- (H) Death.

(f) Sexual abuse, which includes a person's use or attempted use of a child for the person's own sexual gratification, the sexual gratification of another person, or the sexual gratification of the child. Sexual abuse includes incest, rape, sodomy, sexual penetration, fondling, and voyeurism.

(g) Sexual exploitation, including the use of a child in a sexually explicit way for personal gain, for example, to make money, in exchange for food stamps or drugs, or to gain status. Sexual exploitation also includes using children in prostitution or using children to create pornography.

(h) Threat of harm, including all activities, conditions, and circumstances that place the child at threat of severe harm of physical abuse, sexual abuse, neglect, mental injury, or other child abuse or neglect.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 409.185, 418.015 & 419B.005 - 419B.050
 Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 6-2005, f. & cert. ef. 4-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07

Access to Law Enforcement Data System (LEDS) in Local Child Welfare Offices

413-015-1100

Authority and Responsibility

(1) ORS 418.005 provides that, in order to establish, extend, and strengthen welfare services for the protection and care of dependent or neglected children, the Department of Human Services may make all necessary rules and regulations for administering child welfare services. Among other duties outlined by ORS 409.010, the Department is responsible for the delivery and administration of programs and services relating to children and families, including child protective services and foster care. ORS 419B.020 provides that, upon receipt of a report of child abuse, the Department or a law enforcement agency is required to immediately cause an investigation to be made to determine the nature and cause of the abuse. In addition, ORS 418.640 requires the Department to adopt rules it deems necessary or advisable to protect the best interests of children in foster homes. Finally, ORS 181.537 authorizes the Department to conduct criminal records checks on subject individuals, as defined by the Department, if deemed necessary by the Department.

(2) The Department of Human Services Child Welfare Program has determined that, in order to protect children from abuse or neglect and to protect the best interests of children in foster homes, it is necessary for the Department to permit local Child Welfare offices to perform criminal records checks on subject individuals when the Department is conducting a child protective services assessment, has an open child welfare case, or determines that emergency foster home certification decisions must be made.

Stat. Auth.: ORS 181.537, 409.050, 418.005 & 419B.020
 Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020
 Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05

413-015-1105

Purpose

(1) The primary purposes of LEDS access in local Child Welfare offices are to assist staff in making decisions about child safety, specifically related to child protective services and emergency certification as outlined in these rules (OAR 413-015-1100 to 413-015-1125). Criminal history information obtained from LEDS will be considered, along with other safety-related information, to:

- (a) Identify safety threats; or
- (b) Determine if behavior that is revealed by criminal history is inconsistent with providing care to children or having access to children.

(2) These rules do not address criminal records checks for non-emergency certification or adoption approval. Criminal records checks for non-emergency certification or adoption approval are governed by OAR 413-120-0400 to 413-120-0470.

Stat. Auth.: ORS 181.537, 409.010, 418.005 & 419B.020
 Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020
 Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-1110

Definitions

The following definitions apply to OAR 413-015-1100 to 413-015-1125:

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

(2) "LEDS representative" means the staff person in the local Department office who has been designated under OAR 257-015-0050(5) by the Assistant Director of the Department's Children, Adults and Families Division and who has completed the training required by Oregon State Police in order to train other employees to be LEDS users.

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

(4) "Notice" means a subject individual has been informed in writing that the Department may conduct criminal records checks and that the subject individual has a right to obtain a copy of his or her LEDS record and has a right to challenge information in the record by contacting Oregon State Police. Notice does not imply consent or permission.

Stat. Auth.: ORS 181.537, 409.010, 418.005 & 419B.020
 Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020
 Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-1115

Requirements

(1) LEDS representatives must train and certify designated LEDS users as outlined in OAR 257-015-0050.

(2) The Department will complete background checks on all LEDS representatives and LEDS users as provided in OAR 257-015-0050(6).

(3) The Department will implement information security measures as provided in OAR 257-015-0000 to 257-015-0100.

Stat. Auth.: ORS 181.537, 409.010, 418.005 & 419B.020
 Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020
 Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05

413-015-1120

LEDS Use for Child Protective Service Purposes

(1) The local Child Welfare office may conduct criminal records checks on subject individuals using the LEDS system available in the local office and use LEDS information pertaining to subject individuals for the purpose of making decisions about child safety, specifically related to Child Protective Services when:

(a) Notice as defined at OAR 413-015-1110(4) has been provided to a subject individual before the Department performs criminal records checks on the subject individual; and

(b) A child abuse allegation is being assessed or there is an open Child Welfare case.

(2) When conducting criminal records checks for a Child Protective Services purpose under this rule, a subject individual is defined as:

(a) A person who is alleged to be the perpetrator of child abuse or neglect when the allegation is being assessed by Child Protective Services;

(b) A person who resides in or frequents a household where the alleged victim of child abuse resides on a full- or part-time basis; or

(c) A person in the household to which a child is being returned.

Stat. Auth.: ORS 181.537, 409.010, 418.005 & 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07

413-015-1125

LEDS Use for Certification Purposes in Emergency Situations

(1) The local Child Welfare office may perform criminal records checks using the LEDS system available in the local office and use LEDS information pertaining to a subject individual for the purpose of making decisions about child safety, specifically related to emergency certification when:

(a) The subject individual has consented to the Department conducting a criminal records check by signing form DHS 1011F, "Consent For Criminal Records & Fingerprint Check";

(b) There is an emergent need to place a child or maintain a placement of a child, and the Criminal Records Unit is unable to complete the check in time;

(c) Staff refer to and comply with OAR 413-120-0400 to 413-120-0470; and

(d) A child abuse allegation is being assessed or there is an open child welfare case.

(2) When conducting criminal records checks for emergency certification purposes under this rule, a subject individual is defined as C

(a) An adult who resides in or plans to reside in a household that is being certified for placement of a child;

(b) An adult who resides in or plans to reside in a household that is being re-certified to place or maintain a child in the household;

(c) A person assisting in the household to enrich the care provided to children placed in the household by tutoring or providing recreation, relief care, or other services such as household chores, whether paid or unpaid; or

(d) A member of the household under 18 years of age if there is reason to believe that member may pose a risk to children placed in the household.

(3) Staff in local Child Welfare offices who access LEDS information for emergency certification purposes as outlined in these rules must:

(a) Refer to and comply with OAR 413-120-0400 to 413-120-0470; and

(b) Forward fingerprints and consent forms to the Department's Criminal Records Unit for processing if:

(A) LEDS information reveals an arrest or conviction of any kind;

(B) The subject individual discloses an arrest or conviction of any kind; or

(C) It is known that the subject individual has lived outside of Oregon within the last five years.

Stat. Auth.: ORS 181.537, 409.010, 418.005 & 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07

DIVISION 20

CASE MANAGEMENT

Voluntary Agreements

413-020-0000

Purpose

These rules, OAR 413-020-0000 to 413-020-0050, describe:

(1) The circumstances in which parents or legal guardians and the Department may enter into a Voluntary Custody Agreement concerning a child who is in a parent's or legal guardian's legal custody; and

(2) The responsibilities of the parents or legal guardians and the Department in connection with these agreements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0005

Definitions

The following definitions apply to OAR 413-020-0000 to 413-020-0050:

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

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

(3) "Legal custodian" means a person, agency, or institution with legal custody of a child and the following duties and authority:

(a) To have physical custody and control of a child;

(b) To supply the child with food, clothing, shelter, and incidental necessities;

(c) To provide the child with care, education, and discipline;

(d) To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the child, and in an emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care;

(e) To make such reports and to supply such information as the court may require; and

(f) To apply for any benefits to which the child is entitled and to use them to pay for the child's care.

(4) "Legal custody" means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.

(5) "Legal guardian" means a person or agency that has the duties and authority of a parent with legal custody to make decisions concerning a child, including but not limited to the following:

(a) Authorize surgery and other extraordinary treatment for the child;

(b) Authorize the child to enlist in the armed forces of the United States;

(c) Consent to child's adoption; and

(d) Make other decisions of substantial legal significance concerning the child, (but a guardian is not a conservator of the child's property or estate).

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

(7) "Voluntary Custody Agreement" means a written agreement between the Department and the parent or legal guardian of a child, which transfers legal custody of the child to the Department; the Department assumes all parental authority and responsibilities that the agreement does not specifically reserve to the parents or legal guardians, as permitted by state law; and the Department provides the child substitute care or treatment, or both, if the family falls within a circumstance described in OAR 413-020-0010(2)(a)-(c).

(8) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

Hist.: SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0010

Voluntary Custody Agreement

(1) Under a "Voluntary Custody Agreement", the parent or legal guardian gives the Department the legal custody of the child. The Department assumes all parental and legal responsibilities that the agreement does not specifically reserve to the parents or legal guardians as permitted under ORS 418.015 and becomes the child's legal custodian.

(2) It is appropriate for the Department to place a child in substitute care and provide services if all of the following subsections apply:

(a) The parent or legal guardian requests the Department take custody of the child.

(b) The parent or legal guardian is immediately and temporarily unable to fulfill his or her parental responsibilities.

(c) This inability will be alleviated with short-term placement when one of the following conditions exists:

(A) The child cannot remain at home due to a temporary crisis in the family, and cannot safely stay with a member of the extended family or another responsible adult who is well known to the child.

(B) The parent or legal guardian is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical or mental health condition.

(C) The child needs to be placed outside the home due to problems in the family that could compromise the safety of a family member, and a placement of limited duration in conjunction with intensive services is likely to reunite the family and reduce safety concerns.

(3) A Voluntary Custody Agreement is not appropriate when the Department's Child Protective Services has determined, within the past 12 months, that the parent or legal guardian was the perpetrator of a founded disposition of child abuse or neglect or when the parent or legal guardian is unwilling to be a permanent resource for the child.

(4) A Child Welfare Program Manager must approve entering into a Voluntary Custody Agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0020

Legal Consent

(1) Only a parent or legal guardian who has legal custody of the child may enter into a Voluntary Custody Agreement (CF 1005).

(2) All persons who have legal custody of the child must sign the agreement unless one person with legal custody of the child is missing.

(3) If one person with legal custody of the child is missing, all other persons with legal custody of the child must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person's whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with legal custody of the child to provide him or her notice of the agreement.

(4) The parent or legal guardian must provide information to the Department about insurance and other financial resources to meet the medical, dental, and mental health needs of the child by completing a Medical Resource Report Form (DHS 415H).

(5) If the child is an Indian child, who is an enrolled member of or may be eligible for membership in an Indian tribe, each parent or Indian custodian who has legal custody must sign the Voluntary Custody Agreement in a hearing before a judge of a court with appropriate jurisdiction. The child must be more than 10 days old. Refer to Child Welfare Policy I-E.2.1, "Placement of Indian Children", OAR 413-070-0240 for detailed requirements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0025

Developing the Family Support Services Case Plan when a Parent or Legal Guardian Enters into a Voluntary Custody Agreement with Child Welfare

(1) The caseworker must develop a family support services case plan as described in OAR 413-030-0016 with the parent or legal guardian who signs a Voluntary Custody Agreement.

(2) The caseworker must develop a visit and contact plan as described in OAR 413-070-0800 to 413-070-0880.

(3) The parent or legal guardian must agree to:

(a) Full and ongoing cooperation in developing the family support services case plan as described in OAR 413-030-0006(2)(a)-(c) and making decisions for the child based on the child's identified needs;

(b) Visit and financially support the child to the fullest extent possible; and

(c) Work cooperatively with the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0040

Required Reviews

Federal and state law, including the Adoptions and Safe Families Act (Pub. L. 105-89), require review of the cases of all children placed in substitute care. The child placed by the Department with a Voluntary

Custody Agreement will be scheduled for Citizen Review Board and court reviews pursuant to OAR 413-040-0100 to 413-040-0170.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0045

Criteria for Continuing a Voluntary Custody Agreement After a Child Reaches 18 Years of Age

(1) The Department determines that the child will need placement services after reaching 18 years of age and continues a Voluntary Custody Agreement after the child reaches 18 years per ORS 418.027(5) if:

(a) One of the conditions in OAR 413-020-0010(2)(a)-(c), which led the Department to assume voluntary custody of the child, continues at the time of the child's 18th birthday;

(b) The young adult agrees to the Department's continued assumption of all parental and legal responsibilities that the Voluntary Custody Agreement does not specifically reserve to the parents or legal guardians; and

(c) The District Manager approves the continuation of the Voluntary Custody Agreement.

(2) The court must determine continued custody is in the best interests of the young adult and approve the continuation of the Voluntary Custody Agreement every 180 days.

Stat. Auth.: ORS 418.005, 418.027

Stats. Implemented: ORS 418.015, 418.027

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0050

Termination of Voluntary Agreement

(1) Either the Department or a parent or legal guardian who signed the agreement may terminate the agreement by providing 48 hours written notice. If an agreement continues after the child reaches 18 years of age, a young adult may terminate the agreement by providing 48 hours written notice.

(2) If a parent or legal guardian requests the termination of the voluntary agreement and there is reason to believe the child will be unsafe if returned to the home of the parent or legal guardian, the caseworker must report the information to a CPS screener.

(3) OAR 413-070-0240(5) governs the withdrawal by a parent or Indian custodian of consent concerning an Indian child, within the meaning of the Indian Child Welfare Act, who is in substitute care and the subject of a "Voluntary Custody Agreement" with the Department. OAR 413-070-0240(5) prescribes:

(a) That the parent or Indian custodian may withdraw consent orally or in writing at any time;

(b) That an Indian child shall immediately be released to the parent or Indian custodian upon withdrawal of a voluntary consent; and

(c) Notification to the court, and other actions are required when return of an Indian child to the parent or Indian custodian would place the child in imminent danger or harm.

Stat. Auth.: ORS 418.005, 418.027

Stats. Implemented: ORS 418.015, 418.027

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07

Voluntary Placement Agreement

413-020-0060

Purpose

These rules, OAR 413-020-0060 to 413-020-0090, describe:

(1) The circumstances in which parents or legal guardians and the Department may enter into a Voluntary Placement Agreement to place a child, who is in the legal custody of the parents or legal guardians, for care or services from the Department; and

(2) The responsibilities of the parents or legal guardians and the Department in connection with these agreements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0065

Definitions

The following definitions apply to OAR 413-020-0060 to 413-020-0090:

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

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

(3) “Legal custodian” means a person, agency, or institution with legal custody of a child and the following duties and authority:

(a) To have physical custody and control of a child;

(b) To supply the child with food, clothing, shelter, and incidental necessities;

(c) To provide the child with care, education, and discipline;

(d) To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the child, and in an emergency where the child’s safety appears urgently to require it, to authorize surgery or other extraordinary care;

(e) To make such reports and to supply such information as the court may require; and

(f) To apply for any benefits to which the child is entitled and to use them to pay for the child’s care.

(4) “Legal custody” means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child’s legal custodian.

(5) “Legal guardian” means a person or agency that has the duties and authority of a parent with legal custody of a child to make decisions concerning a child, including but not limited to the following:

(a) Authorize surgery and other extraordinary treatment for the child;

(b) Authorize the child to enlist in the armed forces of the United States;

(c) Consent to child’s adoption; and

(d) Make other decisions of substantial legal significance concerning the child (but a guardian is not a conservator of the child’s property or estate).

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

(7) “Voluntary Placement Agreement” means a binding, written agreement between the Department and the parent or legal guardian of a child that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department while the child is in placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0070

Voluntary Placement Agreement Limitations

(1) Under a Voluntary Placement Agreement, the parent or legal guardian retains legal authority over the child and is obligated to continue to exercise and perform all parental authority and legal responsibilities, except those that the parent or legal guardian specifically delegates to the Department by a binding agreement. The agreement specifies, while the child is in placement, the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department.

(2) The Department must use a Voluntary Placement Agreement (CF 499) under ORS 418.312 in all cases in which the sole reason for placing the child in a foster home, group home, or institutional child care setting is the need to obtain services for the child’s emotional, behavioral, or mental disorder or developmental or physical disability.

(3) Under a Voluntary Placement Agreement, the Department has responsibility for the child’s placement and care.

(4) The parent or legal guardian who requests substitute care for the child through a Voluntary Placement Agreement may enter into a child support agreement with the Division of Child Support (DCS) or receive a child support order.

(a) The caseworker must inform the parent or legal guardian that he or she may enter into a non-adversarial support agreement with DCS to discharge support obligations. Other, existing child obligations of the parent or legal guardian are not superseded by support agreements with DCS.

(b) The caseworker must provide the parent or legal guardian who signs the Voluntary Placement Agreement with the “DCS Referral for Non-Adversarial Support Agreement” (CF 496). The parent or legal guardian completes the form and returns it to the caseworker. If

the form is not returned to the caseworker within 30 days, a support order may be entered.

(c) The caseworker must forward the completed form (CF 496) and a signed copy of the Voluntary Placement Agreement to the Children’s Benefits Unit of the Department.

(5) The parent or legal guardian must provide information to the Department about insurance and other financial resources to meet the medical, dental, and mental health needs of the child by completing a Medical Resource Report Form (DHS 415H).

(6) A Child Welfare Program Manager must approve entering into a Voluntary Placement Agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0075

Legal Consent

(1) Only a parent or legal guardian who has legal custody of the child may enter into a “Voluntary Placement Agreement”.

(2) All persons who have legal custody of the child must sign the agreement unless one person with legal custody of the child is missing.

(3) If one person with legal custody of the child is missing, all other persons with legal custody of the child must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person’s whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with legal custody of the child to provide him or her notice of the agreement.

(4) If the child is an Indian child who is an enrolled member of or may be eligible for membership in an Indian tribe, each parent or Indian custodian who has legal custody of the child must sign the “Voluntary Placement Agreement” in a hearing before a judge of a court with appropriate jurisdiction. The child must be more than 10 days old. Refer to Child Welfare Policy I-E.2.1, “Placement of Indian Children”, OAR 413-070-0240 for detailed requirements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0080

Developing the Family Support Services Case Plan and a Voluntary Placement Agreement with the Department

(1) The caseworker must prepare the Voluntary Placement Agreement (CF 499), which must specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department.

(2) The caseworker must develop a family support services case plan (see OAR 413-030-0016) with the parent or legal guardian who signs a Voluntary Placement Agreement.

(3) The caseworker must develop a visit and contact plan as described in OAR 413-070-0800 to 413-070-0880.

(4) The parent or legal guardian must agree to:

(a) Full and ongoing cooperation in the family support services case plan described in OAR 413-030-0006(2)(a)-(c) and in making decisions for the child based on the child’s identified needs;

(b) Visit and financially support the child to the fullest extent possible; and

(c) Work cooperatively with the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0085

Required Reviews

Federal and state law, including the Adoptions and Safe Families Act (Pub. L. 105-89), require review of the cases of all children in substitute care. The child placed by the Department with a Voluntary Placement Agreement will be scheduled for Citizen Review Board and court reviews pursuant to OAR 413-040-0100 to 413-040-0170. Under state law:

(1) When the child remains in voluntary placement for more than 180 days, the juvenile court must make a determination within the first 180 days of the placement that the placement is in the best interests of the child.

(2) The juvenile court must hold a permanency hearing as provided in ORS 419B.476 to determine the future status of the child no

later than 14 months after the child's original voluntary placement and not less frequently than once every 12 months thereafter during the continuation of the child's original voluntary placement.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-020-0090**Termination of Voluntary Agreement**

(1) Either the Department or a parent or legal guardian who signed the Voluntary Placement Agreement may terminate the agreement by providing 48 hours written notice. The child support agreement may be terminated at the same time by sending a copy of the written termination notice to the Children's Benefits Unit of the Department.

(2) If the parent or legal guardian requests the termination of the Voluntary Placement Agreement and there is reason to believe the child is unsafe, the caseworker must report the information to a CPS screener.

(3) OAR 413-070-0240(5) governs the withdrawal by a parent or Indian custodian of consent concerning an Indian child who is in substitute care and the subject of a Voluntary Placement Agreement with the Department. OAR 413-070-0240(5) prescribes:

(a) That the parent or Indian custodian may withdraw consent orally or in writing at any time;

(b) That an Indian child shall immediately be released to the parent or Indian custodian upon withdrawal of a voluntary consent; and

(c) Notification to the court and other actions required when return of an Indian child to the parent or Indian custodian would place the child in imminent danger or harm.

(4) A Voluntary Placement Agreement ends when the child reaches 18 years of age.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312, 419C.080
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

Guardian and Legal Custodian Consents**413-020-0100****Purpose**

The purpose of OAR 413-020-0100 through 413-020-0170 is to:

(1) Define the Department's authority as guardian and legal custodian of children in its care or in the care of its agents;

(2) Specify how that authority will be exercised by the Department and its agents; and

(3) Specify requirements to be met when this authority is exercised.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.640 & 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03

413-020-0110**Definitions**

(1) "Child Placement Agreement" means an agreement between the legal parent(s)/legal guardian of a child and the Department. The Parent(s) retain "all legal authority for child while services are being provided by the Department.

(2) "Department" means Department of Human Services.

(3) "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.

(4) "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.

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

(a) Who has been permanently committed to the Department by the juvenile court after parental rights have been terminated under ORS 419B.527;

(b) Who has been released and surrendered to the Department by the parents under ORS 418.270.

(6) "Physical Custodian" means a person or agency, including a child's legal or biological parent, a relative, foster parent, adoptive parent or a licensed child-caring agency who is authorized by the Department to provide a residence and day-to-day care for a child who is in the legal custody of the Department.

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

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

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.640 & 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03

413-020-0120**Responsibility of Staff to Secure a Legal Consent**

Whenever the legal consent of a parent or guardian is needed for a child in the care and custody of the Department, 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 Department'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.: ORS 418.005
Stats. Implemented: ORS 109.640 & 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03

413-020-0130**Authority in Child Placement Agreements**

(1) When a parent or guardian of a child authorizes a Child Placement Agreement with the Department, the parent(s) or guardian will remain guardian of the child and will retain legal authority, and are obligated to continue to exercise and perform all parental duties and legal responsibilities except those delegated to the Department by the signed CF 499 Child Placement Agreement.

(2) When a child is in the voluntary custody of the Department, the Department or the physical custodian will exercise the authority of a legal custodian as assigned in the CF 1005 Voluntary Custody Agreement.

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

NOTE: Please refer to Child Placement Agreement/Voluntary Custody OAR 413-020-0000 through 413-020-0050 (CAF Policy I-B.1.3) for additional information regarding these two options for services.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.640 & 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03

413-020-0140**Exercise and Delegation of Legal Authority**

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

(1) Physical Custodian. The Department delegates the following responsibilities to the physical custodian by this administrative rule. This delegation shall continue as long as the child is in the legal custody of the Department 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 with the Department. The department will delegate to the child's Physical Custodian its authority to consent to:

(a) The child/youth's registration in public school; assisting them with selecting or changing class schedules; authorizing absence from school; participation in school and extracurricular activities; and enrollment in school meal and school insurance programs. Consent for traditional school testing as deemed necessary. School pictures, except those listed under 413-020-0130(2)(c);

(b) Routine medical care and dental care, including vaccinations and immunization; routine examinations and lab tests;

(c) Short term inter-county travel;

(d) Application for work permits or releases.

(2) **Service Worker.** The Service Worker may exercise the Department's consent authority to any action to which the physical custodian may consent. In addition, the child's Service Worker may exercise the Department's authority to give consent for the following:

(a) Education records, academic or school behavioral records; or any specialized school testing. The Department Service Worker may not assume the role or responsibilities of Educational Surrogate, per OAR 581-015-0099.

(b) Psychiatric or psychological evaluation, outpatient psychiatric or psychological treatment, and behavioral rehabilitation services for the child; and

(c) Photograph(s) taken for publicity purposes or media promotions that may draw attention to the individual.

(3) **Service Delivery Area (SDA) Manager or Designee.** The SDA Manager or Designee may exercise the Department's consent authority to any action to which the Physical Custodian or Services Worker may consent. In addition, the SDA Manager or Designee may exercise the Department's authority to consent to the following actions with respect to children serviced by the SDA:

(a) Emergency medical care and/or surgery, to include anesthesia;

(b) Major medical and surgical procedures that are not extraordinary or controversial, to include anesthesia;

(c) Admission to a state training center for the retarded, or to SAIP (Secure Adolescent Inpatient Program), SCIP (Secure Children's Inpatient Program), or a private hospital for purpose of psychiatric treatment;

(d) Registration in special schools, including private or alternative schools;

(e) Application for driver's training, permits and license;

(f) Interstate travel and international travel;

(g) Examination by law enforcement agency (e.g., polygraphs, interrogations without a warrant, etc.).

(h) Use of firearms for purpose of recreational hunting, target practice, and/or Hunter Safety Course.

Stat. Auth.: ORS 161.390, 418.005

Stats. Implemented: ORS 109.640, 161.327, 161.336, 161.341, 161, 346, 161.365,

161.370, 418.005, 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03;

CWP 2-2006, f. & cert. ef. 2-1-06

413-020-0150

Exercise and Delegation of Legal Guardian Authority

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

(1) **Service Delivery Area (SDA) Manager or Designee;** may exercise the Department's authority to consent to the following actions with respect to children served by that SDA:

(a) Enlistment of a child in the Armed Forces or the Job Corps; and

(b) Marriage.

(2) **Department Adoption Manager;** may exercise the Department's authority to consent to the adoption of a child who is in the permanent custody of the agency. (ORS 109.316)

(3) **Department Assistant Director for Community Human Services (CHS) or Department Assistant Director for Children, Adults and Families (CAF) or the Department Director,** or in their absence and in the event of an emergency the Deputy Assistant Director for CHS or CAF may consent to the following actions for a child:

(a) Termination of a pregnancy, except when a young woman 15 years of age or older exercises her statutory right to consent to her own termination of a pregnancy;

(b) Extraordinary or controversial medical or surgical procedures, such as: Do Not Resuscitate Order (DNR), organ transplants, kidney

dialysis, open heart surgery, or any procedure involving substantial life threat;

(c) Any medical or surgical procedure to which a legal parent or guardian of the child or the child is opposed;

(d) Sterilization under ORS Chapter 436, but only when such procedure is necessary to protect the child's life.

(4) **Department Director, Assistant Director for Children, Adults and Families (CAF), and Assistant Director for Community Human Services (CHS)** may exercise the Department's authority to consent to any action to which the Physical Custodian, Services Worker, Service Delivery Area (SDA) Manager may consent.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640 & 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03

413-020-0160

Actions Not Authorized

(1) No Department employee will consent to educational planning which is defined as the responsibility of a surrogate parent. (OAR 581-015-0099).

(2) No Department employee, or agent will exercise the Department's authority to give consent to the purchase of, or ownership of, a motor vehicle by a child in legal custody of the 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 Department employee shall co-sign or counter-sign any purchase contract for a child in the Department's custody.

(4) No Department employee will accept responsibility or serve as conservator of a child's property or estate.

(5) No Department 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.: ORS 418.005

Stats. Implemented: ORS 109.640 & 418.312

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03

413-020-0170

General Provisions

(1) The Department acknowledges the right of a minor 15 years of age or older to consent to hospital care, medical and surgical diagnosis or treatment without the consent of the parent or guardian. (ORS 109.640)

(2) The Department acknowledges the right of a minor 14 years of age or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder or chemical dependency, excluding methadone maintenance, by a physician. (ORS 109.675)

(3) Whenever Department staff exercise the agency's authority to authorize actions described as the responsibility of a legal guardian under these rules, Department 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 the Department, 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 the Department provides a written consent for actions defined as the responsibility of a guardian. The written record and a copy of any consent made in writing will be filed in the child's case record.

(4) In any case where Department staff consider it necessary or appropriate, they may notify the juvenile court, 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 Department's custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.675

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03

Behavior Intervention

413-020-0200

Purpose

The purpose of these rules (OAR 413-020-0200 to 413-020-0255), is to describe the responsibilities of the Department to:

- (1) Monitor the challenging behavior of children and young adults in substitute care with relative caregivers or foster parents;
- (2) Identify when relative caregivers or foster parents are having difficulty managing the challenging behavior of children and young adults;
- (3) Describe the responsibilities of the relative caregiver or foster parent and the Department in an emergency when a child or young adult's behavior places the child or young adult or others in imminent risk of harm, and physical restraint is used; and
- (4) Provide training and support services to relative caregivers or foster parents who are having difficulty managing the challenging behavior of children and young adults.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96; CWP 3-2003, f. & cert. ef. 1-7-03; CWP 6-2007, f. & cert. ef. 5-1-07

413-020-0210

Definitions

The following definitions apply to OAR 413-020-0200 to 413-020-0255:

(1) "Behavior log" means the relative caregiver or foster parent's record of the child or young adult's behavior and the relative caregiver or foster parent's actions and interventions to manage the child or young adult's behavior.

(2) "Behavior Intervention plan" means a documented set of strategies that is developed to assist a relative caregiver or foster parent to proactively manage a child or young adult's challenging behavior (CF 0994).

(3) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

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

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

(6) "Incident report" means a written description of an event that affects a child or young adult in the care or custody of the Department (CF 0985).

(7) "Physical restraint" means the act of restricting a child or young adult's voluntary movement as an emergency measure in order to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult's behavior. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(8) "Physical Restraint Intervention — Incident Report" means a written description of an event involving a child or young adult that requires the relative caregiver or foster parent to intervene through the use of physical restraint (CF 0984).

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

(10) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96; SCF 8-1997, f. 8-12-97, cert. ef. 8-25-97; CWP 3-2002, f. & cert. ef. 1-7-03; CWP 6-2007, f. & cert. ef. 5-1-07

413-020-0230

Behavior Intervention Services

The caseworker of the child or young adult must perform all of the following actions to monitor a child or young adult's challenging behavior:

(1) Routinely share with the relative caregiver or foster parent the information known to the Department regarding the child or young adult's challenging behavior and the relationship of the challenging behavior to the child or young adult's mental and physical condition.

(2) During monthly contacts, review a child or young adult's challenging behavior and the interventions used by each relative caregiver or foster parent in the ongoing care of the child or young adult.

(3) Assess the relative caregiver or foster parent's implementation of any recommended, documented behavior interventions in the child or young adult's mental health assessment, physical diagnosis or diagnoses, and the case plan.

(4) Instruct the relative caregiver or foster parent to keep a record, in the behavior log, of the actions and interventions used to manage a child or young adult's challenging behavior.

(5) Assess the relative caregiver or foster parent's willingness and ability to:

(a) Implement the behavior interventions;

(b) Manage the child or young adult's challenging behavior; and

(c) Maintain conditions in the home that provide safety and well-being for the child or young adult.

(6) Assess whether additional support is needed to maintain conditions in the home that provide safety and well-being and manage a child or young adult's challenging behavior.

(7) Document the contacts with the relative caregiver or foster parent in FACIS case notes.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96; CWP 3-2002, f. & cert. ef. 1-7-03; CWP 6-2007, f. & cert. ef. 5-1-07

413-020-0233

Determine Whether to Develop a Behavior Intervention Plan for the Child or Young Adult

(1) When, after completing the actions required by OAR 413-020-0230(2) to (6), the caseworker determines that the relative caregiver or foster parent is able and willing to maintain conditions in the home that provide safety and well-being for the child or young adult, and needs a structured plan or the relative caregiver or foster parent requests a structured plan to manage a child or young adult's challenging behavior, the caseworker must develop a Behavior Intervention plan (CF 0994) for the child or young adult within 60 days.

(2) When, after completing the actions required by OAR 413-020-0230(2) to (6), the caseworker determines that the relative caregiver or foster parent is unable or unwilling to maintain conditions in the home that provide safety and well-being for the child or young adult, the caseworker must complete the actions described in Child Welfare Policy I-B.1, "Monitoring Child Safety", OAR 413-080-0059(2)(b)(A) to (C).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2007, f. & cert. ef. 5-1-07

413-020-0236

Developing a Behavior Intervention Plan for the Child or Young Adult

Within 60 days of determining a need for, or receiving a relative caregiver or foster parent request for, a structured plan for behavior intervention, the caseworker must:

(1) Advise the relative caregiver or foster parent to continue to implement the recommended actions and interventions to manage the child or young adult's challenging behavior;

(2) Gather information from the relative caregiver or foster parent, the child or young adult, the certifier, and, if appropriate, the parents or legal guardians of the child or young adult, the child or young adult's attorney, CASA, mental health providers, school personnel, and other service providers working with the child or young adult regarding the child or young adult's challenging behavior that --

(a) Is difficult for the relative caregiver or foster parent to manage; or

(b) Presents a threat to self or others.

(3) Meet with the relative caregiver or foster parent, the child or young adult, the certifier, and, if appropriate the parents or legal guardians of the child or young adult, the child or young adult's attorney, CASA, mental health providers, school personnel, and other service providers working with the child or young adult to develop a Behavior Intervention plan that documents:

(a) The challenging behavior of the child or young adult that requires additional support for the relative caregiver or foster parent so that they may maintain conditions that provide safety and well-being for the child or young adult;

(b) The specific strategies and actions the relative caregiver or foster parent will use to prevent, intervene, and follow-up when the child or young adult's challenging behavior presents difficulties or is a threat to self or others, including:

(A) Proactive use of space, routine, and structure of the environment;

(B) Positive reinforcement, de-escalation techniques, and therapeutic activities; and

(C) When necessary, *physical restraint* (defined at OAR 413-020-0210). Planned use of *physical restraint* may be used only as an emergency measure in response to imminent danger to self or others, and when no alternate actions are sufficient to intervene in a child or young adult's challenging behavior.

(c) The actions and assistance that the Department will provide to support the relative caregiver or foster parent in maintaining the child or young adult in the current substitute care placement.

(d) The relative caregiver or foster parent's responsibility to continue documenting the child or young adult's challenging behaviors in a behavior log.

(e) A plan for regular communication between those monitoring the child or young adult's challenging behavior (the relative caregiver or foster parent, the caseworker, and others) regarding the effect of the behavior intervention services and Behavior Intervention plan on the child or young adult's challenging behavior; and

(f) A timeline for review of the Behavior Intervention plan, which is at least every 90 days.

(4) The caseworker's supervisor must approve the Behavior Intervention plan.

(5) A Behavior Intervention plan that includes the planned use of *physical restraint* must:

(a) Focus on the intervention strategies designed to modify a child or young adult's behavior and designed to minimize the need for planned physical restraint;

(b) Use planned physical restraint only as an emergency measure in response to imminent danger to self or others, when no alternate actions are sufficient to intervene in a child or young adult's challenging behavior; and

(c) Be approved by the Child Welfare program manager.

(6) A Behavior Intervention plan may include the use of planned physical restraint only when the following conditions have been met.

(a) The relative caregiver or foster parent has completed training requirements described in OAR 413-020-0255;

(b) The relative caregiver or foster parent must agree to document the circumstances of each *physical restraint* in writing in a Physical Restraint Intervention — Incident Report (CF 984) as soon as reasonably possible after the incident; and

(c) The relative caregiver or foster parent must agree to orally report the circumstances of each physical restraint to the caseworker or the caseworker's supervisor within one working day and submit the written documentation (required in subsection (b) of this section) of the circumstances of the *physical restraint* within 48 hours.

(7) The caseworker must provide a copy of the signed Behavior Intervention plan for the relative caregiver or foster parent, and file a copy in the child's case file.

(8) The caseworker must document a summary of the Behavior Intervention plan in FACIS case notes and in the relative caregiver or foster parent's FACIS provider notes.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2007, f. & cert. ef. 5-1-07

413-020-0240

Use of Physical Restraint in an Emergency

(1) In an emergency situation, only if the behavior of a child or young adult places the child or young adult or others in imminent risk of harm, and only if good judgment indicates that a *physical restraint* (defined at OAR 413-020-0210) can safely be implemented, the relative caregiver or foster parent should do so whether or not the relative caregiver or foster parent has attended Behavior Crisis Management Training, whether or not the child or young adult has a Behavior Intervention plan.

(a) *Physical restraint* should be implemented with the least force necessary to prevent the risk of harm to self or others and should end as soon as the risk of harm no longer exists.

(b) When the emergency situation results in any injury to the child or young adult, the relative caregiver or foster parent must immediately notify the Department's emergency 24-hour contact.

(2) Any time an unplanned physical restraint is used, the relative caregiver or foster parent must:

(a) Document the circumstances of the physical restraint in writing on a *Physical Restraint Intervention Incident Report* (CF 0984) as soon as reasonably possible after the incident;

(b) Report the circumstances of the physical restraint to the caseworker or the caseworker's supervisor within one working day; and

(c) Submit the written documentation of the circumstances of each *physical restraint* to the caseworker within 48 hours.

(3) In an emergency, if the behavior of a child or young adult places the child or young adult or others in imminent risk of harm, and good judgment indicates that a *physical restraint* cannot safely be implemented, the relative caregiver or foster parent should call the local law enforcement agency to request intervention. The relative caregiver or foster parent must:

(a) Orally report the incident to the caseworker or the caseworker's supervisor as soon as reasonably possible; and

(b) Document the incident in writing in an Incident Report (CF 0985) and submit written documentation to the caseworker within 48 hours.

(4) Mechanical restraint or seclusion of children or young adults is prohibited in an emergency or at any other time. For the purposes of this rule:

(a) "Mechanical restraint" means the use of any physical device to involuntarily restrain the movement of all or a portion of a child's body as a means of controlling his or her physical activities in order to protect the child or other persons from injury. Mechanical restraint does not apply to movement restrictions stemming from physical medicine, dental, diagnostic, or surgical procedures which are based on widely accepted, clinically appropriate methods of treatment by qualified professionals operating within the scope of their licensure.

(b) "Seclusion" means the involuntary confinement of a child alone in a specifically designed room from which the child is physically prevented from leaving.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 4-1996, f. & cert. ef. 9-11-96; SOSCF 8-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 3-2002, f. & cert. ef. 1-7-03; CWP 6-2007, f. & cert. ef. 5-1-07

413-020-0245

Responsibilities in Monitoring a Child or Young Adult's Challenging Behavior

The caseworker must:

(1) During the required 30 day face-to-face contact with the child or young adult, monitor the interventions used in managing the challenging behavior of the child or young adult while in substitute care and determine whether the placement maintains conditions for the safety and well-being of the child or young adult.

(2) Review behavior logs as they are received, but no less than every 30 days.

(3) When it is determined that additional support is needed in the home:

(a) Consult with the certifier or the certifier's supervisor to determine if available resources or training will provide the additional support needed in the home; or

(b) Convene a meeting to develop a Behavior Intervention plan as described in OAR 413-020-0236.

(4) If there is a Behavior Intervention plan in place:

(a) Review the Behavior Intervention plan within the timeline described in OAR 413-020-0236(3)(g);

(b) Assess the effectiveness of the interventions used by the relative caregiver or foster parent; and

(c) End the Behavior Intervention plan if strategies have successfully reduced or eliminated the challenging behavior, or revise the Behavior Intervention plan when additional strategies are needed to manage challenging behavior. Any revised Behavior Intervention plan that includes the use of planned *physical restraint* (defined at OAR

413-020-0210) must be approved by the Child Welfare program manager.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 6-2007, f. & cert. ef. 5-1-07

413-020-0255

Training and the Planned Use of Physical Restraint

(1) The Department has approved Behavior and Crisis Management Training as the standard behavior intervention training for relative caregivers and foster parents. The training curriculum focuses on strengthening a relative caregiver or foster parent's behavior-management skills and instructs the relative caregiver or foster parent in specific actions when intervention requires planned *physical restraint* (defined at OAR 413-020-0210). When additional training is needed for a relative caregiver or foster parent, the certifier must refer him or her to available training resources.

(2) When a Behavior Intervention plan includes the planned use of physical restraint to manage the behavior of a child or young adult, the caseworker must consult with the certifier to confirm the relative caregiver or foster parent has completed Behavior Crisis Management Training prior to the use of physical restraint as an intervention strategy.

(3) Child Welfare may approve comparable behavior and crisis management training obtained by a relative caregiver or foster parent for a specific child or young adult when the relative caregiver or foster parent has completed crisis intervention training selected by a school district and used in the school, or approved by the Addictions and Mental Health Division and used in a Children's Intensive Mental Health Treatment Services program. A Foster Care Coordinator or designee must approve comparable crisis intervention training courses.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 6-2007, f. & cert. ef. 5-1-07

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

DIVISION 30

CASE MANAGEMENT — PROGRAM ELIGIBILITY

Preventive/Restorative Eligibility

413-030-0000

Purpose

The purpose of these rules (OAR 413-030-0000 to 413-030-0030) is to describe the responsibilities of the Department in providing family support services, including:

- (1) Eligibility criteria;
- (2) Determination of service needs;
- (3) Development of the family support services case plan;
- (4) Development of Service Agreements;
- (5) Caseworker contact and monitoring requirements; and
- (6) Timelines for reviewing progress.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0003

Definitions

The following definitions apply to OAR 413-030-0000 to 413-030-0030:

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

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

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

(4) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge and when the expert is evaluating a parent or legal guardian, whether the individual's functioning impacts his or her protective capacity.

(5) "FACIS" means the Family and Child Information System.

(6) "Family support services case plan" means a goal-oriented, time-limited, individualized plan for a child and the child's family or a former foster child. The Department and the family or former foster child jointly develop a family support services case plan that addresses the service goals and the identified needs of the child and the child's family or the former foster child.

(7) "Former foster child" means a person under 21 years of age, who was in substitute care in Oregon, including substitute care provided by the Federally Recognized Tribes, after the age of 14 and remained in substitute care for an accumulative 180 days or longer.

(8) "ILP" means the Independent Living Program services provided by the Department to an eligible foster child or former foster child.

(9) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(10) "Service Agreement" means a written document between the Department and a parent, legal guardian, or former foster child that identifies one or more of the service goals in a family support services case plan, and the services and activities that are necessary for the parent, legal guardian, or former foster child to achieve the goal.

(11) "Service goal" means the observable, sustained change in behavior, condition, or circumstance that, when accomplished, achieves the desired effect.

(12) "Short term services" mean actions or activities that are limited in duration to a maximum of 180 days.

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

(14) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0006

Eligibility For Family Support Services

(1) A parent, legal guardian, caregiver, or former foster child is eligible for family support services if the requirements of one of the following subsections are met:

(a) A parent or legal guardian requests out-of-home placement of a child due solely to the emotional, behavioral, or mental disorder or developmental or physical disability of the child, as described in Child Welfare Policy I-B.1.3.1, "Voluntary Placement Agreement", OAR 413-020-0060 to 413-020-0090.

(b) A parent or legal guardian requests that the Department take temporary custody of a child due to conditions described in Child Welfare Policy I-B.1.3, "Voluntary Custody Agreement", OAR 413-020-0000 to 413-020-0050.

(c) A former foster child eligible to receive Independent Living Program (ILP) services requests those services.

(d) A parent or legal guardian requests post adoption or post legal guardianship services in connection with an adoption or legal guardianship that occurred through the Department.

(e) A parent, legal guardian, or caregiver requests assistance with a child in the home, and all of the following paragraphs apply:

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

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

(C) The parent, legal guardian, or caregiver is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical or mental health condition.

(D) The inability of the parent, legal guardian, or caregiver to fulfill parental responsibilities is temporary and immediate; and will be alleviated with short term services or short term services will transition the family to community services.

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

(2) Service eligibility requires the full and ongoing cooperation of the parent, legal guardian, caregiver, or former foster child in:

(a) The determination of need;

(b) The preparation of the family support services case plan; and

(c) The monitoring of the family support services case plan.

(3) If the Department determines that funds for family support services are unavailable, the Department will not provide services for those who are eligible for services under subsection (1)(e) of this rule.

(4) The Department must provide family support services when a court has ordered the Department to provide services to a pre-adjudicated delinquent.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-030-0020, CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0009

Determination of the Service Needs

(1) Within 30 days of receiving the family support services screening information, the caseworker must determine the service needs by completing the following actions:

(a) Provide the parent, legal guardian, caregiver, or former foster child with a Service Application.

(b) Initiate the process to determine the child's ICWA status and notify the Indian child's tribe if ICWA applies. To initiate this process, the caseworker must:

(A) Complete a form CF 1270, Verification of ICWA Eligibility, to assist in determining ICWA eligibility.

(B) Contact the child's tribe when an Indian child's family is requesting placement of the child per the requirements of OAR 413-070-0160(1), "Placement of Indian Children."

(C) Consult with the local Child Welfare ICWA liaison or a supervisor if the caseworker has questions regarding the involvement of a tribe or the ICWA status of the child.

(c) Within five working days of receipt of the case, confirm there is no current reported safety threat to the child by reviewing the screening information and the child welfare case records for all family members living in the household.

(d) Within ten working days of receipt of the case, make initial face-to-face contact with the parent, legal guardian, caregiver, or former foster child to assess current behaviors, conditions, and circumstances in the family and gather specific information on the needs of the parent, legal guardian, caregiver, child, or former foster child.

(e) Within ten working days of receipt of the case, when the child is in the home of the parent, legal guardian, or caregiver, make initial face-to-face contact with the child to assess the identified needs of the child. When the child is in substitute care, the initial face-to-face contact must be made within 30 days of receipt of the case.

(f) To determine service needs, the caseworker must, at a minimum, observe:

(A) The parent, legal guardian, caregiver, or former foster child in the home environment;

(B) The child or former foster child in his or her home or substitute care placement; and

(C) The interactions between family members.

(g) Obtain from the parent, legal guardian, caregiver, or former foster child the names of persons who can provide additional information on the needs of the child, former foster child, or the family, when appropriate.

(h) Ask the parent, legal guardian, caregiver, or former foster child to sign an authorization to release information to enable the Department to obtain additional information from physicians, mental health providers, school employees, or other service and treatment providers, when appropriate.

(i) After obtaining the authorization to release information, contact service and treatment providers, when appropriate, to understand the past and current services and treatment of the family and the child or former foster child.

(j) Obtain expert evaluations when appropriate to determine specific service or treatment needs when a condition or behavior requires additional professional information regarding a person's functioning.

(k) Analyze the behaviors, conditions, and circumstances of the family to determine service or treatment needs based upon information gathered from the activities in subsections (a) to (j) of this section.

(1) Document in FACIS the findings of the activities in subsections (a) to (j) of this section.

(2) The caseworker must use the information and determination of service and treatment needs to develop an individualized family support services case plan that addresses the specific identified needs:

(a) When a family is eligible for post-legal adoption services, the caseworker must also refer to Child Welfare Policies I-G.3.2, "Post Legal Adoption Services", OAR 413-130-0150 to 413-130-0180 and I-E.2.1, "Placement of Indian Children", 413-070-0100 to 413-070-0260 if the child is an Indian child.

(b) When a family is eligible for out-of-home placement due to the child's special needs or placement is ordered through the court, the caseworker must also refer to Child Welfare Policies I-E.3.1, "Placement Matching", OAR 413-070-0600 to 413-070-0650; I-B.1.3.1, "Voluntary Placement Agreement", 413-020-0060 to 413-020-0090; I-E.2.1, "Placement of Indian Children", 413-070-0100 to 413-070-0260 if the child is an Indian child, and I-B.1, "Monitoring Child Safety", 413-080-0040 to 413-080-0067.

(c) When a former foster child requests ILP services, the caseworker must also refer to Child Welfare Policies I-B.2.3.5, "Independent Living Programs", OAR 413-030-0300 to 413-030-0320 and I-E.2.1, "Placement of Indian Children", 413-070-0100 to 413-070-0260 if the child is an Indian child.

(d) When a family requests that the Department take voluntary custody of the child, the caseworker must also refer to Child Welfare Policies I-E.3.1, "Placement Matching", OAR 413-070-0600 to 413-070-0650; I-B.1.3, "Voluntary Custody Agreement", 413-020-0000 to 413-020-0050; I-E.2.1, "Placement of Indian Children", 413-070-0100 to 413-070-0260 if the child is an Indian child; and I-B.1, "Monitoring Child Safety", 413-080-0040 to 413-080-0067.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0013

Requirements when Obtaining Medical, Psychological, or Psychiatric Evaluations

(1) The caseworker must secure an expert evaluation of the parent, legal guardian, caregiver, or child, when appropriate, to determine treatment or service needs or to assist in assessing child safety when there is a specific condition or behavior that requires additional professional information regarding a person's functioning. Examples include, but are not limited to:

(a) The parent, legal guardian, caregiver, or child is displaying unusual or bizarre behaviors that are indicative of emotional or behavioral problems;

(b) Physical illness, physical disability, or mental illness;

(c) Suicidal ideation; or

(d) Homicidal ideation.

(2) The caseworker must obtain the consent of the parent, legal guardian, or caregiver prior to arranging an expert evaluation of the parent, legal guardian, or caregiver.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0016

Requirements for the Family Support Services Case Plan

(1) The caseworker must analyze the information gathered during the determination of service needs to develop a family support services case plan. The family support services case plan must include all of the following information:

(a) Family composition, which includes identifying information for:

(A) Each parent, legal guardian, caregiver, and the children of the parent or legal guardian; or

(B) The former foster child who is 18 years or older and his or her child, if the former foster child is parenting a child.

(b) Conditions identified in the screening or intake referral information.

(c) Determination of service need.

(d) Service goals and activities.

(e) Services, related to a child in substitute care, which include:

(A) Placement information;

(B) Routine and specialized medical and mental health services;

(C) Education services, including the child's school and any special educational needs; and

(D) A plan for visitation and contact with the parents or legal guardians.

(f) Services the Department will provide, including:

(A) Case oversight and routine contact with the parent, legal guardian, or caregiver and the child or the former foster child.

(B) When the court has ordered the Department to provide services to a pre-adjudicated delinquent, routine contact with juvenile department staff, parents or legal guardians, and the child.

(C) When the child is in substitute care, arranging visitation for the parents or legal guardians and the child.

(D) Timely referral, access to, and use of culturally appropriate services and service providers to address the identified needs, to the extent that resources are available.

(E) Timely preparation of reports to the court or other service providers that may be required.

(g) A statement of the conditions for which the Department will close the family support services case.

(h) Review date. The family support services case plan is reviewed with the parent, legal guardian, caregiver, or former foster child every 90 days; however, the caseworker and the parent, legal guardian, caregiver, or former foster child may agree on a review date at any time within the 90-day period.

(2) The persons involved with the Department in the development of the family support services case plan include the former foster child or the parent, legal guardian, or caregiver; and may include the child, other relatives, substitute caregiver, and other professionals as appropriate.

(3) The family support services case plan must include the signature of the caseworker and each parent, legal guardian, caregiver, or former foster child.

(4) Approval and distribution of the family support services case plan.

(a) The Child Welfare supervisor must approve and sign the family support services case plan.

(b) The caseworker must give a copy of the family support services case plan to the parents, legal guardians, caregiver, or former foster child as soon as possible but no later than seven days after the family support services case plan is approved by the supervisor.

(5) Timeline for family support services case plan development.

(a) Except as provided in subsection (b) of this section, the caseworker must develop the family support services case plan within 30 days of the completion of the determination of service needs.

(b) The supervisor may authorize an extension of the time for developing the family support services case plan when information essential to the development of the family support services case plan is not yet available due to circumstances beyond the control of the Department.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0019

Developing Service Agreements

(1) The caseworker may develop a Service Agreement with a parent, legal guardian, caregiver, or former foster child with a family

support services case plan. The Service Agreement is a time-limited agreement that documents the services and action steps that will occur under the agreement.

(2) When used, the Service Agreement must include all of the following:

(a) One of the service goals in the family support services case plan.

(b) Specific activities or services that will occur to achieve the service goal.

(c) Participants and responsibilities.

(d) Anticipated start and completion dates.

(e) Treatment services for the child or former foster child (if applicable).

(f) Method of measuring progress.

(g) Timeline for review.

(3) The caseworker must give a copy of the Service Agreement to the parents, legal guardians, caregiver, or former foster child no later than seven days after the agreement is signed.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0020 [Renumbered to 413-030-0006]

413-030-0023

Contact and Monitoring Requirements for a Family Support Services Case Plan

(1) The caseworker must monitor the family support services case plan and terminate Department involvement in a timely manner.

(2) The caseworker is responsible for all of the following actions:

(a) Regular face-to-face contact and communication with each parent, legal guardian, caregiver, or former foster child about progress toward achieving service goals a minimum of once every 30 days.

(b) Regular face-to-face contact with the child a minimum of once every 30 days, and if the child is in substitute care, regular contact with the substitute caregiver, to monitor child safety per Child Welfare Policy I-B.1, "Monitoring Child Safety", OAR 413-080-0040 to 413-080-0067.

(c) Regular contact with service providers a minimum of once every 90 days, including monitoring the services provided through the family support services case plan.

(d) Monitoring the visitation and contact plan when the child is in substitute care.

(e) Monitoring progress toward achieving service goals.

(f) Ensuring completion of the actions and activities that are the responsibility of the Department.

(g) Timely response to issues that may impact the safety of the child that become known to the caseworker.

(3) The caseworker must document in FACIS case notes:

(a) Observations made by the caseworker during each visit, and behaviors, conditions, or circumstances of the family or former foster child that support the continuation of the family support services case plan; and

(b) Reports from each service provider on progress of the family, child, or former foster child in meeting the service goals of the family support services case plan.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0026

Family Support Services Case Plan Review

(1) The family support services case plan must be reviewed a minimum of every 90 days. This review must take place in a face-to-face meeting with the parents, legal guardians, caregiver, or former foster child. The meeting may include the child, service providers, attorneys, family members, and the substitute caregiver when the child is in substitute care.

(2) During the case plan review, the caseworker assesses and determines the progress that has been made in achieving the service goals of the case plan.

(3) If a parent, legal guardian, caregiver, or former foster child is not available for the review, the reason must be documented in FACIS case notes.

(4) Within 30 calendar days of receiving an expert evaluation requested by the Department, the caseworker must consider revising the family support services case plan to include the recommendations of the expert evaluation. If the caseworker does not implement the recommendations of the expert evaluation, the caseworker must document the reasons for not implementing the recommendations.

(5) Subsequent to the face-to-face meeting, the caseworker documents all of the following in FACIS:

(a) The services currently provided and the progress of the parents, legal guardians, caregiver, or former foster child in achieving service goals.

(b) Observations of improved behaviors, conditions, or circumstances that have measurably changed.

(c) Written or verbal reports from the child, service providers, attorneys, family members, and the substitute caregiver when the child is in substitute care regarding services currently provided and the progress of the parent, legal guardian, caregiver, or former foster child in achieving service goals.

(6) The Child Welfare supervisor approves and documents approval of the family support services case plan review.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-030-0030

Closing a Family Support Services Case Plan

The caseworker closes a family support services case plan when:

(1) The parent, legal guardian, caregiver, former foster child, or the Department indicates the service objectives have been achieved;

(2) The parent, legal guardian, caregiver, or former foster child states that he or she is withdrawing the request for voluntary family support services;

(3) The caseworker has unsuccessfully attempted to contact the parent, legal guardian, caregiver, or former foster child, after diligent efforts, as documented in FACIS case notes;

(4) The Department, the parent, legal guardian, caregiver, or former foster child determines that the family support services case plan is no longer appropriate or effective;

(5) The child, who had been voluntarily placed in substitute care because a parent or legal guardian had requested voluntary placement of the child, has returned to the home;

(6) The court dismisses a pre-adjudicated delinquent child from Department custody; or

(7) Another community service resource accepts responsibility for providing services to the child, former foster child, or family.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 4-2007, f. & cert. ef. 3-20-07

Substitute Care Eligibility

413-030-0200

Purpose

(1) These rules, OAR 413-030-0200 through 0220, emphasize that the child's safety is the paramount concern in determining Substitute Care eligibility.

(2) The Department is responsible for determining if a child in the legal custody of the Department will be placed or continued in substitute care placement in accordance with statutes, administrative rules, agency procedures and placement practice guidelines. These rules, OAR 413-030-0200 through 0220, specify the minimum criteria for the substitute care classification and placement under any type of substitute care program licensed or certified by the Department. Additional criteria are outlined in rules for specific substitute care programs. See OAR 413-080-0000 through 0030 Shelter Care (CAF Policy I-E.4.1); OAR 413-080-0100 Family Foster Care (CAF Policy I-E.4.2); Foster Family Group Homes (CAF Policy I-E.4.2.1); OAR 413-080-0200 through 0270 Residential Services (CAF Policy I-E.4.3); and OAR 413-030-0400 through 0455 Independent Living Programs (CAF Policy I-B.2.3.5).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, PL 95-608, ORS 418.015 - 418.315, 419B.331 - 419B.349 & PL 105-89

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; CWP 4-2003, f. & cert. ef. 1-7-03

413-030-0205

Definitions

(1) "The Department" means the Department of Human Services (DHS).

(2) "CAF" means Children, Adults and Families (CAF).

(3) "SDA" means Service Delivery Area (SDA). A geographic region of one or more counties served by the Department and managed by an SDA Manager.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, PL 95-608, ORS 418.015 - 418.315, 419B.331 - 419B.349 & PL 105-89

Hist.: CWP 4-2003, f. & cert. ef. 1-7-03

413-030-0210

Eligibility Criteria for Substitute Care Placement

For a child to be eligible for initial and continuing substitute care placement(s), the Department shall meet the following criteria:

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

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

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

(c) A voluntary custody agreement in accordance with OAR 413-020-0100 through 0170 (CAF Policy I-B.1.4); or

(d) A voluntary child placement agreement in accordance with OAR 413-020-0000 through 0050 (CAF 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 the Department's legal custody and placement services are first initiated.

(3) Reasonable Efforts. Except in those cases with a Voluntary Custody Agreement or Child Placement Agreement, the Department will make reasonable efforts to prevent or eliminate the need for removal of the child and to alleviate the barriers that keep the child from returning home. This includes an assessment of appropriate treatment and supportive services and providing such services when available through the Department or by referral to other community resources. To aid the court or Citizen Review Board (CRB) in making the findings required by this section, the Department shall present documentation to the court or CRB showing its reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child and services provided to safely return the child to the home. The department shall seek a reasonable efforts judicial determination within 60 days of a child's removal from the home, or a determination that due to aggravated circumstances reasonable efforts were not required to prevent the child's removal from their home. If the court does not make the reasonable efforts determination within 60 days, the child shall not be eligible for Title IV-E foster care maintenance payments program throughout the duration of that child's stay in substitute care. Refer to OAR 413-100-0240 Title IV-E-FC and General Assistance (CAF Policy I-E.6.1).

(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 guardians 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 the Department 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 the Department can provide the care the child requires in an available substitute care resource; or

(e) The child's behavior is a serious danger to the child, the child's family or the community but the child can, without threat to self or others, be managed in an available and appropriate substitute care resource.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, PL 95-608 & ORS 418.015 - 418.315

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; SOSCF 17-2000, f. & cert. ef. 7-25-00; SOSCF 10-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 4-2003, f. & cert. ef. 1-7-03

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 OAR 413-030-0210 and in this section of the rules. Under the following conditions the Department may continue to provide placement services up to the maximum age of 21 years if the person is:

(a) Actively striving to complete the requirements for high school graduation and achieving satisfactorily in a full-time program of high school attendance, GED classes or a combination of classes and employment; 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 SDA Manager or designee.

(2) In no instance shall a person receive substitute care services from the Department after the youth's 21st birthday.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, PL 95-608 & ORS 418.015 - 418.315 & 419B.331 - 419B.349

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; SOSCF 17-2000, f. & cert. ef. 7-25-00; SOSCF 10-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 4-2003, f. & cert. ef. 1-7-03

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 and courtesy placement supervision of a child placed in Oregon by an out-of-state adoption agency.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305-310 & 418.270 - 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-2001, f. 6-29-01, cert. ef. 7-1-01

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 SOSCF policy I-G.1 and I-G.4.)

(2) Children receiving courtesy supervision for an adoptive placement initiated in another state through the Interstate Compact.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305-310 & 418.270 - 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-2001, f. 6-29-01, cert. ef. 7-1-01

413-030-0320

Eligibility for the Adoption Program Classification Ends

Eligibility for the adoption program classification ends when:

(1) SOSCF gives consent for adoption of a child in SOSCF's permanent custody, and the adoption is legalized;

(2) The child is removed from an approved adoptive placement;

(3) The adoptive applicants or SOSCF decides an adoption will not be legalized even though the child is not removed from the home; and

(4) When supervision of an adoptive placement provided as a courtesy service for an adoption agency in another state is no longer needed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305-310 & 418.270 - 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-2001, f. 6-29-01, cert. ef. 7-1-01

Independent Living Programs

413-030-0400

Purpose

These administrative rules incorporate the requirements of the federally enacted Chafee Foster Care Independence Program, created by the passage of the Foster Care Independence Act of 1999. The Chafee Foster Care Independence Program (CFCIP) replaces the Title IV-E Independent Living Program. Additionally, these rules specify the requirements of the Independent Living Subsidy Program (ILSP), administered by the Department of Human Services Children, Adults and Families (DHS-CAF).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0405

Definitions

(1) "Chafee Foster Care Independence Program (CFCIP)" means: a federally funded grant allocated to the State of Oregon Department of Human Services (Oregon DHS) for administration. This grant replaces the previously administered Title IV-E Independent Living Program grant. Services provided under the CFCIP will continue to be referred to as Independent Living Program (ILP) services.

(2) "Contractor" or "Service Provider" means: an entity with whom DHS-CAF has contracted to provide independent living services.

(3) "Federally Recognized Tribes in Oregon" means: Burns Paiute Tribe; Confederated Tribes of Coos; Lower Umpqua and Siuslaw; Confederated Tribes of Grand Ronde; Confederated Tribes of Siletz; Coquille Indian Tribe; Confederated Tribes of Umatilla; Confederated Tribes of Warm Springs; Cow Creek Band of Upper Umpqua; and Klamath Tribe.

(4) "DHS Foster Care" means: 24-hour substitute care for children placed away from their parents or guardians for whom the state agency has placement and care responsibility. This includes but is not limited to placements in foster family homes, relative care, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. It further covers ILP enrolled youth placed in the State's Independent Living Subsidy Program. A child is in foster care in accordance with this definition regardless of whether the foster care setting is receiving a payment from DHS.

(5) "Tribal Foster Care" means: 24-hour substitute care for children placed away from their parents or guardians for whom the Tribe has placement and care responsibility. This includes but is not limited to placements in foster family homes, relative care, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care setting is receiving a payment from the Tribe.

(6) "Former Foster Care Youth" means: the federal grant allows the ILP to provide services to youth who were formally in foster care with Oregon DHS, or in foster care provided by the Federally Recognized Tribes. Oregon defines "former" as a youth who was in foster care in Oregon after the age of fourteen (14) and remained in foster care for an accumulative 180 days or longer.

(7) "ILP Desk" means: the central and administrative center, housed at Central Office, for administering the Independent Living Programs (ILP) which include Independent Living Skill Building (ILP-S), the Independent Living Subsidy Program (ILSP) and the Chafee Housing Program (ILP-CH).

(8) "Independent Living Subsidy Program — ILSP" means: State of Oregon funded program (ORS 418.475) to assist foster care youth with housing services for their transition to independence.

(9) "Self Sufficiency" means: to demonstrate the knowledge, skills, and abilities to provide for one's self without reliance on public assistance programs.

(10) "Service Provider" or "Contractor" means: an entity with whom DHS-CAF has contracted to provide independent living services.

(11) "Permanency for Children (PFC)" means: the Permanency for Children office in the Department of Human Services' Children, Adults and Families program area.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0410

Eligibility for Services

(1) In general, the following youth are eligible for ILP services:
(a) Youth, fourteen (14) years of age and older who are currently in foster care with Oregon DHS or one of the nine Federally Recognized Tribes in Oregon; or

(b) Youth who were previously in foster care with Oregon DHS or one of the nine Federally Recognized Tribes in Oregon, after the age of fourteen (14) and remained in foster care for an accumulative 180 days or longer.

(c) Youth who are enrolled in a formal Oregon ILP which began providing services prior to the effective date of these rules (January 22, 2002), shall be allowed to continue to receive services until their plan for independence has been completed or until the youth reaches 21 years of age.

(2) The individual programs and services within these rules may have further eligibility requirements based on program limitations, funding restrictions, age appropriateness or youth's readiness. [Matrix not included. See ED. NOTE.]

[The Matrix referenced is available from the agency.]

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0415

Goals of the Independent Living Program

(1) Assist foster care youth in the following ways:

(a) Obtaining personal and emotional support and promote healthy interactions with dedicated adults;

(b) Making the transition to self sufficiency;

(c) Receiving the education, training, and services necessary to obtain employment;

(d) Attaining academic and/or vocational education, and prepare for post-secondary training and education.

(2) Assist eligible former foster care youth between the ages of 18 and 21 (youth who have not attained 21 years of age) with support and services.

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0420

Values and Guiding Principles

Services, programs, case planning, funding options and persons working with the youth will:

(1) Involve the youth in making decisions that affect their life;

(2) Involve youth in planning, developing, and providing services whenever possible;

(3) Recognize and value a youth's strengths and seek ways to support them;

(4) Promote a youth's development in a plan-ful way rather than identify and seek to "fix" a youth's problem through crisis services; and

(5) Honor and promote the diversity of the youth and adults involved.

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0425

Program Overview

(1) In order to obtain the most efficient, lasting, and comprehensive programs and services for foster care youth each of the program areas must:

(a) Involve the youth in planning for their independence;

(b) Involve the youth's relatives, foster parents, mentors and/or significant others including the youth's biological parents (when appropriate) in the development of the youth's plan for independence; and

(c) Coordinate with other federal, state, and local agencies providing services to youths.

(2) DHS-CAF implements three distinct Independent Living Programs. These programs although individual in nature allow for youth to access them concurrently and/or consecutively. The three programs are described in 413-030-0430, 0435, and 0440.

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0430

Independent Living Program — Skills Training (ILP-S)

ILP-S authorizes eligible Oregon foster care youth the following services:

(1) Instruction in basic living skills such as money management, home management, consumer skills, parenting, health care, access to community resources, transportation and housing options;

(2) Educational and vocational training, High School Diploma or General Equivalency Diploma (GED) preparation, post-secondary education and academic support, job readiness, and job search assistance and placement programs;

(3) Training, workshops and conferences, individual and group skills building for improved healthy self-esteem and healthy self-confidence, and interpersonal and social skills training and development; and/or

(4) Development of community organizational networks and support groups to encourage youth in foster care and youth formerly in foster care toward self sufficiency

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0435

Independent Living Program — Chafee Housing Services (ILP-CH)

ILP-CH authorizes funding to provide eligible youth the following services:

(1) assistance in funding room and board for youths 18 to 21 who have left foster care because they reached age 18, and who have not attained 21 years of age and who are no longer in the care and custody of DHS (formerly SOSCF) or the Tribe; and/or

(2) Coordination of housing services with Transitional Living Programs;

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0440

Independent Living Subsidy Program (ILSP) — Housing Subsidy

ILSP assists eligible foster care youth in housing services for their transition to independence in conjunction with receiving "skills training," and includes the following:

(1) Services to assist in funding room and board for youths 16 to 21 years of age who are currently in the care and custody of DHS (formerly SOSCF) for foster care services or who have had a prior foster care service; and

(2) Coordination of Housing Subsidy services with ILP-CH and Transitional Living Programs.

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

413-030-0445

Referrals for Independent Living Program Services (ILP)

(1) The following youth may be referred to the ILP program.

(a) Youth in foster care with Oregon DHS between the ages of 14 and 16 years of age may be considered for ILP services.

(b) Youth in foster care with Oregon DHS who have reached their 16th birthday shall be considered for services to achieve independence unless; the case plan or court order finds that it is not in the youth's best interest and that documentation in the youth's case file reflects the reasons for this decision and lists the individuals (i.e. youth, foster parents, youth's relatives, CASA, youth's attorney) involved in that decision.

(c) Former foster care youth who have met the eligibility criteria may request voluntary services from Oregon DHS by completing a Service Application (CF304).

(2) If a youth is considered appropriate and eligible for ILP services a referral for services will be made by DHS for a formal written Life Skills Assessment. Referral for ILP services are made to the local contracted provider for the county in which the youth resides. If an ILP Contractor is not available in the local area then the caseworker may contact the ILP Coordinator in Central Office for assistance in accessing other service providers.

(3) A Life Skills Assessment may include the following:

(a) Assessment of the youth's skills gathered by interviews with the youth, caseworker, foster parent, biological parents and/or other significant adults; and

(b) Use of a formalized independent living assessment tool such as; Ansell-Casey Assessment or Daniel Memorial Assessment.

(c) Youth shall also be assessed for readiness of services, commitment to participate in services, and types of services necessary.

(d) The written life skills assessment will:

(A) Identify the strengths of the youth being assessed.

(B) Describe the youth's current skill needs in the following areas:

(i) Interactions and connectedness to dedicated adults who can assist in the personal and emotional support necessary to achieve independence;

(ii) Ability to make a successful transition to self sufficiency;

(iii) Educational and vocational interest and abilities;

(iv) Physical health and/or mental health; and

(v) Residential stability.

(C) Include the youth's signature indicating that the youth participated directly in the assessment.

(4) The Youth's Service Plan includes:

(a) A decision making meeting will be held between the youth, the ILP service provider, the youth's caseworker, the youth's foster parent and/or other significant adults, following completion of the youth's life skills assessment.

(A) The purpose of this decision making meeting is to create a service plan identifying what services are needed, which services are available by the ILP provider and what services may be obtained within the community.

(B) If the youth's needs cannot be met by the local service provider, or with community services, the caseworker will consult with the ILP Coordinator in Central Office and consider other service options.

(b) An outline of the services that will be offered, the needs the services intend to address, the anticipated time frame for when services will begin and end, and what responsibility each member of the decision making team will assume.

(c) Signatures of the participating team members acknowledging their participation and agreement with the plan; and

(d) A review of the plan within the first 90 days after it is established, and every 180 days thereafter.

(A) The purpose of the review is to ensure appropriate services are being provided for the youth and that the youth is engaged in services.

(5) A Youth's Service Plan will be considered completed when a youth has:

(a) Achieved self-sufficiency to the extent that there is no longer a need for services; or

(b) Made the voluntary and informed decision to no longer participate in services; or

(c) Made themselves unavailable for services for 60 days or more, unless the reason for the absence is known to the skills provider or caseworker and the absence is for the purpose of supporting the youths plan for independence.

(6) Post-Service Assessment. A post-service assessment will be made by the service provider, in conjunction with the decision making team, upon the completion of a Youth's Service Plan. The post-service assessment will include:

(a) The youth's successes and continued needs. This information may be gathered by interviews with the youth, caseworker, foster parent, biological parents and/or other significant adults, and may involve the use of a formal independent living assessment tool such as Ansell-Casey Assessment or Daniel Memorial Assessment.

(b) The youth's assessment and evaluation of the program and services delivered to them during their participation in ILP services. This information may be in the form of a verbal interview with the members of the decision making team, or through a formalized evaluation format provided by DHS or the service provider.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; SOSCF 8-2002, f. & cert. ef. 5-6-02

413-030-0450

Referrals for Housing Services Programs

(1) Youth are eligible for ILP Housing Services when they meet the following eligibility requirements:

(a) Chafee Housing (ILP-CH) services may be provided to youth who meet all of the program conditions outlined below in section (c) and who are:

(A) A former Oregon DHS or Tribal foster care recipient between the age of 18 and 21, who had care and custody terminated on or after the youth's eighteenth (18) birthday;

(B) Expected to have some form of employment throughout the youth's participation in the Chafee Housing Program; and

(b) Independent Living Subsidy Program (ILSP) housing services may be provided to youth who meet the program conditions outlined below in section (c) and who:

(A) Are in the care and custody of Oregon DHS and at least 16 years of age;

(B) Have had at least one substitute care placement prior to applying for the ILSP;

(C) Have written permission to participate in the ILSP program from the juvenile court, if a ward of the court; or from a parent or legal guardian, if in the voluntary custody of DHS; and

(D) Are able to pay all or a portion of the housing expenses and other support costs.

(c) Program Conditions require that the youth is:

(A) Enrolled and participating in an Independent Living "skills training" program;

(B) In need of room and board services to complete the youth's plan for independence and is willing to accept personal responsibility for making the transition from adolescence to adulthood;

(C) Involved in a program of education and employment, or a combination thereof, which amounts to full-time activity as specified below:

(1) If the youth has not graduated from high school or obtained a General Equivalency Degree (GED), the youth must be enrolled in high school, or GED classes seeking to earn a high school diploma or GED, and may be working part or full-time to accumulate at least 40 hours of combined school and work activities per week; or

(i) If the youth has completed high school or obtained a GED, the youth may be involved in a program of post-secondary education, or vocational training, and be working part or full-time to accumulate at least 40 hours of combined school and work activities per week.

(2) Several Types of Assistance with Housing Services:

(a) **Skills Training.** Assistance for the youth in preparing or maintaining to live independently is obtained through "skills training" which is a required component of receiving housing services. Skills training may provide: assistance in searching for adequate, affordable, and safe housing for the youth; and/or preparation of personal budgets for the costs associated with accessing and maintaining housing, learning how to evaluate a safe residence, selecting roommates, filling out rental agreements, and learning to be a good renter or roommate.

(b) **Financial Assistance.** A monthly housing services payment may be made if necessary up to the total amount of the regular Oregon DHS foster care rate for adolescents (ages 13-18). The amount of the monthly housing assistance will be determined through completing the Budget Worksheet (CF77). Financial Assistance shall be limited as follows:

(A) Independent Living Subsidy Program assistance shall not exceed 12 months for a youth.

(B) Chafee Housing assistance shall not exceed a cumulative total amount of \$6,000 for a youth, up to 21 years of age.

(C) Housing funds shall not be expended to allow a youth to reside with their biological or legal parent(s).

(c) **Payment Review.** The amount of the housing payment will be reviewed on a quarterly basis, and more frequently when deemed appropriate. The youth is expected to bring receipts of monthly expenditures, income, and checking and saving account information to the review, in order to determine whether the youth's housing payment should be adjusted upward or downward. Failure of the youth to provide the above documents may be grounds for termination from the Housing Services Program. A youth who has been terminated from a Housing Services Program may not reapply for at least 30 days.

(d) Housing Services include on-going payments which may be made directly to youth for room and board (which may include rent,

food, and utilities). A youth's housing services may be terminated if the youth demonstrates an unwillingness or inability to meet the requirements of the program or the written terms of the Housing Performance Agreement (CF 76) that they have signed.

(3) **Appropriate Living Situations include, but are not limited to:**

(a) Boarding houses, apartments, and shared housing.

(A) The residence shall meet the following minimum standards:

(i) located to provide reasonable access to schools, places of employment, or necessary services to support the youth's plan for independence;

(ii) Comply with applicable state and local zoning, fire, sanitary and safety regulations;

(b) Shared housing shall meet the following criteria:

(A) Each resident shall share equally in paying for rent, food, and other costs associated with maintaining the dwelling;

(B) Each resident shall not pose a risk to the youth's physical, mental, and emotional well-being, or demonstrate unlawful behavior.

(4) **Enrollment Process for the Housing Services Program:**

The youth's caseworker, or the youth's ILP service provider will contact the ILP desk in central office to determine the availability of funds to finance the youth's room and board needs.

(a) Enrollment in Housing services is subject to available funding. A request may be denied on the basis of insufficient funds.

(b) Although a youth may be eligible for housing services, the services may be provided by an existing contracted service in the local area. Therefore, the youth may need to access the currently contracted housing services available. (These contracted service providers will be known to the ILP service provider and the ILP desk in Central Office.)

(5) **Screening committee or decision meetings:** will include the youth, their case worker, an ILP service provider, and other significant adults for the youth to consider the youth's request. The purpose of the decision meeting is to:

(a) Assess the youths need for housing services, the readiness of the youth for services, the services necessary to enhance the success for the youth, and the amount of funds necessary to supplement his/her income.

(b) To make a written recommendation for provision or denial of services to the ILP Coordinator.

(c) The ILP Coordinator may then authorize or deny the use of Housing funds.

(6) **Denied access.** If a youth is denied access to housing services, a youth is entitled to reapply for room and board services after addressing the concerns used in the decision for denial of services.

(7) **Budgeting.**

(a) **Initial Budget.** An initial monthly budget will be developed by the youth, the youth's service worker, ILP service provider, and other significant adults involved in the youth's life. The budget will be reviewed and adjusted accordingly. The purpose is to allow the youth to learn money management and accountability toward self sufficiency.

(b) **Budget Items.** The youth, the ILP service provider, and caseworker will complete the Budget Worksheet (CF77) which includes, but is not limited to Rent, Food, Utilities, Phone, Clothing, Laundry, and/or Transportation costs. (c) **Youth Contributions.** The youth will contribute to the youth's support in accordance with the youth's Housing Services Performance Agreement (CF76) and signed Budget Worksheet (CF77).

[Publications: Publications referenced are available from the agency.]

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; SOSCF 8-2002, f. & cert. ef. 5-6-02

413-030-0455

Exceptions — Special Circumstances

(1) The ILP desk may approve funds for appropriate discretionary or emergency funding requests. Requests must be in writing (form CF78) and come from the youth, caseworker, and ILP service provider concurring with the need.

(2) In extraordinary situations a youth may request an extension of housing services beyond the allowed period of time. This request must be submitted to the ILP Desk in writing, identifying why the extension is necessary, what efforts have been made to prevent the need for an extension, the plan to remedy the need, and the time period

for which the funding is being requested. This request must be signed by the youth, caseworker and ILP service provider, demonstrating support for the request.

(3) Request for exceptions in special circumstances beyond the above areas must be made to the SDA Manager or designee. The SDA Manager or designee in consultation with the ILP Coordinator shall determine whether to approve the request. All determinations are final.

Stat Auth: ORS 418.005

Stats. Implemented: ORS 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02

DIVISION 40

CASE MANAGEMENT — SERVICE PLANS

Developing and Managing the Case Plan

413-040-0000

Purpose

These rules (OAR 413-040-0000 to 413-040-0032) describe the activities required to:

- (1) Complete a protective capacity assessment;
- (2) Use the Family Decision-making Meeting;
- (3) Develop a case plan;
- (4) Develop an action agreement;
- (5) Monitor the case plan;
- (6) Review and revise the case plan;
- (7) Determine when conditions for return have been met; and
- (8) Close the ongoing safety plan and close the case.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0005

Definitions

The following definitions apply to OAR 413-040-0000 to 413-040-0032:

(1) "Action agreement" means a written document between the Department and a parent or legal guardian that identifies one or more of the services or activities in which the parent or legal guardian will participate to achieve an expected outcome.

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

(3) "Case plan" means a goal oriented, time limited individualized plan for the child and the child's family, developed by the Department and the parents or legal guardians, that identifies the family behaviors, conditions, or circumstances, safety threats to the child, and the expected outcomes that will improve the protective capacity of the parents or legal guardians. The family plan described in ORS 417.375(1) is incorporated into the case plan to the extent that it protects the child, builds on family strengths, and is focused on achieving permanency for the child within a reasonable time.

(4) "Concurrent permanent plan" means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The concurrent permanent plan is developed simultaneously with the plan to return the child to the parents or legal guardians.

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

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

(7) "Expected outcome" means an observable, sustained change in a parent or legal guardian's behavior, condition, or circumstance that, when accomplished, will increase a parent or legal guardian's protective capacity and reduce or eliminate an identified safety threat, and which, when accomplished, will no longer require Child Welfare intervention to manage a child's safety. It is a desired end result and takes effort to achieve.

(8) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area

of the professional's specialized knowledge, and when the expert is evaluating a parent or legal guardian, whether the individual's functioning impacts his or her protective capacity.

(9) "Family member" means any person related to the child by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, or great-grandparents. Family member also includes a child 12 years of age or older and a child younger than 12 years of age, when appropriate. In a case involving an Indian child under the Indian Child Welfare Act (ICWA), a "family member" is defined by the law or custom of the child's tribe.

(10) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more safety threats to which the child is vulnerable and determined the parent or caregiver is unable or unwilling to protect the child. An ongoing safety plan can be in-home or out-of-home and is adjusted when necessary to provide the least intrusive interventions.

(11) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(12) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

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

(14) "Reunification" means placement with a parent or legal guardian.

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

(16) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 8-1996(Temp) , f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0006

Requirements for the Protective Capacity Assessment

(1) The Department uses the protective capacity assessment to engage the child's parents or legal guardians in a collaborative process to:

(a) Examine and understand the behaviors, conditions, or circumstances that made the child unsafe;

(b) Examine and understand how the behavioral, cognitive and emotional characteristics of the parents or legal guardians impact their ability to care for and keep the child safe;

(c) Determine the changes (expected outcomes) in the behaviors, conditions, or circumstances of the parents or legal guardians that will increase protective capacity and reduce or eliminate the identified safety threat; and

(d) Identify services or activities that are likely to achieve the expected outcomes.

(2) Whenever possible, the Department and the parents or legal guardians come to agreement on expected outcomes and the actions, services, and activities that will achieve the expected outcomes.

(3) The caseworker must:

(a) Complete the following activities within five days of receipt of the case from the CPS worker:

(A) Review the child welfare case history, case documentation, and the actions and decisions of the most recent CPS assessment.

(B) Review the ongoing safety plan by contacting all participants in the safety plan to verify their continued commitment. Determine whether the ongoing safety plan assures the safety of the child.

(C) Document the review of the ongoing safety plan in FACIS.

(b) Complete the following activities:

(A) Conduct reasonable inquiries for the purpose of identifying individuals who may contribute to the caseworker's understanding of the protective capacity of the parents or legal guardians and the safety of the child. Such individuals may include parents or legal guardians, grandparents, extended family, an Indian child's tribe, and any other family members, persons with significant attachments to the child, other professionals, substitute caregivers, neighbors, and friends of the family. Reasonable inquiries mean, as defined in ORS 417.371(4)(b), efforts that include reviewing the case file for relevant information, contacting the parents or guardians, and contacting additional sources of information for the purpose of ascertaining the whereabouts of family members, if necessary.

(B) Gather information from these individuals through individual interviews or meetings for the purpose of identifying and understanding the needs, concerns, strengths, and limitations associated with the protective capacity of parents or legal guardians and assessing the impact on the child's safety.

(C) Evaluate the relationship between:

(i) The existing protective capacities of parents or legal guardians that contribute to child safety;

(ii) The diminished protective capacities of parents or legal guardians that must change for the parents or legal guardians to care for and keep the child safe; and

(iii) The parents' or legal guardians' readiness to change.

(D) Whenever possible, collaboratively identify with the parents or legal guardians:

(i) Other family members, persons with significant attachments to the child, community members, and members of an Indian child's tribe who will contribute to and actively participate in the ongoing safety plan or enhancing the protective capacity of the parents or legal guardians; and

(ii) Actions and services that will reduce or eliminate identified safety threats or enhance the protective capacity of the parents or legal guardians.

(E) Inform the parents or legal guardians of the Department's actions and decisions regarding identified safety threats, protective capacity, and the ongoing safety plan.

(F) Enter in FACIS the findings of the protective capacity assessment, the information obtained by conducting the activities required in paragraphs (A) to (D) of this subsection.

(4) The caseworker must include the findings of the protective capacity assessment in the case plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0008

Requirements for a Family Decision-making Meeting

(1) "OFDM" as used in this rule means the family decision-making meeting as defined in ORS 417.365, and is a family-focused intervention facilitated by professional staff that is designed to build and strengthen the natural care giving system for the child. These meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision-making meeting is to establish a plan that provides for the safety, attachment, and permanency needs of the child. The role of the OFDM is described in ORS 417.365 to 417.375.

(2) When the child has been placed in substitute care for more than 30 days, the Department must consider scheduling an OFDM. When considered appropriate, the meeting is scheduled, whenever possible, between the 30th and 60th day of the out-of-home care placement.

(3) When a decision has been made by the Department and the family to use the OFDM, the Department will conduct and document reasonable inquiries to promptly locate and notify the parents, grandparents, an Indian child's tribe, and any other family member who has

had significant, direct contact with the child in the year prior to the substitute care placement. Other participants in the meeting may include a child 12 years of age or older, a child younger than 12 years of age when appropriate, other professionals, foster parents, neighbors, and friends of the family as appropriate.

(4) Family members or an Indian child's tribe who are located after reasonable inquiries will be notified by the Department of the OFDM in a timely manner to allow them the opportunity to prepare for and attend the meeting.

(5) Other participants will be jointly identified by the parents, legal guardians, Indian custodian of the child, and the Department, and the Department will notify identified participants in a timely manner to allow them the opportunity to prepare for and attend the meeting.

(6) To assist the family in developing the family's plan for the child, the Department must provide participants with information regarding the federal timeline for determining permanency for the child and the Oregon Administrative Rules that govern the sufficiency of a safety plan, conditions for return, and reunification.

(7) The located family members may attend the OFDM unless the other participants determine that a family member may threaten or place other participants at risk. A family member who is violent, unpredictable, abusive, or who is an alleged perpetrator of sexual abuse, domestic violence, or severe physical assault are examples of who may be excluded from the OFDM. The Department may exclude family members it determines are violent, unpredictable, or abusive or an alleged perpetrator of sexual abuse, domestic violence, or severe physical assault.

(8) Family members who are not invited or allowed to participate may submit written information and recommendations to the caseworker prior to the scheduled meeting concerning the subjects of the OFDM, including concerns regarding the placement of the child, permanency plan, concurrent permanent plan, and services.

(9) The family plan developed at the OFDM is a written document that includes family recommendations on planning for the child and may include a permanency plan, concurrent permanent plan, placement recommendations, or service recommendations. The family plan also includes expectations of the parents of the child and other family members; services the Department will provide; time lines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate.

(10) Any family member or tribal representative participating in an OFDM must sign a written acknowledgment of the content of the family plan developed at the meeting and of his or her attendance at the meeting.

(11) The Department will send a copy of the family plan developed at the OFDM within 21 days after the date of the meeting to family participants, including those who participated by submitting written information and recommendations.

(12) The Department will incorporate the family plan developed at the OFDM into the Department's case plan to the extent that the family plan protects the child, builds on family strengths, and focuses on achieving permanency for the child within a reasonable time. If the family's plan developed at the meeting cannot be incorporated into the Department's case plan, the reasons shall be documented in the Department's case plan.

(13) The Department is responsible for confirming that any family plan developed at an OFDM is sufficient to ensure the safety or permanency of the child before implementing a family plan developed at an OFDM.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 31-2003, f. & cert. ef. 10-1-03; Renumbered from 413-040-0031, CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0009

Requirements for Conditions for Return

(1) The caseworker must determine the conditions that must exist prior to the return of the child to the home of a parent or legal guardian.

(2) The conditions for return are documented in the case plan and must describe:

(a) The specific behaviors, conditions, or circumstances that must exist to develop an ongoing safety plan that assures a child's safety, as described in OAR 413-015-0450(2)(b)(A)(i)-(iii), in the home of a parent or legal guardian; and

(b) The actions, services, and time requirements of all participants in the ongoing safety plan in the home of a parent or legal guardian.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

Policy

413-040-0010

Requirements for the Case Plan

(1) The caseworker must analyze the information gathered during the protective capacity assessment to develop a case plan. The case plan must include all of the following information:

(a) Family composition, which includes the identifying information of each child, each young adult, and each parent or legal guardian.

(b) Safety threats identified in the CPS assessment as described in OAR 413-015-0420(1)(f)(A)(i) and (ii).

(c) The ongoing safety plan as described in OAR 413-015-0450 and recorded in FACIS.

(d) The findings of the protective capacity assessment.

(e) Expected outcomes and actions that each parent or legal guardian will take to achieve them.

(f) Treatment services (if applicable) to the child or young adult that include:

(A) The identified needs and services provided to any child or young adult placed in substitute care, and the reasons the substitute care placement is the least restrictive placement to meet the child's identified needs;

(B) Routine and specialized medical and mental health services;

(C) Education services, including the school or educational placement of the child or young adult and any special educational needs;

(D) Services to transition the child or young adult to independent living in all cases when the child is 16 years or older, and if provided to the child who is 14 or 15 years old.

(g) Services the Department will provide including:

(A) Case oversight and routine contact with the parents or legal guardians and the child or young adult;

(B) Appropriate and timely referrals to services and service providers suitable to address identified safety threats or strengthen parental protective capacity; and

(C) Timely preparation of reports to the court or other service providers.

(h) The date that the progress of the parents or legal guardians in achieving expected outcomes will be reviewed. The case plan must be reviewed with the parents or legal guardians every 90 days; however, the caseworker and parents or legal guardians may agree on a review date at any time within the 90-day period.

(i) When the child or young adult is in substitute care, the case plan must also include:

(A) Current placement information including:

(i) The location of the child or young adult and the substitute caregiver of the child or young adult, except when doing so would jeopardize the safety of the child, young adult, or the substitute caregiver, or the substitute caregiver will not authorize release of the address; and

(ii) Documentation that shows that the child or young adult is receiving safe and appropriate care in the least restrictive environment able to provide safety and well being for the child or young adult.

(B) The visitation and contact plan.

(C) The permanency plan.

(D) The conditions for return.

(E) The concurrent permanent plan, which is the alternate permanent plan when the child or young adult is in substitute care.

(2) As applicable, the caseworker must also include in the case plan:

(a) The goals and activities required for an Indian child under the Indian Child Welfare Act (see Child Welfare Policy I-E.2.1, "Placement of Indian Children", OAR 413-010-0100 to 413-010-0260) or for a refugee child under the Refugee Act (see Child Welfare Policy I-E.2.2, "Placement of Refugee Children", 413-070-0300 to 413-070-0380 and see ORS 418.925 to 418.945).

(b) Recommendations of expert evaluations requested by the Department whenever the recommendations may impact parental protective capacities or treatment services for the child or young adult. If

the recommendations are not included in the case plan, the rationale must be documented in FACIS.

(c) Sibling placement, sibling connections, and the Department's efforts to keep siblings together.

(d) Orders of the court.

(3) The persons involved with the Department in the development of the case plan include the parents or legal guardians, unless their participation threatens or places other participants at risk; and may include the child, young adult, adoptive parents, an Indian custodian when applicable, other relatives, persons with significant attachments to the child, the substitute caregiver, and other professionals when appropriate.

(4) The case plan must include the signature of the caseworker and each parent or legal guardian, unless the Department is unable to obtain the signature of the parent or legal guardian as described in subsection (6)(a) or (6)(b) of this rule.

(5) Approval and distribution of the case plan.

(a) The Child Welfare supervisor must approve and sign the case plan.

(b) The caseworker must give a copy of the case plan to the parents or legal guardians of the child or young adult, and the Indian child's tribe when applicable, as soon as possible but no later than seven working days after the case plan is approved by the supervisor, except when doing so would provide information that places another person at risk.

(6) Exceptions and exemptions to the required case plan.

(a) A court may authorize an exception to the involvement of the parents or legal guardians when it determines that reasonable efforts, or active efforts in an ICWA case, to return the child home are not required, as described in Child Welfare Policy I-E.3.6, "Achieving Permanency", OAR 413-070-0515.

(b) When the Department has custody of a child or young adult in substitute care and is unable to obtain the signature of a parent or legal guardian, the caseworker must prepare and send a letter of expectations and a copy of the case plan to the parent or legal guardian within seven working days after the supervisor has approved and signed the case plan. A letter of expectations means an individualized written statement for the family of the child or young adult that identifies family behaviors, conditions, or circumstances that resulted in an unsafe child; the expected outcomes of improved parental capacity; and what the Department expects each parent or legal guardian will do to achieve safety, permanency, and well-being of the child or young adult in the parental home.

(c) A case plan as described in sections (1) to (5) of this rule is not required if a family, child, or young adult is eligible for Family Support Services as described in Child Welfare Policy I-B.2.3.1, "Family Support Services", OAR 413-030-0000 to 413-030-0030.

(7) Timeline for case plan development.

(a) The caseworker must develop the case plan within 60 days of a child's removal from home or within 60 days of the completion of the CPS assessment, in cases where the child remains in the home of a parent or legal guardian.

(b) The supervisor may authorize an extension of the time for developing the case plan when:

(A) The court has not yet conducted the disposition hearing and the Department intends to include any court-ordered activities or services in the case plan; or

(B) Information essential to the development of the case plan is not yet available due to circumstances beyond the control of the Department.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; SOSCF 4-2000(Temp), f. & cert. ef. 1-31-00 thru 7-28-00; SOSCF 19-2000, f. & cert. ef. 8-8-00; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0011

Requirements of Action Agreements

(1) The Department develops time-limited Action Agreements in conjunction with the case plan. If sufficient resources are available, the Action Agreement must use culturally appropriate services and service providers whose interventions are focused on the achievement by the

parents or legal guardians of the expected outcomes identified in the case plan.

(2) The caseworker must ensure the Action Agreement includes all of the following:

(a) One of the expected outcomes in the case plan.

(b) The specific activities or services required to achieve the expected outcome.

(c) Participants and responsibilities.

(d) Anticipated start and completion dates.

(e) Identification of an order of the court that relates to the expected outcome or specified activities or services.

(f) Method of measuring progress.

(g) Timeline for review.

(3) A caseworker may develop sequential Action Agreements with a parent or legal guardian, and each Action Agreement must include the information required in section (2) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0013

Requirements for Monitoring the Case Plan

(1) The caseworker must monitor the case plan, make reasonable efforts to reduce the stay of a child or young adult in substitute care to reunify with the parents or legal guardians, and terminate Department intervention services in a timely manner.

(2) The caseworker is responsible for all of the following actions:

(a) Regular 30-day, face-to-face contact and communication with each parent or legal guardian about progress toward achieving the expected outcomes related to enhanced protective capacity.

(b) Regular 30-day, face-to-face contact with the child, young adult, and, when applicable, the individual providing substitute care, to monitor the safety of the child or young adult.

(c) Monitoring the services provided through the case plan through contact with each service provider a minimum of once every 90 days.

(d) Monitoring the ongoing safety plan.

(e) Monitoring action agreements.

(f) Monitoring the visitation and contact plan when a child or young adult is in substitute care.

(g) Monitoring the parent or legal guardian's progress toward meeting the conditions for return when a child or young adult is in substitute care.

(h) Monitoring the parent or legal guardian's progress toward meeting the expected outcomes of the case plan.

(i) Ensuring completion of the actions and activities that are the responsibility of the Department.

(j) Timely review of the progress the parent or legal guardian has made in reducing or eliminating identified safety threats and enhancing parental protective capacity.

(k) Timely response to issues that may impact the safety of the child or young adult which become known to the caseworker.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0016

Requirements for Review of the Case Plan

(1) The case plan is reviewed a minimum of every 90 days. This review must take place in a face-to-face meeting with the parents or legal guardians, unless excluded under section (3) of this rule. The meeting may include the child, young adult, service providers, safety plan participants, substitute caregivers, attorneys, a child's CASA, persons with significant attachments to the child, and family members.

(2) During the case plan review, the caseworker assesses and determines the progress that has been made in achieving the expected outcomes of the case plan, and, when the child is in substitute care, the progress toward meeting the conditions of return.

(3) Exceptions to the face-to-face case plan review. If a parent or legal guardian is not available for the review, the caseworker must document the reason the parent or legal guardian was unavailable and the efforts that were made to involve the parent or legal guardian in the review.

(4) During a case plan review, the caseworker must consider input received from the child or young adult, the service providers,

safety plan participants, substitute caregivers, attorneys, a child's CASA, persons with significant attachments to the child, and family members.

(5) Subsequent to the face-to-face meeting, the caseworker documents all of the following in FACIS:

(a) The services provided and the progress of the parents or legal guardians in achieving expected outcomes or, when a child is in substitute care, meeting the conditions of return.

(b) Observations of improved parent or legal guardian protective capacity based on specific behaviors, conditions, or circumstances that have measurably changed.

(c) Input received from service providers, substitute caregivers, attorneys, the child's CASA, persons with significant attachments to the child, and family members.

(d) The reduction or elimination of the identified safety threats.

(e) The actions the Department has taken to develop and implement the concurrent permanent plan for the child or young adult in substitute care if a parent or legal guardian has not demonstrated progress in achieving the conditions for return in a timely manner including:

(A) A review of the child or young adult's education, health, and mental health services to ensure the needs of the child or young adult are being met;

(B) A review of other services provided to address the identified needs of the child or young adult;

(C) An assessment of the need of the child or young adult for a safe and permanent home; and

(D) An assessment of the capacity of the substitute caregiver to meet the identified needs of the child or young adult as described in Child Welfare Policy I-E.3.1 "Placement Matching", OAR 413-070-0640.

(6) Within 30 days of receiving an expert evaluation requested by the Department, the caseworker must consider revising the case plan to include recommendations that will improve parent or legal guardian protective capacity related to the identified safety threats. If the recommendations are not included in the case plan, the rationale must be documented in FACIS.

(7) The Child Welfare supervisor must review the caseworker's documentation of the case plan review, and document completion of the review in FACIS every 90 days. The supervisor must review, approve, and sign the six-month case plan review submitted for required administrative review.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98, Renumbered from 413-040-0030; CWP 31-2003, f. & cert. ef. 10-1-03, Renumbered from 413-040-0045; Renumbered from 413-040-0063, CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0017

Requirements for Return and Reunification

(1) The caseworker recommends returning the child or young adult to the home of a parent or legal guardian after the caseworker has reviewed the safety threats identified in the CPS assessment that required an out-of-home ongoing safety plan and verified that:

(a) The conditions for return in the case plan have been met;

(b) The identified safety threats have been reduced or eliminated, or protective capacities are sufficiently enhanced, to assure the safety of the child or young adult in the home of the parent or legal guardian with an ongoing safety plan to manage the identified safety threats as they are uniquely occurring within a particular family;

(c) The parents or legal guardians are willing and able to accept an ongoing safety plan with the child or young adult in the home;

(d) The parents or legal guardians are willing and able to continue participating in case plan services;

(e) Service providers who are currently working with the child, young adult, parents or legal guardians, and other involved persons including the child's CASA and attorneys have been informed, in writing, of the plan to return the child or young adult with an in-home ongoing safety plan; and

(f) No safety concerns for the child or young adult are raised in the caseworker's review of the criminal history records and child welfare protective service records of all persons currently residing in the home.

(2) If the caseworker cannot confirm that identified safety threats can be managed if the child or young adult is returned to the home of a parent or legal guardian with an in-home ongoing safety plan, the child or young adult must remain in substitute care.

(3) The caseworker's supervisor must review and concur that conditions for return have been met, and that any disagreement with the plan to return the child or young adult home has been reviewed and considered in the development of the in-home ongoing safety plan prior to the caseworker recommending to the court that a child or young adult be returned to the home of a parent or legal guardian.

(4) The in-home ongoing safety plan must specifically document the planned caseworker and safety service provider contacts with the child or young adult and the parent or legal guardian, when the child or young adult is returned to the home of the parent or legal guardian.

(5) The caseworker must revise, as necessary, and confirm the sufficiency of an in-home ongoing safety plan that will manage safety threats as they are uniquely occurring within a particular family prior to the child's physical return home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0024

Requirements for an In-home Ongoing Safety Plan Prior to Return and Next Day Contact

(1) When the caseworker determines the conditions for return have been achieved and identified safety threats can be managed when a child or young adult is returned to the home of a parent or legal guardian (see OAR 413-040-0017), the caseworker must develop an in-home ongoing safety plan as described in OAR 413-015-0450. The caseworker's supervisor must:

(a) Approve the proposed in-home ongoing safety plan during the five working days prior to the return of a child or young adult to the home of a parent or legal guardian of the child or young adult, and must

(b) Document the approval in FACIS.

(2) After a proposed in-home ongoing safety plan is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:

(a) Visit the child or young adult, outside the presence of a parent or legal guardian, at least once during the five days prior to the return by the child or young adult to the home to confirm the readiness of and prepare the child or young adult for the return home.

(b) Visit the parent or legal guardian in the home of the parent or legal guardian, at least once during the five days prior to the return by the child or young adult to the home, to verify:

(A) The behaviors, conditions, and circumstances in the home are safe for the return of the child or young adult;

(B) Confirmation of all persons living in the household;

(C) The parent or legal guardian is ready for the return of the child or young adult;

(D) The parent or legal guardian is willing and able to participate in the ongoing safety plan; and

(E) The parent or legal guardian is willing and able to continue in case plan services.

(c) Confirm the in-home ongoing safety plan with the parent or legal guardian, and obtain the signature of the parent or legal guardian.

(d) Document the revised ongoing safety plan in FACIS.

(3) In the event a court orders the return of a child or young adult to the home of a parent or legal guardian of the child or young adult before an in-home ongoing safety plan can be developed and approved (in accordance with the criteria in OAR 413-015-0450 and this rule):

(a) The caseworker must complete the activities described in this rule as soon as practicable, but not later than seven working days following the court order; and

(b) If the caseworker disagrees with the order of the court, the caseworker must immediately consult with his or her supervisor.

(4) The caseworker must visit the child or young adult in the home of the parent or legal guardian the day following the return home of the child or young adult. The caseworker must:

(a) Confirm the safety of the child or young adult;

(b) Review the in-home ongoing safety plan; and

(c) Document observations and the conditions of the home in FACIS within seven working days of the visit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0031 [Renumbered to 413-040-0008]

413-040-0032

Requirements for Closing the In-Home Ongoing Safety Plan and Closing the Case

(1) When a child or young adult is in the home of the parent or legal guardian and the parent or legal guardian can sustain the safety of the child or young adult, the caseworker must assess when the in-home ongoing safety plan should close.

(2) When assessing whether to close the in-home ongoing safety plan, the caseworker must determine whether:

(a) The parent or legal guardian has demonstrated capacity to sustain the safety of the child or young adult based upon:

(A) Observations of the child or young adult and the parent or legal guardian in the home;

(B) Expert evaluations and reports from service providers;

(C) Reports from participants in the in-home ongoing safety plan;

(D) The extent to which the achievement of expected outcomes supports the ability of the parent or legal guardian to sustain the safety of the child or young adult; and

(E) Consultation with other individuals participating with the parent or legal guardian to sustain the safety of the child or young adult.

(b) The child or young adult is safe in the home based upon:

(A) The elimination of the identified safety threats or the protective capacity of the parent or legal guardian is sufficient to manage identified safety threats;

(B) The willingness and ability of the parent or legal guardian to protect the child or young adult; and

(C) Caseworker confidence in the ability of the parent or legal guardian to sustain the safety of the child or young adult over time.

(3) The caseworker must document the determination to close the in-home ongoing safety plan and the facts supporting the ability of the parent or legal guardian to provide safety for the child or young adult and to sustain the safety of the child or young adult.

(4) The caseworker's supervisor must review the caseworker's documentation to ensure the criteria in section (2) of this rule are met, and concur with the documented reasons for closing the in-home ongoing safety plan prior to approving the closure of the safety plan.

(5) The caseworker petitions the court to dismiss wardship. When wardship is returned to a parent or legal guardian, the case is closed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-040-0063 [Renumbered to 413-040-0016]

Substitute Care Placement Reviews

413-040-0100

Purpose

An outline of the required review process to maintain a child who is in the legal custody of the Department and placed in substitute care. These rules emphasize that child safety, permanency and well-being are the paramount concerns guiding the review process for providing and maintaining services to children in Department custody.

Stat. Auth.: ORS 418.005

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

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0110

Definitions

The following definitions apply to OARs 413-040-0100 to 413-040-0170:

(1) "Date Child Entered Substitute Care" means the earlier of the following two dates:

(a) The date the court found the child within the jurisdiction of the court (under ORS 419B.100); or

(b) The date that is 60 days from the date of removal.

(2) "Department" means the Department of Human Services.

(3) "Complete Judicial Review" means a hearing that results in a written order that contains the findings required under ORS

419B.476 or includes substantially the same findings as are required under ORS 419A.116.

(4) "Local Citizen Review Board (CRB)" means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home placement (ORS 419A.090-419A.094).

(5) "Permanency Hearing" means the hearing that determines the permanency plan for the child. The Permanency Hearing is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.

(6) "SAIP" means Secure Adolescent Inpatient Program.

(7) "SCIP" means Secure Children's Inpatient Program.

(8) "Substitute Care" means a child in the legal or physical custody and care of the Department, including those supervised by another agency, and placed in a paid or unpaid out-of-home placement, including, but not limited to foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities, SAIP, and SCIP.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090-122, SB408, ORS 419B.440-476 & 419C.623-656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; Administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03; CWP 2-2006, f. & cert. ef. 2-1-06

413-040-0130

Administrative Reviews for Title IV and ORS 419A.090 et seq.

(1) Administrative reviews will be held on:

(a) All children in the legal or physical custody of the Department and placed in paid or unpaid substitute care, including court sanctioned permanent foster care, a non-finalized adoptive placement; subsidized independent living; or returned to a parental home on the basis of a trial home visit;

(b) All children placed in substitute care with a Voluntary Custody Agreement or Child Placement Agreement.

(2) Exceptions to the administrative review requirements are:

(a) Children placed directly from the hospital into a nursing home without a prior substitute care placement;

(b) Children hospitalized on a long-term acute basis; or

(c) Youth in detention.

(3) An administrative review shall be held within six months following the first day of placement in care and every six months thereafter from the date of the last review. The administrative review requirement may be met by:

(a) A local CRB review conducted in accordance with ORS 419A.090 through 419A.128;

(b) A Permanency Hearing or other court hearing meeting the definition of a complete judicial review, held no earlier than five months after placement when the court relieves the CRB of its responsibility to review the case pursuant to ORS 419A.106 (1)(b); or

(c) An Internal Review Committee. In exceptional and rare circumstances, in the absence of a review by a local CRB or court, an internal review committee may be convened to conduct an internal administrative review. An internal review will not relieve the Department of the requirements for CRB reviews in those counties where the local CRB boards operate, therefore, a review must be scheduled with the CRB or court within 30 days of the internal review. At least one member of the internal review committee must not be involved with day-to-day planning on the case. After concluding the internal review, the committee must complete and distribute a findings document to the participants and the CRB (contents should be similar to the findings issued by the CRB).

Stat. Auth.: ORS 418.005

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

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0135

Responsibility for Administrative Reviews

(1) Responsibility for CRB Reviews when more than one Department office, cluster or state is involved with the case. Offices will meet the administrative review requirements for children in placements as follows:

(a) For Oregon children in substitute care placements inside and outside of Oregon, the local Department office in the county holding legal jurisdiction is responsible for the administrative review.

(A) Information about a child placed out-of state will be requested through Interstate Compact on the Placement of Children (ICPC) from the supervising state; and

(B) The Oregon caseworker will compile information for the review on family members residing in Oregon and receiving Department services.

(b) For non-finalized adoptive placements on fully free children, the supervising Department office is responsible for the administrative review.

(c) For children in the legal custody of the Department whose placement is being co-managed by the Department and mental health or developmental disability case managers:

(A) The Department office in the county holding legal jurisdiction is responsible for the administrative review. The mental health or developmental disability case managers will be invited and encouraged to participate in the review;

(B) The Department caseworker will gather information for the review from the Mental Health or Developmental Disabilities case manager; and

(C) The Department caseworker will compile information for the review on family members receiving Department services.

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

(a) Children returned to care from SAIP or SCIP. The review must be held within 30 days of the child's return to care if the review would have been due during the child's hospitalization, with the exception of children placed directly from the hospital into a nursing home, without a prior substitute care placement.

(b) Children placed in an accredited psychiatric facility or hospital shall continue to have regularly scheduled CRB reviews.

(c) Children on the run shall continue to have regularly scheduled CRB reviews.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.090-122, 419B.440-476, 419C.623-656

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03; CWP 2-2006, f. & cert. ef. 2-1-06

413-040-0140

Permanency Hearings by the Court

A Permanency Hearing must be held no later than 12 months after a child was found within the jurisdiction of the court under ORS 419B.100 or 14 months after the child was placed in substitute care, whichever is the earlier, and thereafter no less frequently than 12 months for as long as the child remains in substitute care. The Permanency Hearing will:

(1) Be held for all children in the legal or physical custody of the Department and placed in paid or unpaid substitute care including, but not limited to, children in foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities, SAIP, and SCIP. Children's permanency hearings continue regardless of whether the placement is licensed or certified or, the child is on runaway status, or the child is returned to a parental home on the basis of a trial home visit.

(2) Be conducted by a juvenile court, another court of competent jurisdiction, or by an authorized tribal court; and

(3) Determine the permanency plan for the child that includes whether, and if applicable, when the child will:

(a) Be returned to the parent;

(b) Be placed for adoption and the Department shall file a petition to terminate the parental rights of the parent(s) to a child in Department custody;

(c) Be referred to legal guardianship; or

(d) Be placed in another planned permanent living arrangement.

If the Department has determined that is not in the best interest of the

child to file a petition for termination of parental rights, the case plan must also contain documentation for review by the court that:

(A) The child is being cared for by a relative and that placement is intended to be permanent; or

(B) There is a compelling reason that filing such a petition would not be in the best interests of the child. Such compelling reasons include, but are not limited to:

(i) The parent is successfully participating in services that will make it possible for the child to safely return home within a reasonable time;

(ii) Another permanent plan is better suited to meet the health and safety needs of the child;

(iii) The court or local CRB in a prior hearing or review determined that while the case plan was to reunify the family the Department did not make reasonable efforts or, if the Indian Child Welfare Act applies, active effort to make it possible for the child to safely return home; or

(iv) The Department has not provided to the family of the child, consistent with the time period in the case plan, such services as the Department deems necessary for the child to safely return home, if reasonable efforts to make it possible for the child to safely return home are required to be made with respect to the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.090-419A.122, 419B.440-419B.476, 419C.623-419C.656

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03; CWP 2-2006, f. & cert. ef. 2-1-06

413-040-0145

Additional Requirement for Children Disrupted from Permanent Foster Care

The Department will notify the court when a permanent foster care placement disrupts so the court can take appropriate action, including scheduling a permanency hearing. See OAR 413-070-0730).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 - 419A.122, SB 408, ORS 419B.440 - 419B.476 & 419C.623 - 419C.656

Hist.: SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0150

Participant Notification of Administrative Reviews and Permanency Hearings

(1) The local Department office shall provide correspondence information to the local CRB to assure that written notice of the review is provided to the Department, any other agency directly responsible for the care or placement of the child, the parents or their attorneys, foster parents, surrogate parents, persons granted intervenor status, mature children or their attorneys, court-appointed attorney or court appointed special advocate for any child, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(2) The local Department office shall provide foster parent, pre-adoptive parent, or relative who is actively providing care for a child, notice of any court hearing concerning the child.

Stat. Auth.: ORS 418.005

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

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; Administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0155

Participants in Administrative Reviews and Permanency Hearings

(1) All legal custodians and parents must be invited and encouraged to participate in Administrative Reviews and Permanency Hearings.

(2) Other individuals to invite are:

(a) Substitute care providers;

(b) Children, when it is determined that the child's attendance would be appropriate and the child wishes to attend;

(c) Attorneys and Court Appointed Special Advocates (CASA);

(d) Native American Tribe (if applicable).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, SB 419, ORS 419A.090 - 419A.122, 419B.440 - 419B.476 & 419C.623 - 419C.656
Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0157

Documentation Requirements for Administrative Reviews and Permanency Hearings

(1) Required documentation supporting the administrative review includes:

(a) The current Substitute Care Case Plan narrative (CF 147B) of case information; and

(b) A signed recommendation of the findings of the CRB or internal review committee (to be attached to the file copy of the CF 147B in the "Narrative" section of the case record); or

(c) A court order with language to the effect that a complete judicial review was held in place of an administrative review, and the court relieves the CRB of its responsibility to review the case pursuant to OR 419A.

(2) Written evidence of a Permanency Hearing having taken place will include:

(a) A written report filed by the worker in accordance with OR 419B.440 through 419B.452, and any additional information required by the court; (with court's approval, the CF 147B may be used to meet reporting requirements of OR 419B.400 through 419B.452); and

(b) A written court order.

(3) Citizen Review Board Recommendations. The Department will implement recommendations of a local CRB as the Department deems appropriate. The Department will give written notification to the local CRB of any recommendations which the Department does not intend to implement. This notification will be given within 17 days of receipt of the CRB recommendations.

Stat. Auth.: ORS 418.005

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

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0159

Notification and Distribution Requirements for Administrative Reviews and Permanency Hearings

(1) Case records must contain documentation that written advance notice was provided to the persons cited in OAR 413-040-0150 inviting them to attend the Administrative Review or Permanency Hearing.

(2) The Department will provide copies of the Substitute Care Case Plan narrative (CF 147B) to:

(a) Legal custodial and non-custodial parents;

(b) Parents out-of-state;

(c) Parents who have not had their parental rights terminated or have not signed a release and surrender agreement for adoption;

(d) Native American tribes (if applicable);

(e) Parents' and child's attorneys; and

(f) Court Appointed Special Advocates (CASA).

Stat. Auth.: ORS 418.005

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

Hist.: CWP 23-2003, f. & cert. ef. 5-22-03

413-040-0170

Judicial Requirements for Voluntary Custody Agreement or Child Placement Agreement

(1) Children in out-of-home placement on the basis of a signed Voluntary Custody Agreement or Child Placement Agreement, and Title IV-E-FC eligible must, within 180 days of placement, have a judicial determination by court order to the effect that such placement is in the best interests of the child. A finding of reasonable efforts is not required. The judicial determination requirement may be met without a court hearing, e.g. letter to the court which results in an ex parte court order. However, if a court hearing does not occur, a CRB review must be held and Permanency Hearings must occur as scheduled.

(2) Children placed on the basis of a Voluntary Custody Agreement or Child Placement Agreement are subject to the same Administrative Review and Permanency Hearing requirements as children placed on the basis of a court order.

Stat. Auth.: ORS 418.005

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

Hist.: SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; Administrative correction 9-16-00; CWP 23-2003, f. & cert. ef. 5-22-03

Interstate Compact on the Placement of Children

413-040-0200

The Interstate Compact on the Placement of Children (ICPC)

(1) The Interstate Compact on the Placement of Children (ICPC or Compact) was adopted into law by the 1975 Oregon Legislature and is codified at ORS 417.200 to 417.260. All states are parties to the Compact as are the District of Columbia and the Virgin Islands. The protections of the Indian Child Welfare Act also apply to children who are subject to the protections of the ICPC.

(2) Article I of the Interstate Compact on the Placement of Children and ORS 417.200 provide, in part, that it is the policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement receives the maximum opportunity to be placed in a suitable environment with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care;

(b) The appropriate authorities in the state where a child is to be placed have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child;

(c) The proper authorities of the state from which the placement is made are able to obtain the most complete information to evaluate a projected placement before it is made; and

(d) Appropriate jurisdictional arrangements for the care of children are promoted.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0205

Denial or Delay of Placement

(1) The Department will not delay or deny placement of a child for adoption when an ICPC approved family is available outside the jurisdiction of the State of Oregon.

(2) An approved (adoptive) family (defined in OAR 413-200-0306(7)) who alleges denial of adoption approval as a result of residing outside the jurisdiction of the State of Oregon has the right to a contested case hearing as provided in ORS 183.310 to 183.550.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 260

Hist.: CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0210

Definitions for ICPC Rules

Unless the context indicates otherwise, these terms are defined for use in OAR 413-040-0200 to 0330:

(1) "AAICPC (Association of Administrators of the Interstate Compact on the Placement of Children)" means the national professional association of state administrators of the Interstate Compact on the Placement of Children, which is housed at the American Public Human Services Association (APHSA).

(2) "Compact Administrator" means the person for each party to the Compact responsible for carrying out the provisions of the Compact. In Oregon, it is the Assistant Director, Children, Adults and Families, Department of Human Services.

(3) "Department" means the Oregon Department of Human Services (DHS).

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

(5) "ICPC Approved Family" means a family approved by the ICPC Deputy Compact Administrator or designee after reviewing a home study.

(6) "Placement" means the arrangement for the care of a child in a foster home, relative foster home, non-paid relative home, or a child-caring agency or institution. It does not include the arrangement for care in an institute caring for the mentally ill, an institution primarily educational in character, or a hospital or other medical facility.

(7) "Receiving State" means the state to which a child is sent, brought, or caused to be sent or brought, whether by a public authority or a private person or agency, whether for placement with a state or local public authority or with a private agency or person.

(8) "Sending Agency" means a party state or an officer or employee thereof; a subdivision of a party state or an officer or employee thereof; a court of a party state; or a person, corporation, association, charitable agency, or other entity that sends, brings, or causes to be sent or brought a child to another party state.

(9) "Sending State" means the state from which a proposed placement is made.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0215

Required Forms

(1) Several Department forms are referred to by form number in these rules. The forms are available at the Department's web site except as noted. When use of a form is required by these rules, the current version of the form must be used.

(2) To be effective, a form required by these rules must be complete.

(3) The following forms are required to be used by these rules:

(a) Form CF 93, "ICPC Foster Care Statement."

(b) Form CF 100A, "Interstate Compact Placement Request."

(c) Form CF 100B, "Interstate Compact on the Placement of Children Report on Child's Placement Status."

(d) Form CF 147 series (available from Department's FACIS system).

(e) Form CF 246, "Genetic and Medical History of Child and Biological Family."

(f) Form CF 246A, "Non-State Department of Human Services Adoptions."

(g) Form CF 246B, "ICPC Interstate Compact Placement of Children Genetic and Medical History of Child's Biological Family."

(h) Form CF 307 (available from Department's FACIS system).

(i) Form CF 1044, "Interstate Compact Financial/Medical Plan If Child is Placed Out-of-State."

(j) Form CF 1297, "Department of Human Services Travel Expense Claim."

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 260

Hist.: CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0230

Who Must Use Interstate Compact

(1) Placements subject to the Compact. A sending agency that arranges the placement of a child that is covered by the ICPC must comply with the requirements of the ICPC. The ICPC and these rules apply when a child is sent to, brought to, or caused to be sent or brought to a compact state by a sending agency for placement. This includes, but is not limited to, the following placements:

(a) Placement with a parent or relative if a parent or relative is not making the placement.

(b) Placement in a foster home, adoptive home, group home, residential treatment facility, or institution.

(2) Placements not subject to the Compact. The ICPC and these rules do not apply to:

(a) A placement of a child into a receiving state by a parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or guardian and leaving the child with any such relative or guardian in the receiving state.

(b) A placement of a child into a receiving state pursuant to another interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to another agreement between the sending and receiving states.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0240

Financial and Medical Responsibility of Sending Agency

(1) The sending agency is responsible for the support and maintenance of the child during the period of the placement.

(2) The sending agency is responsible for arranging for medical coverage for the child before the child is placed with an ICPC approved family.

(3) If a child has received a special rate or personal-care rate in Oregon, it is not paid to the ICPC approved family in the receiving state.

(4) The sending agency pays the receiving state's foster care rates, as described in OAR 413-090-0050.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0260

Penalty for Violating ICPC

(1) A private child-caring agency that violates a provision of the ICPC or these rules may be subject to a civil penalty and its license may be subject to denial, suspension, or revocation in accordance with the Department's rules.

(2) A person who violates the terms of the ICPC may be prosecuted criminally under ORS 417.990.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0265

Action on Referral From Oregon

(1) Upon receipt of the referral from the Oregon ICPC office, the receiving state compact office will conduct a home study. The home study is completed by the receiving state's worker as required by the AAICPC. The home study includes a recommendation regarding placement.

(2) The local field office in the receiving state sends three copies of the home study to the receiving state's compact office after completion. For ICPC purposes, the home study is valid for one year from the date on the home study. However, the receiving state's compact office may request and obtain additional information on any home study it finds to be incomplete, inaccurate or not current. The receiving state's compact office reviews the home study and approves or denies the placement in writing by completing and signing a form CF 100A and sending it to the Oregon ICPC office.

(3) Upon receipt of the home study or licensing study and the signed, approved form CF 100A, the Oregon ICPC office forwards a copy of each to the sending agency in Oregon. However, the Oregon ICPC office may request and obtain additional information from the receiving state on any home study it finds to be incomplete, inaccurate or not current. Approval for placement is valid for six months from the date the receiving state compact administrator or designee signs the form CF 100A.

(4) After the interstate application is approved by the receiving state, the child may be placed. After the child is placed, the Oregon sending agency completes and mails three copies of the form CF 100B to the Oregon ICPC office indicating the date of placement.

(5) Upon receipt of the CF 100B, the receiving state begins supervision. Supervision will include a visit to the resource home or institution in accordance with the receiving state's laws and policy. The caseworker in the receiving state prepares a progress report, as requested on the form CF 100A, and forwards the report in triplicate to the receiving state's deputy compact administrator. The receiving state's deputy compact administrator sends the report, in duplicate, to the Oregon ICPC office which in turn sends the report to the sending agency.

(6) The receiving state supervises the case until it is closed as described in OAR 413-040-0250.

(7) The Oregon ICPC office conducts annual case reviews on open ICPC cases.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 260

Hist.: CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0270

Preparing Referral to Send a Child Out of Oregon

(1) A sending agency making an out-of-state placement of a child must comply with the ICPC and these rules (OAR 413-040-0200 to 413-040-0330).

(2) A sending agency, other than the Department, that refers a child for an out-of-state placement in a child-caring agency or institution, must submit the following to the Oregon ICPC office:

(a) Prior to the referral:

(A) A complete, signed form CF 100A; and
(B) An acceptance letter from the facility, child-caring agency, or institution.

(b) After the placement is made, a form CF 100B.

(3) When the Department refers a child for placement outside the State of Oregon, the following requirements must be met:

(a) Three copies of the following must be submitted by the Department's field office to the Oregon ICPC office:

(A) A complete, signed form CF 100A;

(B) A cover letter outlining the Department's request;

(C) Form CF 1044;

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

(E) The social summary on the child (forms CF 147 and CF 307), the most recent court report, and, if available, a psychological evaluation of the child and an evaluation identifying the child's current level of functioning and special needs;

(b) In addition to the requirements of subsection (a) of this section:

(A) If the case involves a request for an adoption home study, the Department's field office must submit to the Oregon ICPC office any available, current home study information that would assist with approval of the placement and the following:

(i) A termination-of-parental-rights order; or

(ii) A signed Release and Surrender and a Certificate of Irrevocability.

(B) Before a child in the Department's custody can be placed in an out-of-state residential treatment facility, only the residential resource consultant may recommend the placement contract and the manager of the Department's Treatment Services Licensing Unit authorizes the placement contract before the ICPC is initiated.

(C) If the Department is considering an out-of-state placement with a relative, the relative's home must meet the receiving state's certification criteria. If the receiving state does not require that relatives be licensed or certified, the Oregon ICPC office sends an ICPC Foster Care Statement (form CF 93) to the receiving state for completion.

(4) When an intact DHS foster or adoptive family is moving to another state, the Oregon ICPC office will follow regulations adopted by the AAICPC and assist the Department's field office staff in complying with those regulations.

(5) The Oregon ICPC office reviews all referrals for compliance with the ICPC, the Department's administrative rules, and AAICPC regulations and guidelines; signs as the Oregon deputy compact administrator or designee; and forwards the material to the receiving state compact office in duplicate.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0280

Transportation Procedures

(1) The Department pays transportation costs related to the interstate placement of a child in the Department's custody based on need. Before the Oregon ICPC office pays for those costs, the Department's field office must evaluate all other financial resources, including those of the child and family.

(2) The Department's field office may contact the Oregon ICPC office for assistance in paying transportation costs only if the field office is unable to identify other resources to pay for transportation costs.

(3) The ICPC office may pay for:

(a) A one way ticket for the child.

(b) A round trip ticket for the escort. If more than one escort is needed, additional tickets may be purchased as approved by the Oregon ICPC office.

(c) If needed, car rental, meals, and shipment of reasonable belongings.

(d) Transportation per diem costs at the current contract rates.

(e) A one night stay if the travel requires more than 10 hours. Additional nights may be approved by the Oregon ICPC office based on the child's special needs.

(f) One pre-placement visit after adoption placement has been approved through ICPC. If the visit is to be made in-state, the Oregon

ICPC office pays in-state rates only and pays one to five nights at the in-state rate. If the visit is out of state, current contract rates apply.

(g) Exceptions to the above travel standards may be approved by the ICPC manager.

(4) Travel arrangements for children in the Department's custody will be made only after the ICPC authorization number is received and must be made through the authorized carrier. Expenses will be reimbursed using the form CF 1297, Travel Expenses. Receipts must be submitted for expenses other than per diem.

(5) If a child in the Department's custody returns to Oregon, the Department's field office must contact the Oregon ICPC office prior to making travel arrangements.

(6) In custody cases where children are being returned to non-offending custodial parents, the field office returns the child to the non-offending custodial parent as long as jurisdiction, including temporary custody or shelter care order, has either been dismissed or has not been established in Oregon.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0290

Requests for Placement in Oregon

(1) A request for a home study and placement of a child in Oregon must be sent to the Oregon ICPC office for review. The Oregon ICPC office will forward the request to the appropriate Department's field office, tribe, court, private agency, or residential treatment center. The Department may contract with private agencies for certain relative adoptive home studies. If an out-of-state court asks a field office to complete a custody study, the field office will send the request to the Oregon ICPC office for review before taking action on the request.

(2) The Department's field office, or other agency where appropriate, will conduct a home study or certification study after receiving the request from the Oregon ICPC office. In addition to the suitability of the home, factors such as need for financial assistance, special education, and availability of medical or psychological services are considered. Each home study includes a review of Child Protective Services records, LEDS checks, and fingerprint checks when appropriate. For a placement regulated by the ICPC, the home study is valid for one year from the date on the study. However, the Oregon ICPC office may request additional information on any home study it finds to be incomplete, inaccurate, or not current.

(3) A relative-care, foster-care, or adoptive family must meet the requirements of OAR 413-200-0301 to 413-200-0401, "Safety Standards for Foster Care, Relative and Adoptive Families" and OAR 413-120-0300 to 413-120-0310, "Minimum Standards for Adoptive Homes."

(4) After the study is completed, the field office or agency must provide it to the Oregon ICPC office and must not provide the study to the party or agency that requested it. If a criminal history exception was required, a copy of the completed criminal history exception must be forwarded to the Oregon ICPC office with the completed study. The study must include a recommendation regarding placement.

(5) The Oregon ICPC Deputy Administrator or designee will review the study and will either approve or not approve the placement based on information contained in the report and case record. The Oregon Deputy Compact Administrator or designee follows AAICPC regulations, opinions, positions and guidelines when making the determination.

(6) Two copies of the study, along with two copies of the interstate application (form CF 100A), are sent by the Oregon ICPC office to the sending state's Interstate Compact Office. One signed copy of the approved form CF 100A is sent to the Oregon field office.

(7) The Oregon ICPC office is notified of the child's placement into Oregon by the sending state by receipt of the form CF 100B. A copy of this form is sent to the supervising agency to inform it of the placement and to start the supervision.

(8) Following placement of the child, supervision by the Oregon field office includes a visit to the resource home or institution no less frequently than once every 30 days.

(9) The supervising agency must submit progress reports (three copies) to the Oregon ICPC office as requested by the sending state on the form CF 100A.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 - 417.260
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0300**Requests That By-pass the Oregon ICPC Office**

A request for a home study received by the field office directly from another sending agency, including a state, tribe, agency or court, must be sent to the Oregon ICPC office for review and handling. The field office will take no action on the request unless approval is given by the Oregon Deputy Compact Administrator or designee.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 417.200 - 417.260
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0310**Independent and Private Agency Adoptions; Documentation Required for Placement in or from Oregon**

(1) When a child is placed out of or into Oregon by a sending agency, including a parent or a private licensed agency, for purposes of adoption, the ICPC applies. Independent and private agency adoption referrals are processed as soon as practicable after receipt by the ICPC office of the complete compact placement referral.

(2) Referrals for placement covered by the Compact must be sent to the Oregon ICPC office, after the birth of the child, containing three copies of the following:

- (a) Form CF 100A;
- (b) Cover letter;
- (c) Forms CF 246, 246A, and 246B;
- (d) Medical information on the child;
- (e) The consents and surrenders required by law. A mother must sign the consent and surrender after the birth of the child.
- (f) An affidavit from the child's mother regarding the biological father and, if the legal father is not the biological father, regarding the legal father. The affidavit is not necessary unless the biological or the legal father has not signed a consent and surrender.
- (g) A statement regarding the applicability of the Indian Child Welfare Act;
- (h) If the birth parents have Native American heritage, Tribal releases that comply with the Indian Child Welfare Act;
- (i) Documentation regarding all known facts about each legal or putative father. If the mother has stated that the identity or whereabouts of the father is unknown, documentation regarding what advice and information the mother was given and the reason why the father's identity or whereabouts are unknown to the mother;
- (j) Affidavit regarding counseling;
- (k) Affidavit regarding the Voluntary Adoption Registry;
- (l) The completed home study;
- (m) An update to the current home study if the completed home study is completed more than one year from the date the ICPC referral is made; and

(n) A legal risk statement signed by the adoptive family that acknowledges that the child is not legally free for adoption and that there is a risk of having the child removed from the home. This statement is required when one of the biological or legal parents has not signed a consent and surrender.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 417.200 - 417.260
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0320**Intercountry Adoptions; Applicability of ICPC**

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

- (1) If the child enters the United States under an IR4 visa, the entity facilitating the placement must comply with the ICPC before the child enters the United States. If the child enters the United States under an IR3 visa, the ICPC does not apply.
- (2) If the Oregon agency takes custody of the child before placing the child outside the State of Oregon, the ICPC applies.
- (3) If the Oregon private agency does not take custody of the child, the child has been fully adopted in the other country, and the U.S. Embassy has sanctioned the adoption, the ICPC does not apply.

(4) The Oregon private agency may be asked to assure that if the placement disrupts it will take custody of the child. This may be done through the ICPC process or by letter, depending upon the documentation requirements of the receiving state.

(5) Oregon licensed agencies must comply with the receiving state's laws and requirements regarding an intercountry adoption.

(6) If ICPC applies, the adoption agency submits the form CF 100B to the Oregon ICPC office to close the case after the adoption is finalized.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 417.200 - 417.260
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

413-040-0325**Termination of Jurisdiction over Child**

(1) The sending agency retains jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child that it would have had if the child had remained in the sending agency's state until the child:

- (a) Is adopted;
- (b) Reaches majority according to the law of the sending state;
- (c) Becomes self supporting;
- (d) Is discharged with the concurrence of the appropriate authority in the receiving state; or
- (e) Is returned to the sending state.

(2) Interstate services are not terminated until the receiving state's compact office concurs with closure.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 417.200 - 260, Article V
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04, Renumbered from 413-040-0250

413-040-0330**Communications**

In order to be effective, a communication required to be submitted to the Oregon ICPC office must be mailed or delivered to: The Deputy Compact Administrator, Oregon Interstate Compact on the Placement of Children, Department of Human Services, 500 Summer Street NE, E-70, Salem, OR 97301-1068; Telephone (503) 945-5671.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 417.200 - 417.260
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 46-2003, f. 12-31-03, cert. ef. 1-1-04

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: ORS 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: ORS 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).

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

Stat. Auth.: HB 2004

Stats. Implemented: ORS 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. The Department will subject children in its custody to this procedure only if it is medically indicated. When a child in Department custody is tested for HIV, informed consent procedures shall be followed and the results of the test held in strictest confidence.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 5-2003, f. & cert. ef. 1-7-03

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 labo-

ratory diagnosis of a CD4 less than 200 also is an AIDS defined illness.

(2) “**CAF**” means Children, Adults and Families (CAF).

(3) “**Department**” means the Department of Human Services (DHS).

(4) “**Counseling**” means group and individual counseling, emotional support groups, on-on-one emotional support, AIDS education, and/or information services.

(5) “**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.

(6) “**HIV**” is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.

(7) “**HIV Infection.**” People who have been tested and found to have the antibody are referred to as having HIV infection. These people are capable of transmitting the virus through risk behaviors, as described below.

(8) “**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.

(9) “**SDA**” means Service Delivery Area (SDA). A geographic region of one or more counties served by the Department and managed by an SDA Manager.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 25-2000, f. & cert. ef. 9-7-00; CWP 5-2003, f. & cert. ef. 1-7-03

413-040-0420

HIV Antibody Testing

(1) For children and youth in Department custody, the HIV antibody test is to be done only to facilitate the medical care of the child if clinically indicated after a thorough medical evaluation by a doctor knowledgeable about HIV infections. The test is not to be used to screen individuals with high risk behaviors or any other groups, nor to satisfy the curiosity of Department staff or contracted providers.

(2) Under the direction of a physician, infants born to mothers known to have engaged in high risk behaviors may be tested for HIV. The presence of HIV infection in an infant can be determined only after the mother’s antibodies are gone from the child’s bloodstream. Because maternal antibody crosses the placenta, the presence of HIV infection can only be determined after a series of tests.

(3) Victims of sexual abuse who have been exposed to blood or semen may be tested for HIV. If the child can understand, informed consent procedures shall be used (I-B.5.1, 413-040-0430). A physician knowledgeable in HIV care should be consulted immediately for consideration of HIV post-exposure prophylaxis.

(4) The Department shall not license any private child-caring agency whose admission criteria include a mandatory HIV test.

(5) The Department shall not contract with any service provider whose admission criteria include a mandatory HIV test.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 25-2000, f. & cert. ef. 9-7-00; CWP 5-2003, f. & cert. ef. 1-7-03

413-040-0430

Informed Consent

(1) No person shall submit the blood of an individual to an HIV test without first obtaining informed consent or ascertaining that informed consent is obtained, consistent with subsection (7) of this rule.

(2) As legal custodian and guardian of the child, the Department may grant medical consent and authorize medical treatment. Children

13 years of age or older should be included in this planning and also consent. The Department must have a medical statement that the HIV test is necessary for care and treatment before ordering or arranging for a test. If the Department orders or arranges for an HIV test, informed consent procedures must be followed. A minor of any age may consent to a HIV test; and when the minor's consent is given, the consent of the minor's parents or guardians is not necessary for diagnosis, care or treatment. However, such consent must be informed consent.

(3) In all cases involving a child old enough to give informed consent, the worker shall try to obtain the consent of the child. However, if the physician and Department staff believe an HIV test is necessary to provide information necessary for the care of the child, and that child objects to the test and will not consent, the following options are available:

(a) SDA Manager or designee after consultation with the child's physician, may consent to the test for the child over the child's objection (413-020-0150(c)(A)(iii)); or

(b) The worker may petition the court to order the child to be tested.

(4) Department staff are responsible to assure that informed consent is obtained when children in Department custody are to be given an HIV test. If the medical provider does not obtain the informed consent, Department staff shall do so or arrange for it to be done prior to the test.

(5) If a child is placed pursuant to a Voluntary Custody Agreement or a Voluntary Placement Agreement, the parent and the child retain the authority to consent to the test. The Department does not have the authority to consent to the test on behalf of the parent unless such authority is included in the express terms of the Agreement.

(6) Providers are not authorized to consent to a child's HIV test.

(7) Informed consent shall be obtained in the following manner, giving consideration to the child's age and ability to understand:

(a) Provide the person for his/her retention a copy of the CF 990, HIV Test Informed Consent.

(b) Orally summarize for the person the substance of the statements in the CF 990 and specify alternatives to the HIV test in the particular instance, and if the test information will be disclosed to others, who those others will be.

(c) Explain the risks from having the HIV test. This shall include a description of Oregon law pertaining to the confidentiality of information about an individual having the test and that individual's test results; a statement that there may be circumstances under which disclosure might be permitted or required without consent; and a statement of the potential consequences in regards to insurability, employment, and social discrimination if the HIV test results become known to others.

(d) Inform the person that he or she has the right to request additional information from a knowledgeable person before giving consent.

(e) Ask the person to be tested whether he/she has any further questions, and if so, provide a full and complete opportunity to ask those questions and receive answers from a person who is sufficiently knowledgeable to give accurate and complete answers about AIDS, HIV tests and the consequences of being tested or not tested.

(f) Have the person sign the CF 990, HIV Test Informed Consent, after having had an opportunity to read it.

(g) Maintain the signed CF 990 for at least seven years in a locked file separate from the case file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 12-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 5-2003, f. & cert. ef. 1-7-03

413-040-0440

Counseling

A child being referred for HIV antibody testing must be referred for pre-and post-test counseling.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 5-2003, f. & cert. ef. 1-7-03

413-040-0450

Confidentiality

(1) Many Department records are exempt from disclosure and are strictly confidential under the public records exemptions or confidentiality status. All medical records are privileged information. AIDS

and/or HIV test results are specifically designated highly confidential by statute (ORS 433.045) and Department Health Administrative Rule (333-012-0270(1)-(9)) and must be held in the most strictly observed confidence possible to avoid consequences of casual or inappropriate disclosure of information. Information regarding a client's HIV status is to be maintained in a locked file separate from the case.

(2) In order to provide services to the child and to administer Department's child welfare services, Department staff may inform only those directly involved in case planning and who have a need to know, that a child or an adult who has a significant role in the child's plan, has AIDS or is HIV positive. The identification of who has a need to know in order to adequately meet the needs of the child shall be determined through a staffing which includes the worker, supervisor and Department central office (Personal Care Coordinator) representative, and should include input from the physician, county Health Department who ordered the test, or the HIV Program of the Department's Health Policy cluster.

(3) For children receiving services under a Voluntary Custody Agreement (CF 1005) or a Voluntary Placement Agreement (CF 499), the responsible parent(s) shall always be involved in making medical decisions for the child, and have access to medical information.

(4) Each person who subsequently gains access to this information must keep it in strictest confidence (ORS 433.045(3)). The worker shall advise all persons who have access to the medical information of their duty to safeguard the confidential nature of the information.

(5) If the Department learns from any source that a child is HIV positive, the above procedures must be followed.

(6) Pursuant to Health cluster Rule 333-012-0270, if the Department possesses information that an adult client or other person associated with a case if HIV positive, this does not confer the right to disclose the information, except as permitted by Oregon law.

(7) If disclosure of HIV information is deemed necessary for planning in the context of a court hearing, the worker shall not disclose the status in open court without either the written consent of the infected persons or a court order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 12-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 5-2003, f. & cert. ef. 1-7-03

DIVISION 50

SUPPORTIVE SERVICES

Housekeeper Services

413-050-0000

Purpose

One mission of the Department 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03

413-050-0005

Definitions.

(1) "CAF" means Children, Adults and Families (CAF).

(2) "Department" means the Department of Human Services (DHS).

(3) "SDA" means Service Delivery Area (SDA). A geographic region of one or more counties served by the Department and managed by an SDA Manager.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2003, f. & cert. ef. 1-7-03

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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03

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 the Department, 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03

413-050-0030

Eligible Children Served Jointly with Other Department Programs

- (1) The Seniors and Persons with Disabilities (SPD) policy cluster 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 SPD cases is subject to the availability of funds. In such cases:

- (a) The Department 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 parents who are disabled.

- (b) The child welfare case 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) The Department is committed to coordination at either the worker or supervisor level to carry out joint provision of services. SPD will not authorize housekeeper payments for an SSI/ADC case, or SSI parent/SSI child case, without coordinated planning with CAF staff.

- (2) CAF 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 (1)(a) of this rule, is the responsibility of CAF.

- (4) An allowance to the AFDC recipient for food and shelter costs for a "live-in" housekeeper is available through SPD. Such payment is initiated through the Department case manager.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03

413-050-0040

Authorization of Service

- (1) CAF 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03

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 Department services, a higher rate may be established by the SDA manager or designee. The SDA manager or designee shall notify staff in the local area affected, and the DHS central office program manager, of increased rates;

- (c) Exceptions to the maximum rate on a case basis may be made by the SDA manager or designee 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03

Supportive/Remedial Day Care

413-050-0200

Purpose

The purpose of these rules (OAR 413-050-0200 to 413-050-0280) is to describe service authorization criteria and methods to determine the payment rate related to the Department of Human Services Supportive or Remedial Day Care (SRDC) service.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 418.005

Stats. Implemented: ORS 181.534, 181.537, 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0210

Definition

The following definitions apply to OAR 413-050-0200 to 413-050-0280:

(1) "Case plan" means a goal oriented, time limited individualized plan for the child and the child's family, developed by the Department and the parents or legal guardians, that identifies the family behaviors, conditions, or circumstances, safety threats to the child, and the expected outcomes that will improve the protective capacity of the parents or legal guardians.

(2) "CCD" means the Child Care Division of the Employment Department.

(3) "Day care provider" means a day care provider regulated by the Child Care Division (CCD) or if exempt from CCD regulation, approved by the Department for payment as a day care provider, foster parent, or relative caregiver.

(4) "Department" means the Department of Human Services.

(5) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge.

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

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

(8) "SRDC" means supportive or remedial day care services, which are a time-limited day care service that the Department provides to an eligible child subject to the availability of allocated funds and other limitations prescribed in these rules (OAR 413-050-0200 to 413-050-0280).

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

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.050, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0220

Service Authorization Criteria

(1) Except as provided in sections (2), (3), and (4) of this rule and in OAR 413-050-0230, the Department may purchase Supportive or Remedial Day Care Services (SRDC) if:

(a) A child under 13 years of age is receiving Child Protective Services, Substitute Care, or Family Support Services; and

(b) SRDC will:

(A) Prevent the placement of the child substitute care;

(B) Facilitate the child's return to the child's parent or legal guardian with an in-home safety plan;

(C) Meet the needs of a child whose physical, social, mental, or emotional needs, as documented by an expert evaluation, cannot be fully met by the parent or legal guardian;

(D) Allow a parent or legal guardian to participate in specific activities or services described in the case plan;

(E) Maintain the child's placement with his or her current relative caregiver or foster parent that is in jeopardy due to the caregiver's illness; or

(F) Maintain the child's placement with his or her current relative caregiver or foster parent as part of a short term, planned support to stabilize the placement.

(2) SRDC may not be used to support the employment or educational activities of a parent, legal guardian, relative caregiver, or foster parent.

(3) Except as provided in section (4) of this rule, SRDC service in the child's home may be authorized when the requirements of subsections (a) or (b) of this section are met:

(a) A child, who is ordinarily in SRDC purchased by the Department, is ill.

(A) This is limited to no more than five days of care in any calendar month and may not exceed the number of hours per day already authorized.

(B) When a child who is ordinarily in SRDC purchased by the Department is ill, an additional payment may be made to a day care provider, who is either a regulated CCD provider, or if exempt from CCD regulation a Department-approved day care provider, relative caregiver, or foster parent.

(b) A child who has a disability requires care and no out-of-home day care is available or can be developed that meets the child's needs.

(A) Document the unsuccessful effort made to locate or develop a Day Care Home or Center resource; and

(B) Describe the specific problem that requires services in the child's home.

(4) The plan for care in the child's home may not exceed the cost of out-of-home day care.

(5) Case Record Documentation:

(a) The caseworker must review the appropriateness of an SRDC service as a component of the case plan. The caseworker must document that the SRDC service will be part of a coordinated, goal oriented, time limited case plan that will accomplish one or more of the purposes described in paragraphs (A) to (F) in subsection (1)(b) of this rule.

(b) The caseworker must document in the case record how the SRDC service will support or assist in achieving the case plan or maintaining the child's placement.

(6) The caseworker's supervisor must approve the use of the SRDC service.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.050, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0230

Service Limits

(1) Expenditures by the Department under these rules (OAR 413-050-0200 to 413-050-0280) are subject to the availability of state and federal funds, as applicable, and are subject to immediate curtailment by the Department if the necessary state or federal authorizations or funding are curtailed. If all allocated SRDC funds have been expended, caseworkers must document the unmet needs and notify the District Manager or designee of those unmet needs.

(2) The maximum amount of the SRDC service that the Department may authorize for any child per week is eight hours a day, five days a week.

(3) When SRDC services are used to permit a child to remain at home as an alternative to substitute care, to permit a child to return home from substitute care, to permit a parent or legal guardian to participate in specific activities or services described in the case plan, or because the child's physical, social, mental, or emotional needs were not being met by a parent or legal guardian (see OAR 413-050-0220(1)(b)(A)-(D)):

(a) The initial service authorization period is up to three months.

(b) The supervisor may approve an extension of the SRDC service authorization for up to an additional three months.

(c) The District Manager may review and approve a recommendation for the use of the SRDC service for longer than six months with documentation that the extension will prevent the child's placement in foster or shelter care in the very near future.

(4) When SRDC services are used (pursuant to OAR 413-050-0220(1)(b)(E) or (D)) to maintain a foster care or relative care placement jeopardized by illness of the relative caregiver or foster parent or as part of a short term, planned support to stabilize the placement:

(a) The initial SRDC service authorization period is one month.

(b) The supervisor may approve an extension of the SRDC service authorization at one month intervals for a maximum of three months.

(c) The District Manager may review and approve a recommendation for the use of the SRDC service for longer than three months with documentation that an extension will prevent the child's move to another substitute care placement.

(5) The caseworker and supervisor must review the use of an SRDC service before extending the SRDC service authorization for

any additional period of time allowed in sections (3) or (4) of this rule and before recommending an extension for District Manager approval. The review will determine whether there is still a need for the SRDC services that meets the service criteria in OAR 413-050-0220(1).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0235**Selecting a Day Care Provider**

(1) This rule governs the selection of day care providers for an SRDC service under OAR 413-050-0200 to 413-050-0280.

(2) All day care providers must be regulated by the Child Care Division (CCD), or if exempt from CCD regulations, approved by the Department as a day care, foster care, or relative care provider.

(3) The caseworker assists the parent or legal guardian in selecting the day care provider that most closely matches the needs of the child and the family.

(4) The caseworker makes the final selection of the day care provider based on the needs of the child and goals of the case plan.

(5) Valid reasons for not selecting a person as a day care provider include behavior which may have a detrimental effect on a child, or a physical or mental problem which may adversely affect the child.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 418.005
Stats. Implemented: ORS 181.534, 181.537, 409.010, 418.005
Hist.: CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0240**Payment Process**

The Department payment is subject to Department established eligibility conditions described in these rules.

(1) The Department will pay only for day care authorized by the Department.

(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 The Department 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 all families, including those served and not served by the Department;

(b) The child must be expected to continue in day care with the same provider after the absence;

(c) The Department 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 the Department.

(4) Department payments will only be made to a day care provider who is a CCD regulated provider, or a CCD exempt provider who is a Department approved day care, foster care, or relative care provider. Child Care Division of the Employment Department approved provider, a Department approved day care provider, or foster care provider, or relative care provider.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0250**Payment Authorization**

(1) Complete a "Supportive or 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 the Department 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, local

Department 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 the Department Accounting Services.

(A) If the provider billed the Department for additional care that was authorized but not input, the local Department must prepare a CF 283, "Supplemental Invoice." Complete the invoice for the difference to be paid showing the unit, rate, and amount. Local Department staff shall sign the provider's name and their own name and mail it to the Department Accounting Services;

(B) If the provider did not bill the Department for additional care that was authorized but not input, the local Department staff must send a CF 283 to the provider to complete and mail to Department Accounting Services;

(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.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

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 the Department 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 the Department is ill an additional payment may be made to a substitute provider, who is either a regulated CCD provider, or if exempt from CCD regulation a Department approved day care, foster care or relative care provider.

(3) Any time there is an overpayment the worker must initiate overpayment and/or fraud procedures. See OAR 413-310-0000 through 0100 (Department child welfare policy III-B.1).

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0270**Billing Method**

(1) Department 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 the Department 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.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0280**Determining Day Care Payment Rates**

(1) The Department will pay the day care provider's standard payment rate for all children or the Department SRDC service maximum payment rate (see section (6) of this rule), whichever is less.

(2) The day care provider may not ask a parent, legal guardian, relative caregiver, or foster parent for, or accept, directly or indirectly, any additional payment for care funded by the Department unless there is a written agreement between the Department and the day care provider. (See CF 116A, "Request for an Exception")

(3) Except as provided in section (4) of this rule, when the infant payment rate has been authorized for a child and the child reaches 30 months of age, the rate must be revised.

(a) The caseworker is responsible for revising the infant payment rate, effective no later than the first of the month after the child reaches 30 months of age.

(b) The caseworker shall send the day care provider a revised CF 116, and revise the Type of Service and authorized amounts on the CF 308 and input into IIS.

(4) Although there are no special day care rates for children who have physical, developmental, or emotional disabilities:

(a) If a child 30 months of age or over, functions below the level that is normal for children of his or her chronological age, the Department may authorize up to the infant payment rate for the care of that child.

(b) The caseworker, with supervisory approval, must document in the case record why the infant payment rate is authorized for a child 30 months or older. Documentation must include the following:

(A) The unsuccessful effort to locate a resource at the Department non-infant payment rate; and

(B) A description of the specific problem which requires services above those covered by the non-infant payment rate.

(c) The District Manager may authorize a higher payment rate than the infant payment rate when requirements of paragraphs (b)(A) and (b)(B) of this section are met and the child's need for a greater level of care is documented by an expert evaluation.

(5) Rates charged to the Department for day care services may not exceed rates charged for comparable services to children not served by the Department:

(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; and

(c) Separate records must be kept by the day care provider for all donations and subsidies received and disbursed.

(6) The maximum payment rates permitted for SRDC services are as follows:

(a) Family Day Care.

(A) Infant (under 30 months) — \$1.95 an hour per child, not to exceed \$414 per child per month.

(B) Non-infant (30 months or older) — \$1.62 an hour per child, not to exceed \$345 per child per month.

(b) Day Care Center Group Day Care Homes.

(A) Infant (under 30 months) — usual and customary rates, not to exceed \$549 per child per month.

(B) Non-infant (30 months and older) — usual and customary rates, not to exceed \$435 per child per month.

(c) Care in the child's home: The day care provider in the child's home will be paid the Oregon minimum wage, regardless of the number of children served or the age of the child.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0290 Maximum Rates

(1) The maximum rates the Department of Human Services pays for Supportive or Remedial Day Care are determined annually and will be furnished upon request.

(2) Care in the child's home: 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03;

CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

413-050-0300 Exceptions

(1) Specific exceptions to any section of these rules may be granted for good and just cause by the Department.

(a) The exception must be requested in writing and show how the intent of the rule will be met.

(b) No exception will be granted which may jeopardize the health, safety, and well-being of any child in care.

(c) No exceptions will be allowed to use a provider who is not regulated by the Child Care Division, or if exempt from CCD regulation, a provider who is not approved by the Department as a day care, foster care, or relative care provider.

(d) No exceptions will be allowed to the minimum standards for the use of alternate care givers in Foster Care, Relative Care and Adoptive Families, established in OAR 413-200-0301 through 0401, "Safety Standards for Foster Care, Relative Care and Adoptive Families (Client Services Manual II-B.1).

(2) All exceptions must be approved by the person designated by the Department and be on file in the case record. The granting of an exception shall not constitute a precedent for any other provider or client.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 24-2003(Temp) f. & cert. ef. 6-18-03 thru 12-14-03; CWP 41-2003, f. & cert. ef. 12-12-03; Suspended by CWP 17-2007(Temp), f. & cert. ef. 11-1-07 thru 4-28-08

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 Department of Human Services (DHS).

Stat. Auth.: HB 2004

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

413-050-0405 Definitions

(1) "Administrative Exams": DHS uses the OMAP definition for Administrative Medical Examinations and Reports found in OAR 410-120-000 which is: "Examinations, evaluations, and reports, including copies of medical records, requested on the **OMAP 729** form through the local DHS office or requested and/or approved by OMAP to establish client eligibility for a medical assistance program or for casework planning."

(2) "Other Medical Expenditure": Any payment to a licensed medical provider for a service provided to a person in the household who is not eligible or potentially eligible for Title XIX or GA (General Assistance), or for a certain service provided to an eligible Title XIX or GA client which is not covered under Administrative Exams using the Medical Service Authorization and Invoice form, **CF 501A**.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

413-050-0410 Payment for Medical Services for Administrative Exams and Other Medical

(1) Medical expenditures can be authorized from "Administrative Exams" or from "Other Medical." In addition, for cases designated permanent planning, the Adoption Services Unit may authorize payment of certain medical services. See ORS 413-050-0450 below.

(2) "Administrative Exams" and "Other Medical" expenditures must be authorized by the local DHS manager or designee prior to the medical service. (Emergency appointments excepted).

(3) Payment for "Administrative Exams" and "Other Medical" expenditures will be made only to medical service providers who are both licensed in their state and enrolled with the 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 CAF Policy I-C.4.2.1 (6)).

(4) Payment for “Administrative Exams” and “Other Medical” expenditures will be at the current published OMAP rate for the procedure code billed.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

413-050-0420

Administrative Exams Payments

“Administrative Exams” are provided to children in DHS’s care and custody who are eligible or potentially eligible for Title XIX or GA (General Assistance). “Administrative Exams” are also provided to parents or other adults identified on the Face Sheet in the child’s case record. Parents or adults must be Medicaid or GA eligible and have medical coverage through the Oregon Health Plan on the date of service. Expenditures are federally matchable and will be paid through 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 assessments when medical treatment or examination is necessary to evaluate and plan for child safety as per I-B.2.2(6)(a-f). “Administrative Exam” payments may be authorized regardless of whether placement is made; or

(2) Casework planning for Title XIX or GA eligible children in substitute care; or

(3) Evaluation and/or testing for children in their own home to determine if out-of-home placement is an appropriate case plan. “Administrative Exam” payments may be authorized regardless of whether placement is made;

(4) Copies of hospital or medical records.

(5) Psychiatric or psychological evaluations of parents or other adults identified in the child’s case record. Parents or adults must be Medicaid or GA eligible through the Oregon Health Plan.

(6) Urinalysis collection and screening for children and/or parents or other adults identified in the child’s case record. Parents or adults must be Medicaid or GA eligible through the Oregon Health Plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

413-050-0430

Other Medical Payments

“Other Medical” payments are not federally matchable and are paid out of General Fund dollars. “Other Medical” is to be used for required medical services for a child in Department care and custody by court order or Voluntary Placement or Custody Agreement either in or out of substitute care, or parents or other adults identified in the child’s case record. “Other Medical” is only to be used if the service is not available through Mental Health or OMAP as a Medicaid service. Payments from “Other Medical” may be made in the following situations:

(1) Drug and alcohol assessments for persons not eligible for Title XIX or the Oregon Health Plan.

(2) A one-time emergency medical need for children in the custody of the Department that have been returned home. This is limited to children of low-income families not eligible for medical services through the Department.

(3) Therapy for Children in Substitute Care, if recommended by a licensed psychiatrist or psychologist who evaluated the child, and the type of therapy and/or the therapist recommended is unavailable from the local mental health clinic or through the mental health plan (MHO) in which the child is enrolled. The therapist must be enrolled with OMAP or, failing that, there must be a signed contract in place prior to the therapy being provided. Funding availability will be determined by the SDA Manager or Designee (who may want to consult with the Assistant Field Administrator or the Medical Assistance Resource Coordinator to determine that there are no other resources available for funding).

(4) Consultation with a licensed or registered provider regarding the case or treatment planning for a specific child. Field staff’s consultation with licensed experts in human behavior offers an alternative

to costly individual evaluations for families or children who are experiencing severe medical, behavioral or emotional problems. Frequently, the case record contains information accumulated over time which a consultant, trained to evaluate and interpret such data, can assess to assist the agency in developing or managing a timely and well-focused case plan.

(5) Medical care for children in detention. ORS 418.034 mandates payment of the cost of medical care for the child in detention, including emergency medical care, if the child is in custody of the Department. “Medical care” means emergency medical care or medical care for a medical condition that existed prior to the child’s being held in a juvenile detention facility or in a local correctional facility or lockup.

(6) Evaluations of parents when required by the Department for casework planning to determine the parents’ emotional stability, intellectual capacity, parenting capacity or maturity. These may include medical, psychiatric, psychological evaluations or drug and alcohol assessments. This does not include ongoing treatment or services. Payment from “Other Medical” for the above services will not be made for parents in permanent planning cases or for parents who are Medicaid eligible through the Oregon Health Plan.

(7) Parent/child and/or sibling interaction evaluation.

(8) Protective service physical examinations authorized for the purpose of the legal investigation only and when out-of-home care is not a consideration.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 13-2003, f. & cert. ef. 1-9-03

413-050-0440

Medical Services “Permanent Planning”

In cases designated permanent planning, the Department will make payments for necessary evaluations of parents, stepparents and/or live-in companions. This includes psychological, psychiatric and neurological evaluations, drug and alcohol assessments and parent-child interaction assessments. These services must be authorized in writing by the Adoption Services Unit prior to the services being provided.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 13-2003, f. & cert. ef. 1-9-03

413-050-0450

Medical Consultation and Training for Staff

(1) Consultation and training for DHS staff on health services problems will be paid upon approval of the Assistant Field Administrator or designee. The consultant or trainer is not required to be licensed or registered, nor to have an assigned provider number from 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.: ORS 418.005

Stats. Implemented: Title XIX

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 40-2001, f. 12-31-01, cert. ef. 1-1-02

Family Violence Prevention Program

413-050-0500

Policy

These rules (OAR 413-050-0500 to 413-050-0590) provide procedures for the Department of Human Services (Department) to fund programs from the Domestic Violence Fund. The 1981 Oregon Legislature established this fund to provide intervention on behalf of and support for victims of domestic violence. The Department is authorized to enter into grant contracts with public agencies or private non-profit organizations to support operation by those organizations and agencies of programs designed to prevent, identify, and treat family violence

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0510

Definitions

(1) "Crisis line" is defined in ORS 108.610(2) and means an emergency telephone service staffed by persons who are trained to provide emergency peer counseling, information, referral, and advocacy to victims of domestic violence and their families.

(2) "Domestic and Sexual Violence Fund Advisory Committee" means the Domestic and Sexual Violence Fund Advisory Committee established in OAR 413-050-0530.

(3) (a) "Domestic violence," defined by ORS 108.610, means the physical injury, sexual abuse or forced imprisonment, or threat thereof, of a person by another person who is related by blood, marriage or intimate cohabitation at the present or has been related at some time in the past, to the extent that the person's health or welfare is harmed or threatened thereby.

(b) "Domestic violence" includes a pattern of assaultive or coercive behaviors including physical, sexual, psychological, and emotional abuses, as well as economic coercion that adults use against their intimate partners to gain power and control in that relationship.

(4) "Domestic Violence Fund" means the fund established by ORS 108.660.

(5) "Family Violence Prevention Program" means the program within the Department funded by the Domestic Violence Fund and other related funds as available to provide shelter and related services to victims of domestic violence.

(6) "Grantee" means a proposer that has been awarded a grant by the Department from the Domestic Violence Fund to support one or more of the projects and programs described in OAR 413-050-0515.

(7) "Proposer" means a public agency or private non-profit organization that meets the minimum criteria contained in OAR 413-050-0515 and that applies to the Department for funding from the Domestic Violence Fund to support one or more of the projects and programs described in OAR 413-050-0570.

(8) "Safe house" means a place of temporary refuge, offered on an as needed basis to survivors of domestic violence and their families.

(9) "Shelter home" or "shelter facility" means a place of temporary refuge, offered on a 24 hours a day, seven days a week basis to survivors of domestic violence and their children.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 13-2004, f. & cert. ef. 7-1-04; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0515

Qualified Services

The Department uses the Domestic Violence Fund to make grants to nonprofit private organizations and public agencies to fund programs and projects designed to prevent, identify, and treat domestic violence. Grants from the Domestic Violence Fund may be made to:

(1) Fund shelter homes for victims of domestic violence

(2) Fund crisis lines providing services to victims of domestic violence and their families

(3) Fund safe houses for victims of domestic violence and their families

(4) Develop and establish programs for professional and paraprofessional personnel in the fields of social work, law enforcement, education, law, medicine, and other relevant fields who are engaged in the field of the prevention, identification, and treatment of domestic violence and training programs in methods of preventing domestic violence

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0530

Advisory Committee

(1) The Domestic and Sexual Violence Fund Advisory Committee (DSVFAC) established in OAR 413-050-0530 serves as the advisory committee to the Domestic Violence Fund Program. Members are elected and serve terms in accordance with the bylaws established by the advisory committee. Copies of DSVFAC bylaws and other open records are available by contacting the Department.

(2) The Department will consult with the advisory committee regarding the administration of the Family Violence Prevention Program and each proposed change that substantially affects the program's operation.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 16-1998, f. & cert. ef. 8-13-98; SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0535

Criminal History Checks

(1) A grantee must obtain a criminal history record check on each potential employee or volunteer who will work with victims of domestic violence.

(2) A grantee must develop a written policy or procedure that governs the review of the criminal history record of potential employees and volunteers and the determination of whether a potential employee or volunteer, if there is a criminal history, poses a risk to working safely with victims of domestic violence. The policy or procedure must provide that the review include an examination of:

(a) The severity and nature of crime that appears in the criminal history;

(b) The number of criminal offenses;

(c) The time elapsed since commission of each crime;

(d) The circumstances surrounding each crime;

(e) The subject individual's participation in counseling, therapy, education, or employment evidencing rehabilitation or a change in behavior, and

(f) The police or arrest report and whether that report confirms the employee's or volunteer's explanation of the crime.

(3) If the grantee determines that the potential employee or volunteer does not pose a risk to working safely with victims of domestic violence and chooses to hire the employee or volunteer, the grantee must explain in writing the reasons for hiring the individual. The written explanation must address how the potential employee or volunteer is presently suitable or able to work with victims of domestic violence in a safe and trustworthy manner, based on the policy or procedure described in section (2) of this rule. The grantee must place the written explanation in the personnel file of the employee or volunteer along with the employee's or volunteer's criminal history record.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0555

Shelter Standards

Grantees that provide shelter homes or shelter facilities must:

(1) Comply with applicable zoning, fire, sanitary and safety regulations.

(2) Post emergency instructions in English and other primary languages used in the geographic area where the shelter home is located.

(3) Maintain an operating telephone.

(4) Provide drinking water that meets Health Division standards.

(5) Maintain medicines in locked cabinets or areas.

(6) Have first aid supplies available.

(7) Protect children from items of potential danger.

(8) Have kitchen and emergency food supplies available reflective of the cultures present in the community.

(9) Have emergency clothing available.

(10) Maintain liability and fire insurance.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0560

Allocation of Funds

The Department uses an equitable distribution method for funding programs throughout the state. The distribution method must be reviewed by the Domestic and Sexual Violence Fund Advisory Committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0565**Department Selection Criteria and Rules**

The Department will conduct periodically, at least once every five years, an application process for grant from the Domestic Violence Fund. The Department may conduct the application process jointly with other agencies of the State of Oregon that also award grants or provide financial assistance to nonprofit organizations that provide intervention and support services to victims of domestic violence. The application process includes but is not necessarily limited to:

- (1) Public notification of the availability of financial assistance from the Domestic Violence Fund;
- (2) Issuance of a request for grant proposals; and
- (3) Evaluation of the proposals and the award of grants from the Domestic Violence Fund in accordance with the process and criteria set forth in the request for grant proposals and this division of administrative rules.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0570**Applications for Funding**

To be considered for funding, a proposer must include the following minimum information in its proposal:

- (1) Official business name of the proposer.
- (2) Business address of the proposer.
- (3) Name of the persons authorized to represent the proposer in any negotiations and to sign grant contract documents.
- (4) Geographic areas the proposer is proposing to serve.
- (5) A statement that no attempt has been made or will be made by the proposer to induce any other person or firm to submit or not submit a proposal, except through efforts to submit collaborative proposals.
- (6) A statement that the proposer accepts all of the terms and conditions contained in the request for grant proposals.
- (7) A written narrative describing how the proposer will provide services and meet the requirements of these rules.
- (8) All other information required by the request for grant proposals.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0575**Evaluation Process**

(1) An evaluation committee of the Department reviews proposals in accordance with the process and criteria set forth in the request for grant proposals and this division of administrative rules. Because the State of Oregon wishes to fund programs to deal with victims of domestic violence offenses in all geographic areas of the state, the Department considers, as part of the evaluation process, the geographic area of the state that will be served by the proposer.

(2) The Department will approve, approve in part and reject in part, or reject each received proposal within 60 days after the submission deadline.

(3) The Department will provide written notification by mail to each proposer no later than five working days after the final action is taken on its proposal.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

413-050-0585**Confidentiality**

(1) If a grantee keeps the location of premises used to provide services under these rules confidential, the Department will not release that information.

(2) Grantees must keep all individual information relating to people served by programs operating under these rules confidential.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 108.610 - 108.660

Hist.: SOSCF 2-2002, f. & cert. ef. 3-5-02; CWP 7-2003, f. & cert. ef. 1-7-03; CWP 18-2004, f. 12-30-04, cert. ef. 1-1-05

Targeted Case Management**413-050-0600****Purpose**

These rules provide guidelines on the Targeted Case Management Program and information about how individuals and organizations can become qualified targeted case management service providers for children receiving services from the State Office for Services to Children and Families or Oregon Youth Authority (OYA).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0700

413-050-0610**Definitions**

(1) **“Case Manager”**: An employee of a provider organization who has completed the Office of Medical Assistance Program (OMAP) approved case manager training.

(2) **“Client”**: For purposes of this policy, a child receiving target case management services.

(3) **“In-Home Setting”**: the home of the child’s parent or legal guardian.

(4) **“MMIS”**: The Office of Medical Assistance Program’s (OMAP) Medical Management Information System.

(5) **“OMAP-Approved Case Manager Training”**: Training provided to an employee of a provider organization by SOSCF TCM program coordinators or their designees.

(6) **“Target Population”**: Children under 21 who are currently residing in an in-home setting, a shelter home, foster home, group home, residential care facility, independent living situation financially supported through State Office for Services to Children and Families or the Oregon Youth Authority (OYA).

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.

(7) **“Targeted Case Management”** (also referred to as TCM): Activities performed by the case manager to assist children in the Target Population to obtain necessary medical, social, educational, counseling, or other services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert. ef. 2-22-00, Renumbered from 413-100-0710

413-050-0620**Targeted Case Management Services**

Targeted Case management services include:

(1) **Assessment**. After a client is determined to be in need of targeted case management services, the case manager assesses the specific areas of concern, family strengths, and resources, community resources, and extended family resources available to resolve those identified issues. At assessment, the case manager makes preliminary decisions about needed medical, social, educational or other services and the level of agency intervention.

(2) **Case Planning**. The case manager develops a case plan, in conjunction with the client and family, to identify the goals and objectives which are designed to resolve the issues of concern identified through the assessment process. Case planning includes setting of activities to be completed by the case manager, the family, and the clients. This activity will include accessing medical, social, educational, and other services to meet the client’s needs.

(3) **Case Plan Implementation**. The case manager will link the client and the family with appropriate agencies and medical, social, educational, and other services through calling or visiting these resources. The case manager will facilitate implementation of services through assisting the client and family to access them and through assuring that clients and providers fully understand how these services support the case plan.

(4) **Case Plan Coordination**. After these linkages have been completed, the case manager will ascertain, on an ongoing basis, whether or not the medical, social, educational, or other services have been accessed as planned, and the level of involvement of the client and family. Coordination activities include, but are not limited to personal, mail and telephone contacts with providers, as well as meetings

with the client and family to assure that the services are being provided and used as planned.

(5) **Case Plan Reassessment.** The case manager will determine whether or not medical, social, educational, or other services continue to be adequate to meet the goals and objectives identified in the case plan. Reassessment decisions include those to continue, change, or terminate services. This may include assisting clients to access different medical, social, educational, or other services beyond those already provided. Reassessment activities include, but are not limited to, staffings and mail, personal and telephone contacts with involved parties.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert.. ef. 2-22-00, Renumbered from 413-100-0720

413-050-0630

Targeted Case Management Providers

Targeted case management providers are organizations or individuals who are certified as meeting the following criteria:

(1) A minimum of three years experience of successful work with children and families, involving a demonstrated capacity to provide all core elements of case management including assessment, case planning, case plan implementation, case plan coordination and case plan reassessment.

(2) A minimum of three years case management experience in coordinating and linking community medical, social, educational and other resources as required by the target population.

(3) A minimum of three years experience working with the target population.

(4) Administrative capacity to ensure quality of services in accordance with state and federal requirements.

(5) Financial management system which provides documentation of services and costs.

(6) Capacity to document and maintain individual case records in accordance with state and federal requirements.

(7) Demonstrated commitment to assure referral consistent with section 1902a(23) of the Social Security Act, Freedom of Choice of Providers; and

(8) A minimum of three years experience demonstrating capacity to meet the case management service needs of the target population.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert.. ef. 2-22-00, Renumbered from 413-100-0730

413-050-0640

Case Manager Qualifications

(1) Completion of training in case management curriculum approved by the 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 relation to child welfare, and to gain knowledge about community resources.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert.. ef. 2-22-00, Renumbered from 413-100-0740

413-050-0650

Targeted Case Management Provider Designation

Renumbered to all potential targeted case management providers must comply with applicable licensing and/or regulatory requirements set forth by federal and state statutes and regulations. Additionally, potential providers must comply with the requirements set forth in the 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.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert.. ef. 2-22-00, Renumbered from 413-100-0750

413-050-0660

TCM Case Manager

The TCM case manager:

(1) Is a private individual or works for a provider organization.

(2) Possesses case manager qualifications identified in 413-050-0640.

(3) Maintains case records which document the following information:

(a) Name of the recipient of the service (client);

(b) Date of service;

(c) Name of the provider agency and/or the person providing the service;

(d) Nature, extent or units of service; and

(e) Place of service delivery.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert.. ef. 2-22-00, Renumbered from 413-100-0760

413-050-0670

Targeted Case Management Billing

The targeted case management provider will:

(1) Verify that the client receiving the TCM service is in the target population.

(2) Bill third-party resources, including the child's trust account.

(3) Establish a rate (fee) in conjunction with the State Office for Services to Children and Families for services billed to Medicaid and/or the Children's Health Insurance Program (CHIP; Title XXI).

(4) Comply with all OMAP billing requirements, using either a Medicaid form 1500 or an electronic billing process through the MMIS system.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-2000, f. & cert.. ef. 2-22-00, Renumbered from 413-100-0770

DIVISION 55

SEXUAL ASSAULT VICTIMS FUND

413-055-0100

Policy

These rules (OAR 413-055-0100 to 413-055-0165) establish the policies of the Department of Human Services (Department) relating to the funding of sexual assault crisis centers and crisis lines authorized by ORS 409.279. This program was established to provide intervention on behalf of and support for victims of sexual offenses. The Department is authorized to enter into grant agreements with private, non-profit agencies to support the delivery by those agencies of intervention and support services to victims of sexual offenses and their families.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0105

Definitions

As used in OAR 413-055-0100 to 413-055-0165:

(1) "Crisis Center" means a location in which there are paid personnel or crisis volunteers who are trained to provide crisis services, including but not limited to intervention, peer support, information and referral, advocacy, outreach, and community education to survivors of sexual assault and their families.

(2) A "grantee" is a proposer that has been awarded a grant by the Department from the Sexual Assault Victims Fund to support the delivery of services to victims of sexual assault and their families.

(3) A "proposer" is a private, non-profit agency that meets the minimum criteria contained in OAR 413-055-0120 and makes an application to the Department for a grant from the Sexual Assault Victims Fund to support the operation of qualified programs as described in OAR 413-055-0110.

(4) "Sexual Assault" means any touch or act for which informed consent is not given that is sexual in content or used for sexual gratification or stimulation of the perpetrator by either threat of force, force, intimidation, trickery, coercion, or bribery where an imbalance exists because of size, strength, authority, age, development, or knowledge. It includes rape, oral and anal sodomy, exhibitionism, voyeurism, obscene phone calls, sexual pictures, and prostitution.

(5) "Sexual Assault Victims Fund" means the fund created by ORS 409.285.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05; CWP 9-2005, f. & cert. ef. 8-1-05

413-055-0110

Qualified Services

(1) The Department uses the Sexual Assault Victims Fund to fund grants to private, non-profit agencies to support the delivery of intervention and support services to victims of sexual offenses and their families. The agencies receiving funds must be either crisis lines or sexual assault centers.

(2) The support and intervention services supported in whole or in part with grant funds from the Sexual Assault Victims Fund must be made accessible and available to all persons who reside in the area served by the agency who may need the services without regard to whether criminal charges were filed. If the grantee is unable to provide necessary services to a client, it must refer the client to alternative community resources.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0120

Criminal History Checks

(1) A grantee must obtain a criminal history record check on each potential employee or volunteer who will work with victims of sexual assault.

(2) A grantee must develop a written policy or procedure that governs the review of the criminal history record of potential employees and volunteers and the determination of whether a potential employee or volunteer, if there is a criminal history, poses a risk to working safely with victims of sexual assault. The policy or procedure must provide that the review include an examination of:

(a) The severity and nature of crime that appears in the criminal history;

(b) The number of criminal offenses;

(c) The time elapsed since commission of each crime;

(d) The circumstances surrounding each crime;

(e) The subject individual's participation in counseling, therapy, education, or employment evidencing rehabilitation or a change in behavior, and

(f) The police or arrest report and whether that report confirms the employee's or volunteer's explanation of the crime.

(3) If the grantee determines that the potential employee or volunteer does not pose a risk to working safely with victims of sexual assault and chooses to hire the employee or volunteer, the grantee must explain in writing the reasons for hiring the individual. The written explanation must address how the potential employee or volunteer is presently suitable or able to work with victims of sexual assault in a safe and trustworthy manner, based on the policy or procedure described in section (2) of this rule. The grantee must place the written explanation in the personnel file of the employee or volunteer along with the employee's or volunteer's criminal history record.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0140

Application Process

The Department will conduct periodically, at least once every five years, an application process for grants from the Sexual Assault Victims Fund. The Department may conduct the application process jointly with other agencies of the State of Oregon who also award grants or provide financial assistance to nonprofit organizations that provide intervention and support services to victims of sexual offenses and

their families. The application process will include but not necessarily be limited to:

(1) Public notification of the availability of financial assistance from the Sexual Assault Victims Fund.

(2) Issuance of a request for grant proposals.

(3) Evaluation of the proposals and the award of grants from the Sexual Assault Victims Fund in accordance with the process and criteria set forth in the request for grant proposals and this division of administrative rules.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0145

Proposals for Funding

To be considered for funding, a proposer must include the following minimum information in its proposal:

(1) Official business name of the proposer.

(2) Business address of the proposer.

(3) Name of the persons authorized to represent the proposer in any negotiations and to sign grant agreement documents.

(4) Geographic areas the proposer is proposing to serve.

(5) A statement that no attempt has been made or will be made by the proposer to induce any other person or firm to submit or not submit a proposal, except through efforts to submit collaborative proposals.

(6) A statement that the proposer accepts all of the terms and conditions contained in the request for grant proposals.

(7) A statement that the proposer is a private, non-profit organization.

(8) A written narrative describing how the proposer will provide services and meet the requirements of these rules

(9) All other information required by the request for grant proposals.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0150

Proposal Evaluation Process

Proposals are reviewed by an evaluation committee of the Department in accordance with the process and criteria set forth in the request for grant proposals and this division of administrative rules. The Department will approve, approve in part and reject in part, or reject each received proposal within 60 days after the submission deadline. Written notification is mailed to the proposer no later than five working days after the final actions are taken on the proposals. Because the State of Oregon wishes to fund programs to deal with victims of sexual offenses in all geographic areas of the state, the Department considers, as part of the evaluation process, the geographic area of the state that will be served by the proposer.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0160

Confidentiality

(1) If a grantee keeps the location of premises used to provide services under these rules confidential, the Department will not release that information.

(2) Grantees must keep all individual information relating to people served by programs operating under these rules confidential.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

413-055-0165

Advisory Committee

The Advisory Committee on Domestic and Sexual Violence established in OAR 413-050-0530 advises the Department regarding its use of the Sexual Assault Victims Fund.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.270 - 409.285

Hist.: SOSCF 24-2000, f. & cert. ef. 9-7-00; CWP 19-2004, f. 12-30-04, cert. ef. 1-1-05

DIVISION 60

COUNSELING AND TREATMENT SERVICES

Family Planning Services

413-060-0000

Purpose

These rules define eligibility criteria for family planning services, describe the services to be provided, and the responsibilities SOSCF has to provide these services.

Stat. Auth.: HB 2004
Stats. Implemented: ORS 435.205 - 435.235
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0010

Eligibility

The following persons or families are eligible to receive family planning services:

- (1) Families who request family planning information.
- (2) Children who are in the legal custody and care of the State Office for Services to Children and Families.
- (3) Minor children who are 15 years of age and older who request family planning information.

Stat. Auth.: HB 2004
Stats. Implemented: ORS 435.205 - 435.235
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0020

Family Planning Services

Family planning services provided by the State Office for Services to Children and Families include:

- (1) Referrals to appropriate family planning resource for consultation and treatment; or
- (2) Counseling and information regarding avoiding unwanted pregnancy, termination of pregnancy, maintaining the desired family size and the spacing of children.

Stat. Auth.: HB 2004
Stats. Implemented: ORS 435.205 - 435.235
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-060-0030

Service Responsibility

The State Office for Services to Children and Families will be responsible to:

- (1) Explore the need for and interest in family planning services of children who are in the legal custody of the State Office for Services to Children and Families and provide appropriate family planning information or referral.
- (2) Provide family planning information or a referral to an appropriate family planning resource to minors 15 years of age and older who request family planning information.

Stat. Auth.: HB 2004
Stats. Implemented: ORS 435.205 - 435.235
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

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 Sexual 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, 137.540 163.355 & 163.465

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 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 Services.

(6) "Victim" means any child upon whom an abuse described in ORS 163.355 to 163.465 has been committed.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 137.540, 163.355 & 163.465

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, 137.540, 163.355 & 163.465

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. Auth.: HB 2004

Stats. Implemented: ORS 419B.385, 137.540, 163.355 & 163.465

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, 137.540, 163.355 & 163.465

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, 137.540, 163.355 & 163.465

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 branch manager 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.: ORS 418.005

Stats. Implemented: ORS 419B.385, 137.540 & 163.355 - 163.465

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-2001, f. 6-29-01, cert. ef. 7-1-01

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, case-worker, SOSCF supervisor, juvenile department counselor and victim therapist.

(c) If the juvenile presents low risk according to the "Risk Assessment Profile," treatment should proceed focusing on cognitive restructuring.

(d) For juveniles who exhibit moderate to high risk according to the "Risk Assessment Profile," assessment of deviant arousal patterns may be conducted using the penile plethysmograph for males and the photoplethysmograph for females. In addition, the juvenile should receive a disclosure polygraph examination. These tools should be used in addition to assessment criteria listed in this rule to determine the treatment plan of choice. Under no circumstances should the results of these measurements be used in the courtroom setting or for any other reason except evaluation and monitoring of treatment. The plethysmograph should not be administered to prepubescent children.

(A) Use of the polygraph and plethysmograph should be made only with signed, informed consent of the offender and his/her parents/guardians using CF form 993, "Consent for Physiological Assessment of Sexual Interests." This informed consent is to be used regardless of whether a court order requiring its usage exists or not.

(B) The polygraph and plethysmograph exam should be administered only by persons licensed or certified by their respective disciplines. The plethysmograph should be administered in a laboratory setting and in accordance with the "Association for the Treatment of Sexual Abusers' Guidelines for Use of the Penile Plethysmograph."

Stat. Auth.: HB 2004

Stats. Implemented: HB 2004

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

413-060-0440

Treatment

(1) Treatment in specialized offense-specific peer groups is the treatment of choice, and must address aggressive and exploitive behaviors. The family should be a key part of the treatment planning. The treatment is to be geared toward the chronological and developmental needs of the offender. Treatment issues to be addressed for all risk categories include the following:

- (a) Substance abuse intervention;
 - (b) Sex education;
 - (c) Educational assessment for remedial or special education referrals;
 - (d) Social skills training;
 - (e) Assertiveness training;
 - (f) Anger management;
 - (g) Victimization issues — (sexual, physical, and emotional) their own and their victims;
 - (h) Family therapy;
 - (i) Cognitive restructuring;
 - (j) Values clarification;
 - (k) Stress management;
 - (l) Cycle recognition/self-intervention;
 - (m) Relaxation/biofeedback.
- (2) In addition to the above, if the offender in the medium to high risk category demonstrates assaultive, compulsive, or repetitive acts of sexual offending, then behavioral therapy can be introduced. Also, behavioral therapy can be introduced after cognitive methods have failed.
- (3) The decision to utilize aversion therapy should be discussed with the juvenile offender and his/her parent or guardian after other therapies have failed, and if, according to polygraph and plethysmograph examinations, the arousal patterns have not altered. The rationale for this choice should be documented in the case record. The SOSCF director or designee must then provide written consent to proceed. Should the parent/guardian or client refuse to sign, a review hearing should be requested to determine the course of action.
- (4) Ongoing polygraph and plethysmograph testing should accompany behavioral therapy on a periodic basis to assess treatment progress. In order to graduate from treatment, the client must successfully “pass” a polygraph test which determines that they are not now offending, have disclosed all of their victims and offenses, and are exercising steps to successfully intervene in their offending cycle. Furthermore, they must also demonstrate reduction in deviant arousal patterns.
- (5) Relapse prevention is an essential component to the juvenile’s treatment plan. Whether he/she is placed in or out of the home, the primary parental figures, parole officer, or other significant figure in the juvenile’s life should know and understand his/her assault cycle so as to support the offender in learning to intervene in his/her own cycle.

Stat. Auth.: HB 2004
 Stats. Implemented: HB 2004
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

DIVISION 70

SUBSTITUTE CARE

Multiethnic Placements

413-070-0000

Purpose

The Multiethnic Placement Act of 1994 as amended by the Small Business Job Protection Act of 1996, Section 1808, “Barriers to Interethnic Adoption” apply to all activities of SOSCF and to all private child placement and adoption agencies who receive federal funds of any kind, directly or indirectly. The purpose of MEPA was to:

- (1) Decrease the length of time a child waits to be adopted;
- (2) Prevent discrimination in foster care and adoption; and
- (3) Promote the recruitment of ethnic and minority families that reflect the children in the public child welfare system. These rules establish a policy of non-discrimination in SOSCF’s and entity’s practice of foster and adoptive placement of children, and in the recruitment and selection of family resources. In the case of an Indian child, SOSCF and entity shall follow Indian Child Welfare Act and SOSCF Policy I-E.2.1, Placement of Indian Children.

Stat. Auth.: ORS 418.005
 Stats. Implemented: Multiethnic Placement Act of 1994, Small Business Job Protection Act of 1996 “Removal of Barriers to Interethnic Adoption” & Title VI of Civil Rights Act of 1964
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00

413-070-0010

Definitions

(1) “Cultural Heritage” means the language, customary beliefs, social norms, and material traits including, but not limited to the dress, food, music and dance of a racial, religious or social group that are transmitted from one generation to another.

(2) “Entity” means any organization or agency (e.g., a private child placing agency) that is separate and independent of the State agency; performs functions pursuant to a contract or subcontract with the state agency, and receives federal funds.

(3) “ICWA” means the Indian Child Welfare Act, P.L. No. 95-608, codified at 25 USC §§ 1901–1963, which the Congress of the United States adopted in 1978 “to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families,” 25 USC § 1901.

(4) “Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996 (IEPA)” means Section 1808 of the act which is entitled “Removal of Barriers to Interethnic Adoption,” and affirms and strengthens the prohibition against discrimination in adoption or foster care placements, and is codified in 42 U.S.C § 671(a)18.

(5) “Multiethnic Placement Act of 1994” means federal statutes which prohibit discrimination based on race, color or national origin as considerations in adoption and foster placements.

(6) “Race” means American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White.

(7) “Title VI of Civil Rights Act of 1964” prohibits discrimination on the basis of race, color or national origin under programs receiving federal assistance through the United States Department of Health and Human Services.

Stat. Auth.: ORS 418.005
 Stats. Implemented: Multiethnic Placement Act of 1994, Small Business Job Protection Act of 1996 “Removal of Barriers to Interethnic Adoption” & Title VI of Civil Rights Act of 1964
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00

413-070-0015

Values

(1) Every child needs and deserves a safe, nurturing and permanent home.

(2) SOSCF should avoid practices which delay permanency for any child.

Stat. Auth.: ORS 418.005
 Stats. Implemented: Multiethnic Placement Act of 1994, Small Business Job Protection Act of 1996 “Removal of Barriers to Interethnic Adoption” & Title VI of Civil Rights Act of 1964
 Hist.: SOSCF 13-2000, f. & cert. ef. 7-7-00

413-070-0020

Policy

(1) In making placement decisions, SOSCF and entity shall be guided by the best interest of the child. SOSCF and entity placements shall be made in the context of an individualized assessment of the child’s total needs, and an assessment of a potential foster or adoptive family’s ability to meet those needs.

(2) Refer to SOSCF Policy I-E.1.1, Working with Relatives Towards Permanency for Children, SOSCF Policy I-E.3.1, Placement Matching, and SOSCF Policy I-G.1.1, Non-Relative Current Caretaker Adoption Planning for direction on first consideration of relatives as placement resources, placement matching, and current caretaker adoption planning.

Stat. Auth.: ORS 418.005
 Stats. Implemented: Multiethnic Placement Act of 1994, Small Business Job Protection Act of 1996 “Removal of Barriers to Interethnic Adoption” & Title VI of Civil Rights Act of 1964
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00

413-070-0022

Denials or Delays of Placement Based on Race, Color or National Origin Prohibited

(1) Except as provided in (2), SOSCF shall not delay or deny the placement of a child for adoption or into foster are on the basis of the race, color or national origin of the adoptive or foster parent or the child involved, nor shall SOSCF or entity consider the race, color or national origin of a child or of a prospective foster or adoptive parent as factors in making adoptive or foster placement decisions.

(2) SOSCF may consider the race, color or national origin when a particular child presents specific compelling special circumstances (such as an older child's statement of preference) and consideration of race, color or national origin in his/her placement decision is the only way to achieve the best interest of that child.

(3) SOSCF and entity may consider a child's needs related to cultural heritage, such as specific language needs, when making individualized placement decisions. However, SOSCF and entity shall not use routine cultural heritage assessments as a substitute for considering race, color or national origin or otherwise considering the cultural heritage needs of a child in a manner that would circumvent the general prohibition against considering the race, color or national origin of a child when making placement decisions.

(4) SOSCF and entity shall not honor the request of birth parents to place their child who was either voluntarily or involuntarily removed, with adoptive or foster parents of a specific racial, ethnic, and/or cultural group, except as provided in (2) above.

Stat. Auth.: ORS 418.005

Stats. Implemented: Multiethnic Placement Act of 1994, Small Business Job Protection Act of 1996 "Removal of Barriers to Interethnic Adoption" & Title VI of Civil Rights Act of 1964

Hist.: SOSCF 13-2000, f. & cert. ef. 7-7-00

413-070-0027

Denial of Opportunity to Be an Adoptive or Foster Parent Based on Race, Color, or National Origin Prohibited

(1) SOSCF and entity shall have an active recruitment program to recruit and retain foster and adoptive parents who reflect the ethnic and racial diversity of children for whom foster and adoptive homes are needed, and who can meet the needs of children waiting placement.

(2) Except as provided in (3), SOSCF and entity shall not deny to any person the opportunity to become an adoptive or foster parent on the basis of the race, color, or national origin of the person or of the child involved, not shall SOSCF and entity use race, color or national origin to screen or assess prospective foster or adoptive applicants.

(3) SOSCF and entity may consider as a factor when placing a particular child the willingness and ability of the prospective foster or adoptive parent to care for a child of a different race, color or national origin.

Stat. Auth.: ORS 418.005

Stats. Implemented: Multiethnic Placement Act of 1994, Small Business Job Protection Act of 1996 "Removal of Barriers to Interethnic Adoption" & Title VI of Civil Rights Act of 1964

Hist.: SOSCF 13-2000, f. & cert. ef. 7-7-00

413-070-0030

Training

The State Office for Services to Children and Families shall provide training to assure compliance with Title VI of the Civil Rights Act of 1964 and, the Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996.

Stat. Auth.: ORS 418.005

Stats. Implemented: Multiethnic Placement Act of 1994, Small Business Job Protection Act of 1996 "Removal of Barriers to Interethnic Adoption" & Title VI of Civil Rights Act of 1964

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00

413-070-0033

Exceptions

OAR 413-070-0000 to 413-070-0030 do not apply to the placement of children pursuant to the Indian Child Welfare Act.

Stat. Auth.: ORS 418.005

Stats. Implemented: Multiethnic Placement Act of 1994, Small Business Job Protection Act of 1996 "Removal of Barriers to Interethnic Adoption" & Title VI of Civil Rights Act of 1964

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00

Working with Relatives Toward Placement of Children

413-070-0060

Purpose

By law, relatives are the placement of preference for children. These rules describe how SOSCF will search for and work with the relatives of children in SOSCF custody who are in substitute care to develop placements and alternate permanency plans for them. SOSCF

shall consider relatives as the placement of preference, but in making placement decisions shall ultimately be guided by the best interest of the child. It is the consideration of relatives as the placement of choice that is mandated by federal law, not the actual placement with relatives that is required. In the case of an Indian child, SOSCF shall follow the Indian Child Welfare Act (ICWA), and SOSCF Policy I-E.2.1, Placement of Indian Children (OAR 413-070-0100/0260).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001 f. 6-29-01 cert. ef. 7-1-01

413-070-0063

Definitions

(1) "Interbranch Permanency/Adoption Committee" means the permanency/adoption committee(s) established through the Permanency/Adoption Council which are responsible for decisions regarding adoptive placement selections as specified by rule that are neither the responsibility of the branch nor the central office. One type of Interbranch Permanency/Adoption Committee is set by the worker using a pool of qualified permanency/adoption/legal assistance staff designated by the Permanency/Adoption Council. Another type, the Standing Interbranch Permanency/Adoption Committee, is either a predetermined Council appointed committee of three people, or a committee established by the Permanency/Adoption Council chair. Sibling planning issues are always the responsibility of the Standing Permanency/Adoption Committee.

(2) "Diligent Search" means identifying, locating and contacting relatives regarding their interest in providing a temporary or permanent placement for or adopting a child when the child is placed in substitute care and before the child is placed in a potential adoptive home or other permanent placement. Because of the potentially limitless opportunities to identify relatives, the child's family has the primary responsibility to identify them, and the branch is responsible for determining when the diligent search is concluded.

(3) "First Cousin Once Removed" means the son or daughter of the child's first cousin.

(4) "ICWA" means the Indian Child Welfare Act, P.L. No 95-608, codified at 25 USC § 1901-1963, which the Congress of the United States adopted in 1978, "to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" 25 USC § 1901.

(5) "Personal Relationship" means a relationship with substantial continuity which is characterized through interaction, companionship, interplay and mutuality.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0066

Values and Process

(1) Each child's placement shall be the one that best meets his or her individual needs for safety, attachment, permanence, and well being.

(2) In planning for the placement of a child, SOSCF shall focus on the best interest of the child and treat all persons with respect.

(3) Relatives are important to a child's sense of identity and belonging.

(4) Early identification of a permanent placement resource is in the best interest of the child.

(5) SOSCF should consider relatives as both temporary and potential permanent resources for children who are unable to live safely with a parent.

(6) Even though a relative may not be able to safely provide care for a child SOSCF should consider ways the relative can be safely and meaningfully involved in the child's life.

(7) Working with relatives is a multi-step process including:

(a) Identifying the child's needs;

(b) Searching for relatives;

(c) Identifying the interest of relatives in providing care;

(d) Helping families assess the most appropriate role of the relatives in the child's life based on the child's needs and best interests;

- (e) Assessing the suitability of those relatives who express interest in providing care for a child;
- (f) If adoption is the plan for the child, completing an adoption home study on those relatives who are suitable and interested;
- (g) If adoption is the plan for the child, referring an appropriate relative(s) to an adoption committee which may or may not select the relative as the adoptive resource; and
- (h) Determining what the permanent placement for the child will be.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)
 Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01, Renumbered from 413-070-0068; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0067

Foster Care Providers as Temporary Resources

Although some foster parents become permanent resources for children, at placement it is the responsibility of the worker to inform the foster parent that planning for the child does not necessarily include permanent placement with the foster parents. SOSCF workers shall discuss with foster parents that the foster parent role is that of a transitional resource. The worker shall keep the foster parent informed of the primary permanent and alternative permanent planning for the child. If the foster parents become interested in the permanent placement of a child in their home, procedures outlined in SOSCF Policy I-G.1.1, Current Caretaker Adoption Planning, apply.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)
 Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01, Renumbered from 413-070-0096; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0069

Identification of Relatives

(1) At the shelter hearing when a child is placed in the custody of SOSCF, if a diligent search for maternal and paternal relatives has not occurred within the prior 6 months, the SOSCF branch with responsibility for the child shall request the court to order the child's parents to identify relatives for the SOSCF branch. Subsequently, but no later than 30 days after a child is placed in the custody of SOSCF, the SOSCF branch with responsibility for the child shall begin a diligent search for relatives in order to identify a potential placement resource and assist the agency and the family in the formulation of an alternate permanency plan for the child within 60 days after the shelter hearing (ORS 419B.343(b)). SOSCF shall search for the relatives as specified in this rule. Relationships described in the following sections are in relationship to the child(ren):

(a) Relatives of specified degree who had a legal relationship with the child at the time the child entered care, as follows:

(A) Any blood relative or half blood relative, including persons of preceding generations denoted by the prefixes of grand, great or great-great who is related to the child through the biological or adoptive mother or the legal or adoptive father of the child as defined by ORS 419A.004(16);

(B) Aunts, uncles, adult first cousins and adult first cousins once removed who are related to the child through the biological or adoptive mother or the legal or adoptive father of the child as defined by ORS 419A.004(16);

(C) Stepparent(s) or ex-step parents who had a personal relationship with the child prior to the child entering foster care.

(D) Adoptive parents of the sibling of the child or persons who have been designated the adoptive resource for a sibling of the child, and the adult biological and adopted children of the adoptive or designated adoptive parents.

(2) SOSCF may consider the unrelated biological father or mother of the child's half sibling in the same category as a relative, but is neither required to do so nor to search for this parent or the parent's relatives.

(3) The rights of a "Stanley-type" putative father (Stanley vs. Illinois, U.S. Supreme Court) do not extend to his relatives. The relatives of a "Stanley-type" putative father are not considered relatives per sections (1) through (2) of this rule. The branch is not obligated to search for the relatives of a "Stanley-type" putative father unless he establishes paternity and becomes a legal father.

(4) In the case of an Indian child who is subject to the requirements of the Indian Child Welfare Act, SOSCF staff shall follow procedures in accordance with SOSCF Policy I-E.2.1, Placement of Indian Children, (OAR 413-070-0100 through 413-070-0260).

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)
 Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0072

Conducting the Diligent Search

(1) In conducting the diligent search for the above persons SOSCF shall, as applicable:

(a) Question the child and the child's parents or guardians about the child's relatives and preferences about the relatives;

(b) Use Family Decision Meetings to ask participants to help identify other relatives of the child;

(c) Contact relatives and request names of other relatives, divulging only the information necessary to help identify additional relatives and assess their interest in accepting placement of the child. When requesting information from relatives in writing, SOSCF shall use form CF 449, Relative Contact Information.

(2) SOSCF shall document the diligent search efforts using forms CF 447, "Relative Information" and CF 448, "Permanency Commitment/Waiver," unless exempted by 413-070-0081(8). SOSCF shall retain the form CF 447, "Relative Information" in the file and not generally distribute it.

(3) Unless superseded by court order, if a parent objects to SOSCF contacting relatives, the SOSCF branch manager of the child's branch shall make a determination as to whether relatives should be contacted. In making this determination, the branch manager shall consider, but not be limited to, the following factors:

(a) Whether the safety of the child or the parent will be jeopardized if relatives are contacted;

(b) Whether contacting relatives is in the best interest of the child; and

(c) Whether contacting relatives will substantially limit SOSCF's ability to work with the parent to the detriment of the child.

(4) In any situation where the branch elects to contact relatives over the objections of the parent(s), SOSCF shall notify the parent(s) that the agency will contact the relative(s).

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

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)
 Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0075

Extent and Timeliness of the Diligent Search

(1) The extent of the diligent search shall be reasonable and prudent.

(2) SOSCF shall conduct and conclude the diligent search for relatives of known legal parents by 6 months after the date of the shelter hearing. The branch is responsible for determining when the diligent search is concluded and shall document the date on the CF 447, Relative Information.

(3) SOSCF shall include in court reports information on the progress and results of the diligent search, and what efforts were made to place the child with a relative.

(4) If SOSCF locates another legal parent during the diligent search or after the conclusion of the time frame established in OAR 413-070-0075(2), SOSCF may continue to search for relatives of the newly located legal parent beyond the time frame in OAR 413-070-0075(2) if SOSCF determines it is in the best interest of the child.

(5) If SOSCF locates a relative, or a relative contacts SOSCF after the conclusion of the time frame established in OAR 413-070-0075(2), SOSCF may consider the relative as a potential placement resource for the child if SOSCF determines that it would be in the child's best interest to do so. In making this decision SOSCF shall consider:

(a) The child's individual needs, including attachment to the relative(s) or current caretaker currently under consideration as the placement resource;

- (b) The potential of the relative to be able to meet the child's needs; and
 - (c) The effect on the child of the delay in permanency for the child which may occur as a result of the new consideration process.
- Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)
 Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0078

Consideration of Relatives as Potential Placement Resources

(1) SOSCF shall consider relatives as described in OAR 413-070-0069(1)(a)(A) through (D):

(a) Who have contacted SOSCF or whom SOSCF has identified, and

(b) Who have demonstrated their interest in placement of a related child or children.

(2) Relatives must demonstrate interest in the placement by an appropriate written response within 30 days of the date of receipt of the request to SOSCF's inquiries and requests for information that SOSCF has sent by certified mail, return receipt requested, which are relevant to the potential placement.

(3) SOSCF may consider as a placement resource a relative who responds in writing after 30 days of the date of the receipt of the request if it is in the best interest of the child.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)
 Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0081

Assessment of Suitability

(1) More than one relative family. If more than one relative family as defined in 413-070-0069(1)(a)(A) through (D) requests consideration for temporary or permanent placement of the child(ren), SOSCF shall:

(a) Provide the relatives with specific information on the methods and the criteria described in (4) of this rule that SOSCF will use to assess the suitability of a relative's home for the temporary or permanent placement of a child;

(b) Confer with the relative families for the purpose of assisting them within a reasonable time line set by the branch to come to consensus regarding which relative family would be the most appropriate for placement of the child(ren); and

(c) Determine which relative family or families are most appropriate for consideration if the relative families cannot themselves conclude which relative family is the best resource for the child. In making this decision, the child's worker and supervisor shall include in their consideration which family has the closest existing personal relationship with the child.

(2) Notwithstanding OAR 413-070-0072 or 413-070-0081, SOSCF is not required to assess for suitability any more than three relative families, but may assess additional families if the agency determines it is in the best interest of the child; and

(3) If SOSCF has determined that a relative family is suitable according to the requirements of OAR 413-070-0081(4) through (6); or 413-070-0081(7) in the case of an out-of-state relative, SOSCF is not required to assess additional families for placement of this child(ren).

(4) **Factors.** As early as possible when appropriate in the case planning process, as SOSCF determines by evaluation of the individual case, SOSCF shall assess the suitability of relatives as temporary or permanent placement resources. In the assessment of suitability SOSCF shall assess relatives on their own merits and never in comparison with any other potential resource family. The assessment of suitability shall be based on, but not limited to, the following factors:

(a) The relative's ability to provide for the safety of the child, including protection from all persons and situations which brought the child into care, including but not limited to:

(A) A criminal record check per OAR 413-120-0400 through 413-120-0470; and

(B) A family history, including a domestic violence history and a child abuse history.

(b) The relative's ability to acknowledge and meet the child's individual needs;

(c) The relative's willingness to cooperate with any restrictions placed by the court or SOSCF on contact between the child and others;

(d) The relative's willingness to prevent anyone from influencing the child in regard to the allegations of the case; and

(e) The relative's ability to support efforts of SOSCF to implement the permanent plan for the child.

(5) In addition to factors cited in subsection (4) of this rule, if the relative requests consideration as the permanent placement resource for the child, SOSCF shall consider:

(a) The timeliness of their interest in providing a permanent home, and

(b) Their ability to commit to the child on a permanent basis.

(6) Issues specific to a placement with a relative which the child's branch shall consider during the above assessment include but are not limited to household residents, care giving standards, birth parents' interaction with the relative, family legacies, resources and ability to care for the child, ability and willingness of the relative to assist the child to develop or maintain a lasting relationship with his or her siblings, and ability to support alternate permanency planning for the child.

(7) To determine the suitability of a relative who resides outside the state of Oregon, the SOSCF branch shall request a foster home study through the Interstate Compact on Placement of Children.

(8) If the SOSCF branch having responsibility for the child determines that, based on a review of OAR 413-070-0081(4)(a), the safety of the child may be jeopardized in the proposed relative's home, SOSCF shall document these findings in the child's case record and need not consider the suitability assessment factors detailed in OAR 413-070-0081(4)(b)-(e). If SOSCF learns this information prior to sending the CF 0448, "Permanency Commitment Waiver," SOSCF shall not send this form to the relative, and need not contact the relative.

(9) A relative who has served as a temporary placement for a child who came into care on an emergency basis will not necessarily be selected as the permanent placement for the child.

(10) SOSCF shall complete the diligent search and the assessment of suitability within 6 months of the date of the shelter hearing.

(11) When placing a child with a relative, SOSCF shall inform the relative of the availability of the relative foster care program and other financial resources to support the placement.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)
 Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0087

Consideration of Other Factors

(1) Other factors, such as family income, amount of prior contact of family member with the child, geographic location (including location outside of the United States) shall not preclude a finding of suitability. If SOSCF determines that the family is otherwise suitable according to factors in OAR 413-070-0081(4)(a)-(e), and (5) through (7), SOSCF shall engage the family so that SOSCF and the family can determine whether a potential placement is appropriate.

(2) SOSCF shall request the assistance of the designated consulate to determine the suitability of families residing outside the United States.

(3) Pursuant to the Adoption and Safe Families Act of 1997, SOSCF shall not delay or deny child placement based on geographic location.

(4) If SOSCF concludes that an out-of-state or out-of-country relative family is appropriate for potential placement of the child, SOSCF shall nonetheless not move the child until SOSCF has ceased providing reunification services to the child's family and the court has given approval for the move. If a child cannot be moved due to reunification services being provided to the child's family, the child's relationship with the potential placement resource may be furthered through face-to-face visits, telephone contact, e-mail, or written correspondence.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)
 Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0090**Conclusion that Relative is not a Suitable Resource**

(1) The SOSCF branch with responsibility for the child is responsible for making the decision that a relative is not a suitable temporary or permanent resource. At a minimum the child's worker, supervisor or branch manager shall participate in any decision not to place a child with a potential relative resource.

(2) In especially complex or challenging cases, branch staff may use established branch or an Interbranch Permanency/Adoption Council, as well as the central office adoption placement specialist assigned to the branch, to assist in assessing the issues to arrive at a decision that is in the best interest of the individual child.

(3) If SOSCF concludes as a result of the suitability assessment that the relative is not a suitable resource, SOSCF shall inform the relative in writing of the specific reasons for not proceeding with the relative as a temporary or permanent resource for the child. This letter shall be signed by the branch manager of the branch responsible for the child, with a copy placed in the child's file and a courtesy copy provided to the Adoption Services Unit Manager.

(4) When a relative who has an existing personal relationship with the child is not selected as the placement resource, the child's branch should encourage and may facilitate the development of an agreement for ongoing contact between this relative and the child if such an agreement is in the best interest of the child. Examples of contact include contributions to the child's Life Story Book and exchange of letters.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0092**Development of Alternate Permanency Plan**

(1) If permanent placement with a relative is the alternate permanent plan for a child, SOSCF shall further develop the alternate permanent plan to the extent that:

(a) It is in the best interest of the child;

(b) It does not conflict, to the detriment of the child, with reunification services for the parent while reunification/placement with a parent continues to be the primary plan; and (c) SOSCF has determined the relative to be suitable per OAR 413-070-0081.

(2) Development of the alternate permanent plan may include but is not limited to: proceeding with case management activities as applicable, including but not limited to requesting a home study, completing ICWA requirements, making an Interstate Compact referral, arranging visits with suitable relatives, or developing other opportunities for child-relative contact.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)

Hist.: SOSCF 3-2001(Temp), f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

413-070-0093**Conclusion that Relative Is a Potential Permanent Placement Resource**

(1) If SOSCF has begun a formal process to free a child for adoption where SOSCF has submitted a Legal Assistance Referral for termination of parental rights, or one parent has voluntarily relinquished his or her parental rights and if, having considered the factors listed in OAR 413-070-0081(4) and 413-070-0087, SOSCF concludes that the relative is a suitable potential permanent placement resource for the child, SOSCF shall proceed as follows:

(a) **Oregon Relatives.** The child's worker shall document in writing in the case file, the date and description of the options discussed with the Oregon relative family(s). The child's SOSCF caseworker shall direct the relative family(s) in writing by certified mail with a copy to the relative family(s) local branch adoption supervisor, to:

(A) Contact the relative(s) local SOSCF branch office and follow the branch's process to apply to adopt; or

(B) 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; and

(C) If the relative chooses a private agency, obtain at the relative family's own expense a current adoption home study through an Ore-

gon licensed private adoption agency and have the private agency provide a copy of that study to the child's caseworker within 90 days of the date of the written notification of intent.

(b) **Relatives Residing in a State Other Than Oregon.** SOSCF shall use the following process to consider relative families who reside in another state:

(A) The child's caseworker shall contact the Interstate Compact on the Placement of Children, Deputy Administrator, prior to discussing adoptive options with relative family(s) to assure compliance with adoptive statutes of the relative's state of residence and contractual adoptive issues;

(B) The child's caseworker shall document in writing, in the case file, the date and options discussed with the relative family(s). The child's caseworker shall direct the relative family(s) in writing by certified mail to:

(i) Contact the relative's local public agency child welfare office and follow the agency's process to complete an adoption home study; or

(ii) 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; and

(iii) If the relative chooses a private agency, obtain at the relative's own expense a current adoption home study through a private adoption agency licensed in the relative's state of residence and have the private agency provide a copy of that study to the child's caseworker. Complete the home study and provide a copy to the child's caseworker within 90 days of the date of the written notification of intent.

(C) If the relative family chooses a public agency to complete their home study, the child's SOSCF caseworker shall request an adoption home study through Interstate Compact on the Placement of Children within 30 days of the notification in OAR 413-070-0093(1)(b)(B)(ii);

(D) If the worker is unable to obtain a completed adoption home study from the relative's home state, the worker shall contact the central office adoption placement specialist for consultation.

(c) **Relatives Residing Outside the United States.** If the relative(s) reside outside the United States in a location other than a U. S. Military Base, the caseworker shall contact the closest consular office(s) of the country in which the relative(s) reside. If the relative residing outside the United States is domiciled in the United States, the Interstate Compact on Placement of Children, OAR 413-040-0200/0330 applies.

(2) Notwithstanding any other rule, after receipt of completed relative family adoption home studies, SOSCF shall refer children who are being considered for placement with a relative family or families to the appropriate adoption committee as follows:

(a) If only one relative family who is not a current caretaker is being considered for a child or sibling group, the child(ren) shall be referred to a branch Permanency/Adoption Council. At branch discretion, the branch may delegate placement selection to a central adoption committee;

(b) If a diligent search has occurred and there is a sole relative resource who is the current caretaker for the child or children, the current caretaker selection process as described in OAR 413-120-0500 through 0540 shall be used.

(c) If more than one relative family is being considered for any child, the child shall be referred to a central adoption committee;

(d) If a current caretaker as defined in OAR 413-120-0510 is being considered along with a relative family for a child, the branch shall refer the child to a central adoption committee.

(3) Notwithstanding OAR 413-070-0093(1), if during the process of doing the adoption study, SOSCF learns information which indicates that the child's safety or permanency would be jeopardized by placement with the relative, the SOSCF branch manager of the child's branch shall inform the relative in writing of their decision that the relative is not a suitable resource per OAR 413-070-0090(1)-(3), with a courtesy copy provided to the Adoption Services Unit Manager. SOSCF shall not refer the relatives to an adoption committee for consideration in this situation.

(4) The local SOSCF child's branch may consider additional relatives the branch determines may be appropriate adoptive resources; and

(5) If the SOSCF child's branch can clearly document that it has performed a diligent search OAR 413-070-0072 through 413-070-0075 the branch may refuse to consider relative families as defined in OAR 413-070-0069 who request consideration:

(a) After adoption committee has been set; or

(b) After SOSCF has completed a positive suitability assessment on another relative resource even if the home study on that family has not been completed.

(6) In deciding whether to consider a relative family who requests consideration as a placement resource under conditions described in (5)(a) or (b), SOSCF shall be guided by whether it is in the best interest of the child to include the relative as a possible placement resource. SOSCF shall use the factors listed in OAR 413-070-0075(5)(a) through (c) in making this assessment.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.004(16), 419B.192(1)&(2) & 109.119(1)-(7)

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01

Placement of Indian Children

413-070-0100

Policy Statement and Purpose of Rules

(1) On November 8, 1978, under its power over Indian affairs and its "responsibility for the protection and preservation of Indian tribes and their resources," Congress enacted the **Indian Child Welfare Act** (the Act or ICWA) of 1978. The Act was passed because Congress found that "an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children" by courts and welfare departments and placed in non-Indian homes and institutions.

(2) The Act sets forth that it is the policy of this nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families. Further, placement of such children will be made in foster or adoptive homes which will reflect the unique values of Indian culture.

(3) This remedial aspect of the **Indian Child Welfare Act** establishes the manner in which the administrative rules will guide the Department of Human Services (DHS) in adhering to the letter and spirit of the Act.

Stat. Auth.: ORS 418.005

Stats. Implemented: 25 USC §1901

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0110

Legislative Authority

These rules are promulgated pursuant to the statutory authority granted to the Department of Human Services (DHS) in ORS 418.005.

Stat. Auth.: ORS 418.005

Stats. Implemented: 25 USC §1901

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0120

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 Department of Human Services (DHS).

(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 Welfare Act Manager (ICWA Manager)" staff who monitors DHS Child, Adult and Family Services (CAFS) policy and procedures towards compliance with the Indian Child Welfare Act; investigates complaints of non-compliance from Tribes; provides consultation to caseworkers relating to law and administrative rules; and provides ICWA materials and training."

(10) "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.

(11) "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.

(12) "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.

(13) "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.

(14) "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.

(15) "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.

(16) "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.

(17) "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.

(18) "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.

(19) "Secretary" means the Secretary of the Interior.

(20) "Termination of Parental Rights" is action which results in the termination of the parent-child relationship.

(21) "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.

(22) "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.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 418.005
Stats. Implemented: 25 USC §1901
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0130

Applicability

(1) General:

(a) The Indian Child Welfare Act affects all placements of Indian children taking place after May 8, 1979, and also applies to changes or possible changes in placement of Indian children already under DHS authority as a result of a proceeding prior to May 8, 1979;

(b) The Act does not cover the full range of procedures involved in a juvenile court proceeding; where it is silent, the usual state court procedure should be followed. Under constitutional law, the federal Act takes precedence where it conflicts with state law. When the state law affords a higher standard of protection of the rights of the parents or Indian custodian, it applies.

(2) Exceptions. Child custody proceedings not covered by the Act are:

(a) An award of custody to one of the parents in a divorce proceeding;

(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.: ORS 418.005
Stats. Implemented: 25 USC §1901
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0140

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: 25 USC §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: 25 USC §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: 25 USC §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 thorough review of all documentation in the file (including contact with previous caseworkers, if any);

(A) Close observation of the child's physical characteristics and the physical characteristics of parents, as well as other siblings or relatives accompanying the child;

(B) Consultation with relatives/collaterals providing information which suggests the child/parent may be Indian;

(C) 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 Manager 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 and the ICWA Manager 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.: ORS 418.005

Stats. Implemented: 25 USC §1901

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0180

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 Assistant Director's Office for Children, Adult and Families.

Stat. Auth.: ORS 418.005

Stats. Implemented: 25 USC §1901

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0190

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: 25 USC §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.

(d) 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 Manager in locating persons qualified to serve as expert witnesses. The BIA is also required to provide this assistance.

Stat. Auth.: ORS 418.005

Stats. Implemented: 25 USC §1901

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0210

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: 25 USC §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 pre-adoptive 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: 25 USC §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: 25 USC §1901

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

413-070-0240

Voluntary Proceedings

(1) DHS 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 paragraph (2); 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 Manager 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 Manager 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 paragraph (c) of this rule, 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.: ORS 418.005

Stats. Implemented: 25 USC §1901

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02

413-070-0250

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: 25 USC §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: 25 USC §1901

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

Placement of Refugee Children

413-070-0300

Purpose

These rules (OAR 413-070-0300 to 413-070-0380) prescribe conditions that must be met for the Department to remove a refugee

child from home. These rules also establish the Refugee Child Welfare Advisory Committee and set the criteria for its operations and duties.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0310

Definitions

(1) "Affected family members" means biological and legal parents, extended family members, and any person within the fifth degree of consanguinity to the child.

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

(3) "Child's home" means the home from which the child is removed under the provisions of ORS 419B.150.

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

(5) "Extended family member" means a person ordinarily recognized as the refugee child's parent by the custom of the child's culture, or a person 18 years of age or older who is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

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

(7) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(8) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(9) "Refugee child" means, as defined by ORS 418.925, 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) As used in this section, "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 harm and suffering that is inflicted on persons generally by reason of civil or military strife in a country;

(b) As used in this section, "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.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0320

Placement of Refugee Children

(1) When it appears to the Department that a child who may be taken into custody under ORS 419B.150 or 419C.080 by the Department is a refugee child, the Department will make oral inquiry of the child or the parent concerning national origin and ethnic and cultural information relative to the child's status as a refugee child. For purposes of determining the child's status as a refugee child, the Department may consider a variety of information, including information from the following sources:

(a) Any *extended family member*;

(b) Refugee community resources (any group, association, partnership, corporation, or legal entity whose purpose is to represent the interests of a particular group or groups of refugees who have the same ethnic or minority heritage);

(c) The RCWAC;

(d) Federal immigration agencies;

(e) Refugee agencies; and

(f) Department records.

(2) As required by ORS 418.937, the Department will not remove a refugee child pursuant to ORS 419B.150, 419C.080, or 419C.088 unless:

(a) The Department has determined there is a safety threat and removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(b) The provision of remedial or preventive services cannot manage the child's safety in the home.

(3) The Department will follow ORS 418.937 in making placement decisions for refugee children:

(a) The Department will consider the child's culture and tradition;

(b) Unless shown to be inappropriate and inconsistent with the best interests of the child, the Department will place the child with one or more of the following persons, listed in order of preference:

(A) Biological and legal parents;

(B) Extended family members who are 18 years of age or older;

(C) Members of the same cultural heritage;

(D) Persons with knowledge and appreciation of the cultural heritage of the child.

(4) The determination that one of the preferred placements is inappropriate and inconsistent with the best interests of the child must be based on one or more of the following reasons:

(a) The informed request of the child's parent, if the request is consistent with the stability, security and individual needs of the refugee child;

(b) The safety, medical, physical, or psychological needs of the child.

(5) When the Department has taken a refugee child into custody under ORS 419B.150, the Department will make diligent efforts to locate the child's affected family members for the purposes of placing the child, if possible, in one of the preferred placements.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0330 [Renumbered to 413-070-0345]

413-070-0340

Petition

As required by ORS 418.930 and 418.933:

(1) Within one working day of the removal of a refugee child from the child's home, the Department must file a petition with the juvenile court.

(2) In addition to the material required under ORS 419B.809 or 419C.255, the Department must include the following items in its petition:

(a) A specific and detailed account of the circumstances which led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;

(b) Specific actions the Department is taking or has taken to alleviate the need for removal;

(c) Assurance that the Department has complied with the placement preferences of ORS 418.937; and

(d) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected family members and to the Refugee Child Welfare Advisory Committee of the pendency of the petition.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0345

Notice

(1) When a refugee child is removed from home, in addition to the notice provided by the court of a hearing, the Department must notify all affected family members and the Refugee Child Welfare Committee of the pendency of the petition described in OAR 413-070-0340.

(2) The notice will be written in language understandable to the recipient.

(3) The notice will contain the child's name; the reason a petition was filed; and the time and place that the juvenile court will be considering the petition.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-070-0330 by
CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0350**Judicial Determination**

As required by ORS 418.933(1), 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) Preventive or remedial services provided by the Department have failed to alleviate the need for removal; and
- (2) Return to the home will likely result in psychological or physical harm to the child.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0360**Record of Care**

The Department must maintain a case record for each refugee child in its care containing:

- (1) The name, age, residence from which the child was removed, legal status, sex, and race of the child, and the accumulated length of time the child has spent in substitute care;
- (2) The child's health and education records;
- (3) The name, former residence, and health history of each parent and other information relating to the parent's ability to care for the child in the parent's home;
- (4) The date of the child's intake and placement in substitute care and the name, race, occupation, and residence of the person with whom the child is placed;
- (5) If applicable, the date of the child's adoption and the name, race, occupation, and residence of each adoptive parent;
- (6) The date of the removal of the child to another home and the reason for removal;
- (7) The date of termination of guardianship, if applicable;
- (8) The history of the child, based on information that is known to the Department, until the child reaches 18 years of age, is legally adopted, or is discharged from the legal custody of the Department according to law;
- (9) Documentation of the reasonable efforts made by the Department to reunite the child with his or her family, to comply with the placement preferences of ORS 418.937, to place the child in the least restrictive setting possible, and to place the child close to the child's own home and the child's school;
- (10) Documentation of the child's status as a refugee child, including the source of information concerning the child's refugee status and the date the information was received by the Department;
- (11) Any required demographic information; and
- (12) Other documentation as required by Child Welfare Policies I-I.1, "Service Reporting" and I-I.2, "Narrative Recording".

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0370**Annual Report of Care**

(1) As required by ORS 418.943, the Department will publish annually a report on refugee children in its care. The report will include, statewide and county information on legal status, living arrangement, age, sex, race, accumulated length of time in foster care, and other demographic information deemed appropriate. The report will also state the extent to which the Department has complied with ORS 418.925 to 418.945 and will include descriptions of the methods of compliance.

(2) The annual report will be sent to all members of the RCWAC no later than March 1 of each year.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

413-070-0380**Refugee Child Welfare Advisory Committee**

(1) As required by ORS 418.941, the Department will establish an advisory committee known as the Refugee Child Welfare Advisory Committee (RCWAC). The RCWAC will perform the following tasks:

(a) Advise the Department on its implementation of ORS 418.925 to 418.945;

(b) Advise the Department in the identification, development, and certification of foster parents who meet requirements of ORS 418.925 to 418.945 for placement of refugee children, placing a special emphasis on locating homes maintained by refugees; and

(c) Advise the Department in developing training programs to insure the availability of culturally sensitive social work.

(2) Each person appointed to the RCWAC is subject to all confidentiality requirements and penalties as are employees of the Department.

(3) In addition to records of the juvenile court under ORS 418.941(3), members of the RCWAC have access to Department records that:

(a) Are pertinent to the care of an individual refugee child who is receiving care from the Department under the provisions of OAR 413-070-0300 to 413-070-0380; and

(b) The Department is authorized by law to provide to the RCWAC.

(4) The Department will work jointly with the RCWAC in the development and implementation of written bylaws or procedures that will specify all local procedures, duties, and tasks necessary for the RCWAC to fulfill the purpose described above.

(5) A maximum of 14 members will be appointed for a two-year renewable term and will serve at the pleasure of the Assistant Director for the Children, Adults and Families Division of the Department.

(6) The RCWAC will meet at least once every three months. Special meetings may be held to carry out required tasks.

(7) Members of the RCWAC receive no compensation for their services. Members of the RCWAC other than members in full-time public service may be reimbursed by the Department for their travel and necessary expenses incurred in the performance of their duties according to rates and procedures established by state management service cost reimbursement policy.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07

Psychotropic Medication Management**413-070-0400****Purpose**

These rules (OAR 413-070-0400 to 413-070-0490) describe the responsibilities of the substitute caregiver and the Department when a child or young adult in the Department's care or custody placed with a substitute caregiver, including a pre-adoptive placement, is prescribed or administered psychotropic medication.

Stat. Auth.: ORS 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.517

Hist.: SCF 3-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95;

CWP 8-2007, f. & cert. ef. 5-1-07

413-070-0410**Definitions**

The following definitions apply to OAR 413-070-0400 to 413-070-0490:

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

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

(3) "Designee" means a person whom the designator directly and immediately supervises, or a person with equal or greater management responsibility than the designator.

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

(5) "Licensed health care professional" means a person licensed pursuant to state law to engage in the provision of health care services within the scope of the practitioner's license or certification.

(6) "Provider" means a person approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(7) "Psychotropic medication" means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a

medication depends upon its stated, intended effect when prescribed because it may have many different effects.

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

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

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

(11) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07

413-070-0430

Department Records, Medication Review, and Documentation Requirements

(1) The Department must keep the medical history record of any child or young adult in substitute care. As used in this section, "medical history" includes a child or young adult's records of medical care, including but not limited to the names of former and current health providers, medical services and diagnoses, evaluations, immunizations, and prescribed medications.

(2) The caseworker must:

(a) Document and inform the substitute caregiver of known health information of a child or young adult at the time of placement, including information regarding any prescribed and administered psychotropic medication;

(b) Retain copies of all medical documents received by the Department in the medical section of the case file of the child or young adult in substitute care;

(c) Document and update records of known health conditions of the child or young adult in substitute care when developing the case plan and at each case plan review;

(d) Complete the notifications required per OAR 413-070-0480 and 413-070-0490;

(e) Review the child or young adult's psychotropic medication with the caseworker's supervisor and notify the Department's Personal Care RN Coordinator or designee when any of the following circumstances become known to the caseworker:

(A) A child under six years of age has been prescribed a psychotropic medication;

(B) More than three psychotropic medications are administered to a child or young adult in substitute care;

(C) More than one psychotropic medication is being administered from one of the following classifications of psychotropic medication:

(i) Stimulants;

(ii) Mood stabilizers;

(iii) Anti-depressants;

(iv) Anti-anxiety;

(v) Anti-psychotics.

(D) When a psychotropic medication is prescribed PRN. As used in this rule, "PRN" means ordered to be given as needed (pro re nata);

(E) When a child or young adult's monthly medication log reflects administration of a psychotropic medication prescribed PRN more than two times in any seven day period.

(f) After the review required in subsection (e) of this section, when advised by either the supervisor or the Department Personal Care RN Coordinator:

(A) Consult with the prescribing licensed health care professional to seek additional information; or

(B) Seek a second opinion regarding a child or young adult's psychotropic medication.

(g) Assure that the diagnosed condition of the child or young adult in substitute care and the effects of the administration of psychotropic medication are routinely reviewed and monitored by the licensed health care professional;

(h) Report to the prescribing health care professional when the condition of the child or young adult in substitute care is not improving or is deteriorating;

(i) Request and receive updated health information of the child or young adult in substitute care and effects of the prescribed psychotropic medication therapy from the substitute caregiver during the required 30 day contact with the substitute caregiver;

(j) Receive and review each month the medication log of the child or young adult in substitute care and file a copy in the medical section of the case record of the child or young adult;

(k) Document the review and actions taken subsequent to the review required in subsection (e) of this section, and all consultation notes in FACIS case notes;

(l) File all written medical records in the medical section of the case file.

Stat. Auth.: ORS 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07

413-070-0440

Authority for the Administration of a Psychotropic Medication Prescription in an Emergency

(1) In any instance where the behavior or condition of a child or young adult requires immediate, emergency medical care, which includes the administration of psychotropic medication, the District Manager or designee may consent to emergency medical care as described in Child Welfare Policy I-B.1.4, "Guardian and Legal Custodian Consents", OAR 413-020-0100 to 413-020-0170.

(2) The caseworker must request copies of records for orders for medication, laboratory, and other medical procedures recorded in the child or young adult's clinical record, within seven working days of the emergency medical care.

(3) Requirements of notification as described in OAR 413-070-0480 and 413-070-0490 apply to emergency administration of psychotropic medication upon the caseworker's receipt of the information requested in section (2) of this rule.

Stat. Auth.: ORS 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07

413-070-0450

Disclosure Requirements for the Department Regarding a Child 14 Years of Age and Older and a Young Adult in Substitute Care

Pursuant to ORS 109.675, a child 14 years of age or older or a young adult in substitute care may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder, or a chemical dependency, excluding methadone maintenance, by a physician, licensed psychologist, nurse practitioner or licensed clinical social worker. However, when a child 14 years of age or older or a young adult is placed in substitute care, and the substitute caregiver or Child Welfare has knowledge of that prescription, the notification requirements of OAR 413-070-0470(2), 413-070-0480, and 413-070-0490 apply.

Stat. Auth.: ORS 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07

413-070-0470

Substitute Caregiver Responsibilities

(1) Before administering a new or amended prescription for psychotropic medication to a child or young adult in substitute care, the substitute caregiver must provide written or verbal notification to the caseworker or caseworker's supervisor within one working day when a licensed health care professional:

(a) Prescribes psychotropic medication therapy; or

(b) Prescribes a change in dosage, suspension, or discontinuation of the current psychotropic medication.

(2) The notification required under section (1) of this rule must include:

(a) The name and contact information of the prescribing licensed health care professional;

(b) The diagnosed condition for which the medication was prescribed;

(c) The name of the medication;

(d) The dosage prescribed or changed; and
 (e) The reason the medication was prescribed or changed.
 (3) The substitute caregiver must keep current medical records of a child or young adult in the care or custody of the Department. The records must include:

- (a) Medical appointments for the child or young adult in substitute care;
- (b) Medical appointment follow-up reports provided to the substitute caregiver;
- (c) Any immunization records obtained while in the care of the substitute caregiver;
- (d) A record of all prescribed medications administered to the child or young adult in substitute care;
- (e) Substitute caregivers certified by the Department must keep a current medication log on a form prescribed by the Department (CF 1083). Providers must keep a current medication log either on the Department's form (CF 1083) or on a form provided by the child caring agency. The medication log record must include all medications administered to the child or young adult in substitute care and must include:

- (A) The name of the child or young adult in substitute care;
 - (B) The brand or generic name of the medication, including the prescribed dosage and prescribed dosage administration schedule;
 - (C) Times and dates of administration or monitored self-administration of the medication;
 - (D) The name or initials of the substitute caregiver administering the medication or monitoring the self-administration.
- (4) The substitute caregiver must give completed Medication logs to the Department at the end of each month. This must include logs of all medication administered to the child or young adult at school or in settings other than the substitute caregiver's home.

(5) The substitute caregiver must keep all psychotropic medications properly stored and must:

- (a) Ensure the psychotropic medication specifies the licensed health care professional's order for the administration of the psychotropic medication; and
- (b) Ensure the psychotropic medication is kept in locked storage and stored as prescribed. Psychotropic medication requiring refrigeration must be kept under refrigeration in a locked box.

(6) The substitute caregiver may not discontinue, change, or otherwise alter the prescribed administration of a psychotropic medication for a child or young adult in substitute care without direction from the licensed health care professional.

(7) The substitute caregiver may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic remedies, without direction and supervision of the licensed health care professional of the child or young adult in substitute care.

Stat. Auth.: ORS 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07

413-070-0480

Notification Timelines for Psychotropic Medication Therapy

(1) The Department must provide written notification to the parties identified in section (2) of this rule within a timely manner, not to exceed seven working days of:

- (a) The Department receiving notice of the child or young adult in substitute care beginning psychotropic medication therapy; or
- (b) Any of the following changes occur in the treatment of a child or young adult in substitute care:

- (A) The prescribed dosage of a psychotropic medication;
- (B) Discontinuation of existing psychotropic medication therapy;
- (C) An additional or another psychotropic medication.

(2) Written notification is provided to:

- (a) The parent or legal guardian of a child or young adult in substitute care unless a parent has relinquished parental rights, had parental rights terminated, or whereabouts are unknown;
- (b) The parent or legal guardian's attorney, if known to the branch;
- (c) The attorney of the child or young adult in substitute care, if known; and
- (d) The court appointed special advocate of the child or young adult in substitute care, if one has been appointed.

(3) A copy of the written notification described in sections (1) and (2) of this rule is provided to all other legal parties to the case and the child or young adult's substitute caregiver.

Stat. Auth.: ORS 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07

413-070-0490

Notification Content for Psychotropic Medication Therapy

The notification described in OAR 413-070-0480 must contain:

- (1) The diagnosed condition of the child or young adult in substitute care;
- (2) The name of the prescribed psychotropic medication;
- (3) The prescribed dosage;
- (4) The dosage recommended by the drug's manufacturer or the United States Food and Drug Administration (FDA) when the FDA has issued pediatric dosage recommendations;
- (5) The reason the medication was prescribed;
- (6) The expected benefit of the medication;
- (7) The most common side-effects of the medication; and
- (8) Notice of the right to petition the juvenile court for a hearing if there is an objection to the use of the prescribed medication or prescribed dosage.

Stat. Auth.: ORS 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07

Achieving Permanency

413-070-0500

Purpose

The Adoption and Safe Families Act and Oregon statutes require the Department to develop, document, and implement a permanency plan, and an alternate plan for every child placed in the Department's legal custody for substitute care placement. These rules (OAR 413-070-0500 to 413-070-0517) define the minimum agency expectations for achieving permanency for every child in substitute care and clarify the appropriate use of the Department's specialized Legal Assistance Program for children who are likely to be freed for adoptive placement. In the case of an Indian child, the Department follows the Indian Child Welfare Act and the Department's Child Welfare policy I-E.2.1, "Placement of Indian Children," OAR 413-070-0100 to 413-070-0260.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04

413-070-0505

Definitions

(1) "Concurrent plan:" A plan established as an alternate or back-up permanency plan when the goal of the permanency plan is placement with the parents. The concurrent plan is developed simultaneously with the plan to return the child to his or her parents. Although the concurrent plan may change as more information becomes available, the goal is to develop a safe and permanent resource with family members or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(2) "Concurrent planning:"

(a) Concurrent planning is the active implementation of concrete tasks that are individually formulated for a specific child to achieve the child's primary and alternate permanency plans.

(b) Concurrent planning begins by identifying specific timelines, designating specific dates along those timelines for the accomplishment of specific tasks, and identifying specific persons whose collaboration is key to accomplishing the tasks identified for both the primary and alternative permanency plans by or before the designated dates.

(c) Concurrent planning is a dynamic process that evolves through early, open, and ongoing dialogue with significant persons in the child's panorama or relationships as well as with the child, according to his or her age and capacity to participate, and their active engagement in identifying, working toward, and continuously re-evaluating and updating timelines and tasks until either the primary or alternate permanency plan is achieved.

(d) Concurrent planning has at its heart the child's best interests, the child's sense of time, and a commitment to active, simultaneous work toward the achievement of two different permanency plans. It continues until a legal determination is made that abandoning either the primary or the alternate permanency plan and aggressively completing the work to achieve the remaining plan in the most timely way possible is in the child's best interest.

(3) "Designated local review body:" An internal local committee, assigned by the SDA Manager or designee responsible for reviewing and approving case planning for substitute care placement, for permanency and concurrent planning and for adoption planning.

(4) "Permanency plan:" A plan to achieve permanency for a child.

(5) "Substitute care:" A child is in substitute care when the child is in the legal or physical custody and care of the Department of Human Services (the Department) and is in an out-of-home placement with someone other than his or her birth parent, legal parent, or legal guardian.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04

413-070-0510

Values

(1) Substitute care placement is temporary care for a child who requires protective care or specialized treatment.

(2) Every child needs and deserves a safe, nurturing, and permanent home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04

413-070-0515

Procedures

(1) Initial Permanency Planning. DHS will develop a permanency plan and a concurrent plan for each child in the Department's custody within 60 days of the placement of the child into substitute care (see OAR 413-040-0000 to 413-040-0045, "Service Plans"). The health and safety of the child are of paramount concern in the development of the permanency plan. The permanency plan and concurrent plan each contains a permanency goal.

(2) If the Department does not pursue termination of parental rights for a child in its custody, the Department will document an exception to the requirement to file a petition to terminate parental rights in the following cases:

(a) When a child has been in care for 15 of the past 22 months.

(b) When a parent has been convicted of certain crimes.

(c) When the child has been abandoned.

(d) At any time the permanency plan changes from "place with parents" to another plan other than adoption.

(3) If the goal is placement in another planned permanent living arrangement, the Department will document a compelling reason why it is not in the best interests of the child to be placed with a parent, to be referred for termination of parental rights and placed for adoption, to be placed with a relative, or to be placed with a legal guardian.

(4) Goals for Achieving Permanency. For each child in substitute care, the Department will have an appropriate and current permanency goal recorded in one of its information systems and in the child's service plan. The recorded goal reflects the service plan and the legal status of the child.

(5) Permanency Plan Reviews:

(a) The Department will review the permanency plan and concurrent plan for each child in its legal custody after the six-month review conducted in accordance with ORS 419A.106 (or any hearing conducted in lieu of such review) and prior to the permanency hearing required by ORS 419B.470(2) to determine the appropriateness of the permanency plans. But if the permanency hearing is scheduled to occur before the six-month review, the Department will review the permanency plan and the concurrent plan prior to the permanency hearing (see the Department's Child Welfare policy I-F.3.2.1, "Termination of Parental Rights," OAR 413-110-0200 to 413-110-0252). The caseworker must document this review on the form CF 147B.

(b) A permanency hearing is required by statute to be conducted for each child in substitute care within 12 months after the date of the

jurisdictional hearing or 14 months after the child was first placed in substitute care, whichever is earlier. Subsequent permanency hearings must be conducted not less frequently than every 12 months after the initial permanency hearing. Subsequent permanency hearings are also required for all children placed in a permanent foster home or a preadoptive home. Nothing in these rules precludes the Department from tracking an earlier date to assure compliance or seeking an earlier review.

(c) The Department is authorized to ask the court to conduct a permanency hearing at any time. The court is not required to conduct a permanency hearing for a child in circumstances such as those described in this subsection but, based on an assessment of the specific facts of a case, the Department may determine that it is appropriate to request a permanency hearing:

(A) When the child was in substitute care but is living with a parent and remains under the jurisdiction of the court with an open case with the Department; or

(B) When the child did not have a permanency hearing because the child left substitute care and was living with a parent but has returned to substitute care.

(d) Following a permanency hearing the judge normally approves a permanency plan for the child that includes whether and when:

(A) The child will be placed with a parent;

(B) The Department will file a petition for termination of parental rights and the Department will pursue adoption for the child;

(C) The child will be referred for legal guardianship; and

(D) The child will be placed in another planned permanent living arrangement.

(e) If the Department plans to place the child in another planned permanent living arrangement, the Department will document a compelling reason, including an explanation for how the Department determined that it would not be in the best interest of the child to:

(A) Be placed with a parent;

(B) Be referred for termination of parental rights and placed for adoption;

(C) Be placed with a fit and willing relative; or

(D) Be placed with a legal guardian.

(6) Reasonable Efforts. When making reasonable efforts, or active efforts in the case of an Indian child, the child's health and safety are the paramount concerns. The Department is required to make reasonable efforts, or active efforts, consistent with strengths- and needs-based practices, to preserve and reunify families, to prevent or eliminate the need for removing the child from the child's parents, and to make it possible for the child to safely be placed with a parent. If continuation of reasonable efforts to place the child with a parent is inconsistent with the permanency plan for the child, the Department will make reasonable efforts to place the child in a timely manner in accordance with the concurrent plan and to complete the necessary steps to finalize the child's permanent placement. These efforts normally include a search for and an attempt to place the child with relatives as well as child-specific recruitment efforts to locate an adoptive resource. In the case of an Indian child, the Department will make active efforts to involve the Indian child's tribe in the selection of a permanent plan and a concurrent plan for the child.

(7) Reasonable efforts not required.

(a) If a court determines that a parent has subjected the child to aggravated circumstances, which are defined in ORS 419B.430, the Court may make a finding that the Department is not required to make reasonable efforts to make it possible for the child to return home

(b) If the juvenile court makes a finding that the Department is not required to make reasonable efforts to prevent or eliminate the need for removal of the child from the home or to make it possible for the child to safely return home, and the Department determines that it will not make such efforts, the Department will ask the court to conduct a permanency hearing within 30 days of the finding.

(c) If the court's finding was based upon a conviction of a crime listed in ORS 419B.340, the Department will file a petition for termination of parental rights no later than 60 days after the court's finding unless:

(A) Upon the authorization of the Department the child is being cared for by a relative;

(B) The Department has documented in the case plan a compelling reason for determining that filing such a petition would not be in the best interests of the child as provided in ORS 419B.498(2); or

(C) DHS has not provided to the family of the child, consistent with the time period in the case plan, services as DHS deems necessary for the safe return of the child to the child's home, if reasonable efforts to make it possible for the child to safely return home are required to be made with respect to the child.

(8) Specialized legal assistance services (formerly called "permanent planning services." Specialized legal assistance services are appropriate only if adoption is a realistic alternative to placing the child with a parent. These services are used only if the case meets the requirements of the Department's Child Welfare policy "Termination of Parental Rights," policy I-F.3.2.1, Termination of Parental Rights.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04

413-070-0517

Without Reasonable Efforts

In some cases, the Department may file a petition to terminate the parental rights of a parent whose child is in the Department's custody without making reasonable efforts to make it possible for the child to be safely returned home and without seeking or having the juvenile court make a finding that the Department is not required to make such efforts (see OAR 413-110-0250). This decision is based on the best interests of the child.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04

Another Planned Permanent Living Arrangement

413-070-0520

Purpose

The federal Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2116 (1997) and the Department's rules (specifically OAR 413-040-0017 about Reunification and Concurrent Plans and Department Policy I-E.3.6, "Achieving Permanency", OAR 413-070-0500 to 413-070-0517) require the Department to develop, document, and implement a permanency plan for every child placed in the Department's legal custody for substitute care placement. The Department has five permanency plans to choose from for these children. The five permanency plans are: Reunification with parents — see OAR 413-040-0017; Achieve adoption — see OAR 413-110-0300 to 413-110-0360; Arrange guardianship or legal custody — see ORS 419B.365; Permanent placement with a fit and willing relative — see OAR 413-070-0060 to 413-070-0093; and Another planned permanent living arrangement (APPLA, which is any permanency plan other than reunification, adoption, guardianship, or permanent placement with a fit and willing relative). These rules (OAR 413-070-0520 to 413-070-0560) describe the appropriate use of APPLA.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0524

Definitions

The following terms are defined for use in these rules (OAR 413-070-0520 to 413-070-0560):

(1) "APPLA" means Another Planned Permanent Living Arrangement. APPLA is one of the five types of permanency plans.

(2) "Compelling reason" means a convincing and persuasive reason why it would not be in a child's best interests to be returned home, placed for adoption, placed with a guardian, or placed permanently with a fit and willing relative.

(3) "Department" means the Department of Human Services Child Welfare Program.

(4) "Family" means a child's parent/guardian(s), sibling(s), and kin.

(5) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(6) "Permanent foster/kinship care" means a long-term placement decision between the foster/kinship care family and the Department, approved by the juvenile court, in which the permanent foster/kinship care family makes a commitment to raise a child until the age of majority, and be accessible to and supportive of the child in adulthood.

(7) "Relative" or "Relatives" means:

(a) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great who is related to the child through the biological or adoptive mother or the legal or adoptive father of the child as defined by ORS 419.004(16);

(b) Aunts, uncles, adult first cousins and adult first cousins (once removed) who are related to the child through the biological or adoptive mother or the legal or adoptive father of the child as defined by ORS 419.004(16); and

(c) Stepparent(s) or ex-stepparents who have parented the child.

(8) "Service plan" means a written description of the services and activities designed to achieve goals for child safety, a permanent home, and the child's well-being (see Department Policy I-B.3.1, "Service Plans: Service Agreement or Letter of Expectations and Family Decisions Meetings," OAR 413-040-0000 to 413-040-0071).

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

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0528

Values

The values that underlie permanency planning for children are as follows:

(1) Every child needs and deserves a safe, nurturing, and permanent home.

(2) Children need and benefit from familial attachments.

(3) The purpose of permanency planning is to locate a permanent family or, if that is not possible, develop lifetime supportive relationships for a child in an out-of-home placement.

(4) Permanency planning must begin when a child enters substitute care; planning should be driven by the particular needs of each child; planning should be family-focused, culturally competent, and continuous; and planning should be accomplished with urgency.

(5) Permanency for a child is best achieved by placing the child in a family-like setting that provides the child with caring, nurturing relationships and an enduring sense of stability.

(6) APPLA is the least permanent of all the permanency plans and must be used only when the other plans have been ruled out.

(7) When APPLA is utilized as a child's permanency plan, the plan should be regularly reviewed to determine whether a more permanent plan has become appropriate for the child.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0532

APPLA, Described

Another Planned Permanent Living Arrangement (APPLA) is a plan for a stable, secure living arrangement, developed for a child, that includes building relationships with significant people in the child's life that will continue beyond substitute care. "Planned" means the arrangement is intended, designed, considered, premeditated or deliberate. "Permanent" means enduring, lasting, or stable. An APPLA plan includes not only the physical placement of the child, but also the quality of care, supervision, and nurture the child will be provided by a specified adult or adults. APPLA is the least preferred permanency plan for a child.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0536

Uses of APPLA

(1) The Department may identify APPLA as a permanency plan for a child only if the Department has determined that there is a *compelling reason* (defined in OAR 413-070-0524) that it would not be in the best interests of the child to be placed on a permanent basis:

(a) With a parent;

- (b) In an adoptive home;
- (c) In a guardianship; or
- (d) In a permanent placement with a fit and willing relative.

(2) For purposes of implementing an APPLA permanency plan, the Department may document and the court may determine that there is a compelling reason that it would not be in the best interests of the child to implement a more preferred permanency plan in circumstances that include, but are not limited to the following:

(a) The child is an older teen, who rejects all of the other more favored permanency plans.

(b) The child's tribe has identified an APPLA as the preferred plan for an Indian child.

(c) The adult with whom the child has formed a permanent attachment is unable or unwilling to adopt the child or become the child's guardian.

(3) The examples provided in section (2) of this rule are not intended to eliminate from consideration any permanency plan for any group of children in substitute care. Each child's permanency plan must be based on the best interests and individual needs and circumstances of each child and determined on a case-by-case basis. A child's age or disability alone should never be a disqualifier for a more preferred permanency plan, such as adoption or guardianship.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0540

Decision-making Process

The following process will be used to identify APPLA as the permanency plan of a child:

(1) If it appears that the child cannot be reunified with a parent, placed for adoption, placed with a guardian, or permanently placed with a fit and willing relative, the child's caseworker must convene a team of individuals knowledgeable about the child's needs to discuss permanency plans for the child. The team must include the child's caseworker, and should include, but need not be limited to, the child's parents (unless their parental rights have been terminated or their participation in the meeting would be harmful to the child), the child's attorney, the court-appointed special advocate, the child's substitute caregiver, and the child, if appropriate.

(2) The team must provide the child and parents an opportunity to identify available permanency resources.

(3) After section (2) of this rule has been accomplished, the team must:

- (a) Discuss and explore the child's needs and best interests;
- (b) Explore and discuss the various permanency options that would meet the needs and best interests of the child; and
- (c) If considering APPLA, rule out all other more preferred permanency options.

(4) After section (3) of this rule has been accomplished, the team may recommend APPLA as the best permanency plan for the child.

(5) Although the team provides input, Department staff present at the meeting are responsible for selecting the permanency option for the child. The Department will incorporate the team's recommendations for permanency to the extent that these recommendations protect the child, achieve permanency for the child, and provide the child with support in adulthood.

(6) If APPLA is selected, the Department must develop a permanency plan recommendation that meets the requirements of an APPLA for the child and a list of reasons why implementation of each of the other, more preferred permanency plans is not in the child's best interests.

(7) The caseworker's supervisor must review the Department's recommended plan and the reasons that each of the more preferred permanency plans is not in the child's best interests.

(8) After reviewing a plan under section (7) of this rule, the supervisor of the caseworker must give written approval for the plan if the supervisor determines that:

(a) There is a compelling reason (defined in OAR 413-070-0524) why a more preferred permanency plan is not in the child's best interests; and

(b) The APPLA developed by the Department is the appropriate plan for the child.

(9) The child's caseworker must schedule a permanency hearing and obtain approval for implementation of the APPLA plan from the court.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0544

APPLA Categories

An APPLA permanency plan may follow one of the categories described in this rule:

(1) APPLA — Permanent Foster Care. To qualify as APPLA — Permanent Foster Care, the arrangement must not be likely to disrupt and must include a commitment and a plan for how the substitute care provider will continue a familial relationship with the child beyond the child's majority. See Department Policy I-E.3.6.1, "Permanent Foster/Kinship Care", OAR 413-070-0700 to 413-070-0750, for more details on this permanency plan.

(2) APPLA — Independence. An APPLA — Independence plan may be appropriate for an older teen who has left substitute care or is receiving subsidy, and should focus not only on the child's educational, vocational, and treatment needs, but also on the needs of the child to develop or maintain relationships with adults who can play a significant role in the child's life after the child leaves substitute care.

(3) APPLA — Other:

(a) An APPLA — Other plan may be appropriate for a child in a psychiatric residential facility, Developmental Disabilities placement, or residential treatment facility who will not be discharged from the facility while the Department maintains legal custody of the child; a child for whom no placement that will commit to permanency can be found; or an older child who does not agree to a permanent foster care agreement or who is already living independently.

(b) This APPLA plan must include all of the following:

(A) Identification of the most secure, long-term, stable placement for the child. Group care or residential care is not generally considered appropriate as a permanent, long-term living arrangement. If the child's departure from group care is likely while the Department maintains legal custody of the child, a different plan should be chosen for the child.

(B) A strategy to develop relationships with significant people who will remain in the child's life beyond the time the child leaves substitute care. This strategy includes the identification of a permanent adult caregiver or adult parent figure that will play a permanent or important role in the child's life.

(C) When applicable, a plan to transition a developmentally delayed child to an appropriate program for adults who are developmentally disabled.

(D) A description of the reasonable efforts (OAR 413-070-0515(6)) made by the Department to put the services and structures described in this rule in place to meet the needs of the child and to enhance the stability of the child's living arrangement when the child is not living with a specified adult.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0548

Contents of APPLA Plan

An APPLA permanency plan must include all of the following:

(1) An APPLA service plan (see OAR 413-070-0552).

(2) A description of how permanent ties with family members, advocates, and others who provide a nurturing and supportive environment for the child will be established and maintained. This description may include the following:

(a) A description of how the parents and siblings of the child will actively participate in the life of the child if appropriate.

(b) For each existing relationship the child has with another adult who can sustain a significant relationship with the child, a description of how the relationship will be maintained.

(3) The comprehensive transition plan required by Department Policy I-B.2.3.5, "Independent Living Programs", OAR 413-030-0400 to 413-030-0455.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0552

APPLA Service Plan

In addition to meeting the requirements of Department Policy I-B.3.1, "Service Plans: Service Agreement or Letter of Expectation", OAR 413-040-0000 to 413-040-0071, the APPLA permanency plan must have a service plan that identifies all of the following:

(1) The relatives, advocates, guardians, current and former foster parents, or other individuals who can provide for the child lifelong support, but not permanent placement, a sense of continuity, belonging, and stability, and supportive, caring relationships. Individuals identified may include coaches, mentors, teachers, or employers. Attempts to locate these support resources must be documented in the case file.

(2) The services that will ensure the emotional, medical, educational, cultural, and physical needs of the child are being met.

(3) The services that will strengthen and nurture the relationship between the identified support persons and the child: for example, visitation schedule and inclusion of the support person in the child's counseling.

(4) The services that will prepare the child to live in the least restrictive setting possible at the most appropriate time.

(5) The services that will provide the child with a reasonable opportunity to achieve one of the permanency plans listed in OAR 413-070-0536(1).

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0556

APPLA Permanency Plan Reviews

If APPLA is the permanency plan for a child in its legal custody, the Department will review that plan, prior to each review conducted by the Citizen Review Board in accordance with ORS 419A.106 and prior to the permanency hearing required by ORS 419B.470(2), to determine the appropriateness of the permanency plan. The APPLA permanency plan should be reviewed to determine whether:

(1) A different permanent plan should be implemented for the child, such as reunification, adoption, guardianship, or permanent placement with a fit and willing relative; and

(2) The current placement is the least restrictive setting that meets the health and safety needs of the child.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0560

APPLA Permanency Plan Documentation Requirements

The caseworker must document all of the following in the case record:

(1) The recommendations of the Department described in OAR 413-070-0540(1) and the approval of the supervisor required by OAR 413-070-0540(6) showing why APPLA is the most appropriate permanency option for the child.

(2) The efforts of the Department to identify and recruit a permanent placement for the child.

(3) How the current placement and services meet the special needs of the child and what structures are in place to support the current placement.

(4) Any approved exception to the 30-day face-to-face contact with the child required by OAR 413-080-0060.

(5) The compelling reason (defined in OAR 413-070-0524) why it would not be in the best interests of the child to be placed with a parent, freed for adoption, permanently placed with a fit and willing relative, or placed with a legal guardian.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

Placement Matching

413-070-0600

Purpose

The purpose of these rules (OAR 413-070-0600 to 413-070-0645) is:

(1) To prescribe the requirements for assessing the child's needs when the Department initially places the child in substitute care to assure the child's safety;

(2) To identify the most appropriate, available substitute care provider who can meet the child or young adult's needs; and

(3) To prescribe the requirements for assessing the substitute care placement in meeting the child or young adult's need for safety, permanency, and well-being.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0620

Definitions

The following definitions apply to OAR 413-070-0600 to 413-070-0645:

(1) "Caregiver relationship" means a relationship between a person and a child that has existed for the 12 months immediately preceding the initiation of a dependency proceeding, for at least six months during a dependency proceeding, or for half of the child's life if the child is less than six months of age and the person had physical custody of the child or resided in the same household as the child; the person provided the child on a daily basis with the love, nurturing and other necessities required to meet the child's psychological and physical needs; and the child depended on the relationship to meet the child's needs. "Caregiver relationship" does not include a relationship between a child and a person who is an unrelated foster parent of the child unless the relationship continued for a period of at least six consecutive months.

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

(3) "FACIS" means the Family and Child Information System.

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

(5) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(6) "Provider" means a person approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(7) "Relative Caregiver" means a person who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

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

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

(10) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005, 419B.192

Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0625

Identifying and Assessing the Child's Needs when Initial Placement in Substitute Care is Required

(1) To determine a child's immediate needs when an out-of-home ongoing safety plan is required, the caseworker must:

(a) Involve the child's parent or legal guardian in identifying substitute care placement resources whenever possible.

(b) Assess the ability of each potential substitute caregiver to provide safety for the child.

(c) Consider potential substitute care placements that meet the needs of the child in the following order of preference:

(A) A relative who can and will meet the child's needs for safety and can be certified by the Department through a diligent search for the child's relatives;

(B) A person who has a caregiver relationship with the child and can be certified by the Department;

(C) An unrelated person to whom the child has significant attachment or who has significant attachment to the child, and can be certified by the Department; or

(D) A foster parent who is certified by the Department, or a provider who is certified through a licensed child-caring agency.

(d) Identify which person has the closest existing personal relationship with the child if more than one person requests to have the child placed with them.

(e) Consider whether the substitute care placement:

(A) Has the ability to provide safety for the child;

(B) Is willing to cooperate with any restrictions placed on contact between the child and others;

(C) Has the ability to prevent anyone from influencing the child in regard to the allegations of the case;

(D) Has the ability to support the efforts of the Department to implement the permanent plan for the child; and

(E) Has the ability to meet the child's physical, emotional, and educational needs, including the child's need to continue in the same school or educational placement.

(f) Assure that the substitute care placement is the most home-like, least restrictive available to meet the child's needs.

(g) Assure that the race, color, or national origin of the child or a substitute care placement is not a consideration when assessing a substitute care placement.

(h) If the child is an Indian or Refugee child, follow OAR 413-070-0220 and OAR 413-070-0320 regarding placement preferences.

(2) Within 30 days of the child's placement in substitute care, the caseworker must reconsider whether the substitute caregiver is able to meet the considerations in subsection (1)(e) of this rule and assess whether the substitute caregiver meets the following placement preferences:

(a) Is in close proximity to the child's parents or caregivers;

(b) Is in close proximity to the child's community;

(c) Can keep siblings together; and

(d) Can support the child's culture and family identity.

(3) When the substitute care placement does not meet one or more of the placement considerations in subsection (1)(e) or section (2) of this rule, the caseworker must determine whether remaining in the substitute care placement is in the best interests of the child.

(a) If the caseworker determines that remaining in the current substitute care placement is in the best interests of the child, the child should remain in the placement.

(b) If the caseworker determines that remaining in the current substitute care placement is not in the best interests of the child, the caseworker must work with Department staff to secure another substitute care placement for the child.

(4) The caseworker must document the section (3) determination in FACIS and explain the basis for the determination as it relates to the best interests of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0630

Monitoring the Ongoing Substitute Care Placement Needs of the Child or Young Adult

(1) The caseworker must monitor the substitute care placement of the child or young adult to determine whether the foster parent, relative caregiver, or provider:

(a) Meets the placement considerations of OAR 413-070-0625(1)(e) and (2); and

(b) Is an appropriate and safe substitute care placement if the child or young adult cannot safely return to the home of a parent or legal guardian within a reasonable period of time.

(2) The caseworker must assess the ongoing and permanency needs of the child or young adult:

(a) For physical and emotional safety;

(b) To preserve existing attachments to family;

(c) For continuity and familiarity;

(d) For appropriate educational, developmental, emotional, and physical support;

(e) For stability; and

(f) For maintaining his or her identity and cultural and religious heritage.

(3) During the required face-to-face contacts with the child or young adult, the caseworker must confirm that the substitute caregiver can maintain the safety and well-being of the child or young adult, as described in Child Welfare Policy I-B.1, "Monitoring Child Safety", OAR 413-080-0059(2)(a)(D)(i)-(xii) when the child or young adult is with a relative caregiver or foster home or OAR 413-080-0059(3)(a)(D)(i)-(xi) when the child or young adult is with a provider. In addition, the caseworker must:

(a) Develop and maintain a good working relationship with the child or young adult;

(b) Observe the child or young adult in an age-appropriate and comfortable setting;

(c) Gather updated information on the child or young adult's physical and mental health as well as educational, behavioral, and developmental progress;

(d) Share updated case plan or child-specific information with the child or young adult's foster parent, relative caregiver, or provider and with the child or young adult as appropriate; and

(e) Document the date, time, location, observations, and updated information in FACIS case notes.

(4) For purposes of this rule, "face-to-face" is an in-person interaction between individuals.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0640

Review of the Substitute Care Placement During Case Plan Review

(1) When the child or young adult is in substitute care at the time of each 90 day case plan review, the caseworker must include in the review written documentation of the extent to which the child or young adult's substitute care placement meets the child or young adult's ongoing need for safety, permanency, and well-being.

(a) To determine the extent to which the placement meets the child or young adult's needs for physical and emotional safety, the caseworker must determine whether the following conditions exist in the home.

(A) The substitute caregiver has the skill level or willingness to acquire the skills necessary to meet the physical, emotional and supervisory needs for each child or young adult in the placement;

(B) The substitute caregiver has the skill level to care for the age, number, and gender of the children or young adults currently in the placement;

(C) The behavioral characteristics of children or young adults currently in the placement are such that the child or young adult will be protected from further victimization and from harming self or others;

(D) The substitute caregiver has the ability to protect the child or young adult from inappropriate contact with those who may harm the child or young adult; and

(E) The physical layout of the home permits the substitute caregiver to safely supervise the children or young adults in the home.

(b) To determine the extent to which the placement meets the need of the child or young adult to preserve existing attachment to the family, the caseworker must consider whether:

(A) The family has expressed a preference in placement;

(B) The child or young adult has requested a particular placement;

(C) The relative caregiver, foster parent, or provider has demonstrated the ability:

(i) To support the attachment of the child or young adult through visitation and other types of contact with the child's family;

(ii) To accommodate regular contact between siblings when siblings cannot be placed together and regular contact is in the best interests of the child or young adult; and

(iii) To provide mutual care when both the child and parent require placement. As used in this rule, "mutual care" means the out-of-home placement of a parent and child together where one or both are in the legal custody of the Department.

(c) To determine the extent that the placement meets the need of the child or young adult for continuity and familiarity, the caseworker must consider:

(A) The extent of the child or young adult's pre-existing relationship with the relative caregiver, foster parent, or provider;

(B) The placement is appropriate to meet the permanency and well-being needs of the child because of its proximity to the child or young adult's neighborhood, school or educational placement, and parent or legal guardian; and

(C) Whether the relative caregiver, foster parent, or provider can provide a permanent home or facilitate transition to a permanent home for the child or young adult.

(d) To determine the extent that a particular placement meets the need of the child or young adult for appropriate educational, developmental, emotional, and physical support, the caseworker must consider:

(A) Whether the relative caregiver, foster parent, or provider demonstrates competency in meeting the child or young adult's specific and unique needs or is acquiring the skills necessary to meet the child or young adult's specific and unique needs;

(B) Whether the ability of the relative caregiver, foster parent, or provider to meet the child or young adult's specific and unique needs is influenced by the number and type of children in the placement; and

(C) Whether the ability and willingness of the relative caregiver, foster parent, or provider to assist, participate in, and act as an advocate for the child or young adult in his or her education and treatment plan is sufficient to meet the needs of the child or young adult.

(e) To determine the extent to which the placement meets the need of the child or young adult for stability, the caseworker must consider:

(A) Whether the relative caregiver, foster parent, or provider has expressed a desire to provide permanency for a particular child or young adult;

(B) Whether the ability of the relative caregiver, foster parent, or provider to provide support and to nurture the child or young adult is influenced by the number of children or young adults in placement;

(C) Whether the relative caregiver, foster parent, or provider is willing to provide care for the child or young adult as long as needed;

(D) Whether the capacity of the relative caregiver, foster parent, or provider to recognize the child or young adult's needs and build on the child or young adult's strengths is sufficient to meet the long-term placement needs of the child or young adult.

(f) To determine whether the placement can support the child or young adult's identity, development, and cultural and religious background, the caseworker must consider:

(A) Whether the relative caregiver, foster parent, or provider has the ability to appreciate, nurture, support, and reinforce the identity and cultural and religious background of the child or young adult;

(B) Whether the relative caregiver, foster parent, or provider has the ability to support the development of the individual child or young adult, and help the individual child or young adult with problems that the child or young adult may encounter. (Refer to Child Welfare Policies I-E.2, "Multiethnic Placements", OAR 413-070-0000 to 413-070-0033 and I-E.2.1, "Placement of Indian Children", 413-070-0100 to 413-070-0260);

(C) Whether the relative caregiver, foster parent, or provider has the ability to communicate effectively with the child or young adult; and

(D) Whether the child or young adult has adjusted to the placement.

(2) The caseworker must document the extent to which the child or young adult's relative caregiver, foster parent, or provider meets the child or young adult's need for safety and well-being:

(a) In FACIS case notes at the 90-day case plan review; or

(b) In the case plan (0333a), Child Description, Their Needs and Well Being section, at the six-month case plan review.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0645

Involving the Substitute Caregiver in the Concurrent Permanency Plan

When the parent or legal guardian has made little or no progress in meeting the conditions for return as described in the case plan, the caseworker must:

(1) Determine whether the relative caregiver, foster parent, or provider is willing to continue as the placement resource, has the skills and abilities to meet the child or young adult's need for safety and well-being, and is willing to work with the Department while the concurrent permanency plan for the child or young adult is implemented by the Department;

(2) Provide the relative caregiver or foster parent with the opportunity to have input into a permanency plan; and

(3) Determine whether the relative caregiver, foster parent, provider, or any other person has been granted intervention and has moved to be considered the permanent placement resource for the child (ORS 419B.116(9)(b)) at any time after a court has determined at a permanency hearing that the permanent plan for the child or young adult should be something other than return home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0700

Purpose

Every child in foster/kinship care deserves a permanent family. In developing the permanency goals, the health and safety of the child is of paramount concern. The agency's first preference for permanency goals are reunification, adoption, guardianship/legal custody, and lastly, permanent foster/kinship care. Permanent foster/kinship care can benefit children when placement with a parent, adoption or guardianship is not the appropriate permanency plan, or in the child's best interests. Benefits to the child include continuity, long term attachments, safety and security, and a lifetime family support system. Additional benefits to the agency include meeting federal and state permanent placement requirements, reduction in required supervision and services to the child and the permanent foster/kinship family. Permanency hearings are required throughout a child's placement in permanent foster/kinship care. Permanent foster/kinship care meets federal Title IV-E and IV-B requirements for a permanent placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E

Hist.: SOSCF 26-2000, f. & cert. ef. 9-14-00

413-070-0710

Definitions

(1) **"Family"** means the child's parent/guardian(s), sibling(s) and kin.

(2) **"Foster Care"** means a family foster home for children certified by the state or a state licensed non-profit private child-care institution or public child-caring agency, in which a foster care maintenance payment for the child is being made. The term foster care does not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(3) **"Kin/Kinship"** means:

(a) Any blood relative or half blood relative, including persons of preceding generations denoted by the prefixes of grand, great or great-great who is related to the child through the biological or adoptive mother or the legal or adoptive father of the child as defined by ORS 419.004(16);

(b) Aunts, uncles, adult first cousins and adult first cousins (once removed) who are related to the child through the biological or adoptive mother or the legal or adoptive father of the child as defined by ORS 419.004(16);

(c) Stepparent(s) or ex-stepparents who have parented the child.

(4) **"Permanent Foster/Kinship Care"** means a long term contractual placement agreement between the foster/kinship care family and the State Office for Services to Children and Families (SOSCF), approved by the juvenile court, in which the permanent foster/kinship care family makes a commitment to raise a child until the age of majority.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E

Hist.: SOSCF 26-2000, f. & cert. ef. 9-14-00

413-070-0720

Eligibility Criteria

Children who are wards of the court and in SOSCF's legal custody are eligible for permanent foster/kinship care when:

(1) The child is 12 years of age. Children younger than 12 may be considered only when the branch manager makes a policy exception based on the permanent foster/kinship care committee staffing recommendation;

(2) Placement with parent(s) has been explored and ruled out;

(3) Legal custody or guardianship with foster/kinship parent(s) has been ruled out;

(4) Adoption cannot be achieved or is not in the best interests of the child;

(5) The child is in a home where the family is committed to raising and emancipating the child;

(6) The child agrees with the permanent foster/kinship care plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E

Hist.: SOSCF 26-2000, f. & cert. ef. 9-14-00

413-070-0730

Approval Process

Steps required to designate and approve a permanent foster/kinship care placement for a child include:

(1) Caseworker.

(a) Ensure that permanent placement goals listed in this policy and defined in OAR 413-070-0515 (SOSCF Policy I-E.3.6), Achieving Permanency, cannot be achieved or are not in the child's best interests.

(b) Meet separately with foster/kinship care parent(s) and the child to:

(A) Assess interest and commitment to a permanent foster/kinship care placement agreement; and

(B) Review requirements, benefits and approval process for "Permanent Foster Care Placement Agreement and Delegation of Guardianship Authority" (CF 1014) with the foster/kinship care parent(s) (refer to (h) below).

(c) Discuss or give written notification to the legal parent(s) about the possibility of a permanent foster/kinship care placement arrangement, when parent(s) whereabouts are known, to assess their agreement with the foster/kinship care plan and their desire for ongoing contact. (Parental agreement is desirable, but not required.)

(d) Discuss the proposed permanent foster/kinship care plan with the child's attorney, Child Appointed Special Advocates (CASA), and others with significant involvement in the child's life.

(e) Prepare a brief explanation of why approval of this permanent foster/kinship care plan is in the child's best interest and why other permanency goals cannot be achieved.

(f) Request supervisory approval of recommendation and schedule a permanent foster/kinship care staffing with the branch permanent foster/kinship care committee.

(g) If the permanent foster/kinship care plan is disapproved at any stage, inform foster/kinship parent(s), child, and other appropriate persons, and begin developing an alternative permanent plan.

(h) After the permanent foster/kinship care plan is approved and the "Foster/Kinship Care Placement Agreement and Delegation of Guardianship Authority" (CF 1014) is signed by the branch manager, have the foster/kinship care parent(s) and the child sign the "Permanent Foster/Kinship Care Placement Agreement and Delegation of Guardianship Authority."

(i) Request a court hearing to review and approve the permanent foster/kinship care plan. Provide the court with a copy of the signed "Permanent Foster or Kinship Care Placement Agreement and Delegation of Guardianship Authority" and recommend the court issue an order recognizing that a permanent placement has been achieved. Ask the court to address the following in the court order:

(A) Approve the plan for permanent foster/kinship care; and

(B) Name the or foster care provider, whether paid or unpaid, in court the court order; and

(C) Relieve SOSCF of responsibility to reunite child with legal parent(s); and

(D) Specify the type and amount of parent-child contact and involvement. If no contact is allowed, the court needs to issue a protective order stating the reason.

(j) Send a copy of the court order and a copy of the "Permanent Foster/Kinship Care Placement Agreement and Delegation of Guardianship Authority" to the foster/kinship care parent(s), to the child, and when appropriate, to the legal parent(s). File the original agreement in the child's case record.

(2) Supervisor.

(a) Approve the case worker's recommendation for permanent foster/kinship care and assist in scheduling a permanent foster/kinship care staffing;

(b) If permanent foster/kinship care is disapproved, promptly meet with the case worker to begin developing an alternative permanent plan.

(3) Convene a staffing committee on permanent foster/kinship care.

(a) When a permanent foster/kinship care plan is proposed for a child, the branch manager shall convene a committee to review the permanent foster/kinship care plan and make a recommendation to the branch manager to approve or disapprove. The committee shall include a supervisor or manager, a foster parent and two additional SOSCF staff knowledgeable about permanency goals and permanent planning;

(b) Chairperson promptly schedules a permanent foster/kinship care staffing upon request;

(c) Chairperson convenes the permanent foster/kinship care staffing committee and invites the case worker, foster/kinship care parent(s), child, and others as appropriate (i.e. child's attorney, parent(s), CASA);

(d) Review proposed permanent foster/kinship care plan and discuss the strengths and weaknesses of the plan with the foster/kinship care parent(s), child, case worker, and other participants;

(e) Decide if the permanent foster/kinship care plan should be recommended for approval.

(4) Branch Manager.

(a) Establish and appoint a chairperson for the permanent foster/kinship care staffing committee;

(b) Review and approve or disapprove the "Permanent Foster/Kinship Care Placement Agreement and Delegation of Guardianship Authority";

(c) If approved, sign the "Permanent Foster/Kinship Care Placement Agreement and Delegation of Guardianship Authority" delegating to the foster/kinship care parent(s) SOSCF's authority to consent as guardian;

(d) If disapproved, promptly inform the caseworker and supervisor and request that an alternative permanent plan for the child be developed.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E

Hist.: SOSCF 26-2000, f. & cert. ef. 9-14-00

413-070-0740

Ongoing Roles and Responsibilities

When permanent foster/kinship care is approved by SOSCF and ordered by the court, the agency and foster/kinship care parent(s) roles and responsibilities change. Generally speaking, the foster/kinship care parent(s) assumes a role and responsibilities closer to those of a custodial parent(s). The agency role and responsibilities which continue are those necessary to support the placement and meet whichever legal, certification, and payment requirements that apply. SOSCF's required contact and involvement with the foster/kinship care parent(s) and child generally decrease.

(1) Foster/Kinship Care Parent(s) Role and Responsibilities.

(a) Raise the child as a member of the family;

(b) Assume day-to-day decision making and long-range planning for the child;

(c) Make significant legal decisions in the child's behalf as outlined in "Permanent Foster/Kinship Care Placement Agreement and Delegation of Guardianship Authority" (CF 1014);

(d) Provide safe and nurturing care and ongoing developmental opportunities for the child;

(e) Inform SOSCF of significant events in the child's life and request services when needed to support the placement;

(f) Maintain and submit to the case worker required "Health and Educational Records" printout, (CF 310), every 12 months;

(g) Assist SOSCF in meeting legal and administrative review requirements of permanent foster/kinship care such as permanency hearings and Citizen Review Board (CRB) reviews;

(h) Meet administrative requirements for the payment of foster/kinship care including the responsibility to meet foster home certification standards requirements that apply;

(i) Administer medication as prescribed by physician and immediately report all medication side effects to the prescribing physician.

Foster/kinship care parent(s) will document and track how medication is dispensed on the CF 1083, Individual Child's Medication Log. A copy of the child's medical history shall be kept in the medical section of the child's case record (refer to OAR 413-070-0400 through 413-070-0490, SOSCF Policy I-E.3.3.1, Psychotropic Medication Management).

(2) Ongoing SOSCF Role and Responsibilities.

(a) SOSCF will renew the foster/kinship home certification annually according to certification standards;

(b) Case worker:

(A) Contact the child and foster/kinship care parent(s) at least once every six months and have separate, face-to-face contact a minimum of once a year;

(B) Authorize substitute care payments;

(C) Respond to requests for services from the child or foster/kinship care parent(s);

(D) Complete required CF 147B and update health and educational records received from the foster/kinship care parent(s). Share report with foster/kinship care parent(s), child's parent(s), and the Citizen Review Board;

(E) Provide the Citizen Review Board with a copy of the "Permanent Foster/Kinship Care Placement Agreement and Delegation of Guardianship Authority" and request that the CRB complete required reviews through a brief review process;

(F) In collaboration with the foster/kinship care parent(s) and the child, as early as possible and no later than a child's 16th birthday, determine if agency independent living services are appropriate and will help the child prepare for emancipation (refer to SOSCF Policy I-B.2.3.5, Independent Living Services Eligibility).

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E

Hist.: SOSCF 26-2000, f. & cert. ef. 9-14-00

413-070-0750

Termination of Permanent Foster/Kinship Care Plan

(1) The permanent foster/kinship care plan and agreement will automatically terminate when court wardship is terminated or when the youth emancipates from the home.

(2) The permanent foster/kinship care plan and agreement may be terminated when:

(a) SOSCF and the foster/kinship care parent(s) mutually consent to termination;

(b) The foster/kinship care parent(s), because of serious, unusual circumstances, give written notice to SOSCF that changes in circumstances make it impossible to fulfill the agreement;

(c) SOSCF terminates the agreement based on serious, unusual circumstances after the SOSCF branch manager and local juvenile court review and approve;

(d) The child requests, and SOSCF approves, termination of the agreement because of serious, unusual circumstances.

(3) Whenever a permanent foster/kinship care plan and agreement are terminated and court wardship remains in effect, all SOSCF policy requirements for substitute care continue.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E

Hist.: SOSCF 26-2000, f. & cert. ef. 9-14-00

Visits and Other Types of Child and Family Contact

413-070-0800

Purpose

The purpose of these rules (OAR 413-070-0800 to 413-070-0880) is to describe the Department's responsibilities in arranging frequent contact between any child or young adult in substitute care, the family, and other people with whom the child or young adult has a significant connection. In all cases, the contact is intended to:

(1) Support and enhance attachment with the child or young adult's family, including siblings, and continue the child or young adult's relationships with significant others, including siblings;

(2) Reduce the trauma to the child or young adult associated with separation from primary attachment figures; and

(3) Assure that the safety and well-being of the child or young adult are the paramount concerns in developing a child-family contact plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0810

Definitions

The following definitions apply to OAR 413-070-0800 to 413-070-0880:

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

(2) "Child-family contact" means communication between the child or young adult and family and includes but is not limited to visitation with the child or young adult, participation in the child or young adult's activities, and appointments, phone calls, e-mail, and written correspondence.

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

(4) "FACIS" means the Family and Child Information System.

(5) "Family member" means any person related to the child by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, or great-grandparents. Family member also includes a child 12 years of age or older and a child younger than 12 years of age, when appropriate. In a case involving an Indian child under the Indian Child Welfare Act (ICWA), a "family member" is defined by the law or custom of the child's tribe.

(6) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for unrelated child or young adult placed in the home by the Department.

(7) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(8) "Provider" means a person approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

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

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

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

(12) "Supervised visit" means a child-family contact that includes a designated third party to protect the emotional and physical safety of a child or young adult.

(13) "Visit" means planned, in-person contact between the child or young adult and one or more family members.

(14) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0830

The Right to Visit

Subject to the limitation of section (4) of this rule:

(1) The child or young adult, a parent or legal guardian, and each sibling have the right to visit each other while the child or young adult is in substitute care. The child or young adult, the parent or legal guardian, and each sibling have a right to visit as often as reasonably necessary to support and enhance their attachment to each other.

(2) The acts or omissions of the parent or legal guardian that are unrelated to the child or young adult may not constitute a ground for prohibiting or canceling visits, unless there is reason to believe that there is a risk of child abuse or neglect.

(3) When Department resources alone cannot meet the family contact and visitation needs of the child or young adult, the caseworker must solicit help from family and community resources.

(4) The Department will prohibit a visit if:

(a) There is reason to believe that a supervised visit will not assure safety; or

(b) A court order prohibits visits.

(5) If a parent or legal guardian objects to the contact and visit requirements and limitations that the Department imposes, the parent or legal guardian may seek the juvenile court's review of the requirements and limitations.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0840

Orientation Activities

Prior to the first contact and after each revision of the Visit and Contact Plan, the Department must explain to the child or young adult's family and substitute caregiver (and the child or young adult when appropriate) the rights and expectations regarding child-family visitation and contact, including its importance to the child or young adult. The Department must explain the reason for arranging supervised or unsupervised visits to the involved parties.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0855

Determining Priority in Visit and Contact Plans

(1) The caseworker determines a hierarchy of the child or young adult's attachments and prioritizes visits with the child or young adult's parents or legal guardians, and siblings. The caseworker may consider the preferences expressed by the child or young adult.

(2) When the permanency plan is reunification with a parent or legal guardian, the first priority of the caseworker will be to provide visits to parents or legal guardians, siblings, and each intervenor granted visitation by the court.

(3) When the permanency plan is a plan other than return to the parents or legal guardians, the visitation priority of the caseworker shall be to both preserve the child or young adult's attachment to parents or legal guardians and siblings and promote the child or young adult's attachment to the permanent placement resource.

(4) When appropriate, the caseworker may consider establishing visits with the child or young adult's family members and non-related persons with whom the child or young adult has a significant attachment.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0860

Types of Visit and Contact Plans

(1) The Temporary Visit and Contact Plan.

(a) The caseworker must jointly develop a written Temporary Visit and Contact Plan (CF 0831A) with the parents or legal guardians, and should involve other family members who are able to participate in facilitating visitation and supporting the ongoing safety plan when the child first enters substitute care or at the time of the first court hearing required by ORS 419B.183, whichever is first.

(b) The caseworker must arrange a Temporary Visit and Contact Plan (CF 0831A) that assures child safety.

(c) The plan must include the following:

(A) The names of each person, including the child's siblings, with whom the child may have contact; and

(B) A description of the contact permitted with each person that includes:

(i) The type, time of day, frequency, length, and location of the visits; and

(ii) The reason for supervised visits when supervision is required.

(d) If the first visit does not occur within the first week of a child's placement in substitute care, the caseworker must document the reason the visit did not occur in FACIS case notes.

(e) The caseworker must provide a copy of the Temporary Visit and Contact Plan to the parents or legal guardians and, when appropriate, to others participating in the Temporary Visit and Contact Plan.

(2) The Ongoing Visit and Contact Plan.

(a) The caseworker must develop an Ongoing Visit and Contact Plan (CF 0831B) within 30 days from the date that the child enters substitute care. The caseworker should involve the child or young adult

whenever appropriate, the child or young adult's parents or legal guardians, the substitute caregiver, and others in the development of the visit and contact plan as appropriate. A copy of the written plan is given to each participant.

(b) The caseworker must arrange an Ongoing Visit and Contact Plan that supports child safety and the ongoing safety plan.

(c) When an Ongoing Visit and Contact Plan is revised, the caseworker completes a revised Ongoing Visit and Contact Plan and provides a copy of the revised plan to each participant.

(d) A plan that prohibits a parent, legal guardian, or sibling's visit must include the reason for each prohibition and state, if applicable, the conditions under which the Department would begin or resume contact.

(e) The caseworker must document the implementation of the Ongoing Visit and Contact Plan in the case plan.

(f) The caseworker must develop the written Ongoing Visit and Contact Plan which must:

(A) Include the purpose and conditions of visits and contacts including type, time of day, frequency, length, and location;

(B) Describe the reason for supervision when supervision is required;

(C) Identify the individual who will supervise the visit or assist a parent or legal guardian in meeting the needs of the child or young adult during visitation;

(D) Support the ongoing safety plan; and

(E) Use language that parents or legal guardians can understand.

(g) In developing an Ongoing Visit and Contact Plan, the caseworker must:

(A) Arrange visits so that the type, time of day, frequency, length, and location of visits maximize contact between the parents or legal guardians and the child or young adult and support the ongoing safety plan;

(B) Meet the unique needs of the child or young adult, especially the child or young adult's chronological or developmental age and sense of time as they affect the child or young adult's attachment to a parent or legal guardian and other family members;

(C) Arrange visits that do not disrupt the school schedule of the child or young adult whenever possible;

(D) Arrange additional contact such as telephone calls, e-mail, and letters, and other activities the family and child or young adult may do together that support the ongoing safety plan, such as attendance by parents or legal guardians at doctor appointments, school events, and church;

(E) Address barriers to visitation that must be overcome in order for the parent, legal guardian, child or young adult to participate in the visits, including transportation, adaptations for those traveling long distances, health care requirements, and arranging child care for a child's sibling;

(F) Work within each parent's or legal guardian's employment and treatment obligations;

(G) Ensure that the Ongoing Visit and Contact Plan considers the safety needs of any non-offending parent or legal guardian in cases involving domestic violence, including but not limited to different visiting schedules or arranging safe drop-off and pick-up locations;

(H) Explain to a parent or legal guardian the consequences of failure to attend a visit;

(I) Explain known or anticipated reasons for ending the visit (such as health or safety);

(J) Take the actions necessary to assure culturally relevant and language appropriate visitation services; and

(K) Discuss alternatives when visits are canceled due to circumstances of the parent or legal guardian, substitute caregiver, or the Department.

(3) The Ongoing Visit and Contact Plan may be reviewed or revised at any time and must be reviewed every 90 days.

(4) An Ongoing Visit and Contact Plan must comply with the Interstate Compact on the Placement of Children.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0870

Supervision of Visitation

(1) If supervision of visits is necessary to protect the child from risk of child abuse or neglect or to manage child safety, the Ongoing Visit and Contact Plan must state the reason for the supervision.

(2) When delegating supervision to persons that are not employees of the Department, the Department will ensure that the persons supervising the visit understand and comply with the ongoing safety plan, the dynamics of the individual family, the purpose of supervision, the specific circumstances that require the supervision, and the documentation requirements.

(3) When delegating supervision to other Department staff, the Department will ensure the Department employee who participates in the Ongoing Visit and Contact Plan understands the documentation requirements of OAR 413-070-0880.

(4) The caseworker must inform the parents or legal guardians of the reason for the supervision of the visits or contact, and, as resources allow, all supervision should be culturally relevant and language appropriate.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07

413-070-0880

Documentation of Contact

(1) When Department staff supervise a visit, documentation of the visit must be included in the case file and must document:

(a) The location of the visit, who attended, and the length of the visit;

(b) Activities that occurred during the supervised visit;

(c) The impact of the visit on the child or young adult;

(d) Any missed visit and the reasons for the missed visit; and

(e) Any interrupted or terminated visits and reasons for the interruption or termination.

(2) When the caseworker arranges supervision by a person other than Department staff, the caseworker must require that the person supervising the visit provides complete written documentation of the visit, as required by section (1) of this rule, to the caseworker within seven days of each visit.

(3) When other types of contact in addition to face-to-face visits are included in the Ongoing Visit and Contact Plan, the caseworker must request regular feedback from the participants regarding the impact of the contact on the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07

Guardianship Assistance

413-070-0900

Purpose

(1) The State of Oregon, Department of Human Services (the Department) received federal approval in July, 1999 from the Department of Health and Human Services (HHS), Administration for Children and Families, to operate a Guardianship Assistance demonstration project pursuant to Section 1130 of the Social Security Act (the Act); Titles IV-E and IV-B of the Act; and Public Law 103-432. HHS reserves the right to withdraw the approval for Oregon to operate this project. Tribal participation is described below in OAR 413-070-0917. Under the Title IV-E waiver demonstration project, relatives and foster parents who are providing care for certain children meeting specific eligibility criteria and in the custody of the Department may have an opportunity to assume a complete parenting role by becoming the child's legal guardian. The Guardianship Assistance program, modeled after the Federal Adoption Assistance Program, creates another permanency option for children. Many caretakers making a permanent commitment to children in their care will benefit from the financial and medical assistance offered under the demonstration project.

(2) The purpose of these rules (OAR 413-070-0900 to 413-070-0982) is to set forth criteria used to determine eligibility for a subsidized guardianship as a permanency planning option for children in substitute care. Adoption is usually the preferred permanent plan when children cannot successfully be reunited with their parents, but this choice is not viable for all. The Department is expanding the choices for children and families to include the establishment of legal custody and guardianship for children for whom adoption does not best serve the permanency needs of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0905

Definitions

For the purpose of these rules: "Guardianship Assistance" means financial or medical benefits to guardian families for costs associated with the needs of the child under their guardianship. Benefits may be in the form of cash or Medicaid coverage or nonrecurring legal costs in establishing the guardianship or Title XIX Personal Care payments.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0910

Values

(1) The protection and safety of a child are always the first priorities. Services are child centered and family focused.

(2) The Department supports permanency for children and recognizes that sometimes neither family reunification nor termination of parental rights and adoption best serve the permanency needs of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03

413-070-0915

Eligibility

(1) Under the Title IV-E waiver, federal terms and conditions, and state legislative approval, the Department operates a guardianship demonstration project providing guardianship assistance to eligible children. Children in foster care for whom the Department is making a IV-E foster care maintenance payment (including children in tribal custody) may participate in the project. Children in foster care are ineligible to participate in the project when responsibility for their substitute care placement or Title XIX maintenance payment rests with the county mental health or developmental disability system.

(2) Under the terms and conditions of the Guardianship Assistance demonstration project, children and their caretakers must meet the State-established criteria to participate in the demonstration.

(3) There is no limit to the number of eligible children who may participate in the Guardianship Assistance demonstration project. However, the project is time-limited. Should federal funding end, children found eligible for and receiving Guardianship Assistance prior to the termination of the demonstration project will continue to be eligible for the program, which will be funded without federal participation if necessary.

(4) The Department offers this permanency option only if other permanency goals, including a return to the parents or adoption, are determined not to be in the child's best interests. The Department represents the guardianship option to families as one that will normalize and stabilize family life, empower care givers in assuming the complete parenting role, and minimize the level of state intrusion into their lives. For example, because the children will no longer be committed to the custody of the Department, the care givers will no longer be required to get permission from the Department local office to take the child out-of-state for any reason.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0917

Eligibility for Tribal Participation

A child eligible for benefits under Title IV-E who is in the legal care and custody of a tribe having a Title IV-E agreement with the Department may be considered for participation in the Title IV-E Guardianship Assistance demonstration project. The following policies apply to tribal children:

(1) A tribal child of any age in the legal care and custody of the tribe in a related or unrelated certified foster home may be considered for participation in the Guardianship Assistance demonstration project.

(2) A foster home certified by the tribe that meets tribal standards for a licensed foster home is considered to meet the Department's licensing requirements.

(3) The tribe must make a separate visit to the home to conduct a specialized guardianship study of the Department's design to assess whether continual placement with the current care giver as the child's legal guardian is in the best interests of the child and meets the child's needs for safety and permanency.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0920

Policy

The Department will determine the child's eligibility for Title IV-E foster care maintenance payments commencing the first of the month prior to the month in which the prospective guardian signs the application for guardianship assistance through the date the application was signed. The Department or a participating tribe may consider a legal guardianship as a permanent plan for a child provided the following conditions are met:

(1) The child has been in the Department's or the participating tribe's legal custody for more than twelve months. The Department will waive this requirement in certain situations, when a written justification meeting the requirements of OAR 413-110-0330 is prepared by the Department's local office or by the tribe. The justification for an exception must be reviewed and approved by the Department local Branch Permanency/Adoption Committee or tribal committee and the Department local Child Welfare Program Manager or tribal manager. Final approval to waive this requirement must be obtained from the Department's Adoption Services Manager or the manager's designee.

(2) The child is in foster care and receiving a Title IV-E foster care payment or the child is in foster care and is:

(a) A child temporarily ineligible for benefits under Title IV-E because of the receipt of a lump-sum benefit. The child may be eligible for assisted guardianship once the lump sum is expended;

(b) A child for whom Title IV-E payments are being made while an SSI application is pending; or

(c) A child eligible for Title IV-E foster care payments whose SSI has been terminated.

(3) The child has a stable and positive relationship with a prospective guardian and has lived for at least six months in the home of the prospective guardian. The Department's Adoption Services Manager may waive the six-month placement requirement for sibling groups if at least one sibling meets all other eligibility criteria for subsidized guardianship.

(4) The prospective guardian is an approved certified relative or provider or an approved certified foster parent who meets the certification requirements in OAR 413-100-0040.

(5) The child's prospective guardian is a relative or, if the prospective guardian is not a relative, the child has reached the age of 12. The Department will waive the age requirement for:

(a) The members of a sibling group placed with a non-relative if at least one sibling is 12 years of age or older and meets all other subsidized guardianship criteria.

(b) Children of any age in the legal care and custody of the Confederated Tribes of the Warm Springs Reservation, Confederated Tribes of Grande Ronde, Confederated Tribes of Siletz Indians, or the Coquille Indian Tribe; these tribes have a Title IV-E intergovernmental agreement with the Department.

(c) ICWA-identified children in the care and custody of the Department if the tribe supports and approves the plan of guardianship with the current caretaker.

(6) The child cannot safely return home. This requirement is met if reunification with the child's parents is not possible and the Department has determined through a Branch Permanency/Adoption Committee or Council review that adoption is not an appropriate plan (see OAR 413-110-0300 to 413-110-0360 and 413-110-0200 to 413-110-0252).

(7) The Department and the prospective guardian agree that the child and the prospective guardian can maintain a stable relationship and function effectively without Department supervision.

(8) A Department committee has formally assessed the placement and has found that continuation of the placement is in the child's best

interests because the placement supports the safety, permanency, and well-being of the child.

(9) The child has no ongoing care or financial needs beyond basic maintenance and does not require the services of a case manager; the child has needs, but they do not require continued agency funding (for instance needs covered by insurance); or the child has needs that can be met through the guardian's use of community resources and the guardian has agreed to access or continue to use those services.

(10)(a) The parents or other persons legally recognized and identified as having a parental relationship with the child have provided written consent to the establishment of a guardianship;

(b) The Department:

(A) Has obtained a relinquishment or termination of parental rights;

(B) Has provided notice to the legally recognized non-consenting parents of the permanency plan or guardianship;

(C) Has conducted a reasonable and prudent search to locate and notify the legally recognized parents; or

(D) Has obtained a death certificate.

(11) A court order terminates the order for Department or tribal care, custody, and supervision in the guardianship order.

(12) A court sets aside or modifies an order of permanent commitment to the Department, thereby relieving the Department of its responsibility for the child, including the case in which a birth parent has voluntarily relinquished custody so that guardianship may be granted to another individual.

(13) The child has legal resident status, or is an immigrant or citizen of the United States, and is under the care of a relative caretaker who is residing in this county legally.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0925

Guardian Family Requirements

In order for the Department to approve a potential guardian family for Guardianship Assistance, the family must:

(1) Include a certified foster parent who is providing care to a child being considered for participation in the demonstration project. The foster parent must have a strong commitment to the child, be a safe and suitable placement, and meet agency standards for ongoing care of the child as determined by a family study or specialized guardianship assessment.

(2) Include a foster parent or relative care giver who has demonstrated the commitment and ability necessary to provide a safe, permanent home for the child for at least the past six months as verified through a guardianship assessment.

(3) Require no significant ongoing case-work services at the time the guardianship is established and demonstrate an ability to safeguard the welfare of the child, including protection from all persons and situations that brought the child into care.

(4) Have a means of financial support and connections to community resources.

(5) Agree to comply with the requirements of the Child Support Program, for instance by:

(a) Submitting an application for child support services in connection with each of the child's parents.

(b) Upon obtaining the right to receive child support, assigning to the Department the right to receive:

(A) Current support payments;

(B) All support payments that accrue before or after the child is placed with the guardian; and

(C) All support payments that are required by a subsequent order of child support.

(c) Cooperating with the Division of Child Support and the Department as required by the rules of the Child Support Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0930

Guardianship Assistance Payments and Medical Coverage

(1) The Guardianship Assistance rate cannot exceed the sum of the child's most recent monthly basic foster care rate and Title XIX personal care rate minus any regular monthly benefit other than child support payments made on behalf of the child. A child residing outside Oregon may receive a payment based on the out-of-state basic foster-care rate.

(2) The child's eligibility for Title XIX personal care payments and services continues while the child remains eligible, but the amount of the personal care payment is subject to reduction if the need for hours of personal care has decreased.

(3) The Department will not authorize a special one-time payment or a monthly special care rate other than the Title XIX personal-care payment.

(4) The guardianship assistance payment is established and paid as follows:

(a) The Department considers all sources of income, except child support payments, that are available to the child when determining the monthly assistance rate.

(b) The guardian must become payee for any benefits the child receives other than child support payments, except that the guardian may assign to the Department benefits received irregularly by the guardian to avoid adjustments in the Guardianship Assistance benefits.

(c) The guardianship assistance payment is calculated by taking the difference between the child's benefit income, which does not include child support payments, and the most recent payment for foster care and personal care payment. For example, if the child receives Social Security benefits, that income is deducted from the total standard basic rate and personal care rate when determining the amount of the guardianship assistance payment.

(d) The Guardianship Assistance monthly benefit is contingent upon the guardian's compliance with the requirement to cooperate with the Division of Child Support and in doing what it or the Department deems necessary with respect to child support enforcement services. The Department may terminate or suspend benefits effective the date the Department determines the guardian has failed to comply.

(5) An eligible child participating in this waiver demonstration receives a full range of services under the Medicaid program, which includes health care services and mental health care services. A child who moves out-of-state is entitled to continue to receive Medicaid services from the Department.

(6) The effective date of services is the date all parties have signed the guardianship assistance agreement or the date of the court order of guardianship, whichever is later. It is expected that a court order will not be obtained before the case is approved by the Department's central office for Guardianship Assistance.

(7) If a child receiving guardianship assistance benefits is placed in substitute care, the Department will evaluate the change in circumstances and will adjust the guardianship assistance benefits if appropriate. 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 guardianship assistance benefits suspended, continued, or adjusted to reflect current expenses. If the child returns to the care of the guardian, the Department reviews the guardianship assistance rates.

(8) A guardianship assistance payment to a legal guardian who was a Department-certified foster parent for the child prior to becoming a court-designated guardian is inalienable, may not be assigned or transferred, and is exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0935

The Agreement

(1) Before a family may receive guardianship assistance benefits, there must be a written guardianship assistance agreement between the Department and the guardian for the financial support of the child in question. The agreement must:

(a) Include the consent of the guardian.

(b) List the monthly benefit the Department is offering.

(c) Include the guardian's consent to and acceptance of the monthly cash benefit the Department is offering.

(d) Include the guardian's understanding that the benefit may not be greater than the basic foster care rate and personal care payment last paid while the child was in foster care; that no retroactive basic rate payment increase may be authorized; and that an increase in assistance payments is effective the first day of the month in which the request for benefits is made.

(e) Include a statement that the guardian understands that the benefit may be adjusted on an annual basis based upon an agreement between the agency and the guardian.

(f) Include a provision for a reduction to the guardian assistance payment in the event a legislative or executive branch action affecting the Department's budget or expenditure authority makes it necessary for the Department to implement budget reductions to the Guardian Assistance Program.

(g) Include the guardian's understanding that the guardian is required to submit an application for child support enforcement services from each of the child's parents.

(h) Include a statement that the guardian understands that the guardian, upon acquiring the right to receive child support, is required to assign to the Department the right to receive:

(A) Current support payments;

(B) Support payments that accrue before or after the child was placed with the guardian; and

(C) Support payments that are imposed by a subsequent order of child support.

(i) Include a statement that the guardian understands that the guardian is required to cooperate with the Division of Child Support and the Department as required by the rules of the Child Support Program.

(j) Include a statement that the guardian understands that the basic guardianship assistance monthly payment is contingent upon the guardian's cooperation with the requirements of the Child Support Program.

(2) The agreement also provides that each child for whom the Department is providing a benefit remains eligible for medical assistance when a guardianship is established.

(3) The Department maintains the written agreement between the Department and the guardian according to the Department's policy in effect at the time the guardianship is established.

(4) The Department reviews each guardianship agreement annually.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0937

Court Orders

(1) At the guardianship hearing the case worker must ask the court to issue a guardianship order. The caretaker is ineligible for foster care payments once guardianship is effective and the Department's custody is terminated.

(2) Guardianship Assistance may be approved whether the order of guardianship is permanent or temporary and whether it is ordered by the juvenile court or probate court.

(3) The Department will not approve guardianship assistance if the court establishes guardianship and orders the Department to continue supervision of the child or guardian.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0940

Title IV-E Guardianship Assistance Eligibility

(1) The Department administers the Guardianship Assistance program in order to provide continued financial support for children placed with financially needy appointed guardians.

(2) The guardianship appointment, monthly subsidy, and services continue without court involvement. The Department terminates or

suspends, as appropriate, guardianship assistance payments on the day one of the following conditions occurs:

- (a) The child reaches age 18 or is emancipated, whichever comes first.
- (b) Child custody or guardianship is awarded to another individual.
- (c) The child dies.
- (d) The child marries.
- (e) The guardian dies or terminates the guardianship.
- (f) The child is adopted.
- (g) The child is placed in substitute care.
- (3) The Department may terminate or suspend, as appropriate, guardianship assistance payment if:
 - (a) The child is incarcerated for more than 30 days;
 - (b) The child is out of the home for more than a 30-day period or is no longer living in the home;
 - (c) The guardian is no longer legally responsible for the financial support of the child or the child is no longer receiving financial support from the guardian; or
 - (d) The annual report required by OAR 413-070-0945 is not filed with the Department within 30 days of the anniversary date of the court's appointment of the guardians.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0945

Annual Reviews of Eligibility and Reports to the Court

(1) The Department must review a child's eligibility for Guardianship Assistance on an annual basis. In connection with the review, the guardian must file a written report with the court within 30 days after each anniversary of the court appointment of guardianship and must submit a copy of the report to the Department's central office Adoption Services Unit within 30 days after each anniversary date of the court's appointment of guardianship.

(2) The Department holds the guardianship assistance check if the guardian does not submit to the Department the report required by section (1) of this rule.

(3) The Department assesses children receiving Guardianship Assistance payments for personal care annually in the local office. The assessment is conducted by a registered nurse. Personal care assessments are not conducted more frequently than annually except under unusual circumstances. Upon receiving a request from the central office Adoption Services Unit, the registered nurse who provides the personal care services must complete and submit to the central office Adoption Services Unit an assessment of the child's current personal care needs.

(4) The basic Guardianship Assistance rate does not automatically increase. A guardian may request an increase in the child's subsidy up to the current rate of pay for the child's age, or up to the current rate of pay given cost of living increases or other legislatively approved increases for the basic foster care. A retroactive basic rate increase may not be authorized for a period ending prior to the first day of the month in which the request is made.

(5) The Department may adjust the Guardianship Assistance benefit when income used to calculate the basic Guardianship Assistance monthly payment changes.

(6) A review of the child's eligibility is not required for 12 months after the guardianship assistance application is signed, and during this time period it is not necessary to confirm that the child continues to be deprived of parental support as long as the child meets all other eligibility requirements to receive Guardianship Assistance.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0950

Eligibility Retention

A child eligible for guardianship assistance may remain eligible, if removed from the guardianship, according to the following provisions:

(1) If a child eligible for guardianship assistance is removed from the guardianship placement and placed in foster care, the Department reviews continued eligibility for Title IV-E foster care based on the child's deprivation of parental support and the child's financial circumstances. The guardian's income is not considered during this review, nor is the guardian obligated to pay child support upon the child's return to substitute care. Eligibility for Title IV-E benefits may be re-established based on the child's original removal from the parental or relative home if the child continues to be deprived of parental support; the child meets personal financial eligibility criteria; and all court-related findings related to an initial removal are met.

(2) A child previously determined eligible for Guardianship Assistance who subsequently is placed in foster care but is then removed from foster care remains eligible for Guardianship Assistance without regard to whether the child is deprived of parental support at the time of child's return to the guardian's care and without regard to the child's eligibility status while in foster care.

(3) A child moving from Guardianship Assistance to adoption remains eligible for Title IV-E adoption assistance.

(4) The Department does not re-establish the dependency of a child placed into guardianship under this demonstration project unless the Department determines there is cause for removal from the guardian's home due to abuse or neglect or unless the Department would otherwise re-establish dependency for reasons unrelated to the expiration of the waiver or the termination of this demonstration, such as a change in the care giver's circumstances that leaves the care giver unable to care for the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0955

Guardian Responsibilities for Agency Notification

The guardian of a child receiving Guardianship Assistance benefits must notify the Department central office responsible for guardianship assistance or adoption assistance if:

(1) A change in circumstances indicates that there is no longer a need for Guardianship Assistance.

(2) The guardian has a change of address.

(3) The guardian is planning to move out-of-state.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0960

Vendor Attorney and Legal Payments

(1) The Department pays for some costs incurred in the establishment of a court-appointed guardian of a child (see OAR 413-090-0500 to 413-090-0550, "Payments for Providing Direct Client Legal Services").

(2) The local Department office may authorize payment for reimbursement of or payment for the cost to publish notice of the agency's intent to establish guardianship for absent parents.

(3) The local Department office may not authorize payment for legal services provided in connection with a contested case.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0965

Selection Criteria

(1) The Department does not impose a means test for prospective guardians with respect to Guardianship Assistance benefits or for the selection of a guardian.

(2) Participation by a family in the demonstration is not mandatory.

(3) In the demonstration, members of a sibling group are placed together unless the local Department office explicitly determines that it is not in the best interests of the children to be placed together.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0970**Guardianship Social Services and Supports**

(1) The Department provides care takers a range of services before a guardianship is established. The Department provides an orientation to the family to assure that all family members understand the benefits and responsibilities of all participants in the guardianship demonstration project. The orientation may include biological and legal parents when possible, particularly when the intra- and inter-familial tensions between the birth parent and care givers affect the child's and family's well-being.

(2) Guardians have the same access to local Department services after the guardianship has been established as do adoptive parents, including access to the Oregon Post Adoption Resource Center, or other contracted resource center, and crisis intervention services.

(3) Upon the establishment of a guardianship, the caseworker must have an exit conference with the guardian family and the child and must ensure the guardian family has phone numbers to call for services, if needed. The caseworker must advise the guardian family to call Intake Screening to request services in the county in which they reside. The case worker must explain that requesting services does not place the guardianship in jeopardy. In the closing casework narrative, the caseworker must document that the family has been informed of their rights and responsibilities and their right to access to post-guardianship services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0980**Budgetary Reductions of Guardianship Assistance**

(1) If a legislative or executive branch makes it necessary for the Department to reduce funding for the Guardianship Assistance Program, the Department notifies recipients of Guardianship Assistance of the following:

- (a) The reason for the reduction.
- (b) The percentage or amount that the Guardianship Assistance will be reduced.
- (c) The effective date of the reduced Guardianship Assistance payment.

(2) Reductions to Guardianship Assistance payments:

- (a) Are applied uniformly to all recipients of Guardianship Assistance.
- (b) Are not subject to negotiation between the Department and the guardian family.
- (c) Do not constitute a change in circumstances warranting a change in the recipient's Guardianship Assistance benefits.

(3) It is the intent of the Department to restore as much as possible any reduction of Guardianship Assistance described in section (1) of this rule. In that event, the Department notifies recipients of Guardianship Assistance of the percentage of or amount of the increase and the effective date of the increase.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0981**Rate Changes**

(1) Effective February 1, 2003, the monthly payments payable under all Guardianship Assistance agreements in effect on January 31, 2003, are reduced as follows:

(a) A 7.5 percent reduction to the base rate of Guardianship Assistance payments is applied uniformly to all recipients of Guardianship Assistance. Oregon's new monthly basic rates are:

(A) Child's Age — 0-5 — 6-12 — 13-18;

(B) Base rate — \$350 — \$364 — \$449.

(b) The Personal Care Rate portion of Guardianship Assistance, which provides payment for additional support and supervision of the child, is reduced by ten percent to \$4.15 per hour.

(2) Effective November 1, 2003, the monthly payments payable under all Guardianship Assistance agreements in effect on October 31, 2003, are changed as follows:

(a) An 8.108 percent increase to the base rate of Guardianship Assistance payments is applied uniformly to all recipients of Guardianship Assistance. Oregon's new monthly basic rates are:

(A) For children under six years of age — \$378.

(B) For children who have reached six years of age but are under the age of 13 — \$393.

(C) For children who have reached 13 years of age but are under the age of 19 — \$485.

(b) A 2.444 percent increase to the Personal Care Rate portion of Guardianship Assistance, which provides payment for additional support and supervision of the eligible child. This rate is increased to \$4.61 per hour.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 20-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 36-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04

413-070-0982**Fair Hearings**

Guardians, recipients of guardianship assistance, and applicants for guardianship assistance are entitled to the opportunity for hearing as provided in ORS 183.310 to 183.550 concerning disputes that arise in the administration of the subsidized guardianship program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04

DIVISION 80**SUBSTITUTE CARE — TYPES OF SERVICES****Shelter Care****413-080-0000****Purpose**

These rules, 413-080-0000 through 413-080-0030 define the program requirements unique to shelter care placements and are in addition to the expectations for all substitute care placements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2003, f. & cert. ef. 1-7-03

413-080-0010**Definition**

(1) "Department" means the Department of Human Services (DHS).

(2) "SDA" means Service Delivery Area (SDA). A geographic region of one or more counties served by the Department and managed by an SDA manager.

(3) "Shelter Care" means a home or other facility certified or licensed by the department 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 the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2003, f. & cert. ef. 1-7-03

413-080-0020**Eligibility for Shelter Care**

The Department 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. The department 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2003, f. & cert. ef. 1-7-03

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 SDA manager or designee approves an exception.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 15-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 8-2003, f. & cert. ef. 1-7-03

Monitoring Child Safety

413-080-0040

Monitoring Child Safety

The purpose of these rules (OAR 413-080-0040 to 413-080-0067) is to describe the responsibilities of the Department in monitoring child and young adult safety and well-being.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; CWP 4-2007, f. & cert. ef. 3-20-07

413-080-0050

Definitions

The following definitions apply to OAR 413-080-0040 to 413-080-0067:

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

(2) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(3) "Contact" means any communication between a Child Welfare caseworker and a child, parent or legal guardian, foster parent or relative caregiver, provider, or other individual involved in a Child Welfare safety plan or case. Contact includes, but is not limited to, communication in person, by telephone, by video-conferencing, or in writing. Contact may occur, for instance, during a face-to-face visit; a treatment review meeting for a child, young adult, parent, or legal guardian; a court or Citizen Review Board hearing; or a family meeting.

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

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

(6) "FACIS" means the Family and Child Information System.

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

(8) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more safety threats to which the child is vulnerable and determined the parent or caregiver is unable or unwilling to protect the child. An ongoing safety plan can be in-home or out-of-home and is adjusted when necessary to provide the least intrusive interventions.

(9) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(10) "Placement support plan" means a documented set of actions or resources that is developed to assist a relative caregiver or foster parent to maintain conditions that provide safety and well-being for children or young adults in the home.

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

(12) "Provider" means a person approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

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

(14) "Screener" means a Child Welfare employee with training required to provide screening services.

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

(16) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; CWP 4-2007, f. & cert. ef. 3-20-07

413-080-0052

Mandatory Reporting of a New Safety Threat on an Open Case

When a caseworker identifies a new or unscreened safety threat in an open case, the caseworker must:

(1) Immediately report the information regarding the safety threat to a screener; and

(2) Consult with the caseworker's supervisor to determine any immediate protective action required to assure the safety of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-080-0055

Monitoring Child Safety with an In-home Ongoing Safety Plan

(1) To manage an in-home ongoing safety plan and monitor the child's safety when the child is in the home of the parent or legal guardian, the assigned caseworker must contact the following individuals, as described below:

(a) The caseworker must have contact with the following individuals a minimum of once every 30 days:

(A) Face-to-face contact with the child;

(B) Face-to-face contact with the child's parents or legal guardians in the home of the parents or legal guardians; and

(C) Contact with each participant in the ongoing safety plan.

(b) The caseworker must also have face-to-face contact with the child and the child's parents or legal guardians within five working days of learning any of the following:

(A) A parent or legal guardian has violated a condition of the ongoing safety plan.

(B) A change in the protective capacity of a parent or legal guardian may negatively impact the ongoing safety plan.

(C) A change in the family circumstances may negatively impact the ongoing safety plan.

(D) A change in the composition of the household may negatively impact the ongoing safety plan.

(E) The caseworker is assigned a case that had been assigned to another caseworker (case transfer).

(2) To monitor the safety of the child, during each contact with a child, parent, or legal guardian required by section (1) of this rule, the caseworker must complete each of the following:

(a) Look for and assess any changes in the protective capacity of parents or legal guardians and changes in the ability or willingness of a parent or legal guardian to keep the child safe.

(b) Have a conversation with a verbal child or young adult.

(c) Assess whether the ongoing safety plan keeps the child safe by determining:

(A) Whether the home environment is stable enough for safety service providers to be in the home and be safe; and

(B) Whether the parent or legal guardian states that he or she is:

(i) Agreeable to the services in the ongoing safety plan;

(ii) Cooperating in services provided as prescribed by the ongoing safety plan;

(iii) Cooperating with all participants in the ongoing safety plan;

(iv) Participating in the actions and the time requirements of the ongoing safety plan; and

(v) Meeting the expectations detailed in the ongoing safety plan.

(d) Determine whether:

(A) The condition of the child is satisfactory; and

(B) Safety threats to the child are managed.

(e) Immediately notify his or her supervisor if he or she determines, during a contact with the child, parent, or legal guardian, that the in-home ongoing safety plan is insufficient to assure the safety of the child, to determine if any immediate protective action is necessary to assure the child's safety.

(3) Through contact with the participants in the ongoing safety plan, required by section (1) of this rule, the caseworker must determine whether:

(a) Participants in the ongoing safety plan are engaged and active in the safety activities;

(b) The parents or legal guardians are cooperating with the safety services prescribed by the ongoing safety plan;

(c) The safety service providers are engaged with the parents or legal guardians;

(d) The safety service providers can report that the specified intervention is effective;

(e) The participants and safety service providers agree that the level of intervention assures the ongoing safety of the child; and

(f) The services are the least intrusive available to assure the child's safety.

(4) Whenever a participant in the ongoing safety plan or a safety service provider reports information indicating that there is a new safety threat, the caseworker must determine whether the information has been reported to a screener. If the information has not been reported, the caseworker must:

(a) Immediately report the information to a screener; and

(b) Consult with his or her supervisor to determine whether an immediate protective action is required to assure the child's safety.

(5) The caseworker must determine whether:

(a) Behaviors, conditions, or circumstances within the family require an increase in the level of safety intervention; or

(b) A less intrusive ongoing safety plan can assure the safety of the child.

(6) The caseworker must revise the level of intervention of the in-home ongoing safety plan based on what is uniquely occurring within the family.

(a) The caseworker must reduce the level of intervention whenever:

(A) The improved protective capacity of the parent or legal guardian is sufficient to impact his or her ability to control safety threats as they are occurring within the family; and

(B) A safety threat can be managed with less intrusive actions or services.

(b) The caseworker must increase the level of intervention whenever:

(A) A parent or legal guardian is unable or unwilling to control the safety threats to the child as they are occurring within the family with the ongoing safety plan; or

(B) Any identified safety threat cannot be managed with the current ongoing safety plan.

(c) When the assessment of the behaviors, conditions, or circumstances occurring within the family results in a determination to revise the ongoing safety plan, the revised ongoing safety plan must comply with the criteria of OAR 413-015-0450(2)(d)(A)–(H).

(d) The revised ongoing safety plan must be approved by the caseworker's supervisor.

(7) The caseworker must document in FACIS case notes:

(a) The date, type, and location of each contact with the child, parents, or legal guardians;

(b) The date and type of each contact with each participant in the in-home ongoing safety plan;

(c) Observations and condition of the child during the home visit;

(d) Observations and condition of each parent or legal guardian during the home visit;

(e) Changes in the ability of each parent or legal guardian to parent and provide protective care;

(f) Observations or reports from ongoing safety plan participants and service providers;

(g) How the ongoing safety plan continues to manage the safety threats as they are occurring within the family, or any revised ongoing safety plan and the facts supporting that revision;

(h) How any revision in the ongoing safety plan is the most suitable, least intrusive action available; and

(i) Any immediate protective action if required to assure the safety of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; CWP 4-2007, f. & cert. ef. 3-20-07

413-080-0059

Monitoring the Safety and Well-Being of the Child or Young Adult in Substitute Care

(1) To monitor the safety and well-being of the child or young adult when the parent or legal guardian is unable or unwilling to protect the child or young adult from the identified safety threats and substitute care is necessary to assure child safety, the caseworker must make the following contacts:

(a) Face-to-face contact with the child or young adult every 30 days;

(b) Contact with the relative caregiver, foster parent, or provider every 30 days; and

(c) Face-to-face contact with the relative caregiver, foster parent, or provider in the home or facility a minimum of once every 60 days. The face-to-face contact must include at least one of the certified or licensed adults who provide direct care for the child or young adult.

(2) Monitor and assess the child or young adult's safety and well-being in substitute care with a relative caregiver or foster parent.

(a) Within each 30-day period, the caseworker must complete all of the following activities:

(A) Have a conversation with a verbal child or young adult.

(B) Assess the child or young adult's progress in and adjustment to the placement.

(C) Receive updates from the child or young adult and from the relative caregiver or foster parent.

(D) Assess the safety and well-being of the child or young adult in the home by determining whether each of the following conditions exists in the home:

(i) The child or young adult is comfortable and the environment of the home is supportive and safe.

(ii) Adults in the home take an active role in caring for and supervising the child or young adult in the home.

(iii) Adult family members possess the physical, emotional, and cognitive capacity to sufficiently care for the child or young adult.

(iv) Family members and the child or young adult have formal and informal contact with others in the community.

(v) The child or young adult is accepted as part of the household.

(vi) The relative caregiver or foster family understands and is attentive to the vulnerability and need for protection of the child or young adult.

(vii) The relative caregiver or foster family is amenable to Department oversight and willing to partner with the Department.

(viii) When the child or young adult is placed with a relative caregiver, the child or young adult's parents and other family members understand the role of the relative caregiver in managing safety as a substitute care resource.

(ix) The child has a sufficiently positive relationship with the relative caregiver or foster family's own children who live in the home.

(x) The relative caregiver or foster family is caring for children matching the preferences and experience of the family.

(xi) The interactions between the child or young adult and other children placed in the home are sufficient to assure safety.

(xii) The present demands of the home do not exceed the ability of the relative caregiver or foster parent to provide safe and protective care.

(E) Document the date, time, location, and observations of the conditions that exist in the home in FACIS case notes.

(b) If one or more of the conditions described in paragraph (a)(D) of this section do not exist in the home, and the caseworker cannot confirm safety and well-being of the child or young adult in the home of the relative caregiver or foster parent, the caseworker must:

(A) Assess child safety immediately and determine if there is a safety threat as described in OAR 413-015-0420(1)(f)(A)(i) and (ii).

(B) If a safety threat is identified, immediately:

(i) Consult with the caseworker's supervisor to determine any immediate protective action required to assure the child's safety or any action required to assure the safety of the young adult; and

(ii) Contact a CPS screener and report the identified safety threat to the child.

(C) Document the behaviors, conditions, or circumstances observed in the home and any immediate protective actions in FACIS.

(c) When the child or young adult is currently safe in the home, but the conditions described in this rule or Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", (OAR 413-200-0301 to 413-200-0396) are not fully met, the caseworker must:

(A) Document date, time, location, and current behaviors, conditions, or circumstances observed in the home in FACIS notes and notify the certifier or certifier's supervisor within one working day.

(B) The caseworker must have face-to-face contact with the relative caregiver or foster parent within the next 30 days and the visit must occur in the home. The caseworker must observe the behaviors, conditions, or circumstances of the foster parent or relative caregiver, the child, and other children in the home, and conditions in the home.

(i) When the caseworker can confirm that current conditions in the home provide safety and well-being for the child or young adult, the caseworker must:

(I) Document the date, time, location, and observations of the condition of the environment in FACIS notes; and

(II) Notify the certifier of the improved behaviors, conditions, or circumstances in the home.

(ii) When the caseworker cannot confirm that current conditions in the home provide safety and well-being for the child or young adult, the caseworker must:

(I) Consult with the supervisor to determine whether to recommend to the certifier implementation of a Placement Support Plan to assist the relative caregiver or foster parent, or whether the child or young adult should no longer remain in the home because the conditions necessary to provide safety and well-being cannot be sustained in this home.

(II) Send written notification to the certifier of the behaviors, conditions, or circumstances in the home.

(III) Document the date, time, location, and the behaviors, conditions, or circumstances in the home in FACIS notes.

(3) Monitoring and assessing safety when the child or young adult is in a provider placement.

(a) During each 30-day period, the caseworker must:

(A) Assess the progress in and adjustment to the placement of the child or young adult;

(B) Have a conversation with a verbal child or young adult;

(C) Receive updates from the child or young adult and from the provider;

(D) Assess the safety of the child or young adult in the home or facility by determining whether each of the following conditions exists:

(i) The child or young adult is comfortable and the environment is supportive and safe.

(ii) Adults take an active role in caring for and supervising the child or young adult.

(iii) Adults possess the physical, emotional, and cognitive capacity to sufficiently care for the child or young adult.

(iv) The child or young adult has formal and informal contact with others in the community.

(v) The child or young adult is accepted as part of the household or facility.

(vi) The provider understands and is attentive to the vulnerability and need for protection of the child or young adult.

(vii) The provider is amenable to Department oversight and willing to partner with the Department.

(viii) The child or young adult has a sufficiently positive relationship with other children in the home or facility of the provider.

(ix) The provider is caring for children matching the preferences and experience of the provider.

(x) The interactions between the child or young adult and other children placed in the home or facility is sufficient to assure safety.

(xi) The present demands of the home or facility do not exceed the ability of the provider to provide safe and protective care.

(E) Document the date, time, location, and observations of the condition of the environment in FACIS.

(b) If one or more of the conditions described in paragraph (a)(D) of this section do not exist in the home or facility, and the caseworker cannot confirm safety and well-being of the child or young adult, the caseworker must:

(A) Assess child safety immediately and determine if there is a safety threat as described in OAR 413-015-0420(1)(f)(A)(i) and (ii).

(B) If a safety threat is identified, immediately:

(i) Consult with the caseworker's supervisor to determine any immediate protective action required to assure the child's safety or any action required to assure the safety of the young adult; and

(ii) Contact a CPS screener and report the identified safety threat to the child.

(C) Document the behaviors, conditions, or circumstances observed in the home or facility and any immediate actions in FACIS case notes.

(c) If the caseworker does not identify a safety threat but the conditions described in paragraph (a)(D) of this section are not fully met, the caseworker must complete the following activities:

(A) Contact the child-caring agency's management and the Department's Child Caring Agency Licensing Program to report the conditions in the home or facility and request additional supportive resources for the provider.

(B) Document in FACIS the contact required in paragraph (A) of this subsection.

(C) Have face-to-face contact with the provider within the next 30 days in the home or facility of the provider, and:

(i) Observe the actions and behaviors of the provider, the child or young adult, and other children in the home or facility, and conditions in the home or facility.

(ii) Confirm that current conditions in the home or facility provide safety and well-being for the child or young adult.

(iii) Contact the child-caring agency's management and the Department's Child Caring Agency Licensing Program to confirm the conditions in the home or facility provide safety and well-being for the child or young adult.

(D) After the contact required in paragraph (C) of this subsection, when the caseworker cannot confirm that current conditions in the home or facility provide safety and well-being for the child or young adult, the caseworker must consult with the supervisor to determine:

(i) Whether an immediate protective action is required to assure the child's safety or any other action is required to assure the safety of the young adult; or

(ii) Whether consultation with the child-caring agency's management is necessary to determine what additional support is necessary to assure the safety of the child or young adult in the home or facility of the provider.

(E) After the actions required in paragraph (D) of this subsection, the caseworker or caseworker's supervisor must contact the Department's Child Caring Agency Licensing Program. The caseworker must report the date, time, location, observations of the conditions of the home or facility, and any actions taken by the caseworker during or after the visit.

(F) Document the date, time, location, observations of the condition of the home or facility, and any actions in FACIS case notes.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 10-2007(Temp), f. 5-14-07, cert. ef. 5-15-07 thru 11-9-07; CWP 18-2007, f. & cert. ef. 11-1-07

413-080-0060 [Renumbered to 413-080-0067]

413-080-0063

Additional Documentation Required when a Child or Young Adult is Placed in Oregon through ICPC

(1) "ICPC" means the Interstate Compact for the Placement of Children (see ORS 417.200).

(2) When the child or young adult is placed in Oregon from another state, the caseworker must:

(a) Meet the requirement of monitoring the safety of the child or young adult's conditions and circumstances in substitute care, and

(b) Document and submit a report to Oregon's central office ICPC staff whenever conditions have not been met, and must include:

(A) Observations of the child or young adult and the relative caregiver, foster parent, or provider during the most recent contact; and

(B) Any actions taken by the caseworker to support the placement or ensure the safety and well-being of the child or young adult.

(3) The caseworker must submit a written report to Oregon's central office ICPC staff every 90 days. The report must include:

(a) Dates of all contacts in the previous 90-day period;

(b) Documentation of caseworker's observations of the child or young adult and relative caregiver, foster parent, or provider; and

(c) An analysis of the safety and well-being of the child in substitute care.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-080-0067

Contact Requirements and Exceptions; Required Face-to-Face Contact

(1) The caseworker may make scheduled or unscheduled face-to-face contacts with the child or young adult, parent, legal guardian, relative caregiver, foster parent, or provider.

(2) The caseworker's supervisor may approve and designate a child welfare supervisor, the Child Welfare program manager, a Consultant, Education, Trainer (CET), or another caseworker to make the contact required by these rules (OAR 413-080-0040 to 413-080-0067) when a caseworker's schedule or special circumstances prevent the caseworker from making the contact.

(a) Prior to arranging the required face-to-face contact, the designee must have information regarding the ongoing safety plan, the parents or legal guardians, and the child or young adult, including any special needs of the child or young adult.

(b) The staff person making the contact is responsible for assessing the safety of the child or young adult and completing the contact requirements set forth in these rules (OAR 413-080-0040 to 413-080-0067).

(3) The caseworker's supervisor or the Child Welfare program manager may approve an exception to the requirement of caseworker face-to-face contact with the child or young adult, parent, legal guardian, foster parent, relative caregiver, or provider when:

(a) The safety and well-being of the child or young adult can be confirmed by another responsible adult who has face-to-face contact with the child or young adult and confirms the child or young adult is safe, without a face-to-face contact by the caseworker.

(b) Approval for the exception is documented in the case file, including:

(A) The reason for approval of the exception;

(B) The length of time the exception is in effect, which shall be no longer than 90 days unless the caseworker obtains the approval of the Child Welfare program manager or designee (for purposes of this section, "designee" means a person under the direct and immediate

supervision, or a person equal or higher in management position and responsibility to the designator); and

(C) The designee confirms the facts demonstrating that child safety and well-being are confirmed without the required face-to-face contact.

(c) Reasons for granting an exception to the face-to-face contact requirements include but are not limited to:

(A) The child or young adult is unavailable.

(B) The child or young adult has been placed in a planned permanent living arrangement that has been approved by the court (an exception may be allowed, if appropriate, for face-to-face caseworker contact every 90 days with the child or young adult and the relative caregiver, foster parent, or provider).

(C) The child or young adult has been placed in residential care (an exception may be allowed, if appropriate, for face-to-face caseworker contact with the child or young adult every 60 days).

(D) The parent or legal guardian of the child or young adult is unavailable.

(E) A parent or legal guardian of the child or young adult presents a safety risk to the caseworker or Department staff, which has been documented in the case file.

(F) A young adult is receiving only Independent Living Services. (An exception may be allowed, when appropriate, for face-to-face contact every 60 days. Face-to-face contact with a young adult confirms the appropriateness of services, not safety.)

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; Renumbered from 413-080-0060, CWP 4-2007, f. & cert. ef. 3-20-07

Residential Care and Treatment

413-080-0200

Purpose

Residential Services consists of 24-hour care and treatment provided by residential service programs operated by public and private agencies. This rule governs the use of residential services programs that contract with the Department to provide residential services for children in the Department's legal custody or children whose parents have signed a voluntary placement or custody agreement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-1999, f. & cert. ef. 12-3-99; CWP 15-2003, f. & cert. ef. 1-9-03

413-080-0205

Definitions

(1) "Department" means the Department of Human Services.

(2) SDA means Service Delivery Area. A geographical area of one or more counties defined by the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 15-2003, f. & cert. ef. 1-9-03

413-080-0210

Residential Placements

(1) Residential 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. Local Department offices should explore individualized services, or other options through Family Decision meetings and use resources available in the local community whenever possible, if these services will effectively meet the needs of the child and family and divert the child from placement in a residential service program. Foster home placement is not a pre-requisite for placement in a residential service program.

(2) Children who are inappropriate for a residential service referral include:

(a) Children whose needs can be met in foster care or another family type setting or other less restrictive environment except that such placement is not available.

(b) Children whose interpersonal relationships within a sibling group could be better preserved in another setting.

(c) Children whose behavior or mental and emotional disabilities, while representing significant problems for the family or the commu-

nity, would be better serviced by the development of a service plan with the family which permits the child to remain at home.

(d) Children whose diagnosed mental and/or emotional disorder has been determined to require psychiatric hospitalization or placement in a psychiatric residential facility in order to protect self and others.

(e) Children whose demonstrated ability to function in the Independent Living Program indicates that it is a better resource.

(f) Children whose problems, circumstances or social history indicates that available residential service programs could not assist the child, or that the child and/or the community could not be protected during the placement.

(g) Children whose placement history clearly shows that additional use of residential service programs will not be of further benefit.

(h) Children who have been identified as eligible for services through the local Developmental Disabilities Office.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-1999, f. & cert. ef. 12-3-99; SOSCF 16-2001, f. 6-26-01, cert. ef. 7-1-01; CWP 15-2003, f. & cert. ef. 1-9-03

413-080-0220

Criteria

Children referred for placement in a residential service program must have demonstrated behavioral problems which cannot be managed in a less structured, and less restrictive environment. The goal of placement in a residential service program is to remediate the behaviors which are preventing the child from remaining in a community setting, and to assist the child in making the changes necessary to allow the child to return to a family setting, or to live independently in the community.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-1999, f. & cert. ef. 12-3-99; SOSCF 16-2001, f. 6-26-01, cert. ef. 7-1-01

413-080-0240

Resource Referrals

Written referrals to residential service programs shall follow the current format of the "Evaluation of Need for Residential Services and Level of Care" (CF 97). Referral material regarding the child and family may be provided by the juvenile department, Oregon Youth Authority, mental health workers, school district, or other community providers if these individuals have information which will assist in the referral process. The assigned Department worker shall be responsible for sending the referral to the provider. Workers should refer to the Treatment Referrals Policy, I-I.4, for further information regarding residential service program referrals.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-1999, f. & cert. ef. 12-3-99; SOSCF 16-2001, f. 6-26-01, cert. ef. 7-1-01; CWP 15-2003, f. & cert. ef. 1-9-03

413-080-0250

Service Planning

(1) Within two days after admission to a residential service program, the program shall develop an initial service plan which shall be developed jointly by the Department caseworker and the program, involving the child and parent(s). The service plan must be specific with regard to the behaviors to be addressed, services to remediate the problematic behaviors, and initial after care planning information. The program shall furnish a copy of the service plan to the Department caseworker which shall be filed in the case record.

(2) Service plans shall not be revised without the involvement of all major parties, (i.e., Department caseworker, provider, the child and parent(s)).

(3) Every service plan for a child in a residential service program shall be reviewed by the Department caseworker 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 between the Department caseworker, 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 Department worker for inclusion in the case record.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-1999, f. & cert. ef. 12-3-99; CWP 15-2003, f. & cert. ef. 1-9-03

413-080-0260

Child Welfare Caseworker's Role

(1) The Department caseworker shall, whenever possible, involve the child's parent(s) in the placement process including their participation in pre-screening interviews, service planning and identification of appropriate aftercare resources. The Department worker shall participate in the actual placement of the child in the residential service program. (2) When a child is placed in a residential service program, the Department 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 Department services to families shall be used, as appropriate, including individualized services to assist the other children to remain at home, and to prepare the home for the return of the child in the residential service program.

(3) The Department case worker shall work cooperatively with residential service program staff in relation to planning for the child.

(4) The Department worker shall assist in arranging parent visitation with the child as agreed to by all service planning participants as appropriate and in accordance with planned services. The Department worker shall approval all home visits and/or community passes while the child resident in an Department contracted residential service program, per OAR Policy I-E.5.1, Maintenance and Treatment Payments.

(5) The Department worker shall begin the development of a specific aftercare plan for the child and family upon placement of the child in the residential service program. The details of the aftercare plan shall be developed in conjunction with the residential service provider and updated at each 90 day service plan review meeting.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-1999, f. & cert. ef. 12-3-99; CWP 15-2003, f. & cert. ef. 1-9-03

413-080-0270

Intake and Placement Disagreements

(1) When a disagreement with a residential service program occurs with regard to acceptance of a child into the program, discharge of the child from the program, or the services the child and family are receiving, the Department worker shall contact the supervisor, Child Welfare Supervisor or the residential resource consultant for assistance in resolving the matter. Issues of abuse and neglect involving the residential service program must be reported to the Department office serving the area where the program is geographically located. (Refer to Department OAR Policy I-B.2.2.4, 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 residential resource consultant, supervisor, or Child Welfare Supervisor 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 residential resource consultant supervisor, or Child Welfare Supervisor shall contact the assigned central office program analyst to request their involvement.

(4) After review of the issue(s) and the residential resource consultant, supervisor, or Child Welfare Supervisor'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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-1999, f. & cert. ef. 12-3-99; SOSCF 16-2001, f. 6-26-01, cert. ef. 7-1-01; CWP 15-2003, f. & cert. ef. 1-9-03

DIVISION 90

SUBSTITUTE CARE — PAYMENTS

Maintenance and Treatment Payments

413-090-0000

Purpose

These rules (OAR 413-090-0000 to 413-090-0050) describe the requirements for payment for maintenance and treatment services for all children and young adults placed with substitute caregivers who are funded by the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0005

Definitions

The following definitions apply to OAR 413-090-0000 to 413-090-0050:

(1) "Adoption Assistance" means financial or medical assistance to adoptive families to assist them with costs associated with their adoptive child's needs. Financial benefits are funded by the Department's Adoption Assistance budget. Assistance can be in the form of cash, medical coverage, special payments, a combination of these, or "Agreement Only" as defined in OAR 413-130-0010(4).

(2) "BRS" means Behavior Rehabilitation Services, which are Medicaid funded programs that provide behavioral intervention, counseling, and skill building services in professional, shelter, or residential (including therapeutic foster care formerly referred to as "proctor care") placement settings.

(3) "CAF" means the Children, Adults and Families Division of the Department.

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

(5) "District" means a geographic area of one or more counties served by the Department and managed by a District Manager.

(6) "Foster parent" means a person who operates a home that has been approved by Child Welfare to provide care for an unrelated child or young adult placed in the home by the Department.

(7) "Provider" means a person approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(8) "Relative caregiver" means a person who operates a home that has been approved by Child Welfare to provide care for a related child or young adult who is placed in the home by the Department.

(9) "Sub-Acute Care" means psychiatric and mental health treatment under the direction of a psychiatrist provided as an alternative to hospitalization in a residential psychiatric treatment setting.

(10) "Young adult" means a person aged 18 through 20 years, who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0010

Payments — General Guidelines

(1) Family Foster Care

(a) Payment by the Department — to foster parents or relative caregivers who care for a child or young adult who meets the eligibility standards prescribed by Child Welfare Policy I-E.6.1, "Title IV-E-FC and General Assistance", OAR 413-100-0000 to 413-100-0360 — for a child or young adult's room, food, clothing, incidentals, and cash allowance (known as the regular foster care rate) is made on a monthly basis, or prorated for portions of a month, after the month in which the care has been provided. It includes the day the child or young adult enters the home, but excludes the day the child or young adult leaves the home. Costs of special care or service may also be provided if essential for the child or young adult's well being and if specifically authorized by Child Welfare. See Child Welfare Policy I-E.5.1.2, "Special Rates/Personal Care" OAR 413-090-0100 to 413-090-0220.

(b) Regular foster care rates are based upon the age of the child or young adult and the type of program services they are receiving; Family Foster Care, Family Shelter Care, or Family Group Home. The rate structure is established by the Department, subject to the availability of funds, and is uniform throughout the state. The current monthly reimbursed regular rates effective April 1, 2006 are:

(A) Monthly Family Foster Care Rates:

(i) Age of Child or Young Adult — 0-5 — 6-12 — 13-21.

(ii) Room/Board/Other — \$334 — \$331 — \$395.

(iii) Clothing Replacement — \$45 — \$51 — \$73.

(iv) Personal Allowance — \$8 — \$20 — \$29

(v) Total — \$387 — \$402 — \$497.

(B) Family Shelter Care — \$20.71 per day.

(C) Foster Family Group Home — \$1,218 per month.

(c) Payments to foster parents or relative caregivers certified by the Department shall be inalienable by any assignment or transfer and exempt from execution, levy, attachment, garnishment and other legal process under the laws of this state.

(2) Residential Treatment. Payment by the Department to purchase of care providers must be made as provided in signed contracts.

(3) Payments Prohibited.

(a) Payment may not be made for two simultaneous 24 hour out-of-home care services, such as foster care, relative care, family group homes, or residential treatment.

(b) Neither payment nor utilization credit may be given for simultaneous contracted treatment services, such as day treatment and residential treatment.

(c) Payment by the Department may not be authorized for the care of children or young adults 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 Planning Child, by the CAF Target Planning and Consultation Committee. Exceptions will be considered only when federal funds will not be claimed.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.470

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1999, f. & cert. ef. 3-5-99; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03; CWP 27-2003, f. & cert. ef. 7-31-03; CWP 34-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; CWP 7-2004, f. & cert. ef. 4-1-04; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0030

Payment for Temporary Absences

(1) Family Foster Care:

(a) Continued payment may be made to the foster parent, relative caregiver, or provider during a child or young adult's temporary absence when:

(A) The plan is for the child or young adult to return to the care of the same foster parent, relative caregiver, or provider; and

(B) No other foster parent, relative caregiver, or provider is receiving a maintenance payment for the child or young adult during the period of the absence.

(b) The caseworker may authorize payment for up to seven days for a child or young adult's temporary absence from the home of the foster parent, relative caregiver, or provider for a home visit, vacation, or special activity or when the child or young adult is on runaway.

(c) The caseworker must obtain authorization from the District Manager or designee for payment for more than seven days for a child or young adult's temporary absence from the home of the foster parent, relative caregiver, or provider.

(d) Hospitalization. The foster parent, relative caregiver, or provider will continue to receive payment when 24-hour medical care is required for a short period of time and the foster parent, relative caregiver, or provider continues to exercise caregiving responsibilities in anticipation of the return of the child or young adult. (Hospitalization for medical treatment is not considered a substitute care placement with a duplicate maintenance or board and room payment.)

(2) Residential Treatment.

(a) Payments or utilization credit may be made to contracted providers for days the child or young adult is on a home visit or planned visit to another provider in the following circumstances:

(A) The visit is part of planned activities identified in the BRS service plan of the child or young adult. Caseworkers will be aware of the inclusion of planned visits in the service plan due to their involvement in the service planning process as outlined in Child Welfare Policy I-E.4.3, "Residential Services", OAR 413-080-0200 to 413-080-0270.

(B) The assigned caseworker is informed prior to the visit taking place.

(b) Although a child or young adult may be allowed more than four consecutive visit days or eight total days per month, Department workers may not authorize payment or utilization credit for more than four consecutive days or eight total visit days per month under any circumstances.

(c) Department workers may not authorize payment or utilization credit for days a child or young adult has runaway before physically entering a provider's facility or therapeutic foster home or for days after the child or young adult has physically left a provider's facility or a therapeutic foster home as discharged.

(d) Hospitalization and "Sub-Acute" Care. The provider will continue to receive payment when 24-hour medical care is required for a short period of time and the provider continues to exercise caregiving responsibilities in anticipation of the return of the child or young adult. (Hospitalization and "Sub Acute" Care for medical treatment is not considered a substitute care placement with a duplicate maintenance of board and room payment.)

(e) Planned Visits to Another Provider. It is the responsibility of the purchase-of-care provider to reimburse the resource that the child or young adult visits at a reasonable rate to be agreed upon by both parties. The Department may not make maintenance payments to two providers for a child or young adult at the same time.

(f) A purchase of service client invoice must be completed in accordance with Department billing procedures.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. er. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0040

Payments During Adoptive Supervision

(1) The Department does not make a foster care payment after a child is free for adoption and placed in a home designated by the adoption manager as the child's adoptive placement. See OAR 413-130-0000 to 413-130-0130 for the eligibility requirements of the Adoption Assistance Program.

(2) The Department does not make foster care payments to foster parents who plan to adopt the child after a child's status changes from foster care placement to adoptive placement or from a "legal risk adoptive placement" to an "adoptive placement". A reasonable period of time shall be allowed to determine adoption assistance eligibility. If an application for adoption assistance is in process, the Department will continue to make foster care payments for 120 days or until adoption assistance is in place, whichever occurs first.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. er. 1-7-03; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0050

Family Foster Care and Relative Caregiver Out-of-State Payment Rates

(1) Foster parents and relative caregivers who receive Department approval to move out-of-state with a child that the Department has placed in their home may continue to receive current foster care payments for that child for up to 180 days or until licensed or certified in the receiving state, whichever is earlier.

(2) The CAF Administrator or Foster Care Program Manager may extend the 180 day limit for continuing to receive current foster care payments when the licensure or certification process in the receiving state has not been completed due to circumstances beyond the control of the Department and the foster parents or relative caregivers.

(3) Once the home is licensed or certified in the receiving state, the Department will authorize payment at the receiving state's established foster care payment rates.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. er. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

Special Rates/Personal Care

413-090-0100

Purpose

These rules (OAR 413-090-0100 to 413-090-0220) describe the requirements for a monthly payment to a substitute caregiver in addition to the foster care maintenance payment. This payment is for services to a child or young adult in the care and custody of the Department who has special needs inconsistent with his or her age.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0110

Definitions

The following definitions apply to OAR 413-090-0100 to 413-090-0220:

(1) "Activities of Daily Living (ADL)": Personal functional activities required by an individual for continued well-being, which includes eating and nutrition, dressing, personal hygiene, mobility, toileting, and behavior management.

(2) "Alternate caregiver": Any person, other than the substitute caregiver with whom the child was placed by the Department, who is charged with supervision of a special needs child.

(3) "Child": A person under 18 years of age.

(4) "Delegated nursing procedure": Routine and skilled nursing procedures identified in OAR 851-047-0000 to 851-047-0040 (Standards for Registered Nurse Delegation and Assignment of Nursing Care Tasks to Unlicensed Persons) that can be safely assigned to an unlicensed person to perform.

(5) "Department": The Department of Human Services, Child Welfare.

(6) "Direct educational costs": Costs prior authorized by the Department that are incurred by the substitute 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 planned recreation which is part of the treatment plan. Educational cost is one of the four fiscal categories used by the Department to track special rate payments to foster parents.

(7) "Direct maintenance costs": Costs to maintain the child in a foster home as a result of increased daily supervision and direct costs essential to a child's care plan goals. Title IV-E defines "Maintenance" as "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."

(8) "District": A geographic area of one or more counties served by the Department and managed by a District Manager.

(9) "Extraordinary needs": Physical, mental, behavioral, emotional or educational needs inconsistent with the age of the child.

(10) "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 and RN care plan, and periodic RN care plan review to allow the child to live safely in the most independent, least restrictive living situation. The cost of personal care services is one of four fiscal categories used by the Department to track special rate payments to foster parents.

(11) "Physician's order": A written order by a physician that states personal care services are required to meet the child's care needs.

(12) "Provider" means a person approved by a licensed private child-caring agency to provide care for a child or young adult or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(13) "Registered nurse": An individual licensed and registered to practice nursing.

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

(15) "RN Assessment and Care Plan": A registered nurse assessment of a child's needs and an RN 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 calculating direct maintenance costs and direct educational costs. Special rates help to maintain the child in foster care by assisting substitute caregivers providing care, supervision, and other services identified to address the child's extraordinary physical, mental, behavioral, and emotional needs.

(18) “Special Rate Review Committee”: A committee of Department staff representing the District Child Welfare office that may include a registered nurse and foster parents.

(19) “Substitute care”: The out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(20) “Substitute caregiver”: A relative caregiver, foster parent, or provider who is authorized to provide care to a child or young adult who is in the legal or physical custody of the Department.

(21) “Young adult” means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department’s Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0120

Policy

(1) Children and young adults with special needs impose additional costs on substitute caregivers and require additional services of substitute caregivers. The substitute caregivers may be reimbursed for these extra costs and services.

(2) The child or young adult’s special rate or Personal Care payment reimburses the substitute caregiver for these additional costs and services. The Department tracks them in three fiscal categories: direct maintenance costs (Title IV-E); non-Title IV-E eligible expenses (General Fund, and/or TANF); and personal care services (Title XIX).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0130

Special Rate/Personal Care Eligibility Requirements

For a child or young adult to be eligible for a special rate, all of the following conditions must be met:

(1) All Department policies related to child or young adult and substitute caregiver eligibility must be met.

(2) The caseworker has explored the following resources from the following sources and found them insufficient or inappropriate to meet the identified needs of the child or young adult: the child or young adult, the family, friends, the community, and other Department resources.

(3) A determination that the child or young adult is eligible for Personal Care Services. This determination includes checking Supplemental Security Income (SSI) eligibility, and determining whether the child or young adult has a documented, diagnosed physical or mental impairment.

(a) To be eligible for Personal Care Services, a child or young adult 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 age of the child or young adult and can be met through provision of Personal Care Services.

(b) To initiate the provision of Personal Care Services, a registered nurse must assess the Personal Care Service needs of the child or young adult, develop an RN Care Plan based on a documented physical or mental impairment, secure the physician’s signed prescription of the Personal Care Services to be provided, and recommend the number of hours per month of care required to meet the RN Care Plan.

(4) The child or young adult must be eligible for a basic foster care maintenance payment.

(5) The substitute caregiver of the child or young adult must be certified by the Department or certified or approved by a licensed child caring agency.

(a) If Personal Care Services are to be provided, a registered nurse must evaluate the substitute caregiver and verify in writing that the substitute caregiver of the child or young adult is competent to provide the care authorized in the RN Care Plan of the child or young adult.

(b) If Personal Care Services include RN delegated nursing tasks, the RN must use form CF 172RNT to document the introductory explanation, demonstration, and return demonstration of all delegated nursing tasks. Detailed written instructions that include side effects, adverse reactions, and actions to be instituted should side effects occur, must also be provided during the initial delegation process, per Oregon State Board of Nursing (OSBN) Guidelines.

(c) It is the responsibility of the substitute caregiver to select alternate caregivers who are knowledgeable of the specific care needs of the child or young adult and can understand and follow the RN Care Plan of the child or young adult. If alternate caregivers perform RN delegated nursing tasks for the child or young adult, they may receive RN training and written instructions per OSBN guidelines at the same time as the substitute caregiver. If this is not possible, an RN must notify the caseworker that alternate caregivers need delegation training and request authorization to schedule training for the alternate caregivers prior to alternate caregivers providing care for the child or young adult. RN delegations are not transferrable.

(6) The identified special needs of the child or young adult must be documented on the Department’s Integrated Information System.

(7) The child or young adult must have one or more diagnosed physical 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.

(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 or care.

(f) Twenty-four hour supervision for their own protection or the protection of others.

(g) Aggressive, acting-out behavior which causes excessive damage to their own or their substitute caregiver’s property; such as destruction of bed linen, furnishings, furniture, and other household equipment.

(h) Special treatment prescribed by a physician or clinic that can be provided by substitute caregivers with or without supplementary training or supervision.

(i) Extremely withdrawn or depressed behaviors which require frequent reassurance, attention, or stimulation.

(j) Delay in development of social or personal hygiene skills that require intensive provision of day-to-day learning experiences by the substitute caregiver in keeping with the abilities of the child or young adult.

(k) Developmental delays requiring skilled care.

(l) Aggressive, acting-out, abusive and disruptive behavior.

(m) Delinquent behavior.

(n) Extreme school problems which require substitute caregiver involvement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0140

Periodic Review of Eligibility Requirements

(1) The eligibility of a child or young adult for a special rate or personal care must be reviewed by the child or young adult’s caseworker and supervisor at intervals of six months or less from the effective date of the authorization.

(a) The child or young adult’s caseworker and supervisor must provide the District Manager or designee a recommendation and supporting documentation to continue, change, or terminate the special rate or personal care payment.

(b) The caseworker assures that the RN Care Plan is appropriate and meets the needs of the child or young adult. A caseworker may consult with the RN or request the RN to complete a new assessment for this review.

(2) A re-assessment for a Special Rate or Personal Care may occur at any time if the behavioral or medical conditions of the child or young adult change enough to warrant re-assessment. The re-assessment must be authorized by the caseworker or supervisor for the child or young adult.

(3) An Annual Review must be completed for every child or young adult receiving a Special Rate or Personal Care service.

(a) This review must be completed by the caseworker or RN depending on the type of assessment necessary.

(b) Physician's Order. At least annually, the child or young adult's physician prescribing the continuation or revision of Personal Care Services must evaluate the care need of the child or young adult and have face-to-face contact with the child or young adult.

(4) The Department must notify substitute caregivers of any intended rate changes prior to approval of the Special Rate or Personal Care Services payments. The agreement must be forwarded to the substitute caregiver within 30 days of approval.

Stat. Auth.: ORS 418.005

Stat. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0150

Cost Determination

(1) Special maintenance costs must be determined by the caseworker based on direct costs required to maintain the child or young adult in the home.

(a) Direct maintenance costs (Title IV-E eligible) are:

(A) Diet — specify type (cost above regular diet).

(B) Laundry services — launder clothing and bedding for the child or young adult due to his or her special needs (a service beyond typical needs of a child or young adult this age) (cost per load times the number of loads).

(C) Transportation — cost associated with transporting the child or young adult for parental visitation.

(D) Supervision — cost not eligible for Personal Care services to maintain the child or young adult in the home, documented on the CF 172NPC, Part A.

(E) Other — payment to cover the cost of (and cost of providing) clothing, school supplies, or a child or young adult's personal incidentals, that occur on an ongoing basis. The Department also provides Title IV-E foster care maintenance payments to cover the necessary costs incurred on behalf of a child who resides with his or her minor parent in substitute care. That payment must be based on the current basic foster care maintenance rate. This may not be used to reimburse one-time payments.

(b) Direct costs (non Title IV-E eligible expenses) eligible are:

(A) Education services provided by a private resource and necessary to the maintenance of the child or young adult 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 the Division of Medical Assistance Programs (DMAP) of the Department of Human Services as not qualifying for payment according to its medical policy (DMAP Medical Transportation Services Guide; Case Workers Guide, Ch. 23).

(D) Planned recreation which is part of the treatment plan for a physically or mentally impaired child or young adult.

(E) Relief Care: Based on the special needs of the child or young adult, an alternate caregiver provides temporary care of the child or young adult in substitute care.

(2) Personal Care Services payment amounts must be determined by the Special Rate Review Committee based upon the Personal Care Services to the child or young adult prescribed by a physician and described in the RN Assessment and RN Care Plan. Personal Care Services (Title XIX eligible) include all of the following:

(a) Basic personal hygiene, including bathing, hair grooming, nail care, foot care, dressing and 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. (DSM IV)," 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) Nighttime Care Needs. Nighttime Care is the time required to assist a child or young adult through the night.

(h) 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 identified goals of the child or young adult, such as: preparation of a special diet, household assistance essential to the child or young adult's health and comfort, travel to medical appointments, and shopping for a child or young adult's health care or nutritional needs.

(i) 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 but are not limited to mobility, care of unstable fracture or 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; care for a child or young adult requiring soft restraints due to a diagnosed medical condition; oxygen or ventilator, administration; tracheotomy care and suctioning, sterile care of stoma, suctioning; medications, injections, finger stick or other blood sugar tests; heart monitor supervision. A delegated nursing procedure shall be reviewed every 60 days or more frequently based on the RN recommendation.

(j) Development of RN Care Plan. Based on the assessment, the RN will develop an RN Care Plan which identifies the child or young adult's impairment-related problem(s) and provides instructions for the care required.

(A) The registered nurse must enter on the assessment form a recommendation for the number of hours required monthly to meet the RN Care Plan.

(B) The caseworker must recommend to the Special Rate Review Committee a rate based upon the number of hours of Personal Care Services per month.

(C) The Special Rate Review Committee may add additional hours under Intensive Supervision Services, and Relief Care for the care provided to the child or young adult who requires intensive behavioral supervision beyond the RN assessment. This need for intensive supervision must be documented.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stat. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0160

Costs Reimbursable by the Department

(1) The Department will reimburse a substitute caregiver for extraordinary services and supplies that are required on a daily, weekly, monthly or other continuing basis. The costs are separated into three areas: Costs which are reimbursable to the state under Title IV-E federal guidelines (CF 172A, Part A); costs paid with state general funds and TANF (CF 172A, Part B); and Title XIX federal guidelines (CF 172A, Part C).

(2) Supervision costs above standard maintenance costs may be paid by a combination of Title IV-E and TANF or Title XIX allowable costs.

(3) Supervision costs above standard maintenance costs include one or more of the following:

(a) Supervision Eligible for Title IV-E Funding (CF 172NPC, Part A). Supervision eligible for Title IV-E funding is only for behaviors or direct care needs that are beyond the normal requirements for a child or young adult of a similar age and the child or young adult does not have a documented diagnosis.

(b) Supervision Eligible for Title XIX (CF 172A, Part C). Supervision eligible for Title XIX is for behaviors or direct care needs that

are beyond the normal requirements for a child or young adult of a similar age and the child has a documented diagnosis and an RN assessment and RN Care Plan has been completed.

(c) Relief Care is only for a child or young adult whose documented behavioral supervision needs exceed the normal requirements for a child or young adult of a similar age and additional supervision is necessary to maintain the child or young adult in the home.

(4) The narrative for any supervision costs must:

(a) Document the behaviors and direct care and supervision needs of the child or young adult that are beyond the normal requirements for a child or young adult of a similar age.

(b) Describe the interventions and services that the substitute caregiver must provide for each special need, including expected outcome which, if not achieved, would require placing the child or young adult in a higher level of care program.

(c) Describe the substitute caregiver's skill and experience which enable the substitute caregiver to provide appropriate care for the special needs and behaviors of the child or young adult.

(5) Reimbursement rate structure effective April 1, 2006. A rate structure was established to provide rate parity for similar type activities and equitable rates for similar types of special needs of children or young adults. An exception to policy may be granted through documentation and approval (OAR 413-090-0200).

(a) Hourly Rate for Supervision — \$4.60

(b) Transportation Cost - Per Mile — \$.44

(c) Laundry — Per Additional Load — \$1.00

(d) Relief Care — Hourly Rate — \$4.60

(e) Program Educational Expenses Direct Cost Incurred — (Prior Approved)

(f) Diet Cost — Direct Cost Incurred — (Prior Approved)

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03; CWP 28-2003, f. & cert. ef. 7-31-03; CWP 35-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; CWP 6-2004, f. & cert. ef. 4-1-04; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0170

Costs Not Compensated by the Department

Direct costs not compensated are:

(1) Kindergarten.

(2) Day care.

(3) Clothing.

(4) Transportation to and from school unless the substitute caregiver provides transportation for a child who attends the school that the child attended prior to removal from the home of the parent or legal guardian.

(5) Special needs which may be paid for through Child Welfare Policy I-E.5.2, "Payments for Special and/or Extraordinary Needs", OAR 413-090-0300 to 413-090-0380.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0180

Reimbursement Requirements

Requirements for Special Rate payment include:

(1) Billing. Billing for the service must be submitted on the Department's approved reimbursement form.

(2) Periods of Absence. The Department will not pay a substitute caregiver for services not provided. (See Child Welfare Policy I-E.5.1, OAR 413-090-0030.)

(3) Employer-Employee Relationship. There is not an employer-employee relationship between the Department and the substitute caregiver or the Department and the substitute caregiver's alternate caregiver authorized to receive reimbursement through the Special Rate Program.

(4) Special Rate or Personal Care Services Foster Care Authorization Form. A substitute caregiver may only be paid an amount above the standard foster care maintenance payment for services authorized on the Special Rate or Personal Care Services Foster Care Authorization form, CF 172A.

(5) Provider Contract. When a provider is under contract with a licensed child caring agency to serve a child or young adult in the provider's home, the Department will not pay for services covered under another contract or maintenance payment.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0190

Payment Authorization

(1) Payment of a special rate or for personal care may be made only after:

(a) The Special Rate Review Committee has:

(A) Reviewed the methods used to arrive at the special rate or personal care amount;

(B) Considered the amounts paid for services provided that may apply to more than one child or young adult; such as supervision, relief care, in-home assistance, laundry, transportation; and

(C) Considered the equitability of rates for similar types of children or young adults.

(b) The agreement (CF 172A) has been authorized by the signatures of the caseworker, substitute caregiver, and supervisor. Exceptions additionally have been authorized by the Special Rate Committee chairperson and District Manager or designee.

(c) The required payment information has been entered on the Department's integrated information system.

(2) A new agreement (CF 172A or CF 172NPC) is required if there is a change in the substitute caregiver or a revision of the special rate produces a different rate than the previous special rate.

(3) Children or young adults, who are placed with substitute caregivers outside the county with custody and require a special rate or personal care, must have an agreement completed by the Child Welfare office in the county with custody. The Child Welfare office in the county where the child or young adult is placed, if asked, is responsible to participate in assessing the child or young adult's needs and in completing the agreement. Agreement authorization must be completed by the Child Welfare office in the county with custody.

(4) The special rate is effective from the date of the local Child Welfare office authorization. For special rate (CF 172NPC — Non-Personal Care) services provided prior to the date of the authorizing signature, the District Manager or designee may make the effective date of the agreement retroactive up to 90 days prior to the signature date.

(5) For Personal Care Rates, section (4) of this rule does not apply. The Personal Care Rate is effective from the date that the RN performs the assessment. For Personal Care services provided prior to the date of the RN's assessment, the District Manager or designee may make the effective date of the agreement retroactive only to the first day of the month in which the RN did the assessment.

(6) End Date: The maximum period of time for a special rate or Personal Care Authorization is 12 months. A special rate or personal care may be authorized for a lesser period as determined by the District Manager or designee. If a special rate or Personal Care Authorization expires and is not renewed before the next regular scheduled payment date, the foster care payment must revert to the basic maintenance rate.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 17-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0200

Exceptions and Variances

(1) Exceptions and variances consist of:

(a) Costs that are not in these rules (OAR 413-090-0100 to 413-090-0220); or

(b) Costs that exceed \$500 per month.

(2) Requests for exceptions and variances must be made in writing by the caseworker to the District Manager or designee. Requests must state the reason or reasons that the specific requirements of these rules cannot be met or met only in modified form, and state the requested additional rates or amount of time.

(3) Requests for exceptions and variances must be approved by the District Manager or designee.

(4) The granting of an exception shall not constitute a precedent for any other substitute caregiver, child, or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

413-090-0210

Termination of Special Rate

The Special Rate or Personal Care must be terminated when the child or young adult no longer meets the Special Rate eligibility requirements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07

Payments for Special and/or Extraordinary Needs

413-090-0300

Purpose

These rules describe how payments for special and/or extraordinary needs may be used to benefit children in the custody of the Department who are in foster care, family and professional shelter care, residential group care and child who are in non-reimbursed placement such as SAIP and SCIP.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 2-2006, f. & cert. ef. 2-1-06

413-090-0310

Definition

(1) "Clothing Replacement Allowance": means the Department includes the cost of maintaining adequate clothing for each child in the substitute care maintenance payments to the provider.

(2) "Department" means the Department of Human Services (DHS).

(3) "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 substitute care maintenance payment. The payment for the child's special or extraordinary need shall not be ongoing in nature and is available on a limited or one-time basis.

(4) "SAIP" means Secure Adolescent Inpatient Program.

(5) "SCIP" means Secure Children's Inpatient Program.

(6) "SDA" means Service Delivery Area (SDA). A geographic region of one or more counties served by the Department and managed by an SDA Manager.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 2-2006, f. & cert. ef. 2-1-06

413-090-0320

Policy

(1) Payments for Special and/or Extraordinary Needs shall be limited to the amounts stated in the I-E.5.2 Information letter. Requests shall state a specific amount.

(2) Exceptions to these rules may be made with the SDA Manager's or designee's approval in individual situations. Exceptions must be made prior to purchase and authorized in writing in the case file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0330

Clothing

(1) The agency will make certain that clothing needs of children going into or placed in substitute care, such as a residential facility and paid/unpaid foster or relative care are met. Both staff and contracted providers shall use reasonable judgment in making clothing purchases. It is expected that a child in the custody of the Department will be

dressed similar to other children living in the community, but purchases are dependent upon funds available to the Department.

(2) Unless the SDA Manager or designee makes an individual exception, clothing purchases may be authorized after:

(a) Clothing available and belonging to the child is obtained from the parent(s), guardian, relative caregiver or provider at the time of placement or change of placement. If release of clothing is refused and it is in the best interest of the child, a court order for the release of such clothing is to be requested from the juvenile court;

(b) Clothing resources such as foster parent organizations or agency volunteer programs, etc., are to be used prior to any Department purchase of clothing;

(c) **Shelter Care:** The Department will make payment for emergency clothing after searching the available resources and determining that sufficient clothing is not available.

(d) **Ongoing Substitute Care:**

(A) The payment to substitute care providers includes a clothing replacement allowance. It is the provider's responsibility to maintain the child's clothing with the clothing replacement allowance. The agency will not purchase replacement clothing except in extraordinary situations;

(B) When a child moves from one caregiver to another caregiver, all of the child's clothing, including clothing purchase for the child while in substitute care, shall go with the child. The child is not eligible for another emergency or standard clothing voucher;

(C) New clothing for a child in an adoptive placement will not be purchased except to make certain that the child is properly clothed for presentation to the adoptive parents at the time of placement;

(D) Children who are in shelter care or ongoing care generally will not receive a supplemental clothing voucher when they leave care temporarily and later return to out-of-home care. Exceptions for a supplemental clothing voucher may be made with the SDA Manager's or designee's approval.

(e) **Maximum Clothing Allowances:** The maximum rates the Department pays are outlined in the Information Letter, I-E.5.2. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0340

Transportation

(1) The agency may pay for non-medical transportation not to exceed current Department 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 Department, service provider and child's family. Direct case-by-case negotiations with the provider and the child's family, to determine Department cost, shall be made 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.: ORS 418.005

Stats. Implemented: Title IV-E

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

431-090-0355

Payments Eligible for Title IV-E

(1) Title IV-E allowable clothing expenses are based upon a consideration of what is necessary or required. For example, Title IV-E can be claimed if a child is required to have certain supplies for a specific school class project. Title IV-E should not be utilized for supplies needed for an after school enrichment program.

(2) Title IV-E allowable costs include, but are not limited to, locker and towel fees, art supplies, pencils, paper, necessary school clothing.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0365**Education Costs Not Eligible for Title IV-E**

(1) Basic school costs are to be paid by local school districts.

(2) The Department's maximum payments for educational cost are outlined in I-E.5.2 Information Letter.

(3) The educational costs on the list below are not Title IV-E eligible. The Department may authorize the following allowable school costs if sufficient funds are available: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0370**Payment Method**

(1) A CF 598 (Authorization and Vendor Invoice) must be completed in accordance with instruction and presented to the vendor.

(2) The CF 598 will authorize a maximum amount; however, the vendor may only bill the Department for the actual amount of purchase.

(3) A business will be reimbursed after submitting a CF 598 which certifies goods and/or services were rendered by the business in accordance with the CF 598.

(4) A person or party who has purchased goods or services will be reimbursed upon submitting the completed CF 598 along with original receipt(s) for each item purchased.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 10-2003, f. & cert. ef. 1-7-03

413-090-0380**Children in Non-Reimbursed Placement at Oregon State Hospital and Other Non-Reimbursed Providers**

(1) The Department has established a procedure to provide personal allowances for children who are in custody of the Department and are placed in a non-reimbursed placement at SAIP, SCIP, and other non-reimbursed providers.

(2) Procedure:

(a) Determine if the children have benefits or resource coming in to their trust account. The Department staff can use the IFDF screen to see if the child has a balance in his/her trust account. If there is money in the trust account, the worker can initiate a CF 198 (Trust Action) monthly to receive payment for the child. Maximum monthly amount is not to exceed \$30.00;

(b) If the child does not have any benefits or resources coming in, then the allowance payment may be made from "Payments for Special and/or Extraordinary Needs" using the individual the Department location cost center and an object code of 980.092, Personal Allowance. (This is an EAS object code). Department staff would initiate payment by completing a CF 294 (Administrative Expense Voucher) monthly, including the child's case number and person letter. Maximum monthly amount would be \$30.00.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 2-2006, f. & cert. ef. 2-1-06

Funeral and Burial Expense**413-090-0400****Purpose**

These rules, OAR 413-090-0400 through 0430, describe the payment of funeral, burial or cremation expenses for a child who dies while in the legal custody of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03

413-090-0405**Definitions**

(1) "Department" means the Department of Human Services (DHS).

(2) "SDA" means Service Delivery Area (SDA). A geographic region of one or more counties served by the Department and managed by an SDA Manager.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 11-2003, f. & cert. ef. 1-7-03

413-090-0410**Eligibility for Payment**

Funeral, burial or cremation expenses shall only be authorized for a child who is in the Department's legal custody at the time of death. All other resources for payment of expenses, including parents, relatives and guardians must be explored before approval is given for the Department to make payments.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03

413-090-0420**Payment Method**

Payment by the Department will be by CF 294 (Administrative Expense Voucher). This expenditure will be charged to the branch Services and Supply allocation. Vendors must submit itemized billings on their letterhead.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 11-2003, f. & cert. ef. 1-7-03

413-090-0430**Allowable Costs**

Funeral, burial or cremation expenses are to be borne by parents, relatives and guardians if at all possible. In the event the agency must cover costs, payment for funeral, burial or cremation expenses are not to exceed \$1,500. Exceptions can be made up to \$2,500 total with SDA Manager or designee approval. The following list specifies allowable expenses:

(1) Funeral Service:

(a) Transportation in excess of 25 miles for:

(A) First call;

(B) Funeral coach.

(2) Burial or Cremation:

(a) Cemetery burial:

(A) Endowment care, if provided by cemetery;

(B) Grave space;

(C) Outer case, opening and closing of grave.

(b) Indoor or Outdoor Mausoleum Burial:

(A) To be provided within total burial allowance;

(B) Opening, closing and lettering when crypt is already owned.

(c) Cremation Services:

(A) Cremation;

(B) Unpolished urn;

(C) Niche;

(D) Grave space for cremated remains;

(E) Interment of cremated remains;

(F) Endowment care when provided;

(G) Finished urn when an open-front niche is already owned;

(H) Transportation of cremated remains may be authorized by branch office in exceptional case.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03

Payments for Providing Direct Client Legal Services**413-090-0500****Purpose**

These rules establish the conditions under which SOSCF can issue a standard legal fees payment for the cost of providing direct client services in the establishment of court appointed guardianship of children in SOSCF's care and custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98

413-090-0510

Definitions

“Vendor Attorneys” are qualified attorneys, including Legal Aide Programs who have signed a legal fees agreement with SOSCF to accept SOSCF’s currently established standard payment, plus reimbursement of any personal costs incurred, for court fees and the filing of mandatory court papers, or for obtaining birth certificates when establishing guardianships for children in SOSCF’s care and custody, or to process adoptions.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98

413-090-0520

Eligibility for Payment of Direct Client Legal Services

(1) DHS may consider making payments for direct client legal services for the establishment of uncontested guardianships for children in DHS’s care and custody when it is documented that:

- (a) The family is unable to pay for the services of a private attorney;
- (b) No free legal resource is available to the client.
- (c) When thoughtful and thorough decision-making has established guardianship as a permanency plan and it has been determined that the plan:
 - (A) Is in the best interests of the child;
 - (B) Offers a long-term commitment by the prospective guardian for stable and continuous care of the child until adulthood;
 - (C) Meets the prospective guardian and the child’s wishes;
 - (D) Meets the child’s need for stability and continuity of relationships;
 - (E) Assures the mental and physical health of all involved;
 - (F) Assures the guardian’s ability to protect and support the child without the agency’s help;
 - (G) Has the parent’s consent, or the agency can show good cause such as the parent’s incarceration, incapacity, or abandonment of the child;
 - (H) Assures the prospective guardian can appropriately manage the parent’s involvement with the child.
- (2) Payment may be considered even though the court’s establishment of guardianship does not result in termination of all branch services.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; SOSCF 5-2002, f. 3-28-02, cert. ef. 4-1-02

413-090-0530

Selecting an Attorney

Prospective guardians, found eligible for client legal services, may choose an SOSCF “vendor attorney” from the branch list or procure the services of a private attorney.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98

413-090-0540

Rate of Payment for Legal Services

- (1) DHS will pay the costs of establishing uncontested guardianships at SOSCF’s currently established standard payment rate, plus reimbursement of personal costs incurred for court fees and the filing of mandatory court papers. Payments are made from the foster care prevention budget.
- (2) Payment will be made after the guardianship is legally established and the branch receives a copy of the court order. Payment will be made after the guardianship is established to either the:
 - (a) Vendor attorney; or
 - (b) Family for reimbursement of the services of a private attorney.
 Payment to the family is limited to the amount of the contracted vendor payment standard plus reimbursement of mandatory court fees and filing costs.
- (3) The family is responsible for all charges billed in excess of DHS’s established standard payment rate when they choose to hire a private attorney.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; SOSCF 5-2002, f. 3-28-02, cert. ef. 4-1-02

413-090-0550

Court Order Content

- Ideally, court orders resulting from these legal actions should:
- (1) Specifically set forth the permanency plan;
 - (2) Terminate SCF’s involvement/responsibility;
 - (3) Designate the responsibility of the parent(s) and the guardian.

For example, court orders may state that the guardian has the duty to protect, feed, educate, shelter, and care for the child, as well as make decisions about the child’s legal residence, the responsibility to enroll the child in school and get the child medical treatment, as well as having authority over the child’s estate and assets.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98

DIVISION 100

SUBSTITUTE CARE — FUNDING ELIGIBILITY

Title IV-E-FC and General Assistance

413-100-0000

Purpose

The purpose of these rules (OAR 413-100-0000 to 413-100-0320) is to set forth the Department’s process and criteria for making Title IV-E Foster Care eligibility determinations for children in substitute care for whom the Department has placement and care responsibility.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0010

Eligibility Requirements

(1) The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, took effect on June 17, 1980. It amended Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance and adoption assistance payments made on behalf of certain eligible children. The Adoption and Safe Families Act (ASFA) took effect on November 18, 1997, and enacted further federal requirements for claiming these funds and enhancing permanency for children. The Deficit Reduction Act of 2005 took effect on February 8, 2006, and further clarified the federal requirements for Title IV-E Foster Care maintenance, adoption assistance, medical coverage, and administrative funds.

(2) The Administration for Children and Families is the federal agency that adopts regulations and monitors the States’ Title IV-E foster care and adoption assistance programs. Oregon’s Title IV-E program is administered by the Department of Human Services (the Department). The Department acts as the applicant for the child and provides Title IV-E foster care payments to foster parents on behalf of eligible children, consistent with:

- (a) The standards established by state and federal legislation and regulations, federal policy, and the State plan for the Title IV-E program; and
- (b) The established financial and parental deprivation standards for the Aid to Families with Dependent Children (AFDC) program, which was in effect on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0020

Definitions

The following definitions apply to OAR 413-100-0000 to 413-100-0320:

- (1) “AFDC No-Adult Standard”: The standard applicable to AFDC households that do not include an adult in the grant.

(2) “AFDC”: The Aid to Families with Dependent Children Program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

(3) “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” applies to all refugees and asylees with proper INS documentation, served by the Department under the Refugee Resettlement Program.

(4) “Assistance Unit”: A group of individuals whose needs, income, and resources are considered together to determine their public assistance eligibility and the grant amount.

(5) “Certified Foster Home”: For Title IV-E purposes under these rules (OAR 413-100-0000 to 413-100-0320), a foster home that the Department has certified and includes a relative foster home.

(6) “Child Support”: Any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.

(7) “Citizen or Alien Status”: The status of being a U.S. citizen or alien who is a qualified alien or unqualified alien, as defined by section 431 of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), as amended by The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and The Balanced Budget Act of 1997.

(8) “Constructive Removal”: The non-physical, paper, or legal removal of a child who is not living with a “specified relative” when the voluntary custody or voluntary placement agreement is signed or the judicial order is entered. Constructive removal is described further in OAR 413-100-0135(3)(b).

(9) “Countable Income”: The amount of available income, including earned and unearned income not specifically excluded by OAR 461-140-0040, used to determine eligibility for public assistance.

(10) “Court Order Date”: The date a court of competent jurisdiction issues a court order that gives the Department responsibility for the child’s placement and care.

(11) “Date a Child is Considered to have Entered Foster Care”: The earlier of the following:

(a) The date that the court found the child to be within the jurisdiction of the court under ORS 419B.100; or

(b) 60 days from the date of removal.

(12) “Department”: The Department of Human Services.

(13) “Earned Income”: All legal, reportable income resulting from an individual’s employment or self-employment.

(14) “Eligibility Month”:

(a) The month in which the court was petitioned or court action was initiated that resulted in the child’s “constructive” or “physical” removal from the home of his or her specified relative; or

(b) The month a voluntary custody or voluntary placement agreement is signed.

(15) “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.

(16) “Family”: For purposes of determining Title IV-E Foster Care eligibility under these rules, the parent or parents, stepparent, or relative or relatives from whom the child is removed.

(17) “First cousin once-removed”: A child of a first cousin.

(18) “Foster Home”: As defined in ORS 418.625(3), any home maintained by a person who has under the care of the person in such home any child under the age of 21 not related by blood or marriage and unattended by its parent or guardian, for the purpose of providing such child with care, food, and lodging, but does not include any foster home under the direct supervision of a private child-caring agency or institution certified by the Department, any home under the direct supervision of a custodial parent for the purpose of providing respite care, or any developmental disability child foster home.

(19) “Foster Care”: 24 hour substitute care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with

this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.

(20) “Incapacity”: A physical or mental defect, illness, or impairment that reduces substantially or eliminates the individual’s ability to support or care for the child and may be expected to last a period of at least 30 days.

(21) “Indian Child”: A child verified by a Tribal enrollment committee as enrolled or eligible for enrollment as a member of a federally recognized tribe.

(22) “Initiation of Court Action”: The date that the court was petitioned or legal action was taken that resulted in the removal of the child from the specified relative.

(23) “Minor Child”: 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.

(24) “Need”: Using the Department AFDC standards, the monetary amount by which an individual or family’s requirements exceeds all of the income and resources available to the individual or family.

(25) “Non-Indian Child”: Any child not verified by a Tribal enrollment committee as enrolled or eligible for enrollment as a member of a federally recognized tribe.

(26) “Nunc Pro Tunc Orders”: Under Oregon law, a nunc pro tunc order is an order that restores to the record an action that actually occurred, but was inadvertently or mistakenly omitted from the record.

(27) “Parent”: Under the AFDC rules in effect on July 16, 1996, “parent” means the biological or legal (step or adoptive) mother or father of a person.

(a) If the mother lives with a male, who either she or he claims is the father of the child, and no one else claims to be the father, he shall be treated as the father even if paternity has not been legally established.

(b) The Voluntary Acknowledgment Form (HS 45-21) jointly signed by the mother and putative father, is a legal document that establishes paternity and allows the father’s name to be added to the birth certificate.

(c) A stepparent relationship exists if:

(A) The person is legally married to the child’s biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(d) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent, the adoptive parent, has given up care, control, and supervision of the child.

(28) “Payment Standard or Needs Standard”: The amount set by the Department as the AFDC net income limit. It is used to determine the actual grant amount. This amount refers to the “Payment or Need Standard” in effect on July 16, 1996.

(29) “Personal Property”: Everything that a person owns that is not real property, including liquid assets.

(30) “Physical Removal”: The removal of a child that occurs when a child is placed in substitute care, who was living with the “specified relative” when the voluntary custody or voluntary placement agreement was signed or court proceedings were initiated.

(31) “Real Property”: Land, buildings, and whatever is erected on or affixed to the land or buildings and taxed as real property.

(32) “Relieved of Temporary Commitment”: The court ends the Department’s responsibility for the child’s placement and care.

(33) “Removal Home”: The home from which the child was removed as a result of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR 413-100-0135(3).

(34) “Resource”: Any personal or real property that is or can be made available to meet the need of the assistance unit the Department does not specifically exclude from consideration.

(35) “Shelter In-Kind”: Payment by an agency, other than the Department, or someone other than the client, for the client’s rent and

utility bills at no cost to the client and the client provides no service in exchange for the payment.

(36) "Specified Relative":

(a) A "parent" as defined in this rule;

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological parent are half-blood relatives);

(c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed;

(d) A person who legally adopts a child or the child's parent, other legally adopted children of such persons, and any persons related to the child through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;

(e) A stepmother, stepfather, stepbrother, or stepsister; or

(f) A spouse of anyone listed in subsections (b) to (e) of this section, even if the marriage is terminated by death or divorce.

(37) "Standards of Assistance": The consolidated standards for payment specified in OAR 461-155-0030 that were in effect on July 16, 1996. These standards are used to determine income eligibility for AFDC.

(38) "Temporarily Unreimbursable": The status of a child who would otherwise be Title IV-E eligible but for the child's being temporarily placed out of a foster care setting.

(39) "Unearned Income": All income that does not directly result from an individual's employment or self-employment.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0030

Certification Documentation Requirements for Title IV-E Foster Care

(1) Documentation of certification is required in the case file or certification file.

(2) The following documentation is required for an out-of-state foster home placement:

(a) Verification that the out-of-state foster home or child caring agency is certified, licensed or approved by the agency in that state which is responsible for licensing or approval of such facilities; or

(b) In states where relative homes are not certified, a statement in writing that the home would meet the state's standards for certification or licensure, including a statement of the period of time for which a formal license or certificate would be issued for that home and a copy of the verification that a Criminal History check was completed and approved.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0040

Placement in Relative Homes

(1) Relative Payments for an Indian Child. Under ORS 418.627(2), a person providing a foster home to an American Indian child shall be eligible for payments under ORS 418.625 to 418.645 regardless of the relationship by blood or marriage that the person has to the child where the child's placement in the foster home is pursuant to the Indian Child Welfare Act (25 U.S.C. 1901 et seq.).

(2) Relative Foster Care Placements. With the exception of an Indian child, a child 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 a person of a preceding generation denoted by the prefix grand, great, or great-great. Individuals with one common birth parent are half-blood relatives.

(b) The home of any sibling, aunt, uncle, first cousin, first cousin once-removed, nephew, niece, and grandparent.

(3) Rights of Relative Foster Parents. Relative foster parents have a right to:

(a) Information about the Title IV-E foster care program administered by the Department, including the program's eligibility requirements and required verification methods.

(b) 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 of the relative foster parents meets foster care certification requirements.

(4) Eligibility Determination Time Lines. Title IV-E eligibility will be determined within 45 days from the date of the FACIS eligibility notice. 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) The eligibility decision is delayed beyond the 45-day limit due to other circumstances which are not within the control of the client or the Department.

(5) Notice of Closing of Relative Payment. The Title IV-E Eligibility Specialist will send written notification to the relative foster parents when a child is no longer Title IV-E eligible.

(6) Notice of Denial of Relative Payment. The Title IV-E Eligibility Specialist will send written notification of denial of benefits to the relatives requesting foster care payments if a child placed in their home is not Title IV-E eligible.

(7) Any relative foster parents that disagree with the closure or denial of Title IV-E foster care payments and medical coverage may request a conference with local Department staff. At the conference, the relatives' legal counsel or other representative may be present and local Department staff will:

(a) Discuss the decision;

(b) Explain the specific reasons for the decision; and

(c) Allow the relatives to explain why they think the decision is erroneous.

(8) Contested case hearing. Relative foster parents may ask for a contested case hearing, as provided in ORS Chapter 183, before an Administrative Law Judge of the Office of Administrative Hearings.

(a) The relative foster parents or their authorized representative must provide a written request for a contested case hearing to DHS — Children, Adults and Families, Federal Compliance Specialist, 500 Summer Street NE, E-69, Salem, OR 97301-1067 within 30 days of the date that the Department mailed the notice of the closure or denial of Title IV-E foster care payments and medical coverage.

(b) The purpose of the hearing is to determine whether the Department's denial of Title IV-E eligibility is consistent with state and federal law governing the program.

(c) If the relative foster parents request a contested case hearing, they may be represented by legal counsel and may present witnesses. The Department will not pay the expenses of an attorney or witnesses for the relative foster parents.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0060

Title IV-E Reimbursable Placements and Payments

(1) To be Title IV-E eligible, a child must be placed in a Title IV-E reimbursable placement.

(2) Reimbursable Placements. There are five types of out-of-home placements which meet the Title IV-E Foster Care definition of a reimbursable placement. They are:

(a) A certified unrelated foster family home;

(b) A certified relative foster home;

(c) A private, non-medical group home or crisis residential center licensed by the state;

(d) A public non-medical group home or child-care facility with a licensed capacity of less than 26 beds; or

(e) A certified pre-adoptive home.

(3) Foster care maintenance payments are made only on behalf of an eligible child who is:

(a) In the foster family home of an individual, whether the payments are made to such individual, a public or private child placement, or a child-care agency; or

(b) In a child care institution, whether the payments are made to such institution, a public or private child placement, or a child-care agency.

(4) Reimbursable Payments. Title IV-E foster care maintenance payments for a child in foster care may cover:

(a) The cost of 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.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0070

Application for Title IV-E Foster Care

(1) A child in substitute care for whom the Department has responsibility for placement and care will be referred for a Title IV-E eligibility determination.

(2) Under no circumstances may Title IV-E Foster Care be authorized on behalf of any child prior to the establishment of eligibility by the Department's Title IV-E Eligibility Specialist. A child may not be Title IV-E eligible based on presumed eligibility.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0080

Effective Eligibility Date

Eligibility for Title IV-E can be established if all other eligibility criteria, as outlined in OAR 413-100-0020 through 413-100-0360, including the following, is met:

(1) No earlier than the date of placement when the child is in the agency's legal care and custody;

(2) The date of placement in a Relative certified home when the Relative has received a TANF non-needy grant and repayment is authorized to the TANF agency;

(3) The first of the month in which the "Reasonable Efforts" ruling is made when the court delays making the finding, as long as Reasonable Efforts to Prevent the Placement was obtained within 60 days of placement;

(4) The effective certification date of the relative provider's home when a TANF (NNR) grant has not been received;

(5) The effective certification date when DHS Financial Services has reimbursed DHS the relative provider's TANF (NNR) grant retroactive to the certification date;

(6) Effective the date the child is no longer in receipt of SSI (if applicable);

(7) The first of the month in which the court makes a judicial finding of "best interests" and "reasonable efforts" when a child in their parental home under DHS custody is returned to care;

(8) The first of the month in which DHS obtains custody when a child is placed in a substitute care placement prior to DHS obtaining custody.

(9) The first of the month in which the voluntary placement/custody agreement is signed, when placement occurs prior to the signing of the agreement; or

(10) The first of the month in which a non-certified home becomes certified as long as the child was placed in the home at that time.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0090

Retroactive Eligibility

(1) Title IV-E eligibility may be opened and claimed retroactively for up to two years when the requirements of one of the following subsections are met:

(a) An otherwise eligible child's application was held while awaiting financial information.

(b) A nunc pro tunc order is issued that gives retroactive effect to the judicial finding or findings included in the order, but only if a court transcript of the court hearing is provided that documents that the judicial finding was made in the original court hearing.

(c) A referral for a Title IV-E foster care eligibility determination was not timely.

(d) Information becomes available which proves that the denial of the child's Title IV-E eligibility, the determination that the placement was not Title IV-E reimbursable, or the determination that the cost of the child's care was temporarily non-reimbursable by the Title IV-E specialist was incorrect.

(2) The effective date of eligibility for cases pending for judicial finding requirements under subsections (1)(a) and (1)(b) of this rule is:

(a) The first of the month in which the judicial finding is made; or

(b) The first of the month in which an existing order is modified to reflect that a Reasonable Efforts to Prevent removal finding was previously made as long as it is modified within 60 days of placement.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0110

Effective Closure Date

The effective closure date for cases no longer meeting Title IV-E eligibility criteria is the earliest of the following:

(1) The end of the month in which eligibility ended.

(2) Retroactive to the end of the month in which eligibility ceased to exist, even if the information that ended the child's eligibility became known to the Department after the fact.

(3) The date that the custodial or non-custodial parent or the parents establish residency in the home in which their child resides if one or both are providing caretaking responsibility for the child.

(4) The date the foster home's certificate of approval expires or is revoked.

(5) On the 181st day of placement for a voluntary placement if a court has not approved the continuation of the placement within 180 days of the date that the child was placed. The placement date, not the date that the agreement was signed, begins the 180-day count.

(6) The date of the child's transfer to Developmental Disability Services (DDS).

(7) The date of the child's placement in a facility considered to be outside the scope of "foster care."

(8) The date that the Department ceases having responsibility for the placement and care of the child.

(9) The end of the month in which an 18 year old young adult graduates or obtains a GED; or the end of the last month in which he or she is 17 years of age if he or she will not graduate by age 19.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0120

Verification of Eligibility

(1) If the child is determined not to be Title IV-E eligible when the child enters substitute care based on the information available at the time of the initial determination, the child is not eligible for Title IV-E foster care maintenance payments for the entire duration of that substitute care episode.

(2) To establish Title IV-E Foster Care eligibility, the Department must verify the eligibility factors with acceptable documentary evidence. The Department determines which eligibility factors require

verification and the types of acceptable verification. The Department may:

- (a) Decide to require verification of additional eligibility factors; and
 - (b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.
- (3) Verification is required for the following:
- (a) Residency;
 - (b) U.S. Citizenship status;
 - (c) Referral to the Division of Child Support;
 - (d) Age;
 - (e) Removal from the home of the specified relative;
 - (f) Judicial language in Court Orders;
 - (g) Countable family or child income and benefits;
 - (h) Parental deprivation; and
 - (i) Family or child resources.
- Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0130

Eligibility Determinations-AFDC Linkage

(1) The Department reconstructs the facts of the removal home to determine if the child, in the eligibility month, received AFDC or would have been eligible to receive AFDC under rules in effect on July 16, 1996, had an application been made.

(2) AFDC Relatedness. The child meets the "AFDC relatedness" test if the requirements of one of the following subsections are met:

- (a) The child:
 - (A) Received or would have been eligible to receive AFDC in the removal home under the rules in effect on July 16, 1996, in the eligibility month; and
 - (B) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.
- (b) The child:
 - (A) Lived with the specified relative within six months of removal; and
 - (B) Would have been eligible to receive AFDC under the rules in effect on July 16, 1996, during the eligibility month, had an application been made.
- (C) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005, 418.163
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0135

Eligibility Determinations — Living with a "Specified Relative" and "Removal"

(1) Specified Relative Requirements. To meet Title IV-E eligibility requirements the child, at the time of the child's removal from his or her home, must have been living with and removed from the same "specified relative", as defined in OAR 413-100-0020.

(2) Removal Requirements. To meet Title IV-E eligibility requirements, the child's removal from the home must occur pursuant to:

- (a) A voluntary custody agreement or voluntary placement agreement, signed by a parent or specified relative, that results in the "physical" or "constructive" removal of the child from the home; or
- (b) A judicial order that requires the child's "physical" or "constructive" removal from the parent or specified relative and gives the Department responsibility for the placement and care of the child.

(3) Removal Home Requirements. Effective June 9, 2006, for Title IV-E eligibility purposes, the child's "removal home" must meet requirements of one of the following subsections:

- (a) Physical Removal. The home of a parent or specified relative when the judicial order or the signing of a voluntary custody or voluntary placement agreement results in the removal of the child from the custody of the parent or specified relative and gives the Department responsibility for the placement and care of the child.

(b) Constructive Removal:

(A) The home of a parent or specified relative if the child is living in the home of an interim caretaker (relative or non-relative) within six months of the judicial order, the voluntary custody agreement, or the voluntary placement agreement which results in the constructive removal of the child from the parent or specified relative and gives the Department responsibility for the placement and care of the child; or

(B) The home of a parent when the parent and the child both live in a specified relative's home; the parent leaves the home, and the child continues to live in the home of the specified relative within six months of the judicial order, the voluntary custody agreement, or the voluntary placement agreement which results in the constructive removal of the child from the parent and gives the Department responsibility for the placement and care of the child.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.625

Hist.: SOSCF 20-2000(Temp), f. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0150

Parental Deprivation

(1) The continued absence of one or both birth or adoptive parents, or a stepparent from the home constitutes the basis for deprivation of parental support or care.

(2) Deprivation of parental support in relation to the home from which the child is removed exists when:

- (a) Death of a parent. Either parent of a child is deceased.
- (b) Continued absence of the parent from the home. There is a Continued Absence of one or both parents when:

(A) One or both parents are out of the home and the nature of this absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child;

(B) There is evidence of continued absence of over 30 days duration; or

(C) Predictable absence due to divorce, legal separation, incarceration, or other verified and documented circumstances.

(c) Physical or mental incapacity. Incapacity is documented as parental deprivation in a one-parent or two-parent household as follows:

(A) One or both parents' receipt of Supplemental Security Income (SSI) or being found eligible for OASDI or SSI based on disability or blindness;

(B) One or both parents receive Social Security Benefits (SSB) based on disability or blindness; or

(C) One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the parent's ability to support or care for the child.

(d) Unemployment or underemployment may be documented as parental deprivation in a two-parent household if they each meet one of the following criteria:

- (A) Is working less than 100 hours per month; or
- (B) Has a temporary one-month increase to over 100 hours, but:
 - (i) Worked less than 100 hours in each of the two previous months; and
 - (ii) Is expected to work less than 100 hours in the following month. (Title IV-A).

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0160

AFDC Eligibility – Financial Need

(1) A child removed from the home of a specified relative who was not receiving AFDC requires the Department to reconstruct the child's situation to determine whether under rules in effect on July 16, 1996 the child was AFDC eligible.

(2) If the child is physically removed from a parent's home:

(a) The Department considers the income and resources of the parent, parents, or stepparent from whom the child was removed in the eligibility month;

(b) Determines the countable gross earned income of all the family members in the assistance unit including the \$90 standard earned income deduction;

(c) Determines the countable unearned income of all the family members in the assistance unit including the \$50 child support deduction; and

(d) Excludes SSI or a combination of SSI and SSA benefits as countable income. The Department excludes the parent or child receiving SSI or a combination of SSI and other Social Security benefits and excludes them from the number in the household for AFDC calculations.

(e) An assistance unit is not eligible when all available countable earned and unearned income (in the eligibility month) exceeds the Adjusted Income Payment or Need Standard under rules in effect on July 16, 1996.

(3) Child is removed from a minor parent who resides in his or her parents' home. If the minor parent's parents live together and the minor parent is under age 18, has never married, and is not legally emancipated, the assets of the parents of a minor parent are deemed as follows:

(a) The resources of the parents of the minor parent are excluded.

(b) The income of the minor parent's parents is deemed available to the minor parent if the minor parent and his or her child live with the minor parent's parents.

(c) The income of the parents of the minor parent is considered available to the minor parent and his or her child even if it is not received by the minor parent and his or her child.

(d) The amount of the deemed income of the parents of the minor parent is determined as follows:

(A) A \$90 earned income deduction is allowed.

(B) The needs of the parents of the minor parent and their dependents, living in the same household and not included in the benefit group, are deducted at the AFDC Payment Standard.

(C) Amounts paid to their legal dependents not living in the household are deducted.

(D) Payments of alimony and child support are deducted.

(E) Any remaining income is countable deemed income to the minor parent.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0170

AFDC Eligibility – Resources

(1) An assistance unit is not eligible if in the eligibility month all available resources not excluded by Department rules in effect on July 16, 1996 exceed the resource limit.

(2) The resource limit is \$10,000.00. An assistance unit with resources in excess of \$10,000.00 is ineligible. The most common resources are motor vehicles and money, including cash, bank accounts, and Federal and State Income Tax refunds.

(3) If an assistance unit has a licensed motor vehicle, only the first \$1,500 of equity value of the vehicle is exempt. Any equity over \$1,500 is counted toward the \$10,000.00 resource limit.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0180

AFDC Eligibility – Earned Income of Students

(1) A child under age 18 with a GED or high school diploma, and employed must have his or her earnings considered as income that reduces the maintenance payment. Otherwise Title IV-E Foster Care eligibility must be determined ineligible.

(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) A child under 18 years of age, who is a full-time or part-time student (as defined by the institution) in grade 12 or below (or in the

equivalent level of vocational training or GED courses), and not employed full-time.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0190

AFDC Eligibility – Unearned Income

(1) For Title IV-E Foster Care purposes, all unearned income and benefits potentially available to the child must be counted against his or her maintenance payment on a dollar-for-dollar basis. Benefits awarded to the child for which the Department is not yet payee and 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.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0200

AFDC Eligibility – Lump Sum Benefits

(1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid to the Department must be applied retroactively to reimburse the Department from the date paid placement was initiated. The Department must be the representative payee. This can be accomplished by contacting the Children's Benefit Unit of the Department.

(2) A Title IV-E eligible child receiving lump sum benefits exceeding the cost of care is ineligible for Title IV-E Foster Care during the months that the calculated lump sum exceeds the foster care maintenance payment.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0210

U.S. Citizenship and Qualified Aliens

A Title IV-E eligible child must be:

(1) A United States citizen; or

(2) A Qualified Alien as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-198, which restricts access to Federal public benefits to qualified aliens. Under PRWORA a qualified alien is:

(a) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the "Act");

(b) An alien granted asylum under Section 208 of the Act;

(c) A refugee admitted to the United States under section 207 of the Act;

(d) An alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;

(e) An alien whose deportation is being withheld under Section 241(b)(3) of the Act;

(f) An alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;

(g) An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or

(h) An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of 8 U.S.C.1641(c).

(i) An alien disqualified under sections 245A(h) or 210(f) of the Act from receiving aid under the approved Title IV-A State plan.
 Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005, 418.163
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0220

Residency

There is no minimum time-of residency requirement for a child to be eligible for Title IV-E Foster Care. There need only be the intent that the child reside in the State of Oregon.

Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005, 418.163
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0230

Age Requirements

(1) At Removal. To be Title IV-E eligible, a child must be under age 18.

(2) At Redetermination. A child must be:

(a) Under age 18; or

(b) Age 18, and regularly attending school or training, and on track to obtain a high school diploma or equivalent.

(A) "Attending" means the student's full-time or half-time school attendance as defined by the school.

(B) Students are considered to be "attending school" for the full month in which they complete or discontinue school or training.

(C) "Regularly attending school" means enrolled in and attending any of the following:

(i) A school in grade 12 or below;

(ii) GED classes in lieu of high school; or

(iii) A course of vocational or technical training in lieu of high school.

(D) A child is still considered to be "regularly attending school" during a training program, vacation, illness, or family emergency.

Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005, 418.163
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0240

Judicial Finding Requirements

(1) Contrary to the Welfare or Best Interest Findings Requirement. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, the first court ruling that addresses the removal must include a determination to the effect that continued residence in the home would be contrary to the welfare of the child or that placement would be in the best interest of the child. If the finding is not made as described in this section, the child is not Title IV-E eligible for the duration of that stay in foster care.

(2) Reasonable Efforts Finding at Removal. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, a judicial finding must be made, no later than 60 days from the date the child was removed, to the effect that reasonable efforts have been made to prevent or eliminate the need for removal or that reasonable efforts are not required to prevent a child's removal from the home or to reunify the child and family. If the finding is not made as described in this section, the child is not Title IV-E eligible for the duration of that stay in foster care.

(3) Reasonable efforts to prevent a child's removal from the home or to reunify the child and family are not required when the Department obtains a judicial finding that such efforts are not required because any of the following subsections apply:

(a) The court has determined that the parent has subjected the child to aggravated circumstances;

(b) The court has determined that the parent has been convicted of:

(A) Murder of another child of the parent;

(B) Voluntary manslaughter of another child of the parent;

(C) Aiding or abetting, attempting, conspiring, or soliciting to commit such murder or such a voluntary manslaughter;

(D) A felony assault that results in serious bodily injury to the child or another child of the parent; or

(c) The parental rights of the parent with respect to a sibling have been terminated involuntarily.

(4) Annual Reasonable Efforts Finding:

(a) If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, a judicial finding must be made, no later than 12 months from the date the child is considered to have entered foster care, to the effect that reasonable efforts have been made for reunification of the family or to achieve the permanency plan. If the determination is not made as described in this subsection, the child is temporarily ineligible for Title IV-E foster care until a judicial finding is made.

(b) At least once every 12 months thereafter while the child is in foster care, there must be a judicial determination of reasonable efforts to finalize a permanency plan. The date of the child's last judicial determination determines the date the next judicial determination is due. If the determination is not made as described in this subsection, the child is temporarily ineligible for Title IV-E foster care until a judicial finding is made.

(5) Judicial orders concerning placements.

(a) If the court disagrees with the Department's placement recommendation, Title IV-E eligibility may continue if:

(A) The court heard the relevant testimony and will continue to work with all parties, including the Department, to make appropriate placement decisions; and

(B) The Department continues to have responsibility for the placement and care of the child.

(b) The court may recommend a placement or name the child's placement in the court order as an endorsement or approval of the Department's placement choice without affecting the child's Title IV-E Foster Care eligibility.

(6) Nunc Pro Tunc Orders. Nunc pro tunc court orders correct the omission of a "best interest" or "reasonable efforts" finding only if a court transcript accompanies the order and verifies that the judicial determination was made at the original removal hearing.

Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0250

Voluntary Custody and Voluntary Placement Agreements

(1) When a child is in substitute care, pursuant to a Voluntary Custody Agreement or Voluntary Placement Agreement, and is Title IV-E eligible, the Department must, within 180 days of the date of placement, obtain a judicial finding to the effect that continuation of the placement is in the best interest of the child. The judicial finding requirement does not require a court hearing and may be obtained by a letter to the court which results in a court order with the required finding. Findings of reasonable efforts to prevent or eliminate the removal and to achieve the permanency plan are not required.

(2) If the finding in section (1) of this rule is not made within the first 180 days, the child is not Title IV-E eligible for the duration of that stay in foster care.

Stat. Auth.: ORS 409.050, 418.005
 Stats. Implemented: ORS 409.010, 418.005, 419B.175, 419B.180, 419B.185
 Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0260

Voluntary Relinquishments

(1) A child in placement based on a voluntary relinquishment is Title IV-E eligible if:

(a) Within 60 days of placement, the first court order issued has a judicial finding to the effect that remaining in the home would be "contrary to the welfare" of the child or "placement is in the child's best interest"; and

(b) Within 60 days of placement, there is a judicial finding to the effect that "reasonable efforts" have been made to prevent or eliminate the need for removal from the home.

(2) When all other eligibility criteria are met, Title IV-E eligibility is effective the first of the month in which the judicial finding was made.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0270

Title IV-E Foster Care Eligibility Redetermination

(1) The Department shall redetermine for each month a child is in substitute care whether the child continues to be Title IV-E eligible at least 12 months from the date the child is considered to have entered foster care.

(2) A child may lose and regain eligibility. The loss of eligibility in any one month does not permanently deprive the child of eligibility in future months.

(3) For each child who is Title IV-E eligible, except a child who has been placed in relative foster care, redeterminations shall occur at least every year to establish whether the child continues or continued to be eligible on a month-to-month basis. For a child placed in relative foster care, the redetermination will occur every six months.

(4) Title IV-E Specialists will review the following criteria to ensure continued Title IV-E eligibility:

(a) The child's resources must not exceed \$10,000 in any month;

(b) The child's countable earned income (see OAR 413-100-0180) and unearned income (per OAR 413-100-0190) including lump sum benefits (see OAR 413-100-0200) must not exceed the cost of the foster care maintenance payment;

(c) The child must meet the age requirement (see OAR 413-100-0230);

(d) The child must continue to be deprived of parental support (see OAR 413-100-0150 and 413-100-0280);

(e) Annual judicial finding requirements (see OAR 413-100-0240); and

(f) The child was placed in a certified foster home.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0280

Redetermination of Deprivation at Relinquishment or Termination of Parental Rights

If the parental rights of the parent of a Title IV-E eligible child are relinquished or terminated, the Department must redetermine the deprivation factor to confirm that the conditions at the time of removal from the home continued to exist in the month that the relinquishment or termination occurs. The redetermination is required for the child to remain Title IV-E eligible. If deprivation is confirmed, in further reviews of eligibility, parental deprivation will be based on continued parental absence.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0300

Parental Referral to Division of Child Support

Unless an exception is granted pursuant to Child Welfare Policy I-E.7.1, "Child Support Referrals", OAR 413-100-0800 to 413-100-0850, every case involving a Title IV-E eligible child must be referred to the Division of Child Support of the Oregon Department of Justice.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0310

Title XIX Medicaid Eligibility

A child found Title IV-E eligible is categorically eligible for Title XIX Medicaid benefits, as described in OAR 413-100-0430, except that a child found Title IV-E eligible who does not have a social security number is ineligible for Title XIX Medicaid benefits until a social security number application has been completed..

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0320

Consolidated Omnibus Reconciliation Act (COBRA) and Title XIX Medicaid

(1) The COBRA of 1985, PL 99-272 enacted on April 7, 1986, permits a Title IV-E eligible child in paid substitute care or receiving adoption assistance to receive Title XIX Medicaid coverage from the state in which he or she resides.

(2) The Title IV-E Eligibility Specialist will notify and provide documentation of Title IV-E eligibility to the foster or adoptive parents residing or moving outside of Oregon of the discontinuance of the Oregon Medicaid coverage and their need to apply for Title XIX Medicaid under COBRA for the Title IV-E eligible child in their state of residence.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

Title IX General Assistance Medical Eligibility

413-100-0400

Purpose

The purpose of these rules (OAR 413-100-0400 to 413-100-0610) is to set forth procedures and criteria that the Department of Human Services (the Department) uses to determine eligibility under Title XIX of the Social Security Act (Title XIX) for children in substitute care who are in the care and custody of the Department and to determine eligibility for those children who do not meet the financial eligibility criteria for Title XIX but who are otherwise eligible for the General Assistance medical program.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0410

Definitions

As used in OAR 413-100-0400 to 413-100-0610:

(1) "Custody" means legal custody described in ORS 419B.370.
(2) "Earned income" means income received from earnings of a child who is working full time or part time.

(3) "Paid substitute care" means care paid for by the Department for a child in the Department's custody who is placed out of the home. Examples of an out-of-home placement are a placement with a foster parent or a relative or a placement in a group home, in permanent foster care, in an emergency shelter, in a residential facility, in a non-finalized adoptive placement, in subsidized independent living, in an accredited psychiatric facility, or in the State Hospital.

(4) "Resource" means real and personal property.

(5) "Unearned income" includes such income as social security benefits, veterans benefits, child support payments, and entitlements from other government-operated programs, but the term does not include a foster care payment made by the Department.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

Title XIX Policy

413-100-0420

Determinations Required

(1) Before a child in substitute care may receive a medical card covering Medicaid services, the Department must determine the child's eligibility for Medicaid. In order for the Department to determine eligibility, the child or someone on the child's behalf must submit to the Department a completed, dated, and signed form CF 190, "Individual Eligibility Determination for Title XIX Medical Coverage."

(2) Only the following children may be eligible for medical services under Title XIX:

(a) A child in substitute care. For the purpose of these rules, a child is in substitute care if the child is in a foster or relative placement

or a placement in a group home, in permanent foster care, in an emergency shelter, in a residential facility, in a non-finalized adoptive placement, in subsidized independent living, or in an accredited psychiatric facility. A child placed in the State Hospital is in substitute care whether the Department or another agency is responsible for the placement.

(b) A child admitted to the hospital prior to entering substitute care and a newborn released from the hospital into substitute care. Eligibility for these children is effective on the date the Department finds the child is eligible but not earlier than the date the Department obtains custody of the child. A child hospitalized while under the Department's protective custody but then returned home upon discharge is eligible if at the time of hospitalization the Department's intent was to place the child in substitute care.

(c) A baby born to a mother receiving medical benefits under Title XIX from the Department.

(d) A baby born to a mother not receiving medical benefits under Title XIX from the Department, for coverage of birth expenses only, if:

(A) The Department obtains custody of the baby during its hospitalization;

(B) A "medical coverage only" code ("SMED") is entered in the Department's FACIS system effective the date of birth; and

(C) In the month following the birth month (if the child is not found Title IV-E eligible) a new CF 190 is completed for review of the infant's ongoing Title XIX eligibility.

(e) A child on runaway status who would otherwise be in care. Eligibility resumes at the time the child is located or, if earlier, it resumes the date a medical bill is incurred, as long as the Department retains custody of the child and the child would continue to be in substitute care and Title XIX eligible if not on runaway status. The Department is not responsible for medical bills incurred while a child is on the run if the child is not returned to substitute care.

(f) Youth in subsidized Independent Living.

(g) A child placed in an adoptive home pending the finalization of adoption.

(h) A child receiving SSI. An application (form CF 190) for Title XIX must be completed to establish initial eligibility.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

Eligibility Factors

413-100-0430

Assistance Standard

(1) To be eligible for medical assistance under Title XIX while in foster care, a child must:

(a) Meet the TANF payment standard for one person in a household of one (*see* OAR 461-155-0030);

(b) Meet the standard for the Medically Needy program for one person in a household of one (*see* OAR 461-155-0110);

(c) Meet the standard for the Medically Needy program with spend-down (*see* OAR 461-160-0080);

(d) Be eligible for and receiving Title IV-E foster care payments;

or

(e) Be receiving Supplemental Security Income (SSI).

(2) All unearned income that the child is entitled to receive is counted in determining eligibility. Income must be counted in determining eligibility even if the Department has not begun to receive the benefits as long as that income has been awarded to the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0440

Earned Income

(1) Earned income of the following children is disregarded when determining eligibility:

(a) A child who is a full-time student (as defined by the school) attending grade 12 or below or who attends a course of vocational or technical training or GED classes in lieu of high school, or who plans to return to school or vocational training.

(b) A child who is a part-time student who is not employed full time and is attending grade 12 or below, is attending an equivalent level of vocational or technical training or GED classes, or is planning to return to school or training.

(2) The Department disregards as follows the earnings of a child who is attending school part-time and is employed full-time or who is not attending school. The first \$90 of earned income is disregarded.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0450

Resources

(1) A child with resources valued in excess of \$2,000 is not eligible for medical assistance under 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 is counted towards the \$2,000 resource limitation.

(2) A child receiving SSI is eligible for medical assistance under Title XIX. If the value of the assets in the trust account maintained by the Department for the child exceeds the limitation for SSI eligibility, the Department is required to report that to the Social Security Administration. The Department's rules for maintaining the trust accounts are at OAR 413-310-0400 to 413-310-0510.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0460

Citizenship and Alienage

(1) To be eligible for medical assistance under Title XIX the child must be:

(a) A United States citizen;

(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 (*see* OAR 461-120-0120);

(c) An amnesty alien with permanent or unexpired temporary status admitted under Section 245A, 210, or 210A of the Immigration and Nationality Act (*see* OAR 461-120-0125);

(d) A citizen of Puerto Rico, Guam, the Virgin Islands, or Saipan, Tinian, Rota, or Pagan of the Northern Mariana Islands; or

(e) A national from American Samoa or Swains Islands.

(2) In order to authorize benefits, there must be proof that a child is a U.S. citizen or is in the country legally. Birth certificates, citizenship papers, alien registration cards, permanent visas, and Cuban and Refugee registration cards may be used. Guidance on determining citizenship and alien status is available in the Department's Family Services Manual.

(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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

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

A child receiving medical assistance through the GA program rather than through a medical program under Title XIX due solely to the lack of an SSN is eligible for Title XIX retroactive to the date of placement once the Department receives verification of an application for an SSN from the Social Security Administration. A form AFS 148 titled "Recipient Subsystem, Claims Processing, Addition/Correction"

must be completed on each case and sent to the Client Maintenance Unit, for retroactive claiming of Title XIX. Title XIX eligibility retroactive to the date of placement must also be entered into the Department's FACIS system.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

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 Department.

(2) The caseworker or the caseworker's designee, as guardian of the child, may assign the benefits by signing the form SCF190.

(3) A form AFS 415-H, "Medical Resource Report Form," must be completed and sent to the Department for every child with health insurance coverage.

(4) A form CF 969A, "Adoption Assistance Application Supplement," must be completed and sent to the Department's Health Insurance Group for each child approved for Adoption Assistance prior to finalization of the adoption.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0500**Lump Sum Benefits**

If a sufficient portion of a lump sum (any income received as a one-time payment) is spent during the month it is received by the Department's Receipting and Trust Unit so that the ending Trust and Agency balance is less than the Medically Needy resource limit of \$2,000, medical eligibility is not affected by receipt of the lump-sum income.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0510**Title XIX Coverage**

If a child leaves paid substitute care, Title XIX eligibility continues 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.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

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 a child receiving SSI.

(2) When there is a change in income or resources, the Department's form 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, the Department completes a form AFS 148 to retroactively correct the child's record.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0530**Quality Control**

(1) The Department is responsible to review cases covered by these rules for compliance with federal law and regulations.

(2) All cases to be reviewed are requested through the Department's Financial Resource Unit. All case material (eligibility and service records) are made available for review upon request. The cases are randomly selected for review each month from a universal listing of Title XIX-eligible cases. Title IV-E cases are not included in the cases to be reviewed.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0540**GA Medical Policy**

(1) A child in paid substitute care who does not meet the eligibility requirements for Title XIX, is eligible for medical assistance through the General Assistance medical program.

(2) A form CF 190 indicates the child is eligible for GA medical when the child is no longer eligible for Title XIX. These cases are reviewed every 12 months to determine whether the child is again eligible under Title XIX due to a change in income or resources.

(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 its income is less than the standard cost of foster care for the child.

(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.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0550**Non-Paid Relative Placements**

(1) For the Department to determine Medicaid eligibility for a child placed with a non-paid relative, a completed form SREL 190 must be submitted to the Department. A child in this situation is not eligible to receive a GA medical card. The Federal Program Coordinator provides assistance to eligibility specialists working with non-citizen children placed with a non-paid relative.

(2) A child placed in a relative's home in another state is referred to the Title XIX agency in that state for a Title XIX determination. If that state determines there is no Title XIX eligibility, the child may be eligible for a GA medical card only if the child's income is below the foster care rate (*see* OAR 413-090-0000). The Department will not place a child in another state without following the procedures required by the rules on the Interstate Compact on the Placement of Children, OAR 413-040-0200 to 413-040-0330.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0560**Medical Eligibility for Children in Adoptive Homes**

(1) A child placed in an adoptive home prior to the entry of a final decree of adoption is 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 a child in an adoptive placement for whom Adoption Assistance has been approved is determined according to OAR 413-130-0100, "Medical Assistance."

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0580**Title XIX Eligibility Under COBRA for Out-of-State Placements**

(1) The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provides for Title XIX coverage in the state of residence for children receiving Title IV-E foster care payments.

(2) A child receiving Title IV-E foster care payments from another state who moves to Oregon must be evaluated for eligibility for Medicaid. A child in the custody of another state is not eligible to receive a Medical Care Identification (medical card). A child who is found eligible for benefits under Title IV-E in Oregon and then moves to another state is eligible for Title XIX in the state of residence. The medical card is issued by the state of residence.

(3) A child who receives SSI payments who moves outside of Oregon is eligible for Title XIX in the state of residence.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

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 is made for emergency medical services only for a child in the Department's custody. The payment is made from the field office's "Other Medical" budget. The Medical Assistance Resource Coordinator provides assistance in determining whether a payment may be made.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0600

Children in Residential Care with Payment by Another Public Agency

(1) A child in substitute care approved by a public agency of this state for whom a public agency of this state is assuming some financial responsibility may be eligible for medical coverage.

(2) A child in the custody of the Department who is placed in residential care paid by another public agency may be eligible for medical coverage.

(3) Before a medical card can be issued to a child in the Department's custody or in non-paid residential care funded by another public agency, the following must be entered on the Department's FACIS system:

(a) Medical eligibility after completion of a form SCF190;

(b) An SRES non-pay service;

(c) The child's address on IKMB (the child's individual screen).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

413-100-0610

Temporary Medical Card Issuance

The form OMAP 1086, "Temporary Medical Care Identification Card," may be issued when a child requires medical care prior to receiving the computer-generated medical card (Medical Care Identification Card, OMAP 1417). The temporary card may also be issued when the child is placed or moved to a new placement or when the card is lost and medical care is needed before a new card can 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.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2004, f. & cert. ef. 7-1-04

Child Support: SED Referrals

413-100-0800

Purpose

These rules explain the mandatory referrals of children in substitute care to the Oregon Child Support Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0810

Definitions

(1) "Assistant Director" means: the director of Children, Adults and Families (CAF) policy and programs of the Oregon Department of Human Services (DHS).

(2) "The Child Support Program" means: the Department of Human Services Children, Adults and Families (CAF) program that administers Social Security Title IV-D (child support) for Oregon.

(3) "Department of Justice Division of Child Support (DCS)" means: the division of the Oregon Department of Justice that is contracted by the Child Support Program to provide child support services for children who are receiving or formerly received public assistance.

(4) "Support" means: cash payments or other benefits that each parent has been ordered by a court or by administrative process, or has voluntarily agreed to provide for the benefit and maintenance of a child:

(a) "Child Support" means: payments that a parent has been ordered (or has agreed) to pay for the benefit of a child.

(b) "Medical Support" means: health insurance benefits, or payments for actual health services, that a parent has been ordered (or has agreed) to provide for the benefit of a child.

(5) "Referral" means: the actual notification to the Child Support Program that a child is in care; initiating the application for child support services. A referral may occur electronically or manually.

(6) "Exemption" means: excusing a parent from providing child support.

(7) "Perpetrator" means: an individual identified by DHS as responsible for child abuse or neglect in a Child Protective Services (CPS) Founded Disposition.

(8) "CPS Disposition" means: a finding that completes a Child Protective Services (CPS) Assessment. Dispositions are defined in OAR 413-020-0430(15) and are summarized as follows:

(a) "Founded" means: there is reasonable cause to believe that the child abuse or neglect occurred;

(b) "Unfounded" means: no evidence of child abuse or neglect was identified or disclosed; or

(c) "Unable to determine" means: some indications of child abuse/neglect exist, but there is insufficient data to confirm whether or not child abuse/neglect occurred.

(9) Legal Parent means: a legal mother or a legal father.

(10) Legal Mother means: the woman who gave birth to the child or a woman who has legally adopted the child;

(11) Legal Father means: the man who has established his parental rights in one of the following ways:

(a) The man was married to and cohabiting with the child's mother at the time of the child's conception is conclusively presumed to be the child's legal father unless he was sterile or impotent at the time of conception;

(b) The child's biological father established legal paternity by marrying the child's mother either before or after the child's birth;

(c) The biological father, with the child's mother, has filed a joint declaration of paternity with the Oregon Health Division Center for Health Statistics;

(d) A biological father whose legal paternity has been established by filiation proceedings;

(e) A father whose legal paternity has been established by an order, including adoption of the child; or

(f) If the child was born in a state other than Oregon, legal paternity may have been established by other means according to the laws of that state (e.g., common-law marriage).

(10) "Subrogated" means the assumption by DHS of another's legal right to collect child support.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0820

Informing Parents of Financial Obligations

The DHS worker shall inform the legal parents of children placed in substitute care placement with the state, that they will be referred to the Child Support Program. DCS will contact the parent/s regarding the support they each will be required to provide and will enforce collection of the support obligation. Benefits from an existing child support order from one parent to the other parent or another person is subrogated by law to DHS while the child is in a paid substitute care placement and child support arrears will be assigned as prescribed by law. When there is no legal parent, a referral so stating will be sent to the Child Support Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370, 419B

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0830

Referrals to the Child Support Program

Unless exempt, the legal parents of children placed in a paid substitute care placement in the care and custody of the DHS will be referred to the Child Support Program. Referral information will be reported to the Child Support Program electronically when substitute care information is entered on the DHS Integrated Information System (IIS). When legal parents are exempt from child support the reason for the exemption must be documented in the case file. Legal parents are exempt when:

(1) The legal parent of the child(ren) is deceased. DHS will, however, make application for survivors benefits and pursue resources for the child from the parent's estate where appropriate.

(2) The parent's rights are terminated by the court and DHS has permanent custody, or parent has voluntarily relinquished his/her rights for the purpose of adoption of the child.

(3) The parent has an exemption for good cause as follows:

(a) Temporary exemption for good cause:

(A) With the approval of the Assistant Director or Assistant Director's designee a child's legal parent may be exempt if the child's parent is receiving counseling from a public or private licensed agency to determine whether to keep or relinquish the child for adoption. A written statement from the DHS caseworker/community office is required; and

(B) Exemption for good cause shall not be approved for more than three months unless after three months the exemption is reestablished and approved by the Assistant Director or Assistant Director's designee. A written statement from the DHS caseworker/community office is required.

(C) The above exemptions shall not apply if there is an existing order of support for one parent to pay the other parent or another person for the subject child.

(b) If a child adopted through Oregon's DHS Adoption Program subsequently requires substitute care placement and if the child is approved for an adoption subsidy agreement, the subsidy shall be suspended or modified while the child is in care with the approval of the Assistant Director or the Assistant Director's designee a permanent good cause exemption shall be granted except in the following circumstances;

(A) The child is in care because of a Founded CPS Disposition and the perpetrator is the legal parent; or

(B) The Assistant Director determines it is not in the best interest of the child to grant an exemption.

(C) The above exemptions shall not apply if there is an existing order of support for one parent to pay the other parent or another person for the subject child.

(c) Permanent exemption of legal parents may be approved for good cause in the following situations:

(A) When there is documented evidence that the child was conceived as the result of incest or rape or legal proceedings for adoption are pending and establishing paternity would be detrimental to the child, the Assistant Director or the Assistant Director's designee may approve an exemption for an alleged father. The mother will be referred unless she meets the criteria for an exemption.

(B) If a child adopted through Oregon's Adoption Program or some other state's adoption program subsequently requires substitute care placement, the case may be considered for a permanent exemption on a case-by-case basis. If it appears that the child's current need for placement can be attributed to the child's genetic, developmental or social history prior to adoption and it is in the child's best interest, a permanent exemption may be granted. Such an exemption requires the approval of the Service Delivery Area manager and the Assistant Director;

(C) When it is in the best interest of a child, the Assistant Director may approve an exemption.

(D) The above exemptions shall not apply if there is an existing order of support for one parent to pay the other parent or another person for the care of the subject child.

(4) When the child has been legally adopted, the natural parent will be exempt effective the date of the adoption decree.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0840

Existing Support Orders

Information may be obtained from a support case to be used for the administration of DHS programs. This information may be entered on the DHS Integrated Information System (IIS) when verified. Information from child support screens may not be used to locate relatives.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL93.647, ORS 25.010 - 120 & 180.320 - 370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

413-100-0850

Notification of Change

An electronic referral to the Child Support Program is made when relevant data is entered on IIS or FACIS and sent to CSEAS. Manual referral to the Child Support Program is made when relevant data is entered on the Child Support Enforcement Automated System (CSEAS) by authorized DHS staff or by any other means of communication between DHS and DOJ DCS.

Stat. Auth.: ORS 418.005

Stats. Implemented: PL 93.647, ORS 25.010 - 25.120 & 180.320 - 180.370

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 45-2001, f. 12-31-01 cert. ef. 1-1-02

DIVISION 110

PRE-ADOPTION SERVICES

Legal Risk Placements

413-110-0000

Purpose

A child in the legal custody of the Department of Human Services (Department) for whom the Department has determined that adoption is an appropriate permanency plan and who is in the process of being freed for adoption may be placed in an approved adoptive home with the understanding that if the child becomes legally free for adoption, the child will be adopted. In the past, such a placement was described as a "foster-adopt placement" or a "potential adoptive placement." The term for such placements is now "legal risk placement" if the placement meets the requirements specified in these rules (OAR 413-110-0000 to 413-110-0060).

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0010

Definitions

The following definitions apply to OAR 413-110-0000 to 413-110-0060:

(1) A "legal risk placement" is a placement that occurs when the Department believes that an adoption is in the best interests of the child; that the child is placed in an approved adoptive home; and the agency intends to approve this placement for adoption if the child becomes legally free for adoption.

(2) "Relative" has the same meaning it does in DHS Child Welfare policy I-E.1.1, "Working with Relatives Toward Placement of Children," OAR 413-070-0069(1)(a).

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0015

Values

(1) Any child whose parent or parents are unable to provide a safe and healthy home for the child should be assured the opportunity to become a valued and permanent member of another safe family that understands and responds to the child's needs.

(2) Early identification and development of an alternative to placement with a parent increases the likelihood that the alternate permanency plan can be achieved in a timely manner.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0020

Eligibility Criteria for Legal Risk Placement

A child may be placed in a legal risk placement when all of the following conditions have been met:

(1) The child is a ward of the court and is in substitute care and the Department has determined that adoption is an appropriate permanency plan for the child according to the procedures outlined in OAR 413-110-0300 to 413-110-0360, "Determining the Appropriateness of Adoption as a Permanency Plan for a Child," (DHS Child Welfare policy I-F.2).

(2) In accordance with OAR 413-070-0060 to 413-070-0093, "Working with Relatives Toward Placement of Children" (DHS Child

Welfare Policy I-E.1.1), the Department has considered all parents and relatives and has either determined none of them is a suitable permanent placement for the child or has selected one relative who meets the requirements of OAR 413-070-0060 to 413-070-0093 as the resource for a legal risk placement.

(3) The Department's Legal Assistance Specialist has assessed the child's status and has determined that a plan to free the child for adoption is in the best interests of the child.

(4) The Department has determined, in accordance with OAR 413-110-0300 to 413-110-0360, "Determining the Appropriateness of Adoption as a Permanency Plan for a Child" (DHS Child Welfare policy I-F.2), that adoption is an appropriate permanency plan for the child, and an approved adoptive home has been selected according to the process outlined in DHS Child Welfare policy I-G.1.5, "Adoption Placement Selection," OAR 413-120-0000 to 413-120-0080.

(5) The Adoption Services Unit has reviewed and approved the plan.

(6) In the case of an out-of-state placement, prior to approval and designation of the child's legal risk placement:

(a) The Department has notified the court and has obtained its approval of the plan to place the child out of state;

(b) If the out-of-state placement is made through a private agency, the Department has a signed contract with the placing agency in the receiving state; and

(c) The Department has obtained verification that the child will receive medical coverage by the receiving state.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0030

Legal Risk Placement; Effective Date of Designation

(1) The designation date of the child's current caretaker home as a legal risk placement is the date the Department's Adoption Services Unit accepts all required documents.

(2) The designation date of the child's selected adoptive home (non-current caretaker) as a legal risk placement is the date the child is physically placed in the selected home or the date the Adoption Services Unit accepts all applicable documents (see section (1) of this rule), whichever date is later.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0040

Home Requirements

(1) The home in which the legal risk placement will be made must be studied and approved as an adoptive home in accordance with OAR 413-120-0200 to 413-120-0230, "Adoption Applications" or, in the case of an out-of-state placement, with OAR 413-040-0200 to 413-040-0330, "Interstate Compact on the Placement of Children." The home must also meet the requirements of DHS Child Welfare policy II-B.1, "Safety Standards for Foster Care, Relative Care, and Adoptive Families," OAR 413-200-0301 to 413-200-0401.

(2) Each adoptive parent considered for a legal risk placement is informed by the Department of the risk of having the child removed and must sign an agreement that provides that:

(a) The adoptive parent understands that the child is not legally free for adoption;

(b) The adoptive parent understands that the Department cannot guarantee that the child will be legally free for adoption in the future;

(c) The adoptive parent wants to adopt the child; and

(d) The adoptive parent understands that the adoptive family will continue to provide temporary care for the child if adoption is not possible.

(3) The potential adoptive parents must complete the Adoption Recruitment Management System (ARMS) form 3010, "Legal Risk Placement Agreement," acknowledging that they understand the uncertainty of the legal risk placement.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 44-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0050

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 Central Office Adoption Services Unit will change the child's placement status from Legal Risk Placement to Adoptive Placement.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 18-2001, f. 6-29-01, cert. ef. 7-1-01

Sibling Placement Planning in Adoption

413-110-0100

Purpose

These administrative rules, OAR 413-110-0100 to 413-110-0140, provide the Department's guidelines on initiating and maintaining sibling relationships between children for whom adoption is the plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06

413-110-0110

Definitions

The following definitions apply to OAR 413-110-0100 to 413-110-0140:

(1) A "Permanency/Adoption Council" (Council) is a council consisting of field-management staff, permanency and adoption staff, and community partners from several Service Delivery Areas (SDA), except that the Council in SDA 2 consists only of representatives from Multnomah County. A Council makes decisions for children — whose county of jurisdiction is within the geographic area of the Council — about appropriateness of adoption as a permanency plan, sibling planning, recruitment, adoption disruptions, and adoption selections referred by the local office. The Council also may provide permanency staffings to decide whether to place a child with an out-of-state relative resource prior to receipt by the Department of an approved adoption home study.

(2) Permanency/Adoption Council Committee.

(a) A "Permanency/Adoption Council Committee" (Committee) is a committee established by the Permanency/Adoption Council that is responsible for decisions regarding adoptive placement selections that are not the responsibility of the local office or the Department's Adoption Services Unit. The SDA manager or designee responsible for the local office may delegate a decision to the Committee. Each Committee must include at least three members not involved in the case to be heard by the Committee.

(b) There are two types of Permanency/Adoption Council Committees:

(A) An ad hoc committee selected by the child's worker. This committee consists of three people drawn from a pool of qualified permanency and adoption staff designated by the Council.

(B) The Standing Permanency/Adoption Committee. This committee is a standing committee of three persons appointed by the Council or the Council chair. Responsibilities of this committee include making decisions, such as those relating to sibling placement planning or current caretaker placement decisions, delegated by the Local Office Permanency/Adoption Committee to the Council.

(3) "Siblings" are children with at least one biological parent in common.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06

413-110-0120**Values**

(1) The Department values the preservation of the relationships of *siblings* (defined in OAR 413-110-0110) when in the best interests of the children, recognizing these relationships as the family relationships that can be the longest lasting.

(2) The Department values the placement of *siblings* with the same substitute care provider or adoptive family whenever possible and when it is in the best interests of the children to do so.

(3) If separation of *siblings* occurs in foster care, the Department views the separation as temporary and will work to reunite separated *siblings* when it is in the best interests of the children to do so.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06

413-110-0130**Procedure for Placing Siblings Who are in the Custody of the Department for Whom the Department has Identified Adoption as the Primary or Concurrent Permanency Plan**

(1) For purposes of this rule, an adoptive placement decision includes a preliminary current caretaker decision.

(2) The Department will attempt to place *siblings* (defined in OAR 413-110-0110) for whom adoption is the plan in the same adoptive family when it is in the children's best interests. Early separation of *siblings* in substitute care can decrease the probability of the *siblings* being adopted by the same family. When *siblings* have been separated in substitute care, the Department takes appropriate action to remove barriers to reunification of the *siblings* to reunite them in foster or adoptive placement as soon as possible when in the best interests of the *siblings* to do so, including the following steps at a minimum:

(a) The child's worker must review all attempts to reunite *siblings* and document in the case file the reasons why the attempts were not successful.

(b) If *siblings* are placed separately in substitute care, the Department will make efforts to ensure that the children have the opportunity for initiating and continuing contact when it is in their best interests to do so. The worker must document the visitation plan for *siblings* in the case file.

(3) When *siblings* do not move toward adoption simultaneously, the Department will attempt to give them an opportunity to maintain sibling relationships when it is in their best interests to do so by, for example:

(a) Providing counseling or other services to *siblings* to assist them in developing more healthy relationships with each other;

(b) Developing safety plans to increase safety between *siblings* when they are together, if there is a concern about the safety of *siblings* when they are together;

(c) Providing training or other resources to care providers or adoptive parents to facilitate safety and more healthy relationships with *siblings* if there is a reasonable concern about safety or the ability of *siblings* to relate to each other;

(d) Allowing a sibling to join another in an adoptive home; or

(e) Arranging contact between *siblings* when they are placed in separate adoptive homes.

(4) When the Department has identified adoption as the primary or alternative permanency plan for a child, the child's worker must attempt to determine the whereabouts of the child's *siblings*, including those who may have already been placed for adoption.

(5) If the Department learns that the child has a sibling placed in an adoptive home (finalized or designated), the child's worker must attempt to determine whether the sibling's adoptive family is interested in being considered as an adoptive resource for the child. If the adoptive family of the child's sibling is interested in adopting the child, the Department will instruct the family regarding the process to obtain an adoption study, and if such a study approves the family for adoption, the Department will consider them as a potential adoptive resource for the child along with other potential relative resources. The child's worker must provide the adoptive family of the child's sibling with written information regarding the child's history and special needs, the adoption study process, the time lines required for completion, and must document this in the case file record, as required in OAR 413-070-0093.

(6) When the Department begins recruitment for potential general adoption applicant families for a child for whom adoption is being planned and the child has one or more *siblings* who may need an adoptive placement in the future (for instance, the child's birth mother is pregnant or a sibling of the child has been placed in substitute care but adoption is not yet the primary or permanency plan for the sibling), the child's worker must recruit for potential adoptive families who may be able to adopt any or all of these *siblings*.

(7) A sibling planning staffing (sections (8) and (9) of this rule) is not required in each of the following situations:

(a) If an adoptive placement decision has already been made for one or more *siblings*, and the remaining *siblings* are being planned for adoptive placement together.

(b) If one or more *siblings* have a plan for adoption together and the remaining one or more *siblings* have a plan other than adoption.

(8) When the Department considers separate adoptive homes as placements for *siblings* for whom adoption is being planned and for whom no adoptive placement selection has yet been made, the child's worker must:

(a) Consider the following factors for each child in determining whether it is in the child's best interests to be separated from his or her *siblings* who will also be adopted:

(A) Significant family data;

(B) Attachments;

(C) Medical condition;

(D) Psychological evaluations;

(E) Treatment needs;

(F) Behavior;

(G) Age;

(H) Relationships of the sibling with each other;

(I) Information from any person with significant information about the child, for instance the following:

(i) The child's therapist;

(ii) The child's attorney;

(iii) The child's CASA;

(iv) The child's tribe, if ICWA applies;

(v) The child's caregiver.

(J) The results of three months' of intensive efforts to recruit general applicant families interested in adopting *siblings* together;

(K) Any other relevant information.

(b) Discuss a possible sibling separation with his or her supervisor or the SDA manager or designee.

(9) If section (8) of this rule applies and if after consideration of the factors in subsection (8)(a) of this rule, the child's worker and supervisor concur that separation of the *siblings* for whom adoption is being planned is in the best interests of one of more of the *siblings*, the child's worker must staff the case with a standing committee of the Permanency/Adoption Council and invite the child's attorney, the child's CASA, the child's caregivers, and the child's tribe (if ICWA applies) to the child-presentation portion of the staffing.

(10) When a standing committee has made a decision to place *siblings* in separate adoptive homes, the Department's efforts to recruit adoptive families must include searches for families who can maintain some contact between the *siblings*, if the contact is in their best interests.

(11) Even if not required by this rule, a worker may request a staffing for consultation regarding sibling issues beyond planning for *siblings* for adoptive placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 8-2006, f. & cert. ef. 5-1-06

413-110-0140**Appeal Process**

When a standing committee has staffed a case and reached a decision with which the child's worker disagrees, the child's worker must staff the case with his or her supervisor and the SDA Manager or designee. If the SDA Manager or designee agrees with the child's worker, the SDA manager or designee must request a review of the decision by the Adoption Services Unit Manager. A request to review the decision of a standing committee must be received by the Adoption Services Unit Manager within 10 calendar days following the day the standing committee makes the decision. The Adoption Services Unit

Manager will review the committee's decision and make the final decision whether to allow separation of the siblings.

Stat. Auth.: 418.005

Stats. Implemented: 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 48-2003, f. 12-31-03, cert. ef. 1-1-04

Termination of Parental Rights

413-110-0200

Purpose

Pursuant to Oregon law related to the termination of parental rights the Child Abuse Prevention and Treatment Act (CAPTA) and the Adoption and Safe Families Act (ASFA) Department of Human Services (DHS) is mandated or authorized to seek termination of a parent's rights in certain cases where a child is in substitute care. These rules first outline under what circumstances DHS must seek the termination of parental rights of parents whose children are in DHS custody, and next under what circumstances it has the discretion to do so.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.350, ASFA & CAPTA

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0205

Definitions

(1) "Compelling Reason": A reason meeting specific criteria and documented in the case plan by the local DHS staff for not to file a petition to terminate parental rights of the parents of a child(ren) where DHS would otherwise be required to do so under state and federal law.

(2) "Date Child Entered Substitute Care": Oregon statute and federal law utilize the date the child is found to be within the jurisdiction of the court (under ORS 419B.100) or 60 days from date of removal, whichever is earlier. DHS shall use the date of the child's initial substitute care placement for calculating Citizens Review Board reviews, court or permanency hearings intervals.

(3) "Permanency Plan": A plan which will achieve permanency for the child. Although the plan may change as more information becomes available, the goal is to develop a safe and permanent resource with the parent(s), relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency, and be accessible and supportive to the child in adulthood. The child's important attachments will be considered and maintained when in the best interest of the child and consistent with CAF policy.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.350, ASFA & CAPTA

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0210

Values

(1) Every child needs and deserves a safe, nurturing and permanent home. Termination of parental rights is one means by which DHS can achieve adoption of a child. Adoption is one of several possible permanent plans.

(2) No child shall be freed for adoption without the probability of being placed in a permanent home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.350, ASFA & CAPTA

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0220

Policy

DHS shall only initiate a termination of parental rights action to free a child for adoption and where DHS has determined that adoption is in the child's best interest, and that other possible permanent plans such as guardianship would not be a more appropriate plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.350, ASFA & CAPTA

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0230

Permanency Plan Review

DHS shall review the permanency plan for each child in its legal custody after the 6 month review conducted under ORS 419A.106 or any hearing conducted in lieu of such review; but prior to the permanency hearing required by ASFA to determine the appropriateness of

the permanency plan. If the permanency hearing is scheduled before the above 6 month review, DHS shall review the permanency plan prior to the permanency hearing even if the review has not occurred. If the child cannot be safely placed with a parent, in determining if adoption is the appropriate concurrent permanent plan:

(1) The local designated review body shall consider whether the plan is in the best interest of the child and whether there is a potential adoptive resource for the child or a resource can be located; and

(2) The Legal Assistance Specialist shall provide consultation to the local staff on whether the plan is consistent with statewide practice and whether the plan complies with the requirements of the DHS Adoption Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.350, ASFA & CAPTA

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0240

Decision to File a Petition to Terminate Parental Rights

(1) Unless one of the exceptions outlined in (3)(a) through (c) of this rule applies, and is so documented in the case plan, DHS shall file a petition to terminate the parental rights of the parents to a child in DHS custody. The local DHS staff, in consultation with the Legal Assistance Specialist, shall decide whether to file a petition to terminate the parental rights to a child who:

(a) Has been in foster care for 15 of the most recent 22 months as calculated from the date the child entered substitute care; or

(b) Has been determined by the court to be an abandoned child; or

(c) Has a parent who has been found by a court of competent jurisdiction to have:

(A) Committed murder, of another child of the parent;

(B) Committed manslaughter, of another child of the parent;

(C) Aided, abetted, attempted, conspired or solicited to commit murder or voluntary manslaughter of another child of the parent; or

(D) Committed felony assault that results in serious bodily injury to the child or another child of the parent.

(2) DHS however, is not required to file a petition to terminate the parental rights to children meeting the criteria of 413-110-0240(1)(a) through (c) if:

(a) The child is being cared for by a relative and the permanent plan is for the child to remain with that relative;

(b) DHS has not provided to the family of the child, consistent with the time period in the case plan, the services DHS deemed necessary for the safe return of the child to the child's home, if the plan required reasonable efforts (or active efforts in the case of an Indian child under the Indian Child Welfare Act) to do so; or

(c) Local DHS staff have documented in the case plan a compelling reason for determining that filing such a petition would not be in the best interests of the child. Compelling reasons may include, but are not limited to:

(A) A court or Citizens Review Board (CRB) has made a finding at a CRB review, permanency hearing or other hearing that DHS has made "no reasonable efforts" (or "active efforts" in the case of an Indian child under the Indian Child Welfare Act) to make it possible for the child to safely return home, as documented by CRB findings or a court order;

(B) A court or DHS has determined that:

(i) The parent has made significant measurable progress and continues to make diligent efforts to complete the requirements of the case plan and reunification is likely within a reasonable time, but the parent needs more than 15 months to complete the requirements of the plan as documented by narrative recording on the CF 147A, CF 147B, or Service Agreement;

(ii) DHS is working with the non-offending parent to establish a permanent placement as documented by the narrative recording on the CF 147A, CF 147B, or Service Agreement;

(iii) There is a viable alternative to termination of parental rights that would free the child for adoption within a reasonable time;

(iv) If the child is an Indian child under the Indian Child Welfare Act (ICWA), the Indian child's tribe opposes adoption and has another plan for permanency for the child, in accordance with the provisions of the ICWA.

(C) DHS has determined that adoption is not an appropriate plan for the child for reasons that may include, but are not limited to:

(i) A child age 12 years or over or a child less than 12 years of age who is capable of making this decision will not consent to be adopted, and another permanency plan has been identified;

(ii) The parent and child have a significant bond, but the parent is unable to care for the child because of a disability and another permanent plan has been identified;

(iii) The child has a demonstrated inability to be maintained in a family setting as documented by a professional assessment that may include, but is not limited to, a medical, psychiatric or psychological assessment.

(d) If the compelling reason that DHS applied in making the determination that it would not be in the best interest of the child to file a petition to terminate parental rights no longer exists, DHS shall review the decision not to file, to determine if there is another compelling reason not to file the petition, or if it would be in the best interest of the child to proceed with filing.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.350, ASFA & CAPTA

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0250

Other Situations for Filing a Termination Petition

DHS may file a petition to terminate the rights of a parent whose child is in DHS custody but is not required to do so if:

(1) The parent has engaged in extreme conduct as specified in ORS 419B.502, which includes but is not limited to:

(a) Rape, sodomy or sex abuse of any child by the parent;

(b) Intentional starvation or torture of any child by the parent;

(c) Abuse or neglect by the parent of any child resulting in death or serious physical injury;

(d) Conduct by the parent to aid or abet another person who, by abuse or neglect, caused the death of any child;

(e) Conduct by the parent to attempt, solicit or conspire to cause the death of any child;

(f) Previous involuntary terminations of the parent's rights to another child if the conditions giving rise to the previous action have not been ameliorated; or

(g) Conduct by the parent that knowingly exposes any child of the parent to the manufacture of amphetamines.

(2) The parent is unfit due to conduct or condition that is seriously detrimental to the child as specified in ORS 419B.504, which includes but is not limited to:

(a) Emotional illness, mental illness or mental deficiency of the parent of such nature and duration as to render the parent incapable of providing proper care for the child for extended periods of time;

(b) Conduct toward any child of an abusive, cruel or sexual nature;

(c) Addictive or habitual use of intoxicating liquors or controlled substances to the extent that parental ability has been substantially impaired;

(d) Physical neglect of the child;

(e) Lack of effort of the parent to adjust the circumstances of the parent, conduct, or conditions to make the return of the child possible or failure of the parent to effect a lasting adjustment after reasonable efforts by available social agencies for such extended duration of time that it appears reasonable that no lasting adjustment can be effected; or

(f) Criminal conduct that impairs the parent's ability to provide adequate care for the child.

(3) The parent has failed or neglected without reasonable and lawful cause to provide for the basic physical and psychological needs of the child as specified in ORS 419B.506, which includes but is not limited to:

(a) Failure to provide care or pay a reasonable portion of substitute physical care and maintenance if custody is lodged with others.

(b) Failure to maintain regular visitation or other contact with the child which was designed and implemented in a plan to reunite the child with the parent;

(c) Failure to contact or communicate with the child or with the custodian of the child. In making this determination, the court may disregard incidental visitations, communications or contributions.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.350, ASFA & CAPTA

Hist.: SOSCF 15-1999, f. & cert. ef. 8-12-99; SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

413-110-0252

Termination of Parental Rights

In some cases, DHS may decide to file a petition to terminate the parental rights of a parent whose child is in DHS custody without making reasonable efforts to make it possible for the child to be safely returned home and without seeking or having the juvenile court make a finding that DHS is not required to make such efforts.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.350, ASFA & CAPTA

Hist.: SOSCF 46-2001, f. 12-31-01 cert. ef. 1-1-02

Consulting with Parents Considering Adoption

413-110-0280

Purpose

When birth parents are considering releasing a child for adoption, or when SOSCF has determined that adoption is an appropriate permanent plan for the child, the birth parents need services as an essential part of permanency planning. These rules specify the expectations of SOSCF staff who are consulting with parents considering adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0282

Values

(1) The provision of consultation to birth parents considering adoption is in the best interest of the child.

(2) In consulting with birth parents considering adoption, the agency should treat all persons with respect.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0284

Definition

"Birth Parent" means the woman or man who holds a legally recognized parental relationship to the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0286

Services for Birth Parents Considering Adoption

(1) To assist birth parents to fully explore the range of options available to them in developing a permanency plan for their child, the service worker shall:

(a) Assist birth parents to evaluate the supports they would need if they decide to rear their child;

(b) Make referrals for appropriate services, including but not limited to cooperative adoption mediation;

(c) Discuss the options within adoption and the consequences of each option;

(d) Assist birth parents to explore the various levels of openness that are possible in adoption and the extent to which they may desire openness, with the understanding that the degree of openness in adoption will be that which is in the best interest of the child and to which the adoptive parents can agree;

(e) Talk to birth parents about the grief and loss inherent in adoption;

(f) Advise the parents of the legal impact and permanence of releasing their child; and

(g) Assist birth parents who are in disagreement regarding the appropriate plan to come to agreement.

(2) SOSCF shall provide services to birth fathers who have legally recognized parental relationships as outlined in Policy I-A.4.3, Identifying Legally Recognized Parental Relationships.

(3) In addition to providing assistance in planning for their child, SOSCF shall provide birth parents with referrals to services that support them as individuals. The provision of services shall not be contingent upon their decision to select adoption as the plan for their child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0288

Referral to Licensed Adoption Agencies

For birth parents who have not come to the attention of SOSCF through a child protective services referral, and whose child is not in the custody of SOSCF, SOSCF shall provide the birth parents with information and referral to licensed adoption agencies. In making such referrals, SOSCF shall consider any special needs of the child to be adopted and the ability of the licensed agencies to access services for special needs. SOSCF shall give the parents opportunity to consider all available resources before they decide which agency they prefer.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0290

Support for Birth Parents to Ensure Informed Decision Making in Voluntary Relinquishments

(1) SOSCF shall accept the voluntary relinquishment of a child only under the following conditions:

(a) After providing the birth parents with full and accurate information about the consequences of a voluntary relinquishment;

(b) After providing birth parents with information to assist them to understand the changes in their legal rights, obligations and responsibilities;

(c) In the case of an Indian child, after informing the parent(s) that if 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 member of the child's extended family, other members of the Indian child's tribe or other Indian families;

(d) After informing the birth parent that under the Multiethnic Placement Act of 1994 and Small Business Job Protection Act of 1996, "Removal of Barriers to Interethnic Adoption," SOSCF cannot honor any request of the birth parent to place the child with a family of preferred race, color, or national origin unless the child is an Indian child; in which case SOSCF shall follow the Indian Child Welfare Act and Policy I-E.2.1, Placement of Indian Children;

(e) After the birth parents have reached an informed decision without pressure and with full consideration of alternative plans; and

(f) After supporting the birth parents in considering what their decision will mean to them.

(2) Once a birth parent decides that adoption through SOSCF is the best plan for the child, SOSCF shall assist the birth parent to complete the legal relinquishment of their parental rights, to consider the level of openness appropriate to their circumstances and in the best interest of the child, and to cope with their grief.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0291

Disclosure of Background Information Regarding the Adoptive Family to the Birth Parents

In those cases in which the birth parents are not involved in selection of the adoptive family for their child, before the child's placement SOSCF may provide the birth parents with non identifying background information about the family who will adopt their child, if such disclosure is in the best interest of the child to be adopted.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0292

Disclosure of Birth Parent Identifying Information to Adopted Individuals

(1) SOSCF shall tell birth parents who are making a plan for the adoption of their child that information related to their identified may be disclosed to the child at some point in the future.

(2) SOSCF shall inform birth parents of the Health Division Form 45-89 Contact Preference Form and of the Voluntary Adoption Registry.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0293

Supportive Services to Birth Parents Following the Placement Decision

SOSCF shall provide referrals to supportive services to birth parents after their rights and responsibilities with regard to their child are relinquished or terminated.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0295

Permanency Planning Services for Children in Substitute Care and Their Parents

(1) SOSCF shall provide services to birth parents consistent with the children's safety and well being that support the children's return to or placement with a parent, in accordance with the service agreement developed with the parents as discussed in Policy I-B.3.1, Service Plans: Service Agreement or Letter of Expectations and Family Decision Meetings.

(2) SOSCF and the parent(s) shall use the service planning process to identify the key issues facing the family, determine the objectives to be achieved and agree upon the action to be taken to promote timely and appropriate decision making.

(3) When placement with a parent is not appropriate for the child or is not feasible within a reasonable time frame, SOSCF shall help birth parents to plan for their children through permanency with relatives or with adoption.

(4) SOSCF shall promote timely decision making that takes a child's permanency needs into account and that acknowledge the role that birth parents should play in planning for their children.

(5) SOSCF shall work with birth parents in ways which support mutual decision making such as family decision meetings and pre-adoption consultation.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0297

Voluntary Relinquishment of Children in Substitute Care

When placement with a parent is not feasible within a reasonable time frame, or is not appropriate for a child in substitute care, SOSCF may offer or make referrals to consulting with and supports to assist the birth parents in considering the option of voluntary relinquishment.

(1) The birth parents' decision to place a child for adoption shall be voluntary and based on complete and accurate information regarding the implications of that decision.

(2) SOSCF may use consultation, mediation and other services to assist birth parents in considering voluntary relinquishment.

(3) When appropriate and in the best interest of the child, SOSCF shall discuss with the birth parents the option of some level of contact between birth parents, other relatives, and the child after adoption. SOSCF shall not use openness after adoption as an incentive to obtain the birth parents' agreement to voluntarily relinquish the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

413-110-0299

Involuntary Termination of Parental Rights

When placement with a parent is not feasible within a reasonable time frame, or is not appropriate for a child in substitute care, and the birth parents are unable or unwilling to voluntarily place the child for adoption, SOSCF shall follow procedures outlined in Policy I-F.3.2.1, Termination of Parental Rights. To the extent possible SOSCF shall assist the birth parents to understand the need to pursue this action to ensure permanency and stability for the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270

Hist.: SOSCF 20-2001, f. 6-29-01, cert. ef. 7-1-01

Determining the Appropriateness of Adoption as a Permanency Plan for a Child

413-110-0300

Purpose

These rules (OAR 413-110-0300 to 413-110-0360 establish the Department's policies for determining whether adoption is an appro-

priate plan for a child. In the case of an Indian Child, the Department follows the **Indian Child Welfare Act and the Department's Child Welfare policy I-E.2.1**, "Placement of Indian Children," OAR 413-120-0000 to 413-120-0080).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0310

Definitions

(1) "Appropriateness of Adoption": The determination that a child can be successfully freed, placed and maintained in an adoptive placement and that adoption is in the best interest of the child.

(2) "Approved Family": A family that has been selected for a child in accordance with the Department's Child Welfare policy I-G.1.5, "Adoption Placement Selection," OAR 413-120-0000 to 413-120-0080) or I-G.1.1, "Current Caretaker Adoption Planning," 413-120-0500 to 413-120-0550.

(3) "Local Office Permanency/Adoption Committee": The branch committee responsible for certain permanency and adoptions decisions, as specified in these rules. Members are selected by the local office from among the staff of the Department's field offices. The members must not be involved in the case to be heard.

(4) A "Permanency/Adoption Council" (Council) is a council consisting of field-management staff, permanency and adoption staff, and community partners from several Service Delivery Areas (SDA), except that the council in SDA 2 consists only of representatives from Multnomah County. A Council makes decisions for children whose county of jurisdiction is within their geographic area about appropriateness of adoption as a permanency plan, sibling planning, recruitment, adoption disruptions, and adoption selections referred by the local office. It also may provide permanency staffings to decide whether to place a child with an out-of-state relative resource prior to receipt by the Department of an approved adoption home study.

(5)(a) A "Permanency/Adoption Council Committee" (Committee) is a committee established by the Permanency/Adoption Council that is responsible for decisions regarding adoptive placement selections that are not the responsibility of the local office or the Department's Adoption Services Unit. The SDA manager or designee responsible for the local office may delegate a decision to the Committee. Each Committee must include at least three members not involved in the case to be heard by the Committee.

(b) There are two types of Permanency/Adoption Council Committees:

(A) An ad hoc committee selected by the child's worker. This committee consists of three people drawn from a pool of qualified permanency and adoption staff designated by the Council.

(B) The Standing Permanency/Adoption Committee. This committee is a standing committee of three persons appointed by the Council or the Council chair. Responsibilities of this committee include making decisions, such as those relating to sibling placement planning or current caretaker placement decisions, delegated by the Local Office Permanency/Adoption Committee to the Council.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0320

Values

(1) Adoption is a permanency option that should be considered as part of concurrent case planning for all children in substitute care.

(2) The assessment of the appropriateness of adoption as the permanency plan for a child begins at the time of the child's initial placement and continues until a permanent plan is achieved.

(3) If safe placement with a parent is not possible for a child, and the child can be legally freed for adoption and has an appropriate and available adoptive resource who wishes to adopt the child, it is concluded that adoption is an appropriate permanency plan for the child.

(4) Adoption is not the most appropriate plan for every child.

(5) The Department will not initiate proceedings to free a child for adoption unless there is a probability of being placed with an approved family.

(6) Decisions whether adoption is an appropriate permanency plan for the child must be made collaboratively.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0330

Procedure to Determine the Appropriateness of Adoption as a Permanency Plan

(1) Before the Department initiates proceeding to free a child for adoption, it makes a formal decision regarding whether adoption is an appropriate permanency plan for the child in accordance with these rules.

(2) The preliminary case-planning steps in the process of determining whether adoption is an appropriate permanency plan for the child are as follows:

(a) An adoption permanency goal must be considered concurrently with other permanency goals for a child in substitute care;

(b) When it appears that placement with a parent is not a viable goal, but not later than six months after the child enters substitute care, the local office must begin the process of obtaining information sufficient to make a formal decision whether adoption is an appropriate permanency plan for the child, for instance:

(A) The child's worker must obtain such pertinent information as psychological evaluations, therapist's assessments, an assessment by a mental health professional when appropriate that includes the child's attachment and other permanency needs, medical records, personal care or special rate assessments, individual education plans, and early intervention assessments;

(B) The child's worker must address the following areas:

(i) The child's ability to attach.

(ii) The needs of the child.

(iii) Prior or current caretaker or family relationships that could support or interfere with the child's ability to build new family relationships.

(iv) Information about the child's siblings and half siblings (see Child Welfare policy I-F.6, "Sibling Placement Planning in Adoption," OAR 413-110-0100 to 413-110-0140).

(v) Prospective adoptive resources who have made it known to the agency that they want to be considered as an adoptive placement for this specific child.

(vi) The child's willingness to consent to adoption, if the child is 12 years of age or older.

(3) Formal decision making at the local office.

(a) If the child's worker and supervisor believe adoption is an appropriate permanency plan for the child, and the legal assistance specialist concurs, the adoption plan may proceed without review by the Local Office Permanency/Adoption Committee.

(b) When the child's worker and supervisor review a case together and it is not clear that adoption is an appropriate permanency plan for the child, or if there are questions regarding available approved families, the determination whether adoption is an appropriate permanency plan for the child will be made by Local Office Permanency/Adoption Committee. The child's worker is responsible for scheduling a staffing with a Local Office Permanency/Adoption Committee within 60 days of the staffing by the child's worker and supervisor.

(c) If the child's worker and supervisor believe that adoption is not an appropriate permanency plan for the child, they must submit their written recommendation to the SDA Manager or designee. Their recommendation must include the compelling reasons for their assessment that it is not an appropriate permanency plan (see Child Welfare policy I-F.3.2.1, "Termination of Parental Rights," OAR 413-110-0240(3)(c)(D)). If the SDA Manager or designee disagrees with the recommendation or wishes to seek consultation, they must direct the child's worker to refer the determination of appropriateness of adoption to a Permanency/Adoption Council Committee.

(d) Before the Department initiates the permanency plan for adoption, the legal assistance specialist and the local office must agree that the plan is in the child's best interests and is achievable.

(4) When a Committee determines that adoption is an appropriate permanency plan for the child, the committee representative must record the decision regarding the appropriateness of adoption as a

permanency plan and provide a copy of the documentation to the child's worker;

(5) The child's worker must send documentation of a Permanency/Adoption Committee decision to the Adoptions Services Unit to be included in the child's central office file.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0340

When Adoption is an Appropriate Permanency Plan

(1) When the Department determines that adoption is an appropriate permanency plan for the child, and in legal risk situations the legal assistance specialist has approved placement planning for the child, the child's worker must accomplish the following:

(a) The child's worker begins the process to locate an appropriate approved family while proceeding with efforts to free the child for adoption.

(b) The child's worker requests that either a Local Office Permanency/Adoption Committee or a Permanency/Adoption Council Committee review the decision that adoption is an appropriate permanency plan for the child if the child's worker has not been able to find an appropriate approved family for the child within four months of the initial staffing.

(c) If a child is placed for adoption and the adoption disrupts, the child's worker follows the procedures in Department's Child Welfare policy I-G.1.3, "Disruption of Adoptive Placements." The child's worker requests that either a Local Office Permanency/Adoption Committee or a Permanency/Adoption Council Committee review the decision determining that adoption is an appropriate permanency plan for the child if the child's worker has not been able to find an appropriate approved family for the child within six months of the disruption date.

(d) If an adoptive placement disrupts and there is question as to whether adoption is currently an appropriate permanency plan for the child, the question is referred by the worker to either a Local Office Permanency/Adoption Committee or a Permanency/Adoption Council Committee within three months of the disruption.

(2) In the case of a child for whom the permanency plan is adoption, the worker must document in the permanency plan the child's specific needs and the steps the Department is taking to find an adoptive family for the child who can respond to those needs, to place the child with an adoptive family, and to finalize adoption. At a minimum, such documentation must include comment on the child-specific recruitment efforts employed by the Department such as the use of state, regional, or national adoption exchanges, including electronic exchange systems, as well as efforts to identify potential adoptive families from the neighborhood and community in which the child resides.

(3) Out-of-state adoptions. The Department will not delay or deny placement of a child for adoption when an approved family is available outside of Oregon. If the out-of-state placement is a legal-risk placement, the worker must obtain approval from the Legal Assistance Specialist as required by the Department's Child Welfare policy I-F.5, "Legal Risk Placements," OAR 413-110-0000 to 413-110-0060. Once the legal risk placement is approved, the worker must notify the court and obtain approval of the plan prior to placing the child out of state. If the out-of-state adoption is supervised by a private agency, the Department will not make the placement of the child into the adoptive home until the Department has a signed contract with the placing agency. Out-of-state adoptions are further regulated by OAR 413-040-0200 to 413-040-0320.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0350

When Adoption Is Not an Appropriate Permanency Plan

(1) When it is determined that adoption is not the appropriate permanency plan for the child, and the compelling reason for this determination has been documented in the case file, the child's worker must develop and implement an alternate plan.

(2) If there are significant changes, the child's worker may refer the case to either the Local Office Permanency/Adoption Committee

or the Permanency/Adoption Council Committee for a new determination whether adoption is an appropriate permanency plan for the child. The appropriateness of adoption as a permanency plan for the child can change as the child's circumstances change. When the legal assistance specialist has questions about the appropriateness of adoption as the permanency plan for the child, the legal assistance specialist may ask the local office to recruit for a potential adoptive placement prior to initiating the process to free the child for adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

413-110-0360

Review Process

When the Local Office Permanency/Adoption Committee or the Permanency/Adoption Council Committee has staffed a case and reached a decision with which the child's worker disagrees, the child's worker will staff the case with the worker's supervisor and SDA manager or designee. If the SDA manager or designee agrees with the child's worker, he or she will request review of the decision by the Adoption Services Unit Manager who may review the committee's decision and make the final decision.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 11-2000, f. & cert. ef. 4-28-00; SOSCF 21-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 47-2003, f. 12-31-03, cert. ef. 1-1-04

DIVISION 120

ADOPTION

Adoption Placement Selection

413-120-0000

Purpose

These administrative rules (OAR 413-120-0000 to 413-120-0080) outline the process and decision-making authority for selecting either an adoptive placement for a child who is in the permanent custody of the Department or a legal risk adoptive placement.

Stat. Auth.: ORS 418.005

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; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0010

Definitions

The following definitions apply to OAR 413-120-0000 to 413-120-0080:

(1) "Approved family" means a family that has been selected for a child by a Department adoption committee and has not been subject to an administrative review, or if subject to a review, has been sustained by that review.

(2) "CAF" means the Children, Adults and Families Division of the Department of Human Services.

(3) "Central Adoption Committee" means an adoption committee established by the central Adoptions Services Unit using staff selected from the Department, licensed adoption agencies or knowledgeable community partners. Central adoption committees are responsible for decisions regarding adoptive placement selections as specified in these rules that are neither the responsibility of the local nor the District Permanency Adoption Committee.

(4) "Department" means the Department of Human Services.

(5) "District Permanency/Adoption Committee" means the Permanency/Adoption Committee established through the Permanency/Adoption Council which is responsible for decisions regarding adoptive placement selections as specified by these rules that are neither the responsibility of the local office nor the central office. One type of District Permanency/Adoption Committee is set by the worker using a pool of qualified permanency, adoption, or legal assistance staff designated by the Permanency/Adoption Council. Another type, the Standing District Permanency/Adoption Committee, is either a predetermined Council appointed committee of three people, or a committee established by the Permanency/Adoption Council chair.

Sibling planning issues are always the responsibility of the Standing Permanency/Adoption Committee.

(6) “General applicant” means an individual who is not a current caretaker or a relative.

(7) “Legal risk adoptive placement” means that the Department 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 Child Welfare Policy I-F.5, “Legal Risk Placements”, OAR 413-110-0000 to 413-110-0060)

(8) “Local Permanency/Adoption Committee” means the local committee responsible for certain permanency and adoptions decisions, as specified in these rules. Members of the Local Permanency/Adoption Committee are determined by the District and are local staff or staff from other offices in the District. Local Permanency/Adoption Committee members shall be individuals not involved in the case.

(9) “Permanency/Adoption Council” means a Council which consists of Department management, Permanency/Adoption Council staff (which may include legal assistance workers), and community partners. The Permanency/Adoption Council through District Permanency/Adoption Committees makes decisions about the appropriateness of adoption as a permanency plan, sibling planning, recruitment issues, adoption disruptions, and adoption selections referred by the local office. It also holds permanency staffings to decide whether to move a child out of state. The Adoptions Services Unit Manager has delegated decision-making in these areas to the Councils. The Permanency/Adoption Council is also responsible to facilitate information sharing, peer consultation, and support among staff.

(10) “Transition” means any activities related to the move of a child or children from one home to another for the purpose of adoption.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

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; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0015

Values

(1) The best adoption placement selection decisions are always made as the result of a collaborative process.

(2) Adoption selection is an important decision with a lifelong impact.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99

413-120-0020

Multilateral Decision-Making Required

When a child is determined to be appropriate for a legal risk adoptive placement (see CAF Policy I-F.5, Legal Risk Placements) or a child is legally free for adoption, the child’s worker shall refer the child to the appropriate adoption committee for review. After having been provided information about the child and potential adoptive families, an adoption committee composed of three individuals shall carefully review potential adoptive homes for the child. The majority of the designated adoption committee shall select by vote one adoptive family when an appropriate “match” appears to exist. In some instances, the adoption committee may identify a back-up family. If the adoption committee does not select an adoptive family, the adoption committee will make a recommendation on how to proceed.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280, 418.285, 419B.090

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07; Administrative correction 9-16-07

413-120-0030

Adoption Committees

(1) Two types of adoption committees review cases and identify placement selections:

(a) Local or District Permanency/Adoption Committees.

(A) Local offices or Permanency/Adoption Councils shall be responsible for establishing adoption committees. Department staff shall follow any written procedures established by Permanency/Adoption Councils or central office Adoption Services Unit regarding the composition and operation of the Local or District Permanency/Adoption Committees.

(B) If the Local office does not have established procedures for the Local Permanency/Adoption Committee, the Child Welfare program manager or designee shall designate three committee members not involved in the cases to act as the adoption committee. If the Permanency/Adoption Council does not have established procedures for the District Permanency/Adoption Committee, the chair of the Council shall designate three committee members not involved in the cases to act as the District Permanency/Adoption Committee.

(C) The chairperson of the adoption committee shall assure that committee meetings are promptly scheduled and that committee concerns and recommendations are recorded on the CF 0250, “Adoption Selection Report,” and sent to the central office Adoption Services Unit within three working days of the committee date.

(b) Central Adoption Committees. The central office Adoption Services Unit shall select staff from the Department, licensed adoption agencies, or knowledgeable community partners to serve on central adoption committees. The central office Adoption Services Unit is responsible for the staff work associated with the operation of central adoption committees. The chairperson will communicate in writing on the CF 250, “Adoption Selection Report,” any committee concerns or recommendations to the central office Adoption Services Unit within three working days 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) The Department shall refer children who are being considered for placement with a relative family or families as defined in OAR 413-070-0069 to the appropriate adoption committee as required in Child Welfare Policy I-E.1.1, “Working with Relatives Toward Placement of Children”, OAR 413-070-0093(2).

(b) Children under six with minimum special needs being placed without siblings will be referred to the Local Permanency/Adoption Council or a District Permanency/Adoption Council committee.

(c) Children six years of age or older, children part of a sibling group, and children with significant special needs will be referred to a central adoption committee.

(d) When a current caretaker is being considered along with other resources for a child, the case will be staffed per Child Welfare Policy I-G.1.1, “Current Caretaker Adoption Planning”, OAR 413-120-0540.

(e) Per Employee Home Study rules (Child Welfare Policy I-G.1.3.1, “CAF and Partner Agency Employee Adoption Home Studies”, OAR 413-120-0250 to 413-120-0290, employees who are being considered as general applicants or current caretakers shall be referred to the Central Adoption Committee.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

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; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0033

Confidentiality

All persons attending adoption committee are bound by Oregon statutes about confidentiality and Child Welfare Policies I-A.3.2, “Confidentiality of Client Information”, OAR 413-010-0000 to 413-010-0075 and I-A.3.3, “Release of Adoption Home Study Reports”, OAR 413-010-0081 to 413-010-0086..

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0035

Attendance at Committee

(1) Individuals to Attend Full Committee. The child’s worker and adoption workers presenting specific families shall participate in the adoption committee. If these workers are unavailable, their supervisor

or designated co-worker shall represent the child or family. When an out-of-state relative is being presented, the local office shall determine who presents.

(2) Individuals to Attend Child Presentation Only: (The child's worker shall inform the committee chairperson of individuals planning to attend.)

(a) The child's worker may ask a child's current or previous caretaker or caretakers to attend committee 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) The child's worker may invite other professionals involved with the child, such as therapists, child's attorney, contracted caretakers, evaluators, or the Court Appointed Special Advocate (CASA) to assist in the presentation of the child. The child's caseworker shall notify the child's attorney and CASA, if any, of the committee.

(A) The attorney and CASA shall inform the caseworker as to whether each would like to present at the committee, and if so, the child's caseworker shall invite them to attend or provide information by telephone or in writing.

(B) The caseworker shall request the child's attorney and CASA to provide the caseworker with the names of other individuals who may have significant information regarding the child's needs. The worker shall give these persons the opportunity to provide information in writing or in person to the committee.

(c) Either the child's worker or the chairperson may invite consultants with regard to a child, such as a child development specialist, or a medical expert.

(d) On a case-by-case basis, the child's worker may ask that the child attend a portion of the presentation on the child.

(3) Individuals Who May Attend the Presentation of a Particular Family at Committee. The adoption worker, with prior knowledge of the committee chairperson, may invite a consultant, such as a medical expert, to present specific information with regard to a particular family. The adoptive family must sign a DHS 2099, "Authorization for Use and Disclosure of Information", authorizing the consultant's attendance at this portion of the committee. After the consultant presents information regarding the family, the chairperson shall excuse the consultant from the remainder of the family's presentation.

(4) Limitations on Committee Attendance. The following may not attend committee:

(a) Each prospective adoptive parent and legal or personal advocates for a family under consideration. These individuals may give their input to the committee through written communication; and

(b) A current caretaker who is being considered as an adoptive resource along with other resources may not assist in the presentation of the child.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SCF 6-1995, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0040

Potential Families

(1) Refer to Child Welfare Policies I-G.1.1 "Current Caretaker Adoption Planning", OAR 413-120-0500 to 413-120-0540, I-E.1.1 "Working With Relatives Toward Placement of Children", 413-070-0060 to 413-070-0093, and I-E.2.1 "Placement of Indian Children", 413-070-0100 to 413-070-0260 for guidelines when considering relatives, current caretakers, or Indian Child Welfare Act placement preferences. In all other situations, the child's worker shall select appropriate families for committee from completed home studies.

(2) When selecting families from completed home studies for committee, the child's worker shall review and select for presentation a sufficient number of appropriate families in the order the home studies have been date stamped by the Central Office Adoption Services Unit; earliest dates first. The caseworker shall respond to all workers submitting home studies. The caseworker may use form CF 409, "Adoption Home Study Response Checklist" or send an e-mail providing the same information.

(3) On a case-by-case basis, where there has been a voluntary relinquishment of parental rights, the child's worker, in consultation

with his or her supervisor, may involve birth parent or parents in the selection of potential adoptive families to be presented to adoption committee through discussion of non-identifying information from home studies.

(4) The child's attorney or Court Appointed Special Advocate (CASA) may provide information to the child's worker regarding the type of adoptive family which the attorney or CASA thinks might be the most suitable for the child, but it is the Department's responsibility to select the most appropriate adoptive family for the child, and the information in the home study is confidential.

(5) It is the responsibility of the adoption worker to inform potential adoptive families of the entire adoption placement selection process.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280, 418.285, 419B.090

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07; Administrative correction 9-16-07

413-120-0045

Efforts toward Adoption; No Delay in Placement

(1) In the case of any child for whom the permanency plan is adoption, the worker shall make reasonable efforts to place the child in a timely manner in accordance with the permanency plan. The worker shall document in the permanency plan the steps the Department is taking to find an adoptive family for the child, place the child with an adoptive family, and finalize adoption. At a minimum, such documentation shall include child specific recruitment efforts such as the use of state, Region X, and national adoption exchanges, including electronic exchange systems.

(2) The Department may not delay or deny placement of a child for adoption when an approved family is available outside the State of Oregon.

(3) An individual who alleges denial of adoption approval as a result of residing outside the State of Oregon has the right to a contested case hearing before the Office of Administrative Hearings (see Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500). The purpose of such a hearing is to determine Oregon's compliance or noncompliance with the geographic provisions in section (2) of this rule. There is no right to a contested case hearing for individuals who live outside the jurisdiction with respect to placement decisions made by the state on behalf of the individual child.

(4) The Department may not delay or deny placement of a child for adoption on the basis of the race, color, or national origin of the child or adoptive parent involved. Cultural heritage may not be used as a proxy for race, except Indian children under the Indian Child Welfare Act. If the child is an Indian child, Child Welfare Policy I-E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260 applies.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0060

Review of Adoption Committee Decision

(1) Committee Decisions are Final. All decisions of Department adoption committees are final and do not qualify for a contested case hearing. Adoption committee decisions, including the current caretaker decision making process (i.e., preliminary and final recommendations), may be reviewed as provided in this rule.

(2) At Assistant Director's Discretion. The Assistant Director of CAF or the Assistant Director's designee may, on his or her initiative, review an adoption committee's decision. If there is no request for review, and if the Assistant Director or Assistant Director's designee decides to review the decision of an adoption committee he or she must decide within 7 calendar days after the decision of the adoption committee. In calculating this time period, the first day of the 7 days is the day after the date of the committee. After deciding to review the committee decision, the Assistant Director or Assistant Director's designee shall give notice to the child's worker, with copies to the

supervisor, the Child Welfare program manager, adoption workers, and committee chair.

(3) Scope of Review. The scope of the review when requested by someone other than the Assistant Director of CAF is limited to the selection process and the decisions made by the adoption committee.

(4) Who may request a review under this rule:

- (a) The child's caseworker;
- (b) The child;
- (c) The child's attorney;
- (d) The Court Appointed Special Advocate (CASA) for the child;
- (e) A relative who was considered by but not selected at an Adoption Committee per subsections (6)(b) or (c) of this rule;

(f) A current caretaker who was considered but not selected at an adoption committee per subsections (6)(b), (c), (d), or (e) of this rule; or

(g) An individual who was considered but not selected by an Adoption Committee and who alleges that placement of the child was denied or delayed because of the geographic location of the individual.

(5) Who may not request a review under this rule:

(a) A general applicant who is considered but not selected by an adoption committee; and

(b) Any person other than those listed in section (4) of this rule.

(6) Cases on which a review may be requested:

(a) The worker requests a review based on the worker's assessment that placement in the selected home will not meet the individual needs of the child;

(b) The adoption committee's choice was between a relative and an unrelated current caretaker as defined in Child Welfare Policy I-G.1.1, "Current Caretaker Adoption Planning", OAR 413-120-0500 to 413-120-0540;

(c) The adoption committee's choice was between two non-current caretaker relatives;

(d) The adoption committee's choice was between a current caretaker and a general applicant; or

(e) The adoption committee considered the current caretaker alone but did not select the current caretaker.

(7) If an adoption committee reaches a decision with which the child's worker does not agree, the child's worker shall staff the case with his or her supervisor and the Child Welfare program manager or designee. The child's worker, with the approval of the supervisor and the Child Welfare program manager or designee, is the only Department staff person who may request a review. If the Child Welfare program manager or designee agrees that further review should occur, she or he shall request a review of the decision by the Assistant Director of CAF or the Assistant Director's designee.

(8) Time Lines. A child's caseworker or person eligible under subsections (4)(a) to (4)(f) of this rule who wishes to request a review of an adoption committee's decision must submit the request to the Adoption Services Unit Manager or designee. In order for the request to be considered, the Adoption Services Unit Manager or designee must receive the request within 7 calendar days after the decision of an adoption committee. In calculating this time period, the first day of the 7 days is the day after the date of the committee.

(9) Decision and Notice of Intent to Review. If the Assistant Director of CAF receives a request for a review, the Assistant Director or the Assistant Director's designee must decide whether to review the decision of the committee within 7 calendar days after the full time line allowed in section (8) of this rule for the Adoption Services Manager's receipt of the request. After deciding whether to review or not to review the committee decision, the Assistant Director shall give notice to the requestor, with copies to the child's worker, supervisor, Child Welfare program manager, or their designees, other adoption workers, and committee chair.

(10) Assistant Director's Actions. If the Assistant Director of CAF or the Assistant Director's designee gives Notice of Intent to Review, then the Assistant Director or the Assistant Director's designee may:

(a) Remand the decision to a current caretaker, adoption relative placement, or other committee which may be but is not limited to the committee which participated in making the permanency decision on behalf of the child, with instructions to gather or review information or consider additional issues, and to issue a new decision;

(b) Conduct a review of all relevant files and information, and issue a decision affirming or changing the committee's decision, and

where appropriate, directing a legal risk placement or adoptive placement; or

(c) Appoint someone to conduct a review of all relevant files and information, and make a recommendation to the Assistant Director or the Assistant Director's designee to affirm or change the committee's decision and where appropriate, recommend a legal risk placement or adoptive placement.

(11) Assistant Director's Decision is Final. The decision upon review by the Assistant Director of CAF or the Assistant Director's designee made as a result of the review is final, and does not qualify for a contested case hearing.

Stat. Auth.: ORS 418.005

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; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0075

Transition to Adoptive Home

(1) Scheduling Transition. The transition into an adoptive placement, including sharing of family information with the child, cannot begin until the time period for the Notice of Intent to Review has passed or, in the event that the Administrator gives Notice of Intent to Review, until the Review is completed.

(2) Requesting Earlier Transition. The worker may initiate the waiver approval process in OAR 413-120-0075(4) and request permission to begin transition into the adoptive placement under the following circumstances:

(a) The worker has supervisory approval to do so;

(b) The SDA Manager or designee has given written approval; and

(c) Due to exceptional circumstances, the waiting period would adversely affect the child. Exceptional circumstances may include but are not limited to the following:

(A) The current caretaker requests early transition due to a compelling reason such as illness, or needs to be relieved of caretaking responsibilities for the child; or

(B) It is in the best interest of the child, for example, the child needs to be in the adoptive home prior to the start of a new academic year or semester; or

(C) The selected adoptive family is a relative with whom the child has a pre-existing close relationship and the relative has requested that transition begin earlier than the required waiting period.

(3) Documentation Required. In addition to the exceptional circumstances which may warrant a waiver of the required waiting period, the following conditions must be in place and demonstrated by written documentation:

(a) Diligent search for potential relative resources has been conducted according to the requirements of OAR 413-070-0072, and suitability assessments of identified relative resources have been completed according to OAR 413-070-0081; and

(b) The current caretaker is in agreement with the request for waiver or reduction of the waiting period; and

(c) No information has been presented at adoption committee that would indicate anyone is likely to contest the committee's decision and it is unlikely a review will be requested; and

(d) In the case of an out-of-state placement, all Interstate Compact on the Placement of Children (ICPC) requirements have been satisfactorily completed, and ICPC has approved the placement; and

(e) In the case of placement through an in-state or out-of-state private agency, all contract requirements have been satisfactorily completed, and a contract is in place.

(4) Waiver Approval Process: If the SDA manager or designee approves, he/she shall submit the written request to the Adoptions Services Manager or designee who shall verify with Central Office records that all the requirements of OAR 413-120-0070(2) and (3) have been met. If the waiver is approved, the Deputy Director or designee shall provide written authorization waiving his/her right to review the adoption committee's decision in the case, and stating why DHS is not waiting the required waiting period.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280, 418.285, 419B.090

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-

31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07; Administrative correction 9-16-07

413-120-0080**Legal Consent**

The Assistant Director of CAF or the Assistant Director's designee is the person responsible for providing legal consent for the adoption of a child in Department permanent custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

Legalizing the Adoption**413-120-0100****Purpose**

These rules define the process for legalizing an adoptive placement for children in the permanent custody of the Department of Human Services (Department).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 & 419B.529

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; CWP 5-2004, f. & cert. ef. 4-1-04

413-120-0105**Definitions**

(1) "Legalization" is the process of giving an adoptive placement legal validity.

(2) "Consent to the Adoption": The Consent to the Adoption documents that the adoptive parents have been investigated and approved by the Department and gives permission for the adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 & 419B.529

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 22-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 5-2004, f. & cert. ef. 4-1-04

413-120-0110**Values**

(1) Creating a legal child-parent relationship is the final goal of adoption.

(2) Achieving permanency for the child is important.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.307, 109.309 & 109.316

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96

413-120-0115**Procedures**

(1) When adoption assistance has been approved, and the adoptive parents decide to use a "qualified vendor" attorney, the Adoption Assistance staff send the family a Qualified Vendor Agreement and the Qualified Vendor Attorney List. The family and the attorney must sign the Qualified Vendor Agreement and return it to the central Adoptions Services Unit. Upon receipt of the adoption decree, the adoption assistance staff will prepare the request to reimburse the attorney in accordance with the Department's contract with the attorney.

(2) If the adoptive parents choose to use an attorney who is not on the Qualified Vendor Attorney List, the adoption assistance staff will send the adoptive parents a Non Vendor Agreement. The adoptive parents must sign the agreement and return it to the Adoption Services Unit. Upon receipt of the adoption decree, the adoption assistance staff will reimburse the adoptive parents at the same rate as for a vendor attorney. The adoptive parents are responsible for any additional charges billed by the attorney and are responsible to reimburse the attorney for those charges.

(3) Department employees may not recommend an attorney to serve as counsel for the prospective parents.

(4) When the central office Adoptions Services Unit has received the request for consent to the adoption and the vendor or non-vendor agreement, the adoption assistance is in place, and the Legal Assistance Specialist has given approval, the Adoptions Services Unit will prepare the consent to be signed by the Adoption Services Manager or another person designated by the Assistant Director for Children, Adults and Families. In addition to the Consent to the Adoption, the Department's Adoption Services Unit will provide the adoptive parents or their attorney with the following documents to be filed with the petition:

(a) A certified copy of the court orders or the original release and surrender documents which show that the Department has permanent custody of the child and the authority to consent to the child's adoption.

(b) ICWA correspondence, if applicable.

(c) Statement of verification that the birth parents and the petitioners have been advised of the voluntary adoption registry.

(d) Documentation regarding compliance with the Interstate Compact on Placement of Children, if applicable.

(e) A copy of a signed legally enforceable Post Adoption Communication Agreement, if available.

(f) Affidavits, if applicable.

(5) After receiving the documents listed in (4), the Department will send the Consent to Adopt to the attorney for the adoptive family. Within 30 calendar days of the date the Department sends the Consent to Adopt, the attorney must file the petition (unless a petition is not required under ORS 419B.529). After the central office Adoptions Services Unit receives a copy of the petition filed with the court, the Department will provide the court with the written court report waiving the 90-day waiting period.

(6) After the Department sends the Consent to Adopt to the attorney, the attorney prepares the petition if required and files it with the court, and the Department sends the written court report to the court, the attorney must, within 30 days following the court's receipt of the report to the court, prepare a decree and send it to the court or schedule an Adoption Ceremony.

(7) The court granting the adoption decree will provide the central office Adoption Services Unit with a copy of the adoption decree.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.307, 109.309, 109.316 & 419B.529

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 7-1999, f. & cert. ef. 5-14-99; SOSCF 22-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 39-2003(Temp), f. & cert. ef. 11-25-03 thru 5-21-04; CWP 5-2004, f. & cert. ef. 4-1-04

Legalizing the Adoption if Petition Not Required**413-120-0142****Purpose**

ORS 419B.529 sets forth conditions under which a prospective adoptive parent is not required to file a petition for adoption. These rules establish DHS's responsibilities in the process for legalizing an adoption through the juvenile court where a petition for adoption is not required.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; SOSCF 48-2001, f. 12-31-01 cert. ef. 1-1-02

413-120-0145**Values**

(1) Every child needs and deserves a safe, nurturing, and permanent home.

(2) Creating a legal child parent relationship is the final goal of adoption.

(3) Expediting legalization of adoption is desirable if the interests of the child and adoptive family are protected and basic requirements met.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99

413-120-0150**Definitions**

(1) "Adoption Decree" means a decree which a court issues, pursuant to a petition for adoption, setting forth the facts of the case and ordering that from the date of the decree the child, to all legal intents and purpose, is the child of the petitioner.

(2) "Home Study" means a written evaluation of the prospective adoptive parent(s)' suitability to adopt and parent a child who may be placed for adoption. The home study is completed prior to the filing of a petition to adopt, in accordance with the Department's reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes as set forth in DHS CAF OARs 413-120-0300-413-120-0310.

(3) "Legalization" means the process of giving an adoptive placement legal validity.

(4) "Petition for Adoption" means a petition, filed in circuit court by any person, for leave to adopt another person.

(5) "Placement Report" means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department's prescribed reporting format and includes information about the child's background and placement; medical and genetic history; birth 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).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; SOSCF 48-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 9-2004, f. & cert. ef. 4-1-04

413-120-0155

Conditions for Not Filing a Petition for Adoption

Pursuant to ORS 419B.529 and notwithstanding ORS 109.309, a prospective adoptive parent is not required to file a petition for adoption if all of the following conditions are in place:

(1) A juvenile court that is a circuit court has entered an order of permanent commitment of the child to DHS pursuant to ORS 419B.527, or the parent has signed and Department of Human Services Office of Safety and Permanency for Children has accepted a release and surrender to the Department and a certificate of irrevocability and waiver as provided in ORS 418.270 regarding the child.

(2) DHS has completed a home study that finds the prospective adoptive parent(s) suitable to adopt the child and consents to the adoption; and

(3) The adoptive parent(s) elect to legalize the adoption through the juvenile court.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; SOSCF 48-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 9-2004, f. & cert. ef. 4-1-04

413-120-0160

Right to Use Expedited Process

The adoption worker shall inform the adoptive parent(s) in writing of their right to use this expedited process, using form CF 438, Legalizing the Adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99

413-120-0165

Requirements Prior to Proceeding to Legalization of the Adoption

When the supervision period is concluded and the Adoption Services Unit receives a request from the adoptive parent(s) or their legal representative to proceed with finalization of the adoption in the juvenile court, the Adoption Services Unit shall assure that the following requirements have been met or processes have been completed before proceeding with forwarding the matter to the juvenile court for legalization:

(1) The requirements of the Indian Child Welfare Act (ICWA) have been met (OAR 413-070-0100 through 0260).

(2) If applicable, the requirements of the Interstate Compact on Placement of Children have been met (OAR 413-040-0200 through 0330).

(3) The birth parent(s) and petitioners have been advised of the Voluntary Adoption Registry (OAR 413-130-0300 through 0360).

(4) The worker has assessed the child's need for openness in adoption, and if appropriate to the case, has provided information to the adoptive parent(s) and facilitated the development of a Post Adoption Communication Agreement (OAR 413-120-0610 through 0650); and

(5) The child has been referred to the Adoption Assistance Program; and if the child meets the criteria, a written Adoption Assistance Agreement has been completed, (OAR 413-130-0000 through 0110). If the adoptive parent(s) decline to participate in the Adoption Assistance Program, the worker must obtain a statement signed by the adoptive parent(s) which says that they have been fully informed of the availability of the Adoption Assistance Program and waive their rights to these benefits now and in the future.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; SOSCF 48-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 9-2004, f. & cert. ef. 4-1-04

413-120-0170

Attorney Fees

If Adoption Assistance has been approved, and the adoptive parent(s) elect to use an attorney to assist with legalization, the adoptive parent(s) can request reimbursement for reasonable and necessary attorney fees through the Adoption Assistance Program pursuant to OAR 413-130-0080(1), (4), 413-130-0090, and 413-120-0115(1) and (2).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99

413-120-0175

Court Filing Requirements

When the requirements of OAR 413-120-0165 have been met, the Adoption Services Unit will send the following to the attorney selected by the adoptive family, and the attorney must file with the court:

(1) A written consent to the adoption.

(2) A placement report requesting the juvenile court to enter a decree of adoption.

(3) Indian Child Welfare Act statement, ORS 109.309(10)(a)–(b).

(4) Statement regarding Voluntary Adoption Registry Notification, ORS 109.35.

(5) Documentation regarding compliance with the Interstate Compact on Placement of Children, Article IV, ORS 417.200.

(6) Adoption Disclosure Statement, form CF 960.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

Hist.: SOSCF 12-1999, f. & cert. ef. 7-6-99; CWP 40-2003(Temp), f. & cert. ef. 11-25-03 thru 5-21-04; CWP 9-2004, f. & cert. ef. 4-1-04

Adoption Applications

413-120-0190

Purpose

The purpose of these rules is to provide policy guidance on what requirements an applicant to adopt a child in SOSCF custody must meet, what constitutes a completed adoption home study packet and the application and approval process.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 & 418.285

Hist.: SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01

413-120-0195

Definitions

(1) "Partner Agency(ies)" means all DHS divisions and offices, and where the local SOSCF office is co-housed or located in close proximity with a non-DHS state, county, city, or private not for profit agency, means those offices as well. Refer to 413-120-0270 for more details about making this determination.

(2) "Employee" means for the purposes of these rules, unless otherwise specified, a trial service or permanent employee of SOSCF, and an employee of a partner agency.

(3) "Current Caretaker" is a person or persons currently having physical custody of a child. For the purpose of these rules, the current caretaker is a foster parent who has had the child in his or her home consecutively for 6 months or longer. An exception may be requested in the case of a non-related foster parent who has had a child in his or her home consecutively less than 6 months if the branch has completed a diligent search and determined there are no suitable relatives. This exception requires branch manager approval and documentation in the case file.

(4) Contracted Licensed Private Agency: A private adoption agency licensed by SOSCF and holding a contract with SOSCF to do adoption home studies.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 & 418.285

Hist.: SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01

413-120-0200

Policy on Adoption Applications

(1) SOSCF places children with special needs. SOSCF will refer persons who are not interested in adopting a child with special needs

to licensed adoption agencies. Persons who wish to adopt a child from SOSCF must:

(a) Be at least 21 years of age. However an applicant who is an "Indian" as defined by the Indian Child Welfare Act and SCF Policy I-E.2.1., Placement of Indian Children, OAR 413-070-0100 through 0260 may be 18 years of age.

(b) Meet the adoptive home approval requirements in SCF Policy II-B.1, Safety Standards for Foster Care, Relative Care, and Adoptive Families, OAR 413-200-0300 through 040.

(c) Be able to provide for the safety of the child, including protection from all persons and situations which brought the child into care. The worker shall assess safety by means including but not limited to a criminal record check per OAR 413-120-0200 through 413-120-0470 and a family history, including a child abuse and domestic violence history;

(d) Have had no previous license or certificate to provide services to children, the elderly or the disabled denied, revoked or relinquished.

(e) Be able to commit to the child on a permanent lifelong basis; and

(f) Be able to acknowledge and meet the child's individual special needs.

(g) Provide evidence of the capacity to accept and raise an adopted child as their own child to maturity; and

(h) Participate in preservice training provided or approved by SOSCF to cover topics (A) through (G) below to prepare applicants for adoption. With supervisory approval, the adoption worker may develop an individual training plan with the applicant based on an assessment of the applicant's previous training or experience.

(A) The effects of abuse (physical, sexual, emotional) and neglect on children;

(B) The effects of drugs and alcohol on children;

(C) The effects of moves and transition on children;

(D) The significance of the birth family, including grief and loss issues;

(E) Openness in adoption;

(F) The attachment process and attachment difficulties; and

(G) Positive behavior management.

(3) SOSCF or a contracted licensed private agency shall accept applications from couples (married or unmarried) or individuals (married or unmarried).

(4) SOSCF shall refer applicants who are current or former employees of SOSCF or a partner agency to a licensed private adoption agency to obtain an adoptive home study. A Contracted Licensed Private Agency shall not study employees or board members, but shall refer them to another adoption agency.

(5) Applicants shall submit applications to SOSCF or a contracted licensed private agency on form SOSCF 1260A, Application to Care for a Child in SOSCF Custody.

(6) The applicants and all members of the household are subject to a record check of SCF's Integrated Information System and criminal history records. A report of child abuse or a criminal history may be considered sufficient reason not to proceed with the application and home study process.

(7) If the applicant has ever lost permanent custody of a child through relinquishment or termination of parental rights, the adoption worker and supervisor shall staff the case with the Branch manager and Legal Assistance Specialist to determine whether to proceed with the application.

(8) The following materials comprise the adoption home study packet. The worker shall submit these to the Adoptions Services Unit when compiled:

(a) Application to Care for a Child in SOSCF Custody, CF 1260A;

(b) Adoptive Family Information and Placement Preference, CF 1266;

(c) Family Financial Report, CF 1291;

(d) Medical Report A, CF 1257A;

(e) Medical Report B, CF 1257B;

(f) Mental Health Information, CF 1258 if applicable. (If the worker determines that the CF 1258 — Mental Health Information is necessary for an applicant, the worker may decide whether to mail the form to the mental health provider, or complete the CF 1258 through a telephone interview with the mental health provider. If the worker interviews the provider by phone, the worker shall note at the bottom

of the form that the mental health report was taken by phone, then sign and date this notation);

(g) Consent for Criminal History Check CF 1011F;

(h) Applicant Reference, CF 1255. (If there is no other means of obtaining the Applicant Reference, the worker may complete the CF 1255 through a telephone interview with the reference. The worker then shall note at the bottom of the form that the reference was taken by phone, then sign and date this notation);

(i) Completed Progressive Family Assessment Provisional Approval CF 1269; and

(j) Marriage Certificate, divorce verification as applicable.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 & 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01

413-120-0210

Applicants Known to Other Agencies

SOSCF or a Contracted Licensed Private Agency may conduct home studies for any person who previously has applied to another public or private adoption agency unless the applicant is:

(1) Currently under study by another public or private agency for placement of a child for adoption; or

(2) Currently under consideration by another public or private agency for placement of a child for adoption; or

(3) Has had a previous license or certificate to provide services to children, the elderly or disabled denied, revoked, suspended, or relinquished.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 & 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01

413-120-0220

Home Studies by SOSCF

(1) SOSCF may prioritize applications according to the type of homes most needed for children who are free for adoption or being freed, and may give priority to completing home studies of applicants who:

(a) Are relatives applying to adopt a specific child;

(b) Are current caretakers applying to adopt a specific child; or

(c) Are interested in adopting children with special needs for whom there are few or no available homes approved;

(2) Branch offices shall provide SOSCF Adoptions Services Unit, in the central administrative office, a copy of all approved home studies upon completion.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 & 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01

413-120-0230

SOSCF Application And Approval Process

(1) An adoptive applicant may return a completed adoption application to the SCF branch office.

(2) SOSCF shall review the application.

(3) If SOSCF reviews the completed application and receives the forms required by the branch to accompany the application within the time frame established by the branch, SCF shall review these materials to determine if a home study shall be completed. SCF may then proceed with the home study process.

(4) If at any point during the application and home study process, SCF becomes aware of information which would, according to the requirements of OAR 413-120-0200(2)(a) through (f), preclude the applicant from becoming an adoptive resource, SCF may terminate the process at that time and deny the applicant's request to become an adoptive resource. If this denial is due in full or in part to SOSCF's determination that the applicant is not suitable for adoption approval based on criminal history or false statement on the application related to criminal history, please see SOSCF Policy I-G.1.4, Oregon Computerized Criminal History Checks and Nationwide Criminal History Checks through the FBI for Foster Parents and Adoptive Parents for SOSCF Children — OAR 413-120-0460(11) for the responsibilities of SOSCF in this situation.

(5) In the situations where SCF has completed the entire application and home study process, SOSCF (based on an evaluation of the application and home study information according to the requirements

of OAR 413-120-0200(2)(a) through (h)), may either approve the home with a positive recommendation, or decline to present the study at an adoption committee and deny the applicant's request to be an adoptive resource.

(a) The adoption worker shall not present a study at adoption committee without a positive recommendation.

(b) If the adoption worker has produced a study without a positive recommendation, and the Branch Manager has sufficient reason to believe that the worker should present the study to committee, the Branch Manager may request the Adoptions Services Manager to make an exception to the requirement for a positive recommendation.

(6) If an applicant does not provide timely and appropriate response to SCF's inquiries and requests for information, SCF may terminate the process and deny the request to be an adoptive resource. Applicants who apply to adopt a specific child must provide documentation and information requested by SCF according to time lines established by the branch but in no case to exceed 90 days from the date of application.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 & 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01

413-120-0240 SOSCF 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, and for what reason.

(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, and for what reason.

(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.: ORS 418.005

Stats. Implemented: ORS 418.280 & 418.285

Hist.: SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01

CAF and Partner Agencies Employee Adoption Home Studies

413-120-0250 Purpose

The purpose of these rules is to establish procedures by which employees of SOSCF and employees of partner agencies may obtain adoptive home studies. If SOSCF is in the process of preparing an employee's home study or has a completed home study on the effective date of these rules, SOSCF shall continue to provide adoption services until the next update is due. SOSCF shall refer the applicant to SNAC for the update.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00; SOSCF 31-2000, f. & cert. ef. 11-7-00

413-120-0255 Values

(1) **Commitment to Clients:** Our primary responsibility is to protect children and promote their welfare.

(2) SOSCF employees must be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00

413-120-0260 Definitions

(1) **"Partner Agency(ies)"** means all DHS divisions and offices, and where the local SOSCF office is co-housed or located in close proximity with a non-DHS state, county, city, or private not for profit agency, means those offices as well. Refer to 413-120-0270 for more details about making this determination.

(2) **"Special Needs Adoption Coalition (SNAC)"** means Oregon private licensed adoption agencies who are members of a coalition. SNAC recruits, screens, prepares and counsels families for the adoption of Oregon children in the custody of SOSCF.

(3) **"Employee"** means for the purposes of these rules, unless otherwise specified, a trial service or permanent employee of SOSCF, and an employee of a partner agency.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00; SOSCF 31-2000, f. & cert. ef. 11-7-00

413-120-0265 Adoptive Home Studies: SOSCF

(1) SOSCF shall not prepare adoptive home studies for SOSCF employees, or employees of partner agencies.

(2) SOSCF may prepare adoptive home studies for temporary employees or contracted individuals of SOSCF, or partner agencies.

(a) An adoption worker from a branch office other than the office of the SOSCF or partner agency employee shall prepare such studies.

(b) If, prior to placement of a child with a temporary employee or contracted individual of SOSCF or a partner agency on a legal risk or regular adoptive placement, the temporary employee or contracted individual is hired by SOSCF or the partner agency into a permanent position, SOSCF shall contract with a SNAC private agency of the employee's choosing to prepare or complete the employee's home study.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00; SOSCF 31-2000, f. & cert. ef. 11-7-00

413-120-0270 Adoptive Home Studies: SNAC

(1) SOSCF shall refer an SOSCF or partner agency employee seeking adoption of a child/ren in SOSCF custody to the headquarters of the Special Needs Adoption Coalition (SNAC) who shall supply the employee with a current list of SNAC agencies, the services they provide, and their geographic coverage.

(2) If the worker and supervisor are unable to determine whether a non-SOSCF agency meets the definition of "partner agency" they shall refer the matter to the branch manager. The branch manager shall consult with the manager of the Adoptions Services Unit if the branch manager needs assistance in determining whether the non-SOSCF agency is a "partner agency."

(3) After the employee selects a SNAC agency to prepare his or her adoptive home study, the employee and the selected SNAC agency shall notify the Office Manager of the Adoption Services Unit of the selection so that the office manager can arrange for a contract for the SNAC adoption agency to provide adoption services to the employee.

(4) Upon receipt of a signed contract from the selected SNAC agency agreeing to provide adoption services to the employee, SOSCF shall pay the SNAC agency an adoption application fee of up to \$150 and the current established home study fee per fee schedule noted in OAR 413-140-0020(1)(a)(B) (SOSCF Policy I-G.4, Independent Adoptions).

(5) The SNAC agency may charge the employee for reasonable travel expenses, for example commercial carrier fares; parking and garage fees; necessary taxi, airport shuttle or bus fares; private car mileage allowances not to exceed the standard state-approved mileage rate; and actual and necessary expenses for lodging and meals. The employee shall reimburse travel expenses directly to the SNAC agency performing the service. The employee may request reimbursement of travel expenses through the Adoption Assistance Program, per OAR 413-130-0080(1) through (4) as Non-Recurring Payment for Adoption Expenses.

(6) If the SNAC agency does not approve the employee as an adoptive resource, the SNAC agency shall submit an abbreviated home study report outlining the reasons for its conclusion to the SOSCF Adoption Services Unit Manager.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00; SOSCF 31-2000, f. & cert. ef. 11-7-00

413-120-0275 Branch Considerations

(1) SOSCF shall not consider any employee, as defined in OAR 413-120-0260(3) as an adoptive resource for a child served by the branch in which the SOSCF employee works or Partner Agency employee is associated, in order to avoid a conflict of interest, or the appearance of a conflict of interest, except under the following conditions:

- (a) The child is a relative of the employee;
- (b) The employee has been providing foster care to the child; or
- (c) By approval of the SOSCF Adoption Services Unit Manager.

(A) The employee shall inform the branch manager that he/she wants an exception;

(B) The branch manager shall refer this request to the Adoption Services Unit Manager;

(C) After consultation with the branch manager, the Adoption Services Unit Manager shall decide whether the exception is warranted, based on criteria that includes, but is not limited to, the nature of the employee's relationship to the child. The Adoption Services Unit Manager shall inform the employee and branch manager of the decision.

(2) For any child specific study, the SNAC agency shall contact the child's SOSCF worker for information on the strengths and needs of the child. The child's worker shall provide the SNAC agency with a strengths and needs based assessment, including the type of adoptive family most likely to be able to meet the child's needs.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00; SOSCF 31-2000, f. & cert. 11-7-00

413-120-0280

Adoption Placement Selection Process

(1) The SNAC agency that completed the employee's adoption home study shall present the employee's study at a sensitive issue adoption committee meeting.

(2) If the SOSCF sensitive issue adoption committee selects the employee as the adoptive resource for the child, SOSCF shall contract with the SNAC agency for placement, supervision, finalization, and disruption services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00; SOSCF 31-2000, f. & cert. ef. 11-7-00

413-120-0285

Training

SNAC shall require the employee applicant(s) to participate in pre-service training provided or approved by SOSCF to cover topics (1) through (7) of this rule to prepare applicant(s) for adoption. Exceptions to this requirement shall be rare. If the applicant wants to request an exception, the applicant shall request an exception from the SNAC agency that prepared the home study. The request for exception shall demonstrate why the applicant believes he or she has sufficient knowledge of the issues addressed in pre-service training topics (1) through (7) of this rule. If the SNAC agency concurs, the SNAC agency shall request an exception from the SOSCF Adoption Services Unit Manager. The SOSCF Adoption Services Unit Manager may make an exception to the pre-service training requirement based on an assessment of the applicant's previous training or experience, if additional training is not necessary because the applicant has demonstrated sufficient knowledge of the issues addressed in pre-service training.

(1) The effects of abuse (physical, sexual, emotional) and neglect on children.

(2) The effects of drugs and alcohol on children.

(3) The effects of moves and transition on children.

(4) The significance of the birth family, including grief and loss issues.

(5) Openness in adoption.

(6) The attachment process and attachment difficulties; and

(7) Positive behavior management.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00; SOSCF 31-2000, f. & cert. ef. 11-7-00

413-120-0290

Confidentiality

(1) The SNAC agency shall submit the employee's home study to SOSCF Central Adoption Services Unit. Central Adoption Services Unit shall treat the employee home study as a "Sensitive Case" and highly confidential, retain the original home study, and provide copies to adoption committee members for consideration as an adoptive resource in accord with OAR 413-120-0000 through 413-120-0080 (SOSCF Policy I-G.1.5, Adoption Placement Selection).

(2) When a child's SOSCF worker reviews a copy of the home study and does not select the employee for Adoption Committee consideration, the SOSCF worker shall have his or her copy shredded.

(3) An adoption committee member who has the home study of an employee who was considered but not selected by an Adoption Committee, shall have his or her copy of the home study shredded.

(4) The SNAC agency preparing the home study may review the study with the employee for accuracy and completeness of those portions of the study that do not contain confidential information, such as information from third parties. If the employee requests a copy of the home study, the SNAC agency shall refer the employee to the SOSCF Adoption Services Unit Manager or designee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 6-2000, f. & cert. ef. 2-24-00; SOSCF 31-2000, f. & cert. ef. 11-7-00

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.: HB 2004

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 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 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 Relative Caregivers, Foster Parents, Other Persons in the Household and Adoptive Parents for SOSCF Children

413-120-0400

Purpose

(1) It is the goal of the DHS to reduce the risk of exploitation and/or abuse of children entrusted in the care of or receiving services from DHS. Therefore, DHS will conduct criminal offender information background checks as described in these rules.

(2) These rules establish procedures by which DHS obtains criminal offender information on subject individuals who are seeking to provide relative, foster or adoptive care to children in DHS custody under rules of CAF program and policy administration, and how DHS uses criminal offender information to determine the suitability of the subject individual to provide relative, foster or adoptive care.

(3) These rules provide guidelines on the procedures DHS will use when DHS receives requests to conduct criminal offender information record checks from licensed private agencies who are studying adoptive families for placement of children in the custody of DHS under rules of CAF program and policy administration.

(4) These rules provide guidelines on the procedures DHS will use granting exceptions for subject individuals convicted of certain felony and misdemeanor crimes to provide relative, foster or adoptive care if an exception is permitted under these rules.

(5) These rules shall be used in conjunction with other applicable standards when determining a subject individual's suitability to provide relative, foster or adoptive care for children in DHS custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 418.016

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0410

Scope of Rules

(1) Consistent with the purpose of these rules, DHS will issue decisions regarding the suitability for approval of subject individuals to provide relative, foster or adoptive care. These rules shall apply to any application which has been neither denied nor approved as of the effective date of these rules.

(2) Notwithstanding the prohibitions contained in 413-120-0450(2) and (3), if a subject individual was certified to provide relative or foster care or approved as an adoptive home before November 19, 1997, DHS may place additional children in the home, renew the family's relative caregiver or foster home certificate of approval or approve the home as an adoptive placement if the DHS Assistant Director for CAF and the DHS Assistant Director for CHS or their designees as described in 413-120-0450(4)(e) have determined that:

(a) Denial of the renewal or adoption application would result in the disruption of a child(ren)'s placement or prevent future substitute care or adoptive placements of the child(ren)'s siblings; and

(b) The certification, adoption or licensing file for the relative caregiver, foster family or adoptive family contains documentation that safety considerations with respect to the subject individual have been addressed; and

(c) Conviction(s) for the crime(s) described in 413-120-0450(3) occurred prior to the certification or approval.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & 181.010 - 181.560

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0420

Definitions

For purposes of these rules:

(1) "Adoption Applicant" is a person who applies for adoption approval.

(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) "Battery" means the use of physical force to injure, damage or abuse or to cause offensive physical contact.

(4) "CAF" means the Children, Adults and Families program and policy administrative unit of DHS.

(5) "Child or Children" means a person or persons under the age of 18. A person who is between 18 and 21 years of age, who is in DHS custody under rules of CAF's program and policy administration, is also considered a child for purposes of these rules.

(6) "CHS" means the Community Human Services unit of DHS.

(7) "Computerized Criminal History (CCH) System" means the administration and maintenance of on-line computer files of significant criminal offender information by OSP.

(8) "Contested Case Hearing" means a hearing conducted under ORS Chapter 183 and applicable administrative rules.

(9) "Criminal Offender Information" is defined in ORS 181.010(3) and includes records, fingerprints and photographs, received, compiled and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders, as to such persons' records of arrests, the nature and disposition of criminal charges, including sentencing, confinement and release, and includes the OSP Computerized Criminal History System.

(10) "Designated Agency" means any DHS unit 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 criminal conduct; for agency employment or licensing purposes; or for other demonstrated and legitimate needs when designated by order of the Governor.

(11) "DHS" means the Department of Human Services, which accesses criminal offender information as a designated agency or a criminal justice agency, and requests fingerprint-based criminal offender information from the FBI and OSP on certain persons or programs who provide care or treatment to children as regulated by DHS.

(12) "FBI" means the Federal Bureau of Investigation.

(13) "Fingerprint-Based Criminal Offender Information" means criminal offender information compiled and maintained by the Oregon State Police 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.

(14) "Foster Parent(s)" is the certified care provider(s) whose name is on the certificate of approval to operate a family foster home, and who resides at the address on the certificate, under OAR 413-200-0301 through 413-200-0401.

(15) "Information Required" means all information requested by DHS for processing criminal record checks, including fingerprint checks.

(16) "OSP" means the Oregon State Police.

(17) "Other Person in Household" means:

(a) A person 18 years of age or older who is living in the home; and is not a child as defined by this rule; or

(b) A person 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; or

(c) 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.

(18) "Private Adoption Agency" means an agency licensed by the State of Oregon to provide adoption services within the state and which contracts with DHS to study adoptive parents seeking to adopt children in the custody of DHS.

(19) "Relative Caregiver" is the child's relative whose name appears on the Certificate of Approval and who resides at the address on the certificate under OAR 413-200-0301 through 413-200-0401.

(20) "SDA" means Service Delivery Area, an administrative subdivision of CHS.

(21) "Violence" means the use of physical force to injure, damage or abuse.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 418.016

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0430

Subject Individuals

For purposes of these rules, "Subject Individual" means a person who:

(1) Applies to adopt a child in the custody of DHS as described in OAR 413-120-0200 through 413-120-0230 and 413-120-0300 through 413-120-0310; or

(2) Applies to be a foster parent as described in OAR 413-200-0301 through 413-200-0401; or

(3) Is an other person in the household as described in 413-120-0420(17); or

(4) Applies to be a relative caregiver as described in 413-200-0301 through 413-200-0401.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & 181.010 - 181.560

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0440

Limitations of Inquiries

(1) Only DHS 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 criminal offender 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 DHS 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 or the FBI may not be given to unauthorized persons or agencies or used for any purpose other than that for which the information was obtained.

(3) Criminal offender information, including fingerprint-based criminal offender information, shall be obtained by DHS under chapter 413 of the Oregon Administrative Rules to ascertain whether a *subject individual* as defined at OAR 413-120-0430 has been convicted of a crime that is substantially related to their qualifications as a relative caregiver, foster parent, or adoptive parent, or their suitability to be an other person in the household.

(4) For purposes of emergency foster care certification, child welfare staff in a local DHS office may obtain criminal history information from the OSP Law Enforcement Data System (LEDS) accordance with OAR 413-015-1100 to 413-015-1125. In addition to any criminal history checks completed in the local DHS office for purposes of emergency foster care certification, whenever a fingerprint-based criminal history check is required, a completed and signed form 1011F and two

properly completed FBI fingerprint cards (FD 258) must be provided to the DHS Criminal Records Unit (CRU) for processing.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 418.016

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05

413-120-0450

Consideration of Criminal History

(1) DHS has determined that persons who engage in certain criminal conduct may not be qualified to be a relative caregiver, foster or adoptive parent, or suitable to be an other person in a relative caregiver, foster or adoptive home because that criminal conduct is fundamentally inconsistent with any responsibility for care, treatment or supervision of children or other vulnerable persons. Unless an exception is allowed under these rules, convictions for crimes listed in these rules or a false statement about a conviction for any crime may disqualify a subject individual from being approved as a relative caregiver, foster or adoptive parent, or to be an other person in the household.

(2) If a subject individual has been convicted of a crime described in subsection (3), that individual shall not be approved or certified as a relative caregiver, foster parent, adoptive parent or other person in the household and no exception may be granted. A subject individual who has been convicted of any crime other than one described in subsection (3) may be approved or certified as a relative caregiver, foster parent, adoptive parent or other person in the household only if an exception is granted as provided in subsections (4)-(6).

(3)(a) DHS shall not issue or renew a certificate of approval to operate a relative caregiver or foster home, or approve an adoption application, and no exception may be granted if a subject individual has been convicted in Oregon or any other jurisdiction of a felony crime that involves:

(A) Rape, sodomy or sexual abuse;

(B) Intentional starvation or torture;

(C) Murder or voluntary manslaughter;

(D) Abuse or neglect of a child that causes death of the child or serious physical injury to the child;

(E) Aiding, abetting, attempting, soliciting or conspiring to cause the death of a child.

(b) Crimes described under (3)(a) of this section include, but are not limited to, the following crimes under Oregon law, or substantially similar crimes in Oregon or any other jurisdiction:

(A) 163.095 Aggravated murder;

(B) 163.115 Murder;

(C) 163.118 Manslaughter in the first degree;

(D) 163.125 Manslaughter in the second degree;

(E) 163.355 Rape in the third degree;

(F) 163.365 Rape in the second degree;

(G) 163.375 Rape in the first degree;

(H) 163.385 Sodomy in the third degree;

(I) 163.395 Sodomy in the second degree;

(J) 163.405 Sodomy in the first degree;

(K) 163.408 Unlawful sexual penetration in the second degree;

(L) 163.411 Unlawful sexual penetration in the first degree;

(M) 163.425 Sexual abuse in the second degree;

(N) 163.427 Sexual abuse in the first degree;

(O) 163.525 Incest, if the victim of the offense is a child;

(P) 163.537 Buying or selling a person under 18 years of age;

(Q) 163.670 Using a child in display of sexually explicit conduct.

(4)(a) If a subject individual has been convicted of one of the following crimes, which exclude those described in subsection (3), DHS shall not issue or renew a certificate of approval to operate a relative caregiver or foster home for children or approve an adoption application unless an exception is granted as provided in this subsection and subsection (6):

(A) Any felony or misdemeanor crime of violence against a child; or

(B) Any felony involving:

(i) Child abuse or neglect;

(ii) A child as the victim;

(iii) Violence, including domestic violence

(C) A felony drug related offense.

(b) Examples of Crimes described under (4)(a) of this section include, but are not limited to, the following crimes under Oregon law or substantially similar crimes in Oregon or any other jurisdiction:

(A) 162.155 Escape in the second degree, if the offense involves the use or threatened use of violence;

(B) 162.165 Escape in the first degree, if the offense involves the use or threatened use of violence or a dangerous or deadly weapon;

(C) 162.325 Hindering prosecution, if the crime involves the use of violence;

(D) 163.145 Criminally negligent homicide;

(E) 163.160 Assault in the fourth degree, if the victim is a spouse or a child and the person has previously been convicted of assaulting the same victim;

(F) 163.160 Assault in the fourth degree, if person previously convicted of assaulting same victim or assault witnessed by child/step child of defendant or victim or other child living in household of defendant or victim;

(G) 163.160 Assault in the fourth degree if the victim is a child (misdemeanor);

(H) 163.165 Assault in the third degree;

(I) 163.175 Assault in the second degree;

(J) 163.185 Assault in the first degree;

(K) 163.205 Criminal mistreatment in the first degree, if the victim is a child or if the crime involves violence;

(L) 163.213 Unlawful use of an electrical stun gun, tear gas or mace in the first degree;

(M) 63.225 Kidnapping in the second degree, if the victim is a child or spouse or if the crime involves violence;

(N) 163.235 Kidnapping in the first degree, if the victim is a child or spouse or if the crime involves violence;

(O) 163.535 Abandonment of a child;

(P) 63.547 Child neglect in the first degree;

(Q) 163.555 Criminal nonsupport;

(R) 163.684 Encouraging child sexual abuse in the first degree;

(S) 163.686 Encouraging child sexual abuse in the second degree;

(T) 163.688 Possession of materials depicting sexually explicit conduct of a child in the first degree;

(U) 163.689 Possession of materials depicting sexually explicit conduct of a child in the second degree;

(V) 164.125 Theft of services, if the theft is by force for services valued at \$750 or more;

(W) 164.225 Burglary in the first degree, if the offense involves violence;

(X) 164.395 Robbery in the third degree;

(Y) 164.405 Robbery in the second degree;

(Z) 164.415 Robbery in the first degree;

(AA) 166.015 Riot;

(BB) 166.165 Intimidation in the first degree;

(CC) 166.220 Unlawful use of weapon;

(DD) 167.017 Compelling prostitution;

(EE) 167.212 Tampering with drug records;

(FF) 167.262 Adult using minor in commission of controlled substance offense (for controlled substance other than less than 5 grams of marijuana);

(GG) 475.992 Subsection (1) Manufacture or delivery of Schedule I, II or III counterfeit substance. Subsection (2) Delivery of marijuana for consideration. Subsection (3) Creation or delivery of Schedule I, II or III counterfeit substance. Subsection (4) Possession of Schedule I or II controlled substance;

(HH) 475.993 Prohibited acts for registrants related to Schedule I controlled substance;

(II) 475.995 Distribution of Schedule I, II or III controlled substances to minors;

(JJ) 475.999 Manufacture or delivery of Schedule I, II or III controlled substance within 1000 feet of school.

(c) Written approval of both the DHS Assistant Director for CAF and of the DHS Assistant Director for CHS is required for an exception to operate a relative caregiver or foster home or be approved as an adoption applicant if a subject individual has been convicted of a crime described in (4). The DHS Assistant Directors for CAF and CHS may designate administrative staff not assigned to or located in a Service Delivery Area to grant an approval authorized under subsection (4).

(5) If a subject individual has been convicted of any felony or misdemeanor, other than those described in subsections (3) or (4),

DHS shall not issue or renew a certificate of approval to operate a relative caregiver or foster home for children or approve an adoption application unless an exception to approve the home is granted as provided in this subsection and subsection (6). The following persons are authorized to grant an exception as provided in this subsection and subsection (6):

(a) If a subject individual has been convicted of a misdemeanor, other than one resulting from domestic violence or one described in subsections (3) or (4), written approval of the SDA Manager is required for an exception to approve the home. The SDA Manager may designate the SDA Assistant Manager, the SDA Child Welfare Manager or a child welfare supervisor to grant an exception under this subsection.

(b) If a subject individual has been convicted of a felony or any crime involving domestic violence, other than one described in subsection (3) or (4), written approval of the SDA Manager is required for an exception to approve the home. The SDA manager may designate the SDA Assistant manager or the SDA Child Welfare Manager to grant an exception under this subsection.

(6) A person authorized to grant an exception under (4) or (5) shall determine whether the subject individual possesses the qualifications to be a relative caregiver, foster parent, adoptive parent, or is suitable to be an other person in the household, regardless of the criminal conviction(s). The person authorized to grant an exception shall document the approval on form DHS 1011D, "Criminal History Exception Request" In determining whether to grant an exception under (4) or (5) the person authorized to grant the exception shall consider:

(a) The severity and nature of the crime;

(b) The number of criminal offenses;

(c) The time elapsed since commission of the crime;

(d) The circumstances surrounding the crime;

(e) Content of the police report(s) concerning the crime;

(f) The subject individual's explanation of the crime;

(g) The relationship of the criminal activity to the subject individual's capacity to safely provide the proposed care;

(h) The subject individual's participation in counseling, therapy, education or employment evidencing rehabilitation or a change in behavior; and

(i) When the person is seeking to provide care for a specific child, whether disqualification of the subject individual would create emotional harm to the child and placement of the child with the person would be a safe placement that is in the best interests of the child.

(7) Where allowed, by current or previously effective rules, exceptions for a specific misdemeanor or felony conviction need only be granted one time for a specific subject individual.

(8) Granting an exception for a specific misdemeanor or felony crime does not establish a precedent for other cases in which a conviction for the same crime is being considered.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & 181.010 - 181.560

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0455

Consideration of Arrests

(1) Behavior that results in an arrest or a history of arrests may raise concerns about a subject individual's suitability to be a relative caregiver, foster or adoptive parent, or other person in the household. If a subject individual has a history of arrest(s) for any of the following, the field staff must assess whether, considering the behavior that resulted in the arrest, the subject individual meets the qualifications to be a relative caregiver, foster or adoptive parent, or other person in the household:

(a) Child abuse or neglect;

(b) Spousal abuse;

(c) A crime against children, including pornography;

(d) A crime involving violence, including rape, sexual abuse, manslaughter or homicide;

(e) Physical assault;

(f) Battery;

(g) Drug or alcohol offenses; or

(h) Weapons-related offenses.

(2) If a subject individual has been arrested for any of the crimes listed in subsection (1), the supervisor and caseworker/certifier, in consultation with the management staff as designated by the SDA Manager, shall assess the suitability of the subject individual to be a relative caregiver, foster or adoptive parent, or other person in the household and document their findings. The persons conducting the assessment shall consider and document their findings regarding the behavior or conduct that led to the arrest, how that behavior relates to the subject individual's qualifications to be a relative caregiver, foster or adoptive parent or other person in the household and whether, given the behavior that led to the arrest, the subject individual is qualified to be a relative caregiver, foster parent or adoptive parent or other person in the household. In conducting this assessment, the supervisor and caseworker shall consider the following:

- (a) The subject individual's explanation of the circumstances surrounding and the behavior that led to the arrest(s).
 - (b) The severity and nature of the behavior that led to the arrest(s):
 - (c) The number of arrests in the subject individual's history for behavior that relates to and raises concerns about that individual's qualifications to be a relative caregiver, foster or adoptive parent or suitability to be an other person in the household;
 - (d) The time elapsed since the arrest(s);
 - (e) The circumstances surrounding the arrest(s);
 - (f) Whether the subject individual was charged or indicted for a crime related to the arrest(s);
 - (g) The disposition of any charge or indictment related to the arrest(s);
 - (h) If applicable, whether the subject individual has participated in counseling, therapy, educational or employment opportunities since the arrest(s);
 - (i) When the person is seeking to provide care for a specific child, whether disqualification of the subject individual would create emotional harm to the child and placement of the child with the person would be a safe placement that is in the best interests of the child.
 - (j) Any other information related to the circumstances of the arrest(s) or the behavior that led to the arrest(s) that may relate to the subject individual's qualifications to be a relative caregiver, foster parent, adoptive parent or other person in the household.
- (3) The supervisor and worker may also obtain and review a copy of the police report of the arrest and interview the subject individual about the arrest.

(4) Under no circumstances will DHS 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.: ORS 418.005

Stats. Implemented: ORS 181.537 & 181.010 - 181.560

Hist.: SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0460

Procedures

(1) Any subject individual applying to be a relative caregiver, foster or adoptive parent, or an other person in the household shall consent to a criminal offender information records check at the time of application, and annually thereafter. All applicants shall be notified of this requirement at the time they apply for a certificate of approval or adoption approval. Criminal record check consent forms shall contain a notice that applicants for a certificate of approval, or adoption approval and an other person in a household are subject to a fingerprint-based criminal offender information records check that will be conducted as required by ORS 181.537 and 181.557 and OAR 413-120-0460(5) and (6).

(2) Adoptive applicants who have been approved as relative caregivers, foster parents or adoptive parents and who have submitted to a criminal history check within the 12 months preceding the date on which they apply to adopt may be exempt from a new criminal records check.

(3) DHS shall not issue a certificate of approval for relative or foster care or approve an adoption home if a subject individual refuses to be fingerprinted when required. DHS may deny a certificate of approval or approval as an adoptive home if a subject individual makes a false statement about having been arrested for or convicted of any crime(s).

(4) Subject individuals shall provide all information required for a criminal offender information records check, including fingerprints where required, on forms and fingerprint cards provided by DHS and according to procedures established by DHS, including:

(a) A properly completed and signed form CF 1011F from the subject individual;

(b) If the subject individual acknowledges a prior arrest or conviction for a crime listed in these administrative rules, an explanation of the relationship between the facts that support the arrest or conviction and all intervening circumstances and written authorization for DHS to verify the information;

(c) Two properly completed FBI fingerprint cards (FD 258) with red overprinting in the reason fingerprinted block from the subject individual when required.

(5) As part of the consent to a criminal records check, DHS may request subject individuals to consent to the use of their social security numbers in conducting the criminal records check. Subject individuals will indicate their consent by their signatures.

(6) DHS shall obtain and forward fingerprint cards to request criminal offender information on subject individuals from OSP and FBI as follows:

(a) If the subject individual has disclosed, or their Oregon record indicates, that they now live or have lived outside the State of Oregon anytime during the five years prior to application, DHS shall instruct OSP to conduct a fingerprint criminal offender records check through the FBI;

(b) If the subject individual has disclosed an arrest or conviction for a crime, DHS shall instruct OSP to conduct a fingerprint-based criminal offender records check through the FBI;

(c) If the subject individual's Oregon record indicates an arrest or conviction for a crime, DHS shall forward the fingerprint cards to OSP for a positive identification verification prior to issuing a denial and may instruct OSP to conduct a fingerprint criminal offender records check through the FBI.

(7) DHS may grant an exception to the fingerprint requirement as described in (5) above if DHS determines that the subject individual is unable to submit fingerprints due to a physical or mental condition that makes compliance impossible or presents an undue safety risk to applicant or staff. The Criminal History Exception Request (DHS 1011D) must be signed by the SDA manager or designee.

(8) No applicant may be issued or may retain a certificate of approval as a relative caregiver or a foster parent, or approval as an adoptive parent unless these criminal history safety standards are met:

(a) Completion of a documented check of Oregon LEDS;

(b) Authorization and initiation of the other requirements to complete the criminal history check process, including a fingerprint based criminal offender check when required for subject individuals;

(c) Granting of exceptional approval as required and authorized by 413-120-0450 for any criminal convictions either acknowledged by the applicant or reported by the criminal offender information system; and

(d) Reconsideration of the approval upon receipt of any criminal history information not available at the time of previous approval.

(9) DHS will review the criminal offender information, including fingerprint-based criminal offender information when obtained, of subject individuals. The assessment of suitability, based on the criminal history, that reflects the decision-making criteria, shall be documented and filed in the relative caregiver, foster home, or adoption home record. The LEDS, OSP and FBI reports shall not be filed in these records and shall be destroyed within 90 days. A denial of the application or certification, based on criminal history, will be considered preliminary until the subject individual has been given notice of an opportunity to challenge the criminal record report, or to request a contested case hearing pursuant to OAR 413-120-0460. Except as provided in OAR 413-120-0450(3), a finding of suitability based on criminal history is only one factor DHS will use in deciding whether to issue a certificate of approval for a relative caregiver or foster home, or approve an adoption home. The final determination to grant or deny a certificate of approval or approval of an adoption home based solely on criminal history will be made by the SDA Manager or designee. Criminal offender information received from the OSP or the FBI is confidential and shall not be released to unauthorized persons or agencies.

(10) Subject individuals who have been determined not suitable to be approved as an adoptive resource pursuant to these rules shall be denied approval for adoption of a child in the custody of DHS under rules of CAF program and policy administration.

(11) Unless an exception for approval is granted under these rules, DHS shall revoke a certificate of approval for a foster parent or relative caregiver, deny a renewal application, or remove from consideration for child placement an approved relative caregiver, family foster home, or approved adoption applicant if a subject individual is convicted of a crime in Oregon or any other jurisdiction since the time of the last approval.

(12) If DHS determines that the subject individual is not suitable for a certificate of approval for relative care or foster care, or adoption approval, based on criminal history or false statement on the application related to criminal history, unless the subject individual voluntarily withdraws from the process, the CHS field 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 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 DHS'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 DHS receives the request for a contested case hearing in writing within 30 days from the date of mailing the notice. After 30 days from the date of mailing have elapsed, designated staff within the SDA will inform the certifier or adoption worker or private agency adoption worker that either:

(A) The subject individual has been notified that he/she is not suitable for approval for relative care, foster care, or adoption based on criminal history or false statement in the application about criminal history and that the worker may not approve the relative care, foster care, or adoption application because the subject individual has waived or timely declined, to exercise his/her right to a contested case hearing regarding his/her suitability; or

(B) The subject individual has requested a contested case hearing and that the field office will be notified of the subject individual's suitability as a relative caregiver, foster care, or adoptive home provider upon issuance of the hearing decision.

(13) Upon DHS's determination that an applicant for relative care, foster care, or adoption of a child in the custody of DHS under rules of CAF program and policy administration is not suitable based on the criminal history of an other person in the household or false statement of criminal history of an other person in the household, the certifier, adoption worker, or private agency adoption worker shall:

(a) Inform the other 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 relative caregiver, foster care, or adoption applicant whose approval is affected by the other person's criminal history or false statement about criminal history, via certified mail, that:

(A) Based on the other person in the household's criminal history or false statement about their criminal history, DHS may not approve the relative care, foster care, or adoption applicant as long as the other person in the household remains in the home or provides care to children in the home; and

(B) The relative care, foster care, or adoption applicant may appeal in a contested case hearing DHS's determination of unsuitability based on the criminal history or false statement of criminal history concerning an other person in the home, provided that DHS receives the applicant's request for a contested case hearing in writing within 30 days from the date of mailing the notice to the applicant.

(14) The DHS relative care or foster care certifier, adoption worker or private adoption agency worker shall, after 30 days have elapsed from the date of mailing the notice, either:

(a) Notify the relative care, foster care, or adoption applicant that he/she is not suitable for approval for placement of a child in the custody of DHS under rules of CAF program and policy administration

based on criminal history of an other person in the household or false statement in the application of the other person, and that DHS may not approve the applicant because the applicant has waived or declined to exercise his/her right to a contested case hearing regarding his/her suitability; or

(b) Notify the relative care, foster care, or adoption applicant that since he or she has requested a contested case hearing, the field office will be notified of the applicant's suitability for certification upon issuance of the final order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & 181.010 - 181.560

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

413-120-0470

Rights for Review and Contested Case Hearings

(1) DHS shall conduct contested case hearings per ORS Chapter 183 and OAR 137-003-0501 to 137-003-0700 and shall afford relative care, foster care, or adoption applicants the right to appeal a decision made by DHS under rules of CAF program and policy administration that the applicant is not suitable for approval for placement of a child in the custody of DHS based on an authorized criminal offender information records check, or a false statement concerning a criminal records check of the applicant or other person in the household. Applicants must notify DHS in writing of their request for a contested case hearing within 30 calendar days after the notice is mailed by DHS to the applicant.

(2) DHS 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) DHS is entitled to rely on the criminal offender information supplied by OSP or the FBI until OSP or the FBI notifies DHS that information has been changed or corrected. If an applicant has timely requested a contested case hearing, DHS 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 pre-hearing conference between DHS, the subject individual and his/her legal representative, if any, 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 he/she has exercised his/her right to inspect or challenge the criminal offender information record(s) or has declined to do so.

(6) The issues at a contested case hearing under this rule shall be limited to:

(a) Whether the subject individual has made a false statement in the application about a conviction or an arrest, has refused to consent to the criminal records check or refused to be fingerprinted; or

(b) Whether the subject individual has been convicted of a crime described in 413-120-0450(3); or

(c) If the subject individual has been convicted of any crime, other than those described in 413-120-0450(3):

(A) The DHS determination that the behavior which resulted in the conviction is relevant to qualification to provide care as a relative caregiver, foster or adoptive parent, or suitability to be an other person in the household; and

(B) The relationship between the facts supporting the conviction and the intervening circumstances as affecting the qualification to provide care as a relative caregiver, foster or adoptive parent, or suitability to be an other person in the household; or

(d) The relationship between the behavior that led to arrests as affecting the qualification to provide care as a relative caregiver, foster or adoption parent or suitability to be an other person in the household.

(7) Fingerprint cards required for evidence in a contested case hearing shall be destroyed by DHS when the contested case hearing procedure and any appellate procedures are concluded and final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 409.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-

01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03

Current Caretaker

413-120-0500

Purpose

These rules (OAR 413-120-0500 to 413-120-0550) establish the process by which a current caretaker 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.: ORS 418.005

Stats. Implemented: ORS 418.285 & 418.290

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999 f. & cert. ef. 4-29-99; SOSCF 1-2001(Temp) f. & cert. ef. 1-24-01 thru 7-20-01; SOSCF 37-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 51-2003, f. 12-31-03, cert. ef. 1-1-04

413-120-0510

Definitions

These terms are defined for use in OAR 413-120-0500 to 413-120-0550:

(1) A “current caretaker” is a person currently having physical custody of a child who meets one of the following requirements:

(a) The person is a relative of the child as defined in OAR 413-070-0069(1)(a) who has had the child in his or her home consecutively for six months or longer. An exception to the durational requirement may be granted if the local office has completed a diligent search for relatives and the person who currently has physical custody is sole suitable relative. The SDA manager or designee may grant the exception if it is in the child’s best interests. The determination that the exception is in the child’s best interests must be explained in the case file.

(b) The person is a non-relative foster parent who has had the child in his or her home consecutively for six months or longer. An exception to the durational requirement may granted if the local office has completed a diligent search for relatives and determined there is no suitable relative. The SDA manager or designee may grant the exception if it is in the child’s best interests. The determination that the exception is in the child’s best interests must be explained in the case file.

(2) “Local Office Permanency/Adoption Committee”: The branch committee responsible for certain permanency and adoptions decisions, as specified in these rules. Members are selected by the local office from among the staff of the Department’s field offices. The members must not be involved in the case to be heard.

(3) A “Permanency/Adoption Council” (Council) is a council consisting of field-management staff, permanency and adoption staff, and community partners from several Service Delivery Areas (SDA), except that the council in SDA 2 consists only of representatives from Multnomah County. A Council makes decisions for children whose county of jurisdiction is within their geographic area about appropriateness of adoption as a permanency plan, sibling planning, recruitment, adoption disruptions, and adoption selections referred by the local office. It also may provide permanency staffings to decide whether to place a child with an out-of-state relative resource prior to receipt by the Department of an approved adoption home study.

(4) A “Permanency/Adoption Council Committee” is a committee responsible for decisions regarding adoptions as specified in OAR 413-110-0300 to 413-110-0360 that are not the responsibility of the local office or of the Department’s Adoption Services Unit. The two types of Permanency/Adoption Council Committees are:

(a) An ad hoc committee selected by the child’s worker. This committee consists of three people drawn from a pool of qualified permanency and adoption staff designated by the Council.

(b) The Standing Permanency/Adoption Committee. This committee is a standing committee of three persons appointed by the Council or the Council chair. Responsibilities of this committee include making decisions, such as those relating to sibling placement planning or current caretaker placement decisions, delegated by the Local Office Permanency/Adoption Committee to the Council.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.285 & 418.290

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999 f. & cert. ef. 4-29-99; SOSCF 1-2001(Temp) f. & cert. ef. 1-24-01 thru 7-20-01; SOSCF 37-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 51-2003, f. 12-31-03, cert. ef. 1-1-04

413-120-0520

Values

(1) Every child has a right to a permanent family.

(2) Decision making for a child should be guided by the child’s best interests and an understanding of the child’s current and future needs.

(3) The psychological and emotional attachments of a child to the current caretaker are of vital consideration in determining the best interests of the child.

(4) The best adoption placement selection decisions are always made as the result of a collaborative process.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.285 & 418.290

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999 f. & cert. ef. 4-29-99; SOSCF 1-2001(Temp) f. & cert. ef. 1-24-01 thru 7-20-01; SOSCF 37-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 51-2003, f. 12-31-03, cert. ef. 1-1-04

413-120-0530

Determine that Diligent Search Completed

Once the Department makes a formal decision, approved by a legal assistance specialist in the Adoption Services Unit, to proceed to free a child for adoption, or if a petition to terminate parental rights is filed by the child’s attorney, and if a current caretaker expresses interest in being a permanent placement resource for the child in his or her care, the Department determines whether a diligent search for the relatives of the child (see OAR 413-070-0060 to 413-070-0075) has been completed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999 f. & cert. ef. 4-29-99; SOSCF 1-2001(Temp) f. & cert. ef. 1-24-01 thru 7-20-01; SOSCF 37-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 51-2003, f. 12-31-03, cert. ef. 1-1-04

413-120-0540

Scheduling, Arranging, and Staffing the Current Caretaker Committee

(1) Once a diligent search for relatives has been completed, the child’s caseworker schedules a current caretaker committee. The purpose of the committee is to consider the current caretaker’s interest in being the adoptive resource for the child.

(2) The committee must be scheduled within 30 days of the child’s worker’s request, unless the SDA Manager or designee determines that there is good cause to extend the deadline.

(3) Except as provided in subsection (a), (b), and (c) of this section, the committee must consist of at least three persons, the SDA manager or designee, a supervisor, and one other staff person from the local office who is knowledgeable about permanency and adoptive planning. Other compositions of the committee are required in the following situations:

(a) If the office responsible for the child is not the office serving the county in which the current caretaker resides, the committee must consist of one person approved by the child’s local office, one person approved by the current caretaker’s local office, and a third person agreed upon by the SDA managers or designees from the two offices.

(b) If the current caretaker is a Department employee or an employee of a partner agency, the current caretaker committee must be scheduled as a Central Office adoption committee.

(c) The child’s caseworker, with the approval of his or her SDA Manager or designee, may schedule the current caretaker committee with a permanency/adoption council committee serving the child’s local office.

(4) The child’s caseworker must notify the child’s attorney and the Court Appointed Special Advocate (CASA) of the time and location of the current caretaker committee and invite them to the child-presentation portion of the committee. The child’s caseworker must notify the child’s tribe, if ICWA applies to the child, of the time and location of the current caretaker committee and invite them to the committee. The child’s attorney, CASA, and tribe may present information to the committee in person, in writing, or by phone. The child’s attorney, the CASA, and the tribe may provide the caseworker with the names of other individuals who may have significant information regarding the child’s needs. These persons may provide information in writing to the committee.

(5) At the committee, the child's worker presents information regarding the child and the current caretaker, and the foster home certifier presents information about the current caretaker. The committee considers information presented to it in person, by telephone, and in writing.

(6) If a current caretaker who has not previously requested consideration as a resource asks to be considered after the Department has requested but has not received approval of an adoptive home study on a relative resource, if recruitment has begun for general applicants, or if the date of the adoption committee has been set, the Department may consider the current caretaker if it is in the best interests of the child to do so. In making this decision, the Department will consider:

(a) The child's individual needs, including the child's attachment to the current caretaker;

(b) The potential of the current caretaker to meet the child's current and lifelong needs; and

(c) The effect on the child of the delay in permanency that may occur as a result of the new consideration process.

(7) The committee may make only one of the following recommendations:

(a) That an adoptive study of the current caretaker be completed or updated within 90 days of the date of the current caretaker staffing. An exception to this deadline must be approved in writing by the SDA manager or designee. The completed adoption home study must address all concerns identified in the staffing. If the current caretaker has a current comprehensive foster or kinship home study on file, the adoption study may be abbreviated, addressing issues of concern raised in the designated committee and current and future child-specific issues of permanency and well being.

(A) The Department will consider a current caretaker as the adoptive resource for the child, and a current caretaker restaffing is not necessary. Final approval of this recommendation is delegated to the family's adoption worker, the child's worker, and a designated member of the field office's management staff. Any of these three persons may request a restaffing by the designated branch committee.

(B) The Department will consider the current caretaker's completed adoptive home study at the current caretaker committee restaffing.

(C) A central adoption committee will consider the current caretaker as well as studied non-related adoptive families except when the current caretaker is a relative. Only other relative families may be considered with the current caretaker relative.

(D) The Department will consider a non-relative or related current caretaker with studied relative families. If the non-current caretaker relative elects not to be considered, or the Department is unable to consider the non-current caretaker relative, the current caretaker will be considered alone. A current caretaker restaffing is not necessary. Final approval of this recommendation is delegated to the family's adoption worker, the child's worker, and a designated member of the field office's management staff. Any of these three persons may request a restaffing by the designated field office committee.

(E) The Department will consider a non-relative or relative current caretaker with studied relative families. If the non-current caretaker relative elects not to be considered, or the Department is unable to consider the non-current caretaker relative, the Department will consider the current caretaker's completed adoptive home study at the current caretaker committee restaffing.

(F) The Department will consider a non-relative current caretaker with studied relative families. If the relative elects not to be considered, or the Department is unable to consider the relative, the current caretaker will be presented at a central adoption committee with the other recruited non-related adoptive families.

(b) That the committee does not find that the current caretaker is likely to be able to meet the individual needs of the child over time and cannot recommend the current caretaker as the adoptive resource for this child. In this case, no study will be undertaken by the Department. The reasons for this decision must be documented using the form CF 251. The completed form is available to any Department adoption committee that considers the current caretaker. The child's caseworker must immediately notify the current caretaker of the decision, and the Department provides to the current caretaker, in a letter, the decision and the reasons supporting it within three calendar days of the committee meeting.

(8) A current caretaker not approved as an adoptive resource by the committee may be presented to a central adoption committee upon request of the current caretaker in accordance with the following procedures:

(a) In order to be presented, the current caretaker must provide a letter of request to the child's worker within 10 days of the written notification of the local office's decision.

(b) The local office has the discretion to determine by whom and in what form information about the family will be presented to a central adoption committee. For example, the family's certifier may attend and may use the certification home study.

(c) At the discretion of the local office, the current caretaker may obtain, at no cost to the Department, an adoption home study by a state-licensed private adoption agency holding a contract with the Department for the completion of special needs adoption home studies and may be represented before the committee by the agency. In this case, the caretaker must inform the child's worker by letter within 10 days of the written notification of the committee's decision. To be considered by the committee, the approved adoption home study must be completed and made available to the committee within time lines established by the local office.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.285 & 418.290

Hist.: SOSCF 1-2001(Temp) f. & cert. ef. 1-24-01 thru 7-20-01; SOSCF 37-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 51-2003, f. 12-31-03, cert. ef. 1-1-04

413-120-0550

Review of the Local Office Permanency/Adoption Committee Decision Regarding the Current Caretaker

(1) Limited Review of Committee Decisions. The decisions provided for in these rules are subject to agency review only as provided in this rule. The agency's decision is final and not subject to a contested case hearing unless specifically provided.

(2) Review at discretion of Assistant Director.

(a) The Department's Assistant Director for Children, Adults and Families or designee (Assistant Director) may, on his or her initiative, review an adoption committee's decision. If there is no request for review, and if the Assistant Director decides to review the decision of an adoption committee, he or she must decide to conduct the review within seven calendar days after the decision of the adoption committee is issued, measured from the date of the committee.

(b) After deciding to review the committee decision, the Assistant Director gives notice to the child's worker, the worker's supervisor, the Service Delivery Area Manager, the adoption workers, and the committee chair.

(3) Scope of Review. The review when requested by someone other than the Assistant Director is limited to a review of the process used to select the committee and the decisions made by the adoption committee.

(4) Only the following people may request a review under this rule:

(a) The child's caseworker, with approval of the case worker's supervisor and SDA manager or designee.

(b) The child.

(c) The child's attorney.

(d) The Court Appointed Special Advocate (CASA) for the child.

(e) A current caretaker who was considered.

(f) A person who was considered but not selected who alleges that placement of the child was denied or delayed because of the location of the individual.

(5) Deadlines. A request to review an adoption committee's decision must be submitted to the Adoption Services Unit Manager or designee and must be received within seven calendar days after the date of the committee.

(6) Decision and Notice of Intent to Review. If the Assistant Director receives a request for a review, the Assistant Director must decide whether to review the decision of the committee within seven calendar days after the deadline described in section (5) of this rule. After deciding whether to review or not to review the committee decision, the Assistant Director gives notice to the requestor, the child's worker, the worker's supervisor, the SDA manager or designee, other adoption workers, and the committee chair.

(7) Assistant Director's Actions. If the Assistant Director gives notice of intent to review, he or she may:

(a) Send the decision to an appropriate committee, with instructions to gather or review information or consider additional issues, and to issue a decision;

(b) Conduct a review of all relevant files and information, issue a decision affirming or changing the committee's decision, and, if appropriate, directing a legal risk placement or adoptive placement; or

(c) Appoint an employee of the Department to conduct a review of all relevant files and information, and make a recommendation to the Assistant Director to affirm or change the committee's decision and, where appropriate, recommend a legal risk placement or adoptive placement.

(8) Assistant Director's Decision is Final. The decision upon review by the Assistant Director is a final order in other than a contested case.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 51-2003, f. & cert. ef. 12-31-03, cert. ef. 1-1-04

Openness and Post-Adoption Communication

413-120-0600

Purpose

The purpose of these rules OAR 413-600-0005 through 0035 is to provide guidelines for a cooperative adoption planning process, as well as procedures for developing Post Adoption Communication Agreements (PACA), funded and managed by the Department's Adoption Services Program Unit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0610

Definitions

(1) "Birth Relatives" means birth parent(s), grandparents, siblings and other members of the child's birth family, pursuant to ORS 109.305.

(2) "Child Welfare Mediator" means a neutral third party who meets or exceeds Department qualifications to provide mediation services for mediation participants in the cooperative adoption mediation process, and has a legal assistance mediation contract with the Department.

(3) "Department" means the Department of Human Services.

(4) "Legal Assistance Mediation Program" means, for the purpose of these rules, services contracted through the Department Legal Assistance program to assist the birth family and the identified adoptive family to participate in a cooperative adoption process that may result in an Post Adoption Communication Agreement (PACA).

(5) "Legal Assistance Referral" means an attorney client privileged document used to prepare the termination of parental rights petition and or trial preparation work.

(6) "Legal Assistance Specialist (LAS)" means a central office Department staff who provides a vital link in the execution of the technical and legal processes of the alternative permanent plans for children whose best interests are not served by returning to their families of origin.

(7) "Cooperative Adoption Mediation or Mediation" means a process in which a trained neutral third party assists parties in voluntarily reaching mutually acceptable resolution of issues, as well as assisting the parties in establishing relationships built on mutual trust and respect. Throughout these rules OAR 413-600-0005 through 0035 "Cooperative Adoption Mediation" will be referred to as "Mediation."

(8) "Mediation Communications" means, as defined in ORS 36.110(8):

(a) All communications that are made, in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and

(b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or by a mediator, a mediation program or a party to, or any other person present at, mediation proceedings.

(9) "Mediation participants" means persons who will be working directly with the mediator in the cooperative adoption mediation process

and who will be responsible for the creation and implementation of any PACA that results.

(10) "Parties" means those participants whose signatures are necessary for the PACA to be implemented and are subject to enforcement of ORS 109.305.

(11) "Post Adoption Communication" means the manner and frequency of contact and communication between the birth family and the child and/or the birth family and the adoptive family.

(12) "Post Adoption Communication Agreement (PACA)" means a written agreement for post-adoptive communication, signed by birth parent(s) and adoptive parent(s) and is based on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0620

Values

(1) Support and Safe Communication: Every healthy family requires support. Families created through adoption have different support needs than biological families in that the child is connected to more than one set of parent(s). One important aspect is the need for continued safe connection and communication between biological and adoptive families, to the extent that it is consistent with the health and safety needs of the child.

(2) Collaboration: The child and their families benefit when the significant adults in their lives work collaboratively to identify and respond to the individual needs of the child. The significant adults for a child in foster care may include, but are not limited to: biological parent(s), prospective adoptive parent(s), child welfare workers, CASA, attorneys, and others.

(3) Empowered, Informed Decisions: Families, and individuals within them, are capable of making decisions about their lives. They should be empowered to make those decisions that affect the cooperative nature of an agreement for post adoption communication, whenever possible. In order for their decisions to be effective, they may need to be informed by a wide range of people and sources about a variety of adoption related issues.

(4) Mediation as Tool: Mediation is a process that can play an important role in developing effective communication between those families seeking to participate in a cooperative adoption planning process. Qualified mediators can provide assistance in the cooperative adoption planning process by providing a safe and constructive atmosphere for effective communication.

(5) Voluntary Commitment to Cooperate/Participate: Mediation is most successful when the adoptive parent(s) and biological parent(s) participate voluntarily. Their commitment to a cooperative planning process to support the lifelong safety and well-being of their child is an essential aspect of this success. It is these parent(s) who are the ultimate decision makers about this agreement and are responsible for maintaining the agreement throughout the life of the child.

(6) No Coercion: The cooperative adoption mediation process is meant to be a tool that is used to achieve a result that is in the long term best interest of the child. It is not meant to be used coercively for unilateral gain.

(7) Flexibility: PACAs should be flexible in responding to the child's maturity and developmental needs, or changes in the lifestyles of the birth and adoptive parent(s). Flexibility in these agreements will support the on-going nature of the cooperative relationship that is formed and fostered through the cooperative adoption process.

(8) Benefits of the PACA for the child may include, but are not limited to:

(a) Having knowledge and information about his/her birth family,

(b) Having an ability to maintain birth family identity,

(c) Having a good model of effective communication,

(d) Having a realistic understanding of the circumstances of the birth parent(s),

(e) Having a sense of well-being fostered by adoptive and birth parent(s) working collaboratively to support the needs of the child,

(f) Having a better ability to process important life transitions as the child grows into an adult,

(g) Having an opportunity to appropriately grieve the loss of the birth family, and

(h) Having the permission of the birth parent(s) to become a member of the adoptive family.

(9) Benefits of the PACA for the adoptive parent(s) may include, but are not limited to:

(a) Having an understanding of who the biological family is;

(b) Having an exchange of on-going information such as medical and other important life information;

(c) Supporting the child's need to be connected to the birth family;

(d) Having the sense of accomplishment that is associated with positive cooperative relationships;

(e) Helping the child to appropriately grieve the loss of the birth family; and

(f) Having the permission and the support of the birth parent(s) to help the child to become a member of the adoptive family.

(10) Benefits of the PACA for the birth parent(s) may include, but are not limited to:

(a) Knowing their child is in a safe and secure environment,

(b) Having a better ability to process loss of a child and the transition to a new family,

(c) Having an exchange of on-going information such as medical and other important life information,

(d) Having the sense of accomplishment that is associated with positive cooperative relationships,

(e) Being able to get on-going information about the life of the child,

(f) Having a sense of closure related to the loss of the child, and

(g) Having assisted their child to successfully become a member of the adoptive family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0625

Roles and Responsibilities

(1) Child's caseworker: The child's caseworker represents the custodian of the child and assesses the appropriateness of mediation for cooperative post adoption planning for the children on their caseload. The child's caseworker consults with the supervisor and LAS, and seeks input from other interested persons. The decision to refer a case to mediation is based on the best interest of the child and whether the child's safety and permanency needs will be met with post adoption communication. The child's caseworker consults with an adoption worker, if assigned, or the identified adoptive parent(s) and the birth parent(s) about willingness to participate in the cooperative adoption mediation process. The child's caseworker initiates the referral to mediation and is the primary contact for the contract mediator.

(2) Adoption worker: The adoption worker connects to the cooperative adoption mediation process, selected adoptive parent(s) (including preliminary current caretaker families) of children who may benefit from post adoption communication. The adoption worker collaborates with the child's worker to identify benefits of the cooperative adoption mediation process and documents safety concerns to be communicated on the Mediation Referral Form.

(3) LAS:

(a) The LAS ensures that legal assistance mediation or cooperative adoption mediation services are included in the discussions of the plan to free the child for adoption (by relinquishment or termination of parental rights.) The LAS determines, in consultation with the child's worker and the legal assistance attorney, whether cooperative adoption mediation planning meets the child's best interest post adoptively. If the referral is appropriate the LAS approves the Referral for Mediation (**CF 0437**). The LAS confers with the child's caseworker when the caseworker determines that the PACA may not meet the safety concerns of the child. The LAS advises the child's caseworker on additional requirements related to Indian children.

(b) The outcome of the procedures to terminate parental rights shall not be the basis of ending the cooperative adoption mediation process.

(4) Contract Mediator: The contracted mediator for the cooperative adoption mediation process assists mediation participants in clarifying issues and stating expectations. The mediator is a neutral third party who assists the mediation participants in exploring options and empowers the mediation participants to make decisions through the

confidential cooperative adoption planning process. The mediator will not make or impose decisions about the final outcome of the PACA.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0628

Criteria for Using the Cooperative Adoption Mediation Process

(1) The fundamental criteria for referring a child for a cooperative adoption mediation process is the best interest of the child's well-being, permanency and safety. It is the responsibility of the department to determine if a referral for mediation is appropriate in accordance with the criteria of OAR 413-120-0628(1) through (3).

(2) Parent(s) who actively chose adoption for their child through voluntary relinquishment of parental rights and who do not present a danger to their child or to an adoptive family, may be most appropriate to participate in a cooperative adoption mediation process. However, parent(s) who have an adversarial relationship with the Department may be able to work cooperatively with a mediator and the adoptive family in a cooperative adoption mediation process.

(3) The decision of a birth parent(s) to relinquish parental rights or a Department decision to proceed to a termination of parental rights trial must be made independent from the Department's decision to refer a case for cooperative adoption mediation. One decision must not be conditioned upon the other.

(a) Relinquishment or termination of parental rights resolves the child's legal status;

(b) The cooperative adoption mediation process is not a means to avoid a termination of parental rights trial. At no time shall a voluntary relinquishment be conditioned on the willingness of the birth parent(s) and/or adoptive parent(s) to enter into a cooperative adoption mediation process;

(c) Caseworkers may not guarantee a certain level of openness in adoption nor make any promises regarding the cooperative adoption mediation process to convince a parent(s) to voluntarily relinquish the child for adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0630

Post Adoption Communication Agreements (PACAs)

(1) The cooperative adoption mediation process allows the mediation participants to make an informed and self determined decision after exploring the full range of options available to them. These decisions may be memorialized in a PACA. Post Adoption Communication Agreements make the most sense in situations where birth parent(s) are working with the agency to plan adoption, and where voluntary relinquishment of parental rights will be the mechanism to free the child for adoption rather than termination of parental rights. Parents who actively choose adoption for their child, and who do not present a danger to their child or to an adoptive family, are appropriate for a Post Adoption Communication Agreement.

(2) The PACA must address the safety concerns listed in the **Mediation Referral Form**.

(3) The PACA must not condition the terms of agreement upon the decision of the birth parent(s) to relinquish parental rights.

(4) Informed decision making in mediation involves giving the participants the opportunity to make self-determined decisions after exploring options that may impact the terms of their final agreement. The following characteristics should be considered in forming a PACA:

(a) It is based on the individual needs of the child and capable of meeting the child's developmental needs over time;

(b) Reflects the intent of relationship building in order for the adoptive parent(s) to meet the needs of the adopted child through growth and development;

(c) It is clear and can be understood by the mediation participants;

(d) It addresses how contingencies will be handled. For example: failure to adhere to the terms of the agreement by any mediation participant; requests for informal changes to the terms of the agreement, etc.

(e) It includes a procedure for modifying the agreement to meet the changes of the child through growth;

(f) It addresses how costs to support the agreement, such as transportation, counseling, supervision of visits, and letter and picture exchanges will be met.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0635

Cooperative Adoption Planning Through Legal Assistance Mediation Services

(1) Department will provide information on an ongoing basis to birth and adoptive families, Department staff, and other interested persons in the child's life: Information regarding the value and benefits of cooperative adoption planning; the use of mediation as a tool to achieve a cooperative adoption; and, the roles of all mediation participants in the cooperative adoption process. This concurrent planning education will take place early and often throughout the case. (*See Flow Chart Box 1 & 2*)

(2) The birth parent(s), identified adoptive parent(s), CASA, child, attorneys of record, Citizen Review Boards and other persons interested in the child's need for permanency, safety and well-being may request that the case be referred for cooperative adoption mediation services. (*See Flow Chart Box 3.*)

(3) The Department will obtain input from interested persons, prior to or during the cooperative adoption planning process, regarding the appropriateness of cooperative adoption planning to address the child's permanency, safety and well-being. (*See Flow Chart Box 4.*)

(4) On an ongoing basis, Department staff will explore the willingness of the birth and adoptive parent(s) to engage in the cooperative adoption planning process through mediation. (*See Flow Chart Box 5.*)

(5) A Mediation Referral Form must not be submitted until a committee has selected the adoptive parent(s) for a child, either at the preliminary current caretaker or adoption committee, and until the case has been staffed and approved for mediation by a LAS. See OAR 413-120-0500 through 0540 (1-G.1.1 Non relative Current Caretaker Adoption Planning), and OAR 413-120-0000 through 0080 (1-G.1.5, Adoption Placement Selection.)

(6) To support the development of a cooperative adoption planning process through mediation, the Department must have the following responsibilities:

(a) After a Legal Assistance Referral has been approved, the caseworker must consult with the LAS and the assigned legal assistance attorney. Consultation must address whether the birth parent(s) present a continuing threat to their child and/or adoptive parent(s), and whether a plan for openness in adoption will meet the individual needs of the child;

(b) If parent(s) want to plan cooperatively and there is no approval for a legal assistance referral an exception can be made to allow for a referral for mediation using the criteria provided in OAR 413-600-0068.

(c) The child's caseworker must obtain from the birth parent(s) and from the adoptive parent(s), if no adoption worker is assigned, a signed DHS 2098 Authorization for Use and Disclosure of Non-Health Information and DHS 2099 Authorization for Use and Disclosure of Health Information to the mediator;

(d) To request mediation services funded through the Legal Assistance program, the child's caseworker, or in some cases, the adoptive parent(s)'s worker must make referrals for cooperative adoption mediation on the **CF 0437 Mediation Referral Form**. The child's caseworker, in consultation with the adoptive parent(s) worker, if assigned, must list on the Mediation Referral Form, benefits specific to the individual case and safety concerns that, if an agreement is reached, must be met in a written PACA. The form should be prepared with the understanding that the birth parent(s) and adoptive parent(s) will be receiving a copy of the form.

(e) The child's caseworker, and in some cases, the adoptive parent(s)'s worker, must provide to the mediator, on the **CF 437b Contact Information Form**, information of the mediation participants, and other collateral resources when applicable.

(7) In order to allow for informed decision-making by the adoptive parent(s) in the cooperative adoption mediation process, the adoption worker must:

(a) Provide the adoptive parent(s) with the case materials itemized on the **Form CF 963**;

(b) Review with the adoptive parent(s) the statement of benefits to the child for cooperative adoption planning listed on the Cooperative Adoption **Mediation Referral Form CF 0437**;

(c) Obtain from the adoptive parent(s) a signed Authorization of Use and Disclosure of **Non-Health Information Form DHS 2098** and a signed Authorization for Use and Disclosure of Health Information From DHS 2099 authorizing release of information to the mediator;

(d) Be responsible to contact the mediator if the adoption worker is assigned after the cooperative adoption mediation process has already begun.

(8) The Cooperative Adoption Mediation Referral form must be forwarded to the central office LAS assigned to the local Department office for approval of funds disbursement. If funds are approved, Central office staff must notify the mediator that funds have been approved and that the mediation service may begin. (*See Flow Chart Box 6.*)

(9) A child welfare mediator contracted to provide cooperative adoption mediation must have the following responsibilities:

(a) The mediator must keep confidential all mediation communications. (ORS 36.220-25.238 and 410-006-0011);

(b) The mediator must accept referrals from the Department on the Cooperative **Mediation Referral Form CF 0437**;

(c) Within two weeks of receiving the CF 0437, the mediator must contact the child's worker and the adoption worker of the selected adoptive family for additional information on the case and further discussion of the Department's safety concerns, if needed (*See Flow Chart Box 7.*);

(d) After contacting the child's worker and the adoption worker, but within the two week of receiving the CF 0437, the mediator must contact the birth parent(s) and adoptive parent(s) to begin mediation services,

(e) The beginning of the mediation process, the mediator must inform the mediation participants about the mediation process, explain their role and responsibilities during the process, provide them with a copy of ORS 109.305, review the mediation referral form with the mediation participants and provide them with a copy, and if the mediation participants choose to continue in mediation, obtain their signature on the Agreement to Mediate Form (*See Flow Chart 8a.*);

(f) The mediator must make collateral contact with professionals involved in the case including, but not limited to, children's attorney, CASA, and birth and adoptive parent(s)' attorneys. If requested, the mediator must also keep informed, the Assistant Attorney General or Deputy District Attorney assigned to the case;

(g) If the mediation participants reach agreement and the mediation participants desire it, the mediator must draft a PACA. The PACA must address the mediation participant's issues and the documented safety concerns as set forth in the Mediation Referral Form (*See Flow Chart 9.*);

(h) The mediator must provide the draft PACA to the mediation participants and must encourage the mediation participants to review the draft with legal counsel;

(i) Once the mediation participants have approved the draft, the mediator must provide the child's worker with the proposed PACA for the review and concurrence that it meets the safety needs of the child.

(10) The Department has the following additional responsibilities:

(a) The child's caseworker must review the draft PACA solely for the purpose of assessing whether it will meet the safety needs of the child, as set forth in the Mediation Referral Form (*See Flow Chart Box 9.*);

(b) If the child's caseworker concludes that the PACA meets the safety needs of the child, the child's caseworker or other agency representative must sign the final PACA. (*Flow Chart Box 11(b).*)

(c) If the child's caseworker concludes that the PACA may not meet the safety needs of the child, the child's caseworker must notify the LAS. The LAS must inform the mediation participants in the form of written communication sent to the mediator ("LAS Notice"). The LAS Notice must state the continued safety concerns for the child. (*See Flow Chart Box 11(a).*)

(11) A contracted mediator has the following additional responsibilities:

(a) If the mediator is informed through a LAS Notice (*see Flow Chart, Box 11*) that the PACA does not meet the safety needs of the child, the mediator must set another mediation session with the mediation participants, and an agency representative, if requested by the mediation participants. The mediator may consult with the child's caseworker for clarification about the LAS Notice before setting the additional mediation session.

(b) If the additional mediation session results in a revised draft PACA, the mediator will repeat the processes outlined in (9)(g) through (10)(c) in this rule.

(c) After the Department determines that the revised draft PACA meets the safety needs of the child, the mediator must arrange for the mediation participants and an agency representative to sign the agreement (*See Flow Chart 11(b)*);

(d) If no agreement can be reached, the mediator must send a letter summarizing the situation to Central Office with the final invoice.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

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.: HB 2004

Stats. Implemented: HB 2004

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

413-120-0810

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR 413-120-0800 to 413-120-0830:

(1) "Child's Worker" is the Department of Human Services (the Department) staff person assigned primary responsibility for a child served by the Department.

(2) "Legalization" is the process of finalizing an adoptive placement so that an adoption decree is issued by a court. "Legalization" is often used interchangeably with "finalization."

(3) "Legally free" means that, with respect to a child, the legal rights of all parents with legal standing have been judicially terminated, voluntarily relinquished, or otherwise dispensed with so that the child may be adopted.

(4) A "Legal Risk Placement" is a placement that occurs when the Department believes that an adoption is in the best interest of the child; that the child is placed in an approved adoptive home; and that the agency intends to approve this placement for adoption if the child becomes legally free for adoption.

(5) "Placement for the purpose of adoption" means a legal risk placement or an adoptive placement.

(6) "Supervising worker" is the worker providing supervision to the adoptive placement.

(7) "Supervision" means to monitor and support the child and the adoptive family, to document the status and adjustment of the child and the adoptive family, and to provide related services towards the legalization of the adoption. Supervision is carried out through, among other things, face-to-face contact, phone contact, correspondence, contact with third parties, and observation.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 24-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 32-2003, f. & cert. ef. 10-1-03

413-120-0820

Values

(1) The Department should seek the active participation of adoptive families in decision-making for the children placed in their homes for adoption.

(2) Creating legal relationships in a timely manner is important in achieving permanency for a child.

(3) During the supervision period, the Department or its contracted agents will monitor safety standards and a child's physical, mental, and emotional needs.

(4) The Department should complete all activities necessary to achieve finalization of the adoption plan in the most timely way possible.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 24-2001, f. 6-29-01 cert. ef. 7-1-01;

CWP 32-2003, f. & cert. ef. 10-1-03

413-120-0830

Procedures

(1) Case responsibility for children in adoption placements is explained in the Department's Child Welfare policy I-B.3.3, "Sharing and Transfer of Case Responsibility."

(2) Supervision of the placement of a child placed with an adoptive family includes support for the adoptive family in providing optimal care for the child during the integration process and assistance in achieving timely legalization of the adoption. The supervising worker is responsible for the following:

(a) Face-to-face visits with the child and the adoptive parents at least once every 30 days until legalization to assess safety standards, the child's physical, mental, emotional, and adjustment needs, and the quality of the relationship between the adoptive parents and the child. The supervising worker must document the date and content of face-to-face visits in the case file.

(b) Referrals for 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 the administration reviews required by Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, throughout the supervisory period, except in the case of a legal risk placement, for which the child's worker always has this responsibility.

(e) Completion of a progress report twice a year. The form CF 147B, "Substitute Care Case Review, Substitute Care Narrative," can be used as the progress report if it includes specific information about the child's adjustment in the adoptive placement.

(3) After a child is legally free for adoption and has lived for at least six consecutive months in the home of a current caretaker, as defined in OAR 413-120-0830(1), and when it is in the child's best interests, it is the expectation that the worker, within 30 days after designation of the placement as adoptive, will submit to the Department's Adoption Services Unit:

(a) All materials needed for the establishment of Adoption Assistance (if Adoption Assistance is being requested for the child and an application has not been previously submitted); and

(b) All materials required for the child's permanent adoption record.

(4) Protective service concerns must be addressed following local office sensitive-issue procedures, and actions taken to resolve the concerns will be documented in the case record by the worker.

(5) Non-protective services concerns must be addressed with the supervisor or designated local office authority, and actions taken to resolve concerns will be documented in the record by the worker.

(6) The worker supervising the adoptive placement or the adoption worker, with concurrence of the supervising worker, must make a recommendation to the Department's Adoption Services Unit regarding the readiness of the adoption to finalize upon completion of the supervisory period, 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 the Adoption Services Unit; and

(d) Availability of post-legal adoption services.

(7) If the placement is not supervised by the child's worker, the worker supervising the placement must send a final progress report to the child's worker in addition to sending it to the Department's Adoption Services Unit.

(8) The length of the supervision period is individually determined consistent with the readiness of the child and the adoptive family to finalize and in keeping with requirement of the federal Adoption and Safe Families Act to make reasonable efforts to finalize the child's permanency plan in a timely manner.

(9)(a) Six months is the standard supervision period for a child in the Department's custody who is placed in a non-current caretaker (relative or non-relative) adoptive home. Consistent with OAR 413-120-0830(3), the supervision period is waived for a child being adopted by the current caretaker.

(b) The standard six-month supervision period may be waived for a child under the age of two years who is being adopted by a non-current caretaker family upon agreement among the child's worker, the adoption worker, and the adoptive family that it is in the best interests of the child to move toward finalization prior to six months of placement. To obtain a waiver, the adoption worker must request it in writing from the Department's Adoption Services Unit manager.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 24-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 32-2003, f. & cert. ef. 10-1-03

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. Adoption Assistance is a state-administered program for eligible Oregon children. Establishment of adoption assistance for children placed into Oregon from another state is the responsibility of the sending state.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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; SOSCF 8-1999, f. & cert. ef. 5-17-99;

413-130-0005

Values

(1) Every child needs and deserves a safe, nurturing and permanent home.

(2) Where eligible adoptive families and children need individualized supports, and meet the criteria for the Adoption Assistance Program, the Adoption Assistance Program should be used.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 99-514 & PIQ 88-06

Hist.: SOSCF 8-1999, f. & cert. ef. 5-17-99

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. Financial benefits are funded by DHS's adoption assistance budget. Assistance can be in the form of cash and/or medical coverage, an agreement only or special payments.

(2) "Adoption assistance benefits" means all or any portion of the adoption assistance package of benefits which include monthly payments, nonrecurring payment, special payments and medical assistance.

(3) "Adoption Assistance Review Committee" is a committee composed of DHS field and central office staff who have expertise in the area of adoption. It meets monthly, or as necessary, to provide recommendations regarding the type of benefits in situations where a review has been requested as part of the negotiations process.

(4) "Agreement only" is an agreement between DHS 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.

(5) "Medical assistance" means payment for medical services in accordance with the administrative rules of DHS.

(6) "Monthly Payments" means adoption assistance payments paid monthly by DHS to the family on behalf of the child which are determined by negotiation between the adoptive family and the agency worker, considering relevant factors which include but are not limited

to the needs of the child, the services required to meet those needs, cost of such services, the family's ability to pay for the services, and the community resources available.

(7) "Nonrecurring payment" means a one-time payment up to \$1,500, which DHS may pay to an adoptive family to assist with the expenses incurred in legally finalizing the adoption of a special needs child. Nonrecurring expenses may include 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.

(8) "Payment" means cash assistance to adoptive families to meet the child's needs.

(9) "Qualified Vendor Attorney" is an attorney who agrees to accept DHS's rate of reimbursement as payment in full for finalizing the adoption of a child who is eligible for adoption assistance.

(10) "Special payments" means 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 as negotiated between DHS and the family.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330-418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06

413-130-0020

Special Needs Eligibility Criteria for Children

A child who is in the custody of DHS or a licensed adoption agency in Oregon and is the responsibility of agency for placement and care, 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) For children under the jurisdiction of the court, a signed relinquishment; or

(d) For children not under the jurisdiction of the court, a signed relinquishment and a subsequent court finding signed within 6 months of the date the child was last living with the parent that it would be contrary to the welfare of the child to return home at that time; or

(e) In the case of an orphan, verification of the death of the parent(s).

(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

(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. The only exception to this requirement are situations where it would not be in the best interest of the child, for example where the child has significant emotional ties to the relative or foster parent seeking to adopt the child. The reason for any such exception must be fully documented in the record.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0030

Eligibility for Nonrecurring Costs Reimbursement

A separate federal statute, Public Law 99-514, provides for the reimbursement of nonrecurring costs directly related to the adoption process. All children who meet the above criteria (See OAR 413-130-0020), will also be eligible for payment of the nonrecurring costs. In addition, children being adopted by an Oregon resident who are not the responsibility of DHS or an Oregon licensed adoption agency, shall also be eligible for nonrecurring reimbursement if all other eligibility requirements are met. (See OAR 413-130-0020.) If the child is eligible for adoption assistance through a state other than Oregon, the other state is responsible for any nonrecurring costs.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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;
 SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02;
 SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0040

Title IV-E Eligibility

(1) DHS 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 DHS in establishing Title IV-E eligibility. Children who meet the special needs criteria, but are determined to be ineligible for Title IV-E, will be eligible for state-funded adoption assistance.

(2) In addition to the special needs criteria a child must meet the following criteria at time of removal to be Title IV-E eligible:

(a) Financial Needs Criteria:

(A) The child's eligibility for Title IV-E was established while in foster care or other substitute care; or

(B) A child removed from his/her parent(s)' home was AFDC eligible (rules in effect July 16, 1996) 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 (rules in effect July 16, 1996) in the month court action for the child's removal was initiated, or the child would have been AFDC eligible (rules in effect July 16, 1996) in the relative's home had the relative applied; or

(D) The child was voluntarily relinquished and found AFDC eligible (rules in effect July 16, 1996) in the month the court was petitioned to review the removal of the child from the home by voluntary relinquishment; or

(E) The child was voluntarily placed with the public or private agency in out-of-home care and was AFDC eligible (rules in effect July 16, 1996) 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 placed with his or her minor parent whose costs in a foster family home are covered by the foster care maintenance payment being made for this or her minor parent.

(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 signed within six months of the month the child last lived with a specified relative if the child's removal was via parental relinquishment only. Documentation of the date of the signing of the court order is necessary; or

(C) A contrary to the welfare ruling is not required for children receiving SSI.

(D) A court order finding made within 180 days of a child voluntarily placed into care, and signed within 6 months of the date the child was last living with the parent.

(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 relative as defined by Title IV-E criteria, (OAR 413-100-0000 through 413-100-0360) 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 relative as defined by Title IV-E criteria, (OAR 413-100-0000 through 413-100-0360) within six months prior to the month court proceedings leading to the judicial removal of the child were initiated.

(3) In addition to the requirements of number (2) of this rule, at the time adoption proceedings are initiated each child's IV-E adoption assistance eligibility must be reviewed to ensure continued Title IV-E eligibility. This review shall include a determination as to whether the following requirements are met:

(a) Financial Need: the child's resources must remain under \$10,000; and

(b) Deprivation: the child must continue to be deprived of parental support, i.e. absence of a parent or unemployment, underemployment or incapacity in a two parent household.

(4) To determine the eligibility of children leaving the adoptive home, see 413-130-0110(8).

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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;
 SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0050

Title IV-E Eligibility 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, DHS 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.

(1) For adoptive families currently receiving a foster care payment for the child to be adopted, there can be many costs associated with the adoption. It is the expectation of DHS that there shall be no gap in service and that the foster care payment and medical coverage shall not be discontinued until the adoption assistance is negotiated, agreements are signed and adoption assistance benefits begin.

(2) Recruited families for special needs children often have significant cost associated with incorporating the child into the family. It is the intention of DHS to provide foster care payments and medical coverage to these families pending the beginning of the adoption assistance benefits in order to support the placement. Non IV-E eligible children placed with relatives will not be eligible to receive foster care payments.

(3) When the child is fully free for adoption, the DHS worker shall complete the adoption assistance agreement with the family and submit it to the Adoption Assistance program no later than 60 days from the date the family is selected. Within 60 days of the receipt of the completed adoption assistance agreement, adoption assistance staff shall complete the processing of the application.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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;
 SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0060

Agreement Only

(1) An agreement only shall be entered into between DHS 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, DHS and shall automatically terminate upon the child's 18th birthday.

(3) A written request to the agency by the adoptive parent(s) to renegotiate an agreement only will be made prior to initiation of adoption assistance benefits. 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) If a family determines it does not want an agreement, the family must document this choice for the file by notifying the agency in writing that they will not accept an agreement.

(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.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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;

SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0070

Monthly Payments

(1) The rate of monthly payments shall be determined by negotiation between the adoptive family and the agency worker. If necessary, the adoption assistance coordinator shall conduct the final negotiation and any future renegotiation. Consultation from the adoption assistance coordinator is available during the negotiation.

(2) To establish the amount of a monthly adoption assistance payment, agency staff shall consider relevant factors which include but are not limited to the needs of the child, the services required to meet those needs, cost of such services, the family's ability to provide these services, and the community resources available.

(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 the child's current needs and family circumstances. The monthly benefits will take effect upon completion of the adoption assistance agreement for a child who is fully free for adoption and in a home that DHS central office or the private agency has designated as the adoptive placement.

(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 and Personal Care 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 with supporting documentation such as CDRC reports, therapist assessment, school report or psychological evaluation.

(6) Upon the divorce of adoptive parents, DHS may request updated information, including financial, to reflect the change in family circumstances. Upon receiving a request from an adoptive parent for change of payee due to divorce, DHS will notify the other parent of the request. If the change of payee is challenged, a written agreement regarding the change of payee, or a legal document designating the payee, is required. If the change of payee is challenged, DHS may withhold the payment until agreement is reached.

(7) The foster care payment made to the adoptive family prior to the initiation of adoption assistance agreement shall be discontinued when the adoption assistance benefits begin. Central office adoption assistance support staff will close the foster care payment when the adoption assistance benefits begin and 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 benefits. Medical coverage for the child may change. See Medical Assistance, rule number 413-130-0100 of these rules.

(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) DHS or a private agency has designated this family as the adoption placement.

(10) Actual payment may be retroactive to the date of the signed adoption assistance application if the child was fully free and in the

designated placement on this date, and no foster care payment was made for the same period.

(11) Adoption assistance payments will be made at the end of each month of eligibility.

(12) Adoption Assistance benefits paid to adoptive parents by the agency shall be inalienable by any assignment or transfer and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of this state.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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;

SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0075

Renegotiation of Amount of Monthly Payment

(1) DHS shall annually query parents receiving adoption assistance benefits to determine whether circumstances have changed, and if they are requesting a change in adoption assistance benefits.

(2) An adoptive parent may request an increase in the agreed-upon amount of adoption assistance benefits based upon the following:

(a) Changes in the child's needs. Parents shall provide substantiating documentation to DHS upon a request from DHS;

(b) Changes in the family's circumstances. Parents shall provide substantiating documentation to DHS upon request from DHS.

(3) Renegotiation of the monthly payment amount shall be based on consideration of relevant factors which include but are not limited to the current needs of the child, the services required to meet those needs, cost of such services, the family's ability to pay these services, and the community resources available.

(4) The renegotiated adoption assistance monthly payment amount shall in no case be retroactive more than 24 months.

(5) When a change in monthly payment is negotiated, a new agreement stating the adjusted amount must be signed by the parents and the adoption assistance coordinator prior to instituting the new payment rate.

(6) If, after negotiation, the adoptive parent does not agree with the revised amount, the parent may appeal this decision per Appeal Procedures of Adoption Assistance, OAR 413-130-0120.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.330 - 418.340, PL 96-272, PL 99-514 & PIQ 88-06

Hist.: SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0080

Nonrecurring Payment for Adoption Expenses

(1) DHS may make a one-time payment of up to \$1,500, nonrecurring payment to an adoptive family to assist with the costs incurred in legally finalizing the adoption of a special needs child. 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 during travel when necessary to complete the adoption process. This payment may not duplicate expenses covered by Interstate Compact for Placement of Children expenses covered by DHS contract with a private agency, or expenses already covered by some other resource available to the adoptive family.

(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 expenses. It is the responsibility of the adoptive family to choose a privately retained attorney or enter into an agreement with an DHS "vendor" attorney. Vendor attorneys are those who have an agreement with DHS to process DHS adoptions for the currently established vendor fee plus costs for filing and birth certificates. DHS will make payment directly to the vendor attorneys after adoption is legalized. For other attorneys, the adoptive family is responsible for payment and DHS will reimburse the family for reasonable charges. Reasonable charges will be considered equal to the current vendor rate,

and only in extraordinary circumstances may a higher amount be considered.

(4) Nonrecurring payments will be made when the agency receives the final order of adoption.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.330-418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06

413-130-0090

Special Payments, Nonrecurring Payment for Adoption Expenses

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 DHS and the family. These expenses may be authorized by DHS for a limited duration, subject to the agency's discretion and availability of resources. Documentation shall be made available to DHS by the family when requested. Payment will be made to the adoptive family who will then be responsible to reimburse the provider for services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

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, Temporary Assistance to Needy Families (TANF), 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 TANF 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 Health Plan, and the child has a documented special need for medical or rehabilitative services, or services that preclude adoption without receipt of 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 DHS.

(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 placed outside the adoptive home, and is eligible for federal funding through Title IV-E or SSI, the state in which the child resides will provide medical coverage in accordance with the rules of that state even if the adoptive family resides in a separate state;

(b) If the adoptive family moves to another state, or the child is placed for adoption in a state other than Oregon, DHS will provide the documentation necessary to assist the adoptive family to obtain Medicaid coverage;

(c) DHS 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 rules of the Oregon Health 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

except in those cases where the other state will provide the Medicaid coverage. (See (3) above).

(5) An adoption assistance agreement shall be signed by the adoptive parents and SOSCF DHS which documents that the child is eligible for adoption assistance, and that medical coverage has been requested.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0110

Administration of Approved Adoption Assistance

(1) It is the responsibility of DHS staff and licensed private agency staff, to notify or advise prospective 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 DHS central office Permanency and Adoptions Unit through their respective DHS 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 and document on the adoption assistance application that efforts were made to place the child without adoption assistance;

(b) The DHS 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 eligibility determinations, negotiate benefits, issue agreements, and maintain records.

(4) Prior to the finalization of adoptions, and to issuance of any benefits, written adoption assistance agreements are completed that:

(a) Are signed by the adoptive parent(s) and the adoption assistance coordinator. The adoption assistance agreements establish the child's monthly eligibility for benefits as well as nonrecurring expenses;

(b) State the duration of the agreement;

(c) State the amount of assistance benefits (if any), and specify:

(A) The amount of the adoption assistance monthly payment (if any); and

(B) The nature and amount of any other payments, services, and assistance to be provided, including nonrecurring adoption expenses;

(d) State that the agreement remains in effect regardless of the adoptive parents and/or the child's state of residence;

(e) State whether the child will receive medical benefits, and specify the child's eligibility for Title XIX and Title XX;

(f) State that the adoptive parents have a right to a fair hearing.

(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/DHS branch. The effective date cannot be prior to the completion of a signed assistance agreement, and must be effective no later than the date the adoption is finalized.

(6) Annually the DHS adoption assistance program shall send a letter to adoptive families, except those with an agreement only, inquiring whether there has been a change in circumstances or need for benefits.

(7) No assistance may be provided to parents if the parents are no longer legally and financially 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) In the case of an adopted child who becomes available again for adoption due to the adoptive parent(s)' relinquishment of the child, the termination of the adoptive parent(s)' parental rights to the child, or the death of the adoptive parent(s), the determination of eligibility of the adopted child for adoption assistance shall remain based on the eligibility of the child as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for Adoption Assistance benefits. The child must also meet special needs criteria at the time the child again becomes avail-

able for adoption. (This rule is intended to meet the requirements of Sec. 473 (42 USC. 673)(a)(2)(C) of the Social Security Act.)

(9) If a child receiving adoption assistance benefits is placed in substitute care, adoption assistance benefits 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 benefits suspended, continued, or adjusted to reflect current expenses. When the child returns to the care of the parents, adoption assistance benefits will be renegotiated.

(10) Adoptive parents must immediately inform the agency when a change in circumstances indicates that there is no longer a need for adoption assistance benefits.

(11) 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.

(12) An adoption assistance agreement shall automatically terminate, as required by Oregon law, when the child is 18 years old.

(13) 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.: ORS 418.005

Stats. Implemented: ORS 418.330 – 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 22-1999, f. & cert. ef. 11-24-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06

413-130-0115

Adoption Assistance Review Committee

(1) An Adoption Assistance Review Committee, composed of DHS central office and field staff with expertise in adoptions, will serve as a consultation and review body for the adoption assistance program, for example:

(a) The adoption assistance program staff may, at their discretion, refer unusual or exceptionally costly benefit requests to the committee for consultation; or

(b) If, during negotiations of adoption assistance benefits, the adoption assistance staff and the adoptive parents are unable to reach agreement, the matter may be referred to the committee for review at the request of either the adoption assistance staff or the adoptive parents.

(2) The family and the caseworker for the family may provide information in writing for the committee's consideration.

(3) The caseworker for the family may participate in the committee by phone.

(4) The committee shall review relevant materials and provide a recommendation regarding level of benefits to the adoption assistance staff.

(5) If the family requests further review of the adoption assistance benefit package offered to the family by the adoption assistance coordinator, subsequent to the recommendation of the Adoption Assistance Review Committee, the permanency and adoptions manager shall review the materials and make a decision. If the family remains unsatisfied, they may appeal this decision according to procedures in OAR 413-130-0120.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 99-514 & PIQ-88-06

Hist.: SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

413-130-0120

Appeal Procedures of Adoption Assistance

(1) Except as provided in OAR 413-130-0125, at any time the Department takes action to deny the application, or reduce or terminate payments, recipients of adoption assistance benefits 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 DHS and the adoptive parents on the amount or type of benefits, the adoptive parents have the right to request a review or hearing within 30 days of notification of this right. Excluded from the right of appeal are Special Payments described in 413-130-0090(1).

(3) Requests for a hearing should be addressed in writing to the manager of the DHS central office adoptions unit. The adoption manager will complete the Hearing Request Memo and forward copies to the Adult and Family Services Hearings Unit.

(4) A summarizing 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 and according to any interagency agreement between DHS and the hearings unit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2003, f. 1-21-03, cert. ef. 2-1-03

413-130-0125

Budgetary Reductions of Adoption Assistance

(1) In the event that legislative or executive branch actions impacting DHS' budget or expenditure authority makes it necessary for DHS to implement budget reductions to the Adoption Assistance Program, DHS shall notify all recipients of Adoption Assistance of the following:

(a) The reason for the reduction;

(b) The percentage or amount that Adoption Assistance will be reduced; and

(c) The effective date of the reduced Adoption Assistance payment.

(2) Reductions to Adoption Assistance payments pursuant to this rule shall be applied uniformly to all recipients of Adoption Assistance.

(3) Reductions to Adoption Assistance payments pursuant to this rule shall not be subject to negotiation between DHS and the adoptive family.

(4) Reductions to Adoption Assistance payments pursuant to this rule are not subject to a contested case hearing.

(5) Reductions to Adoption Assistance pursuant to this rule shall not constitute a change in circumstances warranting a change in the recipient's Adoption Assistance benefits.

(6) It is the intent of DHS to restore as much as possible any Adoption Assistance which has been reduced by operation of this rule. If additional funding becomes available to DHS to restore, in whole or in part, the reductions to Adoption Assistance payments required by this rule, DHS shall notify all recipients. If legislative or executive branch actions impacting DHS's budget or expenditure authority give DHS the ability and authority to restore, in whole or in part, Adoption Assistance that has been reduced by operation of this rule, DHS will notify all recipients who were affected by the corresponding reduction of Adoption Assistance of the percentage of or amount of the increase, and the effective date of the increase. Any payment increase under this rule shall will be applied uniformly to all recipients of Adoption Assistance who were affected by the corresponding reduction.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340

Hist.: CWP 16-2003, f. 1-21-03, cert. ef. 2-1-03; CWP 38-2003(Temp), f. & cert. ef. 11-19-03 thru 5-17-04; CWP 4-2004, f. & cert. ef. 4-1-04

413-130-0127

Adjustments to Adoption Assistance Benefits

Effective November 1, 2003, adoption assistance benefits payable under an adoption assistance agreement in effect on October 31, 2003 are changed as follows:

(1) Monthly payments are increased by 8.108 percent.

(2) Except as provided in section (3) of this rule, nonrecurring payments and special payments are not changed.

(3) A special payment is increased by 8.108 percent if it was payable under an adoption assistance agreement that was in effect on January 31, 2003; was reduced on February 1, 2003; and remained in effect continuously through October 31, 2003.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.330 - 418.340

Hist.: CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; CWP 4-2004, f. & cert. ef. 4-1-04

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) Determination was made by the state that a child was ineligible for assistance, but information becomes known which indicates it would be appropriate to review this determination;

(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 DHS, adoption assistance staff will determine, within thirty days, whether the child meets Title IV-E eligibility requirements.

(4) When an adoptive family requests DHS to provide historic information regarding the child in order to determine eligibility for adoption assistance, DHS may obtain non-identifying genetic, social, and health history as provided by ORS 109.425 through 109.507. In addition, DHS may request a court order to review the sealed adoption file.

(a) If 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 benefits:

(A) 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;

(B) Adoptive parents have the responsibility of proving that extenuating circumstances exist. DHS may provide corroborating facts to the family or the hearing officer;

(C) The hearing will be conducted by a hearing officer in compliance with rules governing contested case hearings;

(b) If a post legal fair hearing decision finds that extenuating circumstances exist, an adoption assistance application may be signed, effective the date of the fair hearing.

(5) If it is determined that a child does not meet Title IV-E eligibility requirements, the adoption assistance coordinator shall prepare information for the adoption manager's review including information submitted by the family and information from DHS records. The manager will decide if extenuating circumstances (See OAR 413-130-0130(1)) exist which justify accepting an application from the family.

(a) A written finding will be sent to the adoptive parent within 30 days;

(b) If the adoption manager finds that extenuating circumstances do not exist, the adoptive parents may request a hearing under OAR 413-130-0120. The hearing officer in such a hearing reviews whether extenuating circumstances exist so that the adoptive family can submit an application for adoption assistance. Whether the adoption assistance application is approved is a separate determination by DHS.

(6) If the decision, through fair hearing or adoption manager review, is that the family is eligible to apply for benefits on behalf of the child, and the application results in the award of adoption assistance benefits:

(a) In no case shall the monthly payments (in the form of a one time lump sum payment) be retroactive for more than 24 months from the date of the signed application; and

(b) If after negotiation, the adoptive parent does not agree with the amount negotiated, the parent may appeal this decision per Appeal Procedures of Adoption Assistance, OAR 413-130-0120.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.330 - 418.340, PL 96-272, PL 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;

SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02

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.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96

413-130-0160

Definition

(1) "Oregon Post Adoption Resource Center (ORPARC)." Contracted service provider whose services to post adoptive families include information and referral, training, support groups and networks, assistance with planning for respite care, lending library, follow up tracking, advertising and promotional efforts, and an advisory committee.

(2) "Post Legal Adoption" is the period of time after an adoption is legalized.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 25-2001, f. 6-29-01 cert. ef. 7-1-01

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.

(4) Any child who is unable to grow up safely in his or her own home should be assured the opportunity to become a valued and permanent member of another safe family that understands and responds to his or her needs.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 25-2001, f. 6-29-01 cert. ef. 7-1-01

413-130-0180

Procedures

Except where OAR 413-030-0100 through 413-030-0130, (Child Protective Services Eligibility administrative rules) apply, SOSCF shall not determine eligibility for post legal adoption services to families who have adopted a child through SOSCF on the basis of risk assessment factors or the vulnerability scale, but shall base it 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) Prior to the finalization of an adoption, the child's SOSCF worker shall inform the approved family of the existence of post adoptive resources including the Oregon Post Adoption Resource Center (ORPARC) and the availability of services directly from the SOSCF branch, and document this on the Statement of Verification of the Voluntary Adoption Registry.

(2) Case responsibility for post-legal adoptive services shall be determined through branch administration.

(3) 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 ORPARC, counseling, adoptive parent's support group, family resource or unity meeting, respite care, temporary out-of-home care or residential treatment).

(4) SOSCF may process post adoption applications for adoption assistance or renegotiated agreements through the adoption assistance coordinator without the need for casework services.

(5) SOSCF shall refer members of the adoption triad (adult adoptee, adoptive family and birth family) seeking non-identifying or identifying information to the adoption registry and assisted search programs through the State Office for Services to Children and Families.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.425 - 109.507
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 25-2001, f. 6-29-01 cert. ef. 7-1-01

Adoption Registry

413-130-0300

Purpose

The central office adoptions unit maintains the Voluntary Adoption Registry for all adoptions not arranged through a licensed agency and carries out the DHS administrative responsibilities specified in these rules. Staff are expected to provide general information about the registry, refer inquiries to the central office adoption unit, and upon request, provide counseling services to the reunited parties.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.425 - 109.507
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 10-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0305

Definitions

(1) "Identifying Information" means names and addresses of birth parents, putative fathers, adult adoptee, adult adoptee genetic siblings.

(2) "Independent adoption" means any adoption where the consent is given by other than DHS or a licensed adoption agency.

(3) "Non Identifying Information" means health and social and genetic history of the adult adoptees, birth parents, putative fathers and other specified persons.

(4) "Voluntary Adoption Registry" means a voluntary registry operated by DHS or licensed agency:

(a) Where birth parents, putative fathers and adult adoptees may register their willingness to the release of identifying information to each other;

(b) That provides for the disclosure of identifying information to birth parents and their genetic offspring;

(c) That provides for the transmissions of non identifying health and social and genetic history of specified persons; and

(d) That provides for the disclosure of specific identifying information under certain circumstances to Indian tribes, governmental agencies or to a person settling an estate.

Statutory Authority: ORS 418.005
Stats. Implemented: ORS 109.425 - 109.507
Hist.: SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0310

Voluntary Adoption Registry

(1) The Voluntary Adoption Registry is the program established under ORS 109.425 to 109.500 through which the Department of Human Services (DHS) maintains a registry of persons wishing to receive adoption information and to provide identifying and non-identifying information to eligible adoptees and eligible relatives of adoptees. The Voluntary Registry also performs certain functions with the State Assisted Search Program as provided in ORS 109.502 to 109.507 and OAR 413-130-0400 through 413-130-0520.

(2) DHS shall maintain the registry for all public agency adoptions through DHS (formerly Services to Children and Families, State Public Welfare, Children's Services Division) and all adoptions through an attorney. If the adoption was through an Oregon licensed private agency, the registrant shall contact appropriate agency directly.

(3) DHS may contract with a licensed adoption agency for the operation of the registry. If it does so, these administrative rules shall govern the operation of the registry. The receiving agency and any agency to which it delegates the operation of the registry shall meet the statutory standards to operate an adoption registry.

(4) DHS may join a voluntary national or international registry and make its records available to that registry. The rules governing disclosure of information provided by DHS in such adoption registry shall be as prescribed in these rules.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.425 - 109.507
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 10-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0320

Requesting Non-Identifying Information

(1) A fee of \$45 will be charged to any eligible person who requests non-identifying information from the registry to cover the cost of providing the information.

(2) DHS shall provide written request forms to all eligible persons.

(3) Upon receipt of a written request form and the fee, DHS shall provide a genetic, social, and health history of the adoptee if known, excluding identifying information, to the following persons:

- (a) The adoptive parent(s) of the adoptee or adoptee's guardian;
- (b) The birth parent(s) of the adoptee;
- (c) The adoptee if age 18 or older;
- (d) In the event of the death of the adoptee:

(A) The adoptee's spouse, if the spouse is the birth parent of the adoptee's child or the guardian of any child of the adoptee; or

(B) Any progeny of the adoptee who is 18 years of age or older.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.425 - 109.507
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0330

Registration for Identifying Information

(1) **Eligible persons.** Persons eligible to register with the registry include:

- (a) Birth parent(s) of an adoptee;
- (b) Adult adoptee;
- (c) An adoptee's genetic sibling who is 18 years of age or older;
- (d) Adoptive parent(s) of a deceased adoptee;
- (e) Adult siblings of deceased birth parent(s) of an adoptee;
- (f) Parent(s) of deceased birth parent(s) of an adoptee.
- (g) Putative father(s) of adult adoptee(s).

(2) An adoptee, or the parent or guardian of an adoptee under 18 years of age, may register to have specific identifying information disclosed to Indian tribes or to governmental agencies in order to establish the adoptee's eligibility for tribal membership or for benefits or to a person settling an estate. The information shall be limited to a true copy of documents that prove the adoptee's lineage. Information disclosed in accordance with this subsection shall not be disclosed to the adoptee or the parent or guardian of the adoptee by the registry nor by the Indian tribe, governmental agency or person receiving the information.

(3) Prior to the processing of any affidavit, registrants shall pay a fee of \$25 to DHS.

(4) Eligible persons may register by submitting a notarized affidavit to DHS on forms provided by DHS.

(5) Affidavit contents. The registrant shall send the affidavit to the Adoption Services section of DHS. It shall contain:

- (a) The current name and address of the registrant;
- (b) Any previous name by which the registrant was known;
- (c) The original or adopted names of the adopted child;
- (d) The place and date of birth of the adopted child, if known;
- (e) The name and address of the agency which made the adoptive placement, if known;

(f) A statement of the registrant's willingness to be identified to other eligible persons who register; and

(g) The registrant's signature, witnessed and notarized. A copy of the registrant's birth certificate shall be submitted with the affidavit.

(6) Processing Affidavits.

(a) DHS shall maintain files concerning all persons whose adoptions were completed through DHS or whose adoptions were independent adoptions, and who have completed an affidavit;

(b) It is the responsibility of the registrant to notify the registry of any change of name or change of address. DHS is not responsible to search for a registrant who fails to notify the registry of these changes;

(c) A registrant may cancel his or her registration at any time by written notice to the registry;

(d) DHS shall not contact or in any other way solicit any adoptee, birth parent or putative father to register with the registry except as provided for under ORS 109.502–507;

(e) If a birth parent of an adoptee registers prior to the adoptee's eighteenth birthday, DHS shall accept the birth parent's registration and notify the birth parent that the adoptee is not yet eligible to register with the registry and that the requirements of subsection (5)(f) of this rule must be met;

(f) When an adoptee reaches age 18, a birth parent of the adoptee, if the birth parent registered prior to the adoptee's eighteenth birthday, shall notify DHS in writing only if the birth parent does not desire to continue the registration.;

(g) All affidavits and other related registry information collected by DHS shall be permanently maintained by DHS.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 10-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0340

Use of Registry

(1) **Eligible Persons.** The following persons are eligible to use the registry to obtain identifying information about birth parents, adult adoptees, and adult adoptees' genetic siblings:

(a) Birth parent(s) of the adoptee;

(b) Adult adoptee;

(c) Adult genetic siblings of adoptee if the birth parent or parents are deceased;

(d) Adult adoptee genetic siblings who have been adopted by different adoptive families and have no knowledge of their birth parents;

(e) Adoptive parent(s) of deceased adoptee;

(f) Parent(s) of deceased birth parent; and

(g) Adult siblings of deceased birth parent.

(2) An adult adoptee who has a genetic sibling in the adult adoptee's adoptive family who is under the age of 18 years shall not have access to the registry.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 30-2000, f. & cert. ef. 11-7-00

413-130-0350

Release of Identifying Information — Counseling

(1) When DHS determines that a match exists, DHS shall notify the affected persons of the match by a method which is direct and confidential.

(2) DHS may recommend appropriate counseling by a DHS service worker prior to the release of identifying information to eligible persons.

(3) If DHS determines that there is a match, and if relevant persons have registered with the registry and have received appropriate counseling at the discretion of the agency operating the registry, notification of the match shall be given by DHS only to:

(a) An adult adoptee;

(b) Birth parent(s) of an adult adoptee;

(c) The adult genetic siblings of an adult adoptee if the birth parent(s) are deceased;

(d) Adult adoptee genetic siblings who have been adopted by different adoptive families and have no knowledge of their birth parents;

(e) At DHS's discretion, parents or adult siblings of the birth parent(s) if the birth parent(s) are deceased;

(f) At DHS's discretion, the adoptive parent(s) of a deceased adoptee; or

(g) Putative father of adult adoptee.

(4) No information shall be released to registrants pertaining to:

(a) The adoptive parents;

(b) The siblings of the adult adoptee who are children of the adoptive parents; and

(c) The income of anyone.

Stat. Auth.: 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 10-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

413-130-0355

Contact Preference Form.

(1) A birth parent may request from the voluntary registry a Contact Preference Form (45-89, Oregon Department of Human Services, Health Division) for the purpose of indicating the birth parent's preference regarding contact by the adoptee.

(a) If the birth parent wants contact or contact through an intermediary, the birth parent may complete only the Contact Preference form and return it to the Oregon Center for Health Statistics, Certification Unit. Completion of a Birth Parent Updated Medical History form (CF 246R) is not required.

(b) If the birth parent does not want contact he or she must fill out the Birth Parent Updated Medical History form (CF 246R) that he or she may obtain from the voluntary adoption registry, the private adoption agency that handled the adoption or the Oregon Center for Health Statistics, Certification Unit and submit it to the appropriate voluntary adoption registry.

(2) Upon receipt of the Birth Parent Updated Medical History form (CF 246R), the voluntary adoption registry shall provide the birth parent with a Certificate of Receipt of Birth Parent Updated Medical History (CF 247R). The agency operating the voluntary adoption registry shall photocopy the Certificate of Receipt of Birth Parent Updated Medical History (CF 247R) on letterhead, have it signed by an authorized representative, and have the signature notarized.

(3) The birth parent shall then attach the Certificate of Receipt of Birth Parent Medical History (CF 247R) to the completed Contact Preference Form and send both forms to the Oregon Center for Health Statistics, Certification Unit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SOSCF 30-2000, f. & cert. ef. 11-7-00

413-130-0360

Confidentiality of Registry

All information acquired by the registry shall be confidential and shall be disclosed only as provided in these rules or pursuant to a court order. The provisions of this rule do not apply when confidential information relating to an international adoption is requested by an adult adoptee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.425 - 109.500

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 30-2000, f. & cert. ef. 11-7-00; SOSCF 49-2001, f. 12-31-01 cert. ef. 1-1-02

Assisted Search Program

413-130-0400

Purpose

The State of Oregon administers the Assisted Search Program which permits a confidential search for certain adult members of an individual's birth family. This program recognizes that while some parties to adoption have a strong desire to obtain identifying information, others do not. This program is voluntary for all participants and fully recognizes the right to privacy and confidentiality of all parties to an adoption. Persons contacted under this program are directed to the voluntary adoption registry where exchange of identifying information can be authorized. Licensed Oregon adoption agencies conducting assisted search programs are subject to the policies and procedures established under these rules, whose purpose is to set forth criteria establishing eligibility standards, standards of conduct and search procedures, and fees to be paid by persons requesting assisted searches.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

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

413-130-0410

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.

(3) "Fee" means the maximum fixed amount that SOSCF or Oregon licensed adoption agency may charge for conducting an assisted

search for persons eligible to request such services, a birth father file review.

(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) "Putative Father" means:

(a) A man who has not yet established paternity, but who may establish paternity under ORS 109.070;

(b) A man who birth mother alleges is the father and the putative father, by written affidavit or surrender and release executed within three years of the relinquishment of the child by the mother, or the termination of parental rights of the birth mother, has acknowledged being the child's biological father; or

(c) A man who is not legally presumed to be the father of genetic origin of the child, but who claims paternity on a notarized statement or is alleged to be the birth father of genetic origin of the adoptee.

(6) "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.

(7) "Voluntary Adoption Registry" means a voluntary registry operated by SOSCF or licensed agency:

(a) Where birth parents, putative fathers and adult adoptees may register their willingness to the release of identifying information each other;

(b) That provides for the disclosure of identifying information to birth parents and their genetic offspring;

(c) That provides for the transmission of non-identifying health and social and genetic history of specified persons; and

(d) That provides for the disclosure of specific identifying information under certain circumstances to Indian tribes, governmental agencies or to a person settling an estate.

(8) "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.: OL 1993, Ch. 676

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0420

Use of Assisted Search Program

(1) Eligible Persons: Certain persons duly registered with an Oregon voluntary adoption registry for identifying information are eligible to request an assisted search:

(a) Adult adoptee or adoptive parents of a deceased adoptee seeking the adoptee's birth parents or genetic siblings;

(b) Birth parents, adult genetic sibling(s) or the parent or adult sibling of a deceased birth parent seeking the adult adoptee.

(2) Completed searches for a birth parent where that person declines to register prevents any subsequent assisted search for the requester's biological siblings. A search for the other birth parent or registered putative father is permitted where authorized by statute.

(3) A putative father may register so that an adult adoptee may be assisted in contacting him, but putative the father is prohibited from conducting an assisted search.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-1998, f. 4-27-98, cert. ef. 5-1-98

413-130-0430

Application

Requesters for assisted searches must submit an application directly to the licensed adoption agency that facilitated the adoption if that agency has met all requirements under OAR 413-130-0455 and 413-130-0460, or to the State Office for Services to Children and Families Central Adoptions Unit. The completed application shall include:

(1) Proof of registration for identifying information on the appropriate voluntary adoption registry;

(2) The applicable fee.

Stat. Auth.: ORS 418.005 & 109.506

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-1998, f. 4-27-98, cert. ef. 5-1-98; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0440

Fees

Each application for an assisted search shall be accompanied by the following fee(s):

(1) Four hundred dollars for all initial searches for any one eligible person. This fee includes \$100 which covers costs for administration of the assisted search program and \$300 which represents the fixed fee for actual search.

(2) Two hundred dollars each for any subsequent assisted searches for eligible persons by the same requester.

(3) Twenty five dollars non-refundable birth parent database review if the applicant requests an assisted search for a birth father. This review shall determine if there is a father who meets the definition of the legal or putative father permitted to utilize the voluntary registry. This \$25 fee will be applied towards the assisted search fees if it is determined that a search can be conducted.

(4) Once application is made for the assisted search to the licensed adoption agency or SOSCF, any fees paid are non-refundable under any circumstances, including unsuccessful location or reunion.

Stat. Auth.: ORS 418.005 & 109.506

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0450

Eligibility of Search Organization

Licensed adoption agencies who perform assisted searches must meet the following requirements:

(1) Demonstrate knowledge of, and experience with, adoption and search issues including a statement of philosophy which values post adoption search consistent with ORS 109.430;

(2) Demonstrate experience providing administrative and supervisory oversight of employees and subcontractors, if applicable, including monitoring of conduct and performance;

(3) Demonstrate sufficient financial resources to insure effective work and organizational stability;

(4) Employ, or have on call as needed, sufficient capable, trained and experienced staff who meet the standards and minimum competencies outlined in OAR 413-130-0460;

(5) Be available to accept search requests within the time frame outlined in OAR 413-130-0480;

(6) Maintain signed statements of confidentiality in personnel files and provide notice of confidentiality requirements in all program policies concerning any information from sealed adoption files and any information obtained during the assisted search process;

(7) Demonstrate knowledge of available search resources to guarantee delivery of services within the fee schedule;

(8) Agree to provide current and comprehensive information regarding agency and community resources, including support groups, reading lists and other resources regarding psychological issues in adoption and potential outcomes of reunions, to certain individuals identified and contacted as a result of the search;

(9) Agree to compile statistical data on searches for periodic reports to SOSCF in a format determined by SOSCF.

Stat. Auth.: ORS 418.005 & 109.506

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0455

Standards of Conduct For Licensed Agencies.

Licensed adoption agencies performing assisted searches shall:

(1) Maintain accurate and complete records of each search;

(2) Keep confidential all adoption file information furnished by SOSCF and any licensed adoption agency and all work product developed during the assisted search process;

(3) Use discretion in the search in all contacts and requests for information from public sources, and from those known to the persons involved;

(4) Act within applicable statutory and administrative rules in applicable jurisdictions;

(5) Not exert any pressure upon a sought-after person in order to effect registration on a voluntary adoption registry;

(6) Accept only such compensation for a search as is permitted by law;

(7) Avoid any potential conflicts of interest in conducting assisted searches;

(8) Not assume the role of therapist or counselor to parties contacted during the assisted search process.

Stat. Auth.: ORS 418.005 & 109.506

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00, Renumbered from 413-130-0470

413-130-0460

Eligibility Competencies and Standards for Persons Performing Searches

Persons performing assisted searches for licensed adoption agencies or SOSCF must meet the following requirements:

(1) Demonstrate a minimum of two years of experience, either professional or volunteer, in legal and/or psychological aspects of adoption and adoption search.

(2) Demonstrate expertise, through written references, approved training and personal interviews, of the following:

(a) Sensitivity to adoption-related issues;

(b) Ability to maintain confidential files and information;

(c) Ability to work within established legal, administrative and ethical boundaries;

(d) Excellent listening and communication skills, written and verbal;

(e) Ability to work with persons from diverse backgrounds and cultures;

(f) Insight regarding personal attitudes regarding adoption, search and reunion to maintain professional neutrality.

(g) Demonstrate general and specific knowledge of search procedures and techniques to be utilized to successfully locate sought after parties.

(3) Provide a criminal background check, which demonstrates no record of criminal convictions:

(a) Related to maintaining the integrity or confidentiality of records;

(b) Related to child abuse or other offenses involving minor children.

(4) Attend continuing education/applicable training available if required by the licensed adoption agency or SOSCF in the areas of adoption, search and reunion.

(5) Sign a statement of confidentiality, which outlines potential civil and criminal penalties for any disclosure of file information to any one not expressly authorized in applicable statutes or administrative rules.

Stat. Auth.: ORS 418.005 & 109.506

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00

413-130-0480

Search Procedures

(1) SOSCF or licensed adoption agencies, upon receipt of the application and fees, shall complete the assisted search within 120 days from the date of assignment. If the case is still active, but not completed within 120 days, the agency shall contact the requester and state the reason for the delay and a projected completion date. The licensed adoption agency, or SOSCF shall inform the requester that the case has been opened, and shall maintain reasonable contact with the requester to give periodic updates on the search.

(2) The licensed adoption agency or SOSCF shall prepare a search file, and using established search techniques in accordance with the standards of conduct established under OAR 413-130-0470, shall attempt to identify and locate the person sought under the program.

(3) Upon location of that person, the licensed adoption agency or SOSCF shall make a confidential inquiry, in person if possible, to determine if that person wishes to establish contact with the requester through the voluntary adoption registry:

(a) The licensed adoption agency or SOSCF shall inform the person that any participation he or she may have with the registry is voluntary and that no information regarding his or her identity or location will be released unless completed registration is made with the voluntary adoption registry;

(b) The agency or SOSCF shall provide information and any application materials necessary to register with the appropriate registry if contact is to be made. The application materials shall contain a state-

ment regarding the voluntary nature of any participation in a voluntary adoption registry;

(c) The agency or SOSCF shall also provide information about agency and community resources regarding psychological issues in adoption and reunion to persons who express a wish to receive information;

(d) The agency or SOSCF shall notify the appropriate voluntary adoption registry that the person being sought has been identified and located, and has indicated that the person wishes to make contact;

(e) If the reason for the search is because there is a serious medical condition in the person's immediate genetic family that is, or may be, an inheritable condition, the person being sought shall be informed of that fact at first contact.

(4) SOSCF or the licensed adoption agency conducting the search, where practicable, shall, after 90 days, contact the person in the original contact who indicated interest in accessing the voluntary adoption registry, if that person has not returned the application materials. This second contact is to offer forms and materials to register and to determine if the person still intends to register.

(5) If, upon location, the person sought does not wish to register to establish contact through the voluntary adoption registry, the person shall be given information about the voluntary adoption registry under ORS 109.435 to 109.507.

(6) The licensed adoption agency or SOSCF shall notify the appropriate voluntary registry that the person being sought has been located and has indicated that the person does not wish the contact.

(7) If the licensed adoption agency or SOSCF is unable to identify or locate the person being sought, SOSCF or the licensed adoption agency shall notify the appropriate voluntary registry of that fact.

(8) Upon receiving notice under OAR 413-130-0480(3), (5) or (6), the voluntary adoption registry shall:

(a) Enter the information into its records;

(b) Notify the requester only that the person being sought has or has not been located; and either.

(A) Has indicated a wish to make contact and has been given information and forms necessary to register; or

(B) Has indicated a wish not to make contact.

(9) Except as otherwise provided under this rule, no contact shall be made with requesters or persons sought under the assisted search program.

(10) All search file information, including all work product developed during the course of the search, shall be incorporated into the permanent registry adoption file in the agency of origin, either SOSCF and/or a licensed Oregon adoption agency upon completion of the search.

Stat. Auth.: OL 1993, Ch. 676

Stats. Implemented: ORS 109.425 - 109.507

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-1998, f. 4-27-98, cert. ef. 5-1-98

413-130-0490

Access to Records

(1) A licensed adoption agency may examine adoption records maintained by the State Office for Services to Children and Families subject to SOSCF operating procedures.

(2) No original file contents or copies of confidential documents will be removed from SOSCF Central Adoptions Unit.

(3) No file contents will be open to inspection by a licensed adoption agency other than the file directly related to the requester's file.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 109.425 - 109.507 & SB 1105

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

413-130-0500

Maintenance of Records

(1) All work product and adoption file information obtained in connection with the assisted search program under these rules is confidential. All confidential adoption records made available to a licensed adoption agency, and all work product, are the property of the agency of origin, either SOSCF or the licensed adoption agency. At the conclusion of the assisted search, all materials shall be forwarded to the agency of origin, and shall become part of the permanent adoption file. Licensed adoption agencies conducting an assisted search program shall maintain a record of each search undertaken and its outcome in a form which does not breach the confidentiality of any registrant.

(2) During an active search, licensed adoption agencies shall keep records of all actions taken on behalf of requesters, and shall furnish copies of those records upon request from SOSCF.

Stat. Auth.: HB 2004
Stats. Implemented: ORS 109.425 - 109.507 & SB 1105
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-130-0510

Exclusion of Licensed Agencies

Any licensed adoption agency authorized to conduct searches per OAR 413-130-0460, shall be immediately excluded from all access to confidential adoption file information if any rules are violated, and may be subject to immediate termination for any willful unauthorized disclosure of any confidential file information. Such persons may be subject to criminal prosecution.

Stat. Auth.: HB 2004
Stats. Implemented: ORS 109.425 - 109.507 & SB 1105
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95

413-130-0520

Advisory Committee

SOSCF may establish an advisory committee selected by SOSCF. The advisory committee may meet as needed to consider any changes or improvements to the administration of the Assisted Search Program. Membership shall reflect affected parties, including, but not limited to, adult adoptees, adoptive parents, birth parents, private adoption agency personnel and SOSCF adoptions staff.

Stat. Auth.: ORS 418.005 & 109.506
Stats. Implemented: ORS 109.425 - 109.507 & SB 1105
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 33-2000, f. & cert. ef. 11-7-00

DIVISION 140

INDEPENDENT ADOPTION SERVICES

Independent Adoption

413-140-0000

Purpose and Role of the Department in Independent Adoptions

(1) The purpose of these rules (OAR 413-140-0000 to 413-140-0120) is to establish the administrative process necessary to achieve an independent adoption in Oregon.

(2) With respect to an *independent adoption* (defined in OAR 413-140-0010), the Department has a gatekeeper role, oversight responsibility, and identifies concerns for the court.

(3) A petition for an *independent adoption* and supporting documentation filed with the court must be served on the Department within 30 days of filing with the court. The Department is responsible for reviewing adoption petitions and supporting documentation for independent adoptions, issuing a 90-day waiting period waiver when appropriate for adoption petitions involving children who are minors, and pursuant to OAR 413-140-0035, issuing a waiver of the *home study*. Materials served on the Department are reviewed for compliance with Oregon and federal law, prior to the issuance of the 90-day waiting period waiver and, if applicable, the waiver of the *home study*.

(4) These rules also apply to adoptive placements by licensed adoption agencies that are finalized in Oregon.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 109.305 - 109.410, 109.741, 409.010
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0010

Definitions

The following definitions apply to OAR 413-140-0000 to 413-140-0120:

(1) "Birth parent" means the man or woman who is legally presumed under Oregon law to be the father or mother of genetic origin of the child.

(2) "Certificate of Approval" means a document that:

(a) Is issued by a *contracted adoption agency* or by an Oregon *licensed adoption agency*, and approved by the Department; and

(b) Approves a home study and certifies that the prospective adoptive family has met the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.

(3) "Contracted adoption agency" means a *licensed adoption agency* in Oregon holding a current contract with the Department to conduct home studies and placement reports for independent adoptions.

(4) "Foreign adoption" means an adoption in which a child born in a foreign country is adopted under the laws of that country or readopted in Oregon. A *foreign adoption* is sometimes called an "international adoption", and may be subject to the requirements and regulations of the Intercountry Adoption Act when implemented and brought into force between the United States and other countries that have become parties to it.

(5) "Gestational carrier" is a woman who carries a fetus whose biological origin is from two other people.

(6) "Home study", in accordance with ORS 109.304, means a written evaluation of the suitability of a prospective adoptive parent 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 Department reporting format and standards, and states whether or not the prospective adoptive parents meet the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.

(7) "Household" means all persons who occupy the housing unit.

(8) "Independent adoption" means any private or non-DHS adoption of a person under the age of 18 in which the consent is given by a person or entity other than the Department.

(9) "Licensed adoption agency" means an adoption agency licensed by the state of Oregon to place children for adoption, or an adoption agency that holds a license from another state and is authorized under the laws of that state to place children for adoption.

(10) "Petitioner" means the person or persons seeking to adopt a child.

(11) "Placement report" as defined in ORS 109.304 means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department's prescribed reporting format and must include information, such as: the child's background and placement; the child's medical and genetic history; the history of each *birth parent*; the status and adjustment of the child in the adoptive home; and the status and adjustment of each prospective adoptive parent of the child. The *placement report* is sometimes called a "post-placement report" or "court report".

(12) "Re-adoption" means an adoption of a child who was originally adopted in the child's country of origin and who is being re-adopted in Oregon by the adoptive parents.

(13) "Step-parent" means a person who is the spouse of the child's parent by a subsequent marriage.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.741
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 24-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0026

Service of Petition

(1) As required under ORS 109.309(6), a *petitioner* must cause copies of the documents required to be filed with the court to be served upon the Director of DHS by certified mail with return receipt or personal service, within 30 days after the documents have been filed with the court.

(2) Copies of the petition for an *independent adoption* and the documents required to be filed with the court must be mailed to: Director, Department of Human Services, 500 Summer Street NE, E-7, Salem, OR 97301-1066, Attention: Independent Adoptions.

(3) Date of service shall be the date the Director receives a copy of the petition, all required documents, and the fee for the *placement report* if applicable (see OAR 413-140-0040).

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 109.309, 409.010
Hist.: CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0030

Contents of Petition

(1) Every petition for the adoption of a child must include a declaration of the child's connection with Oregon in accordance with ORS 109.309(a), the information required by ORS 109.309(6)(a)(A), and, in accordance with ORS 109.309(5), the significant connection that

either the child or the supervising adoption agency has with the county in which the petition is being filed.

(2) All of the following documents and information must be served upon the Director of DHS:

(a) A statement containing:

(A) The full names and permanent addresses of the *petitioner* and child;

(B) The full names and permanent addresses of:

(i) All persons whose consent to the adoption is required under ORS 109.312, when these names and addresses are known or may be readily ascertained by the *petitioner*;

(ii) The persons with whom the child has lived during the last five years and the places where the child has lived during that period, if the names and addresses may be readily ascertained by the *petitioner*;

(iii) If known to the *petitioner*, any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or parenting time or visitation with the child;

(iv) The supervising Oregon *licensed adoption agency*, if any, or the relative or person that privately placed the child for adoption; and

(v) A person who has resided in Oregon continuously for a period of six months prior to the filing of petition who must be a *petitioner*, a *birth parent*, or the child.

(b) The documents demonstrating consent under ORS 109.312 to the adoption of the child.

(c) Documentation relating to alternative notice by publication and show cause hearing, if applicable, under ORS 109.322 to 109.330.

(d) A copy of the child's consent required under ORS 109.328 if the child being adopted is 14 years of age or older but has not reached the age of 18.

(e) Except for those persons who qualify for a waiver of the *home study* or *placement report* in accordance with OAR 413-140-0035(5) or 413-140-0040(7), written evidence documenting a *valid* (see OAR 413-140-0035(4)) *home study* that has been approved by either the Department or by an Oregon licensed adoption agency recommending the adoption by the prospective adoptive family who has met the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310. If the *petitioner* is not an Oregon resident, the *petitioner* must also submit a *Certificate of Approval* (defined in OAR 413-140-0010) from a *contracted adoption agency* (defined in OAR 413-140-0010, a list of contracted adoption agencies is available on the website of the Department). The fee for a *Certificate of Approval* is paid directly to the *contracted adoption agency* that issues the certificate.

(f) A written disclosure statement, prepared on form CF 960, Adoption Disclosure Statement, 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.

(g) If applicable, a check or money order for the Placement Report (OAR 413-140-0040(7)) made payable to the Department of Human Services.

(h) In the case of a *step-parent* (defined in OAR 413-140-0010) adoption, evidence that 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, if the names and addresses are known or may be readily determined.

(i) When a parent of the child is deceased or *incapacitated* (as defined in section (5) of this rule), either:

(A) Evidence that the petition was served on the parents of the deceased or *incapacitated* parent, if the names and addresses are known or may be readily ascertained by the *petitioner*; or

(B) Evidence that the *petitioner* has requested of the court a waiver of the service described in paragraph (A) of this subsection for good cause.

(j) A completed report of the medical and genetic history of the child and of each biological parent, required under ORS 109.342, on prescribed Department forms CF 246 and CF 246A. The medical report must be in English, written in ink, and be as thorough as possible. A medical and genetic history is not required when a child is adopted by a *step-parent* (defined in OAR 413-140-0010).

(k) A statement of verification that each *birth parent* and *petitioner* have been advised of the voluntary adoption registry established under ORS 109.450, have been given information on how to access

those services, and (if applicable) a statement requesting the court to waive the notification upon a finding of good cause.

(l) A statement 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.

(m) A copy of the Adoption Report Form (Form 45-24, Center for Health and Statistics), with parts one and two filled out.

(n) If applicable, a statement of compliance with the Interstate Compact on the Placement of Children (ICPC) under ORS 417.200 to 417.260 and DHS Child Welfare Policy I-B.3.4.2 "Intestate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330.

(o) Documentation verifying that notice under ORS 109.346 was given to each consenting *birth parent*, except for any of the following situations:

(A) An adoption in which a child born in a foreign country is adopted under the laws of that country or readopted in Oregon.

(B) An adoption in which a child born in a foreign country is subsequently adopted in Oregon and in which the identity or whereabouts of each *birth parent* of the child is unknown.

(C) An adoption in which a *birth parent* is retaining parental rights.

(p) In accordance with ORS 109.309(11), if the Indian Child Welfare Act of 1978, U.S.C., Title 25, Sections 1901–1963, applies, the petition must include:

(A) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption; and

(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.

(3) A *petitioner* who is a *step-parent*, relative, or person petitioning for *re-adoption* (defined in OAR 413-140-0010) who qualifies for a waiver under OAR 413-140-0035(5) or 413-140-0040(7) may request that the Department waive the *home study* and/or *placement report* at the time of filing a petition to adopt.

(4) Additional Requirements for Specific Categories of Independent Adoptions. As applicable, the following documents and information must be served upon the Director of DHS:

(a) *Step-parent Adoption*.

(A) The names and addresses of each of the child's eligible grandparents who have established rights under ORS 109.119, if the names and addresses are known or may be readily determined; or if applicable a statement requesting the court to waive the requirement upon a finding of good cause in accordance with ORS 109.309.

(B) Request for Waiver of the Home Study and Placement Report (CF 249D), if applicable.

(C) If there is a request for waiver of the *home study*:

(i) A copy of the criminal background check report from the Oregon State Police if the adult *household* members of the prospective adoptive family are Oregon residents.

(ii) If the adult *household* members of the prospective adoptive family have lived in Oregon for less than 5 years, an FBI clearance report must be sent directly to the Department.

(iii) For non-Oregon residents, the criminal history, the child abuse clearance, and the FBI clearance, if applicable, from the state where the adult *household* members reside.

(b) *Re-adoption* (defined in OAR 413-140-0110).

(A) Copies of all pertinent foreign documents submitted in and received from the country of origin, with English translations.

(B) A copy of the foreign adoption decree, translated into English.

(C) Current medical and genetic history information submitted using the CF 246 and CF 246A forms.

(c) *Relative Adoption*.

(A) Request for Waiver of the Home Study and Placement Report (CF 249D), if necessary (see OAR 413-140-0035 and 413-140-0040).

(B) If there is a request for waiver of the *home study*:

(i) A copy of the criminal background check report from the Oregon State Police if the adult *household* members of the prospective adoptive family are Oregon residents.

(ii) If the adult *household* members of the prospective adoptive family have lived in Oregon for less than 5 years, an FBI clearance report must be sent directly to the Department.

(iii) For non-Oregon residents, the criminal history, the child abuse clearance, and the FBI clearance, if applicable, from the state where the adult *household* members reside.

(d) Special Categories of Independent Adoption.

(A) Artificial Insemination.

(i) For adoptions relating to artificial insemination of a surrogate, under ORS 109.239, if the donor of the semen used in artificial insemination is not the mother's husband, such donor has no right, obligation or interest with respect to a child born as a result of the artificial insemination. "Surrogate" in this context means a woman who bears a child for another person, often for pay, through artificial insemination.

(ii) To consider an adoption resulting from artificial insemination as a *step-parent* adoption, documentation must be provided that:

(I) The *petitioner* who provided the semen (donor-petitioner) and the surrogate mother have agreed that the donor-petitioner has the rights and responsibilities of fatherhood; and

(II) The donor-petitioner relied on the agreement when he donated his semen.

(B) Gestational Surrogacy.

(i) An adoption involving a *gestational carrier* (defined in OAR 413-140-0010) is a gestational surrogacy if a *petitioner* is donor of either sperm or egg, the embryo is implanted into the womb of the *gestational carrier*, and the *gestational carrier* carries the child to full term. The child legally belongs to the biological parents, who, as petitioners, must provide evidence that supports the assertion that they are the biological parents in accordance with ORS 109.239 and 109.243.

(ii) To consider a gestational surrogacy as a relative adoption (under subsection (4)(c) of this rule), the following additional documentation must be provided:

(I) Consent from the gestational carrier; and

(II) Consent from the gestational carrier's husband, if married and not impotent or sterile.

(5) As used in this rule, "incapacitated" means (as defined at ORS 109.309(7)(c)) a condition in which a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person lacks the capacity to meet the essential requirements for the person's physical health or safety. As used in this section, "Meet the essential requirements for the person's physical health or safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene, and other care without which serious physical injury or illness is likely to occur.

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

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109.119, 109.234, 109.239, 109.309, 109.312, 109.330, 109.342, 109.353, 109.385, 109.400, 109.450, 109.701 to 109.784, 417.200, 409.010
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 32-2000, f. & cert. ef. 11-7-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 24-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0035

Home Study, Fees, Waivers, and Certificates of Approval

(1) Unless waived by the Department under ORS 109.309(6) and this rule, a *home study* (defined in OAR 413-140-0010) is required for the filing of a petition for an *independent adoption* (defined in OAR 413-140-0010).

(a) Oregon Residents:

(A) Except as provided in paragraph (C) of this subsection, the *home study* must be conducted by a *contracted adoption agency* (defined in OAR 413-140-0010).

(B) The allowable fee for a *home study* for an *independent adoption* is established by the Department. This fee is paid directly to the *contracted adoption agency* performing the service. This fee may not exceed \$1,500.

(C) If the *home study* is completed by a *licensed adoption agency* (defined in OAR 413-140-0010) that is not a *contracted adoption agency*, a *Certificate of Approval* (defined in OAR 413-140-0010) from a *contracted adoption agency* is required, along with a copy of the original *home study*.

(i) The fee for the *Certificate of Approval* is paid directly to the *contracted adoption agency*.

(ii) The fee for the *Certificate of Approval* may not exceed \$150.

(D) Travel Reimbursement.

(i) A *petitioner* or an attorney for the *petitioner* reimburses travel expenses directly to the agency performing the service.

(ii) Travel reimbursement is limited to reasonable travel expenses, for example commercial carrier fares; parking and garage fees; necessary taxi, airport shuttle, or bus fares; private car mileage allowances not to exceed the standard federally approved mileage rate; and actual and necessary expenses for lodging and meals.

(E) An eligible person who qualifies for a waiver under OAR 413-040-0035(5) may request in writing that the Department waive the *home study* at the time of filing a petition to adopt.

(b) Non-Oregon Residents. Potential adoptive parents who are not Oregon residents but who are finalizing the adoption in Oregon must submit a *valid* (see OAR 413-140-0035(4)) *home study* completed by a *licensed adoption agency*, or by a person authorized to conduct home studies in the state in which the potential adoptive parent resides.

(2) Certificates of Approval for Non-Oregon Residents.

(a) A *Certificate of Approval* must be issued by a *contracted adoption agency* if a potential adoptive parent who is the subject of the *home study* is not a first degree blood relative of the child who is being adopted. The fee for this *Certificate of Approval*:

(A) May not exceed \$150; and

(B) Is paid directly to the *contracted adoption agency*.

(b) An out-of-state *home study* for an *agency adoption* requires a *Certificate of Approval* issued by an Oregon *licensed adoption agency*.

(A) For purposes of this rule, "agency adoption" means an adoption in which a *birth parent* or other persons required to consent under ORS 109.312 sign releases or surrenders to an authorized adoption agency in accordance with ORS 418.270, giving guardianship and control over a child for the purpose of adoption, and the agency gives its written consent to the adoption of the child.

(B) There is no fee for this *Certificate of Approval* if the adoptive placement is made by the *licensed adoption agency*.

(c) All of the following requirements apply to the approval process for a *home study* under subsections (a) and (b) of this section.

(A) A request for approval of the *home study* is made to the adoption agency and must contain the full names, addresses, phone number, birth dates, and social security numbers of the potential adoptive parents.

(B) The request must include a complete copy of the *home study*, and 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 adoption agency agreeing to review a *home study* from out of state may request additional information before granting a *Certificate of Approval*.

(D) The adoption agency issuing a *Certificate of Approval* must ensure that child abuse reports and criminal history checks, including FBI clearances, if necessary, are completed and noted in the *home study*.

(E) The adoption agency that completes or approves a *home study* must ensure that the *home study* includes the information outlined in Attachment A, Part I, Confidential Adoption Home Study Report, from the contract used for a *contracted adoption agency*. This document is available on the Department website, and the required information must include a biographical narrative of each prospective adoptive parent; detailed description of any children in the household and any other adults in the home; marital relationships and family lifestyle; finances; description of housing and housekeeping standards; understanding of and motivation for adoption; results of criminal history check and child abuse history; summary of current medical condition, and drug and alcohol use; references; summary of the degree to which prospective adoptive parents meet minimum standards for adoptive homes, DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310; and the signature of the home study writer and either the director of the adoption agency or its authorized representative, including the approval date of the *home study*.

(F) The decision about whether to grant a *Certificate of Approval* must be based on DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.

(3) An adoption agency that completes or approves a *home study* must comply with all of the following requirements:

(a) Maintain an original written copy of the study for one year after finalization in the event that a Judgment of Adoption is contested.

(b) Upon a written request of the *petitioner*, send a copy of the *home study* to the petitioner's attorney, if applicable, to be filed with the court.

(c) Comply with the confidentiality requirements in ORS 7.211 if the *home study* leads to a finalized adoption.

(4) Validity of the Home Study.

(a) A *home study* is valid for a maximum period of two years from the date of completion.

(b) After two years from the date of completion of a *home study*, in order for the study to remain valid:

(A) The *home study* must not have been used for a previously finalized adoption; and

(B) The agency completing the original study must provide a current update to the study indicating the changes that have occurred.

(5) Waiver of the Home Study. Following filing of the adoption petition with the court, and upon written request of a *petitioner*, the Department may waive the *home study* under the circumstances described in any of the following subsections:

(a) The petition is to adopt the stepchild of a *petitioner*, and there is evidence that:

(A) The petition has been served on all persons whose consent is required under ORS 109.312; and

(B) The petition was served on each of the child's grandparents who have established rights under ORS 109.119, if the names and addresses are known or can be readily determined by the petitioners.

(b) A *petitioner* is a grandparent, sibling, aunt, or uncle of the child, and the child has resided with the petitioners:

(A) Since birth and for at least six months; or

(B) On a continuous basis for one or more years immediately prior to the filing of the adoption petition.

(c) The petition is to adopt the child of a biological or adoptive parent, the petitioners will be the legal parents of the adoptee, and the biological or adoptive parent will retain parental rights.

(d) The petition is to adopt a child, belonging to the biological parents, being brought to term and delivered by a gestational carrier. Petitioners must provide evidence that supports the assertion that the petitioners are the biological parents of the child being adopted.

(e) The petitioners or the child are currently receiving services from the Office of Safety and Permanency for Children of the Department of Human Services, or have received such services within the last 12 months. There must be sufficient information that will allow the Department to determine that the adoption is in the best interest of the child and that the *home study* may be waived.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 7.211, 109.309, 109.312, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 3-1999, f. & cert. ef. 3-22-99; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; Renumbered from 413-140-0020, CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0040

Placement Report: Conditions, Waivers, And Fees

(1) A *placement report* (defined in OAR 413-140-0010) must be filed in every adoption proceeding unless the Department files a waiver of the report with the court.

(2) A *placement report* for an *independent adoption* may only be considered for waiver by the Department when the child's connection with Oregon is described in the petition in accordance with ORS 109.311 and 109.309.

(3) The Department must waive the *placement report* to the court in an adoption where one of the child's biological or adoptive parents retains parental rights.

(4) The Department may not assign the completion of a *placement report* to a *contracted adoption agency* unless a copy of the Disclosure Statement is received.

(5) Waiver of Placement Report. The Department may file a waiver of the *placement report* under the circumstances described in any of the following subsections:

(a) The petition is to adopt the step-child of a *petitioner*, and there is evidence that the petition has been served on:

(A) Each person whose consent is required under ORS 109.312; and

(B) Each of the child's grandparents who have established rights under ORS 109.119 if the names and addresses are known or may be readily determined by the petitioners.

(b) The petitioners and the child are currently receiving services from the Office of Safety and Permanency for Children of the Department of Human Services or a *licensed adoption agency* (defined in OAR 413-140-0010) or have received such services in the past 12 months, and there is sufficient information available to allow the Department 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 or her adoption, and the Department or a *licensed adoption agency* has sufficient information available to recommend that the adoption is in the best interest of the child.

(d) A *petitioner* is a grandparent, sibling, aunt, or uncle of the child, and the child:

(A) Has resided with the petitioners since birth and for at least six months; or

(B) If placed immediately 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 all of the following requirements are met:

(A) There is documented proof that the *foreign adoption* (defined in OAR 413-140-0010) 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*, including a copy of the foreign adoption decree.

(C) All documents written in a foreign language are translated into English.

(D) If there has not been a *re-adoption* (defined in OAR 413-140-0010) of the child in Oregon, and an adoption petition is filed by the persons whose names are listed as the adoptive parents on the foreign adoption decree:

(i) A copy of the foreign adoption decree must be submitted as proof of the *foreign adoption*.

(ii) Copies must be submitted of all foreign documents, with English translations, that have been filed with the foreign court.

(6) A *placement report*, unless waived, must be completed, after the filing of a petition, by a *contracted adoption agency* under the following conditions:

(a) Before the Department will authorize the preparation of a *placement report* to the court, a petition and all related documents must be served on the Department within 30 days of petition filing, along with the full fee, or justification for a fee waiver. Service is not considered complete until the Department 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, the Department assigns completion of the *placement report* to a *contracted adoption agency*. Assignment is made to the *contracted adoption agency* that completed the *home study*, or to the agency requested by the petitioners, if that agency has a current contract with the Department to conduct independent home studies and placement reports.

(c) The Department assigns and provides all necessary information and materials to the designated *contracted adoption agency* within 30 days of completed service of petitions and documents upon the Adoption Services Unit of the Department.

(7) Fees, Travel Reimbursement, and Other Procedures.

(a) The fee for a *placement report* for an *independent adoption* (defined in OAR 413-140-0010) is \$675. The *petitioner* must pay this fee to the Department, prior to the issuance of the 90-day waiting period waiver or the Notice to the Court. This fee may be adjusted to a lower amount in any of the following situations:

(A) The petitioners qualify for a fee waiver of part or all of the fee in accordance with OAR 413-140-0070.

(B) A voluntary adjustment of the fee to a lower amount is made by the *contracted adoption agency*.

(C) The interview of the petitioners was done in another jurisdiction;

(D) The interview with a *birth parent* (defined in OAR 413-140-0010) could not be completed.

(b) Travel reimbursement must be limited to reasonable travel expenses, such as commercial carrier fares; parking and garage fees; necessary taxi, airport shuttle or bus fares; private car mileage

allowances not to exceed the standard federally approved mileage rate; and actual and necessary expenses for lodging and meals.

(c) A *contracted adoption agency* preparing a *placement report* must bill for services rendered in preparation of a *placement report* using the CF 961 form, Independent Adoption Invoice.

(d) The *contracted adoption agency* may not investigate and prepare a *placement report* for an *independent adoption* until the required fee has been received by the Department.

(8) Each *placement report* for an *independent adoption* must be completed following Department procedures and the reporting format agreed upon in the contract.

(9) A copy of each finished *placement report* must be sent by the assigned *contracted adoption agency* to the court and to the Adoption Services Unit of the Department.

(10) In the event the *placement report* cannot be completed within 60 days from the date the Department assigned it to a *contracted adoption agency*, the *contracted adoption agency* must:

(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; and

(b) Provide a copy of the notification of the delay to the Adoption Services Unit of the Department.

(11) The Department furnishes to the petitioner's attorney copies of any information filed with the court.

Stat. Auth.: ORS 409.010, 418.005

Stats. Implemented: ORS 109.119, 109.309, 109.311, 109.385, 109.390

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 3-1999, f. & cert. ef. 3-22-99; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0045

Waiver of Fees

(1) Contracted adoption agencies may, on a case-by-case basis, absorb some costs and accept a reduced fee, or full waiver of the *home study* and/or *placement report* fee, in consideration of the *household income* (see section (4) of this rule) of the prospective adoptive parents.

(2) The determination by the Department of a reduction or waiver of a fee is based on the fee waiver schedule that the Department establishes each calendar year (available on the Department website), using the annual Poverty Guidelines of the United States Department of Health and Human Services.

(3) A potential adoptive parent or *petitioner* is not entitled to any consideration for a waiver of a fee unless a request for waiver or reduction of the fee is submitted to the Adoption Services Unit of the Department, in writing, along with documentation of *household income*. A copy of the most recent Federal Tax Report 1040 form (if filed in the past two years) and verification of *household income*, is required.

(4) For purposes of this rule, *household* (defined in OAR 413-140-0010) income includes before tax cash receipts from all sources such as wages or salaries; public assistance, entitlements, and benefits; private support and assistance payments; and payments from investments, rents, pensions, allotments, compensations, child support, alimony, public assistance, annuities, grants, interest, winnings, and entitlements.

(5) Confirmation of *household income* is made on forms supplied by the Department (available on its website), along with supporting documents and records of income before any waiver of fee is authorized.

(6) In the event a fee waiver is authorized based upon erroneous information, the *petitioner* is liable for the full cost of the *home study* and/or *placement report*, and any amounts associated with recovery of those costs.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109.309, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; Renumbered from 413-140-0100, CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0055

Limits to Adoption

(1) If a *contracted adoption agency* is conducting a *home study* or considering a *Certificate of Approval*, the *contracted adoption agency* may not approve a home for adoption if there are eight or more children under the age of 18 residing in the adoptive home until the

director of the *contracted adoption agency* convenes a review committee of at least three human services professionals — with experience in adoption and services to families and children — to review and approve the adoption application.

(2) The findings and recommendations of the review committee under section (1) of this rule must be included in a *home study* report or *Certificate of Approval*, including any dissenting or minority findings and recommendations.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.309

Hist.: CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0065

Criminal Background Check

If a waiver of a *home study* (defined in OAR 413-140-0010) is requested:

(1) For purposes of this rule, a “subject individual” means each *petitioner* (defined in OAR 413-140-0010) and all members of the petitioner's household over 18 years of age.

(2) Each *subject individual* must file a copy of a consent to a check of the Department's child protection records and a criminal records check.

(a) The criminal records information on each *subject individual* must be provided to the Department before a request for the waiver of the *home study* will be considered.

(b) If a *subject individual* is an Oregon resident, the *subject individual* must use the prescribed Department form for requesting the criminal background check (available on the Department website); and

(c) If a *subject individual* has resided in Oregon for less than five years or is not an Oregon resident, the *subject individual* must arrange for an FBI criminal history clearance to be sent directly by the FBI to the Department.

(d) If a *petitioner* resides in another state, each *subject individual* must arrange for the criminal background check and the child abuse report to be sent directly by the state agency authorized to issue these clearances to the Department.

(e) Applicants for a criminal history check are responsible for paying all fees associated with acquiring and providing criminal history information.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.309, 109.312

Hist.: SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; Renumbered from 413-140-0025, CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0080

Interview with Birth Parents

(1) The agency that is conducting the *home study* (defined in OAR 413-140-0010) must make every reasonable attempt to contact and interview each *birth parent* (defined in OAR 413-140-0010) of the child.

(2) An agency placing a child or conducting a *home study* must interview each *birth parent* who can be located and is willing to be interviewed regarding the social and genetic background and legal status of the child to determine the ethnic (including Indian tribal membership) and health history of the child, and the attitude of each *birth parent* toward the adoption. In the event a *birth parent* is not interviewed, the reasons for not interviewing must be included in the *placement report*, as well as a description of efforts made to interview.

(3) Pursuant to ORS 109.346, the attorney for the *birth parent*, the attorney for the adoptive parent, or the agency representative taking the *birth parent's* consent must notify each consenting *birth parent* of the right of the *birth parent* to payment for:

(a) Three adoption-related counseling sessions prior to surrender or relinquishment of the child for adoption; and

(b) Three sessions of adoption-related counseling after surrender or relinquishment of the child for adoption.

(4) If applicable, a petitioner's attorney must submit to the Department an affidavit verifying that each consenting *birth parent* received notice of the right to payment for adoption-related counseling. A form is available on the Department website.

(5) Adoption-related counseling under this rule, unless otherwise agreed to by the prospective adoptive parent and the *birth parent*, must be provided by a licensed professional counselor or another professional listed in ORS 109.346.

(6) The prospective adoptive parent must pay all costs — not covered by insurance or by the Oregon Health Plan — of the adoption-

related counseling required by this rule, if the counseling is received within one year of the date of surrender or relinquishment of the child for adoption.

(7) The requirements of this rule do not apply to an adoption in which:

(a) A parent retains parental rights;
(b) A child born in a foreign country is adopted under the laws of that country or has a re-adoption (defined in OAR 413-140-0010) in Oregon; or

(c) A child born in a foreign country is adopted in Oregon and the identity or whereabouts of the child's birth parents are unknown.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.346, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0110

Release of Information

(1) No person or agency (public or private) may disclose to a *birth parent* (defined in OAR 413-140-0010) or to a parent of an adopted child the name, identity, or whereabouts of the other without consent of the other party.

(2) A signed Authorization for Use & Disclosure of Information form (DHS 2099) — 00-03, "Uses and Disclosures of Client or Participant Information", Section 1g of Guidance for Procedure Development — must be submitted for the Department to consider release of information from the adoption file to the adoption agency or to the attorney for a *petitioner* (defined in OAR 413-140-0010).

(3) Any information considered a sealed record under ORS 7.211 may not be released without a court order.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 7.211, 109.440, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0120

Storage and Destruction of Information Concerning Adoptions

(1) All records and written material regarding a petition for an *independent adoption* (defined in OAR 413-140-0010) and a *placement report* (defined in OAR 413-140-0010) in the possession of the Department or a *licensed adoption agency* are confidential and must be stored in locked file cabinets. The Department must comply with the Oregon State Archives, Records Retention Schedule for Adoption Program Services.

(2) A *licensed adoption agency* that has completed a *home study* or *placement report* for an *independent adoption* must comply with all of the following requirements:

(a) Forward copies of the *home study* and/or *placement report* to the Department's Adoption Services Unit.

(b) Comply with state rules and regulations pertaining to retention and destruction of public records in accordance with ORS 7.211, 109.425, 109.435 to 109.507, ORS Chapter 192, and other applicable laws.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 7.211, 109.381, 109.425, 109.435 to 109.507, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

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 certification/liason 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/liason 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

Family Group Home Standards

413-200-0210

Family Group Home — Statement of Purpose

(1) The family group home program was developed to meet the needs of children and young adults in Child Welfare custody who, because of emotional 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 group home placement is to:

(a) Provide safety for the child or young adult in the least restrictive environment appropriate to meet the needs of the child or young adult;

(b) Improve the functioning of the child or young adult at home and in the community;

(c) Improve the relationship of the child or young adult with supportive adults; and

(d) Improve the ability of the child or young adult to successfully solve the problems of daily living.

(2) OAR 413-200-0210 and 413-200-0220 must be used in conjunction with Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0396.

Stat. Auth.: ORS 418.005, 418.640

Stats. Implemented: ORS 418.005, 418.635

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 28-2000(Temp) f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 6-2001, f. & cert. ef. 3-23-01; CWP 9-2006(Temp), f. & cert. ef. 5-15-06 thru 11-9-06; CWP 21-2006, f. & cert. ef. 11-1-06

413-200-0220

Family Group Home Requirements

(1) The following definitions apply to OAR 413-200-0210 and 413-200-0220:

(a) "Caseworker" means a Child Welfare employee assigned primary responsibility for a child or young adult served by Child Welfare.

(b) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing foster or relative care to children in the legal or voluntary custody of Child Welfare, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification standards.

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

(d) "Department" means the Department of Human Services.

(e) "Family group home provider" means the persons listed on the contract to provide Family Group Home services.

(f) "Individual service plan" means a goal-oriented, time limited written document which identifies the strengths and needs of the child or young adult, prioritizes desired behavior changes, and identifies appropriate services and supports to achieve the identified behavior changes.

(g) "Liaison" means a Child Welfare employee, assigned by the local branch office, with primary responsibility for supporting referral, intake, and placement of children and young adults in the family group home.

(h) "Young adult" means a person aged 18 through 20 years, who remains in the care and custody of Child Welfare and lives in substitute care or lives independently, through the Child Welfare Independent Living Subsidy Program.

(2) A family group home provider must:

(a) Meet all the safety standards defined in Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0396;

(b) Receive a "Certificate of Approval to Operate a Family Foster Home"; and

(c) Have the capacity to provide a safe and caring environment for a child or young adult whose emotional and behavioral characteristics are appropriate for family group home care.

(3) The family group home provider may contract for a minimum of four and a maximum of eight children and young adults. The total number of children and young adults living in the home, including the provider's children, may not exceed eight.

(4) The family group home provider may not provide emergency or shelter care for children or young adults.

(5) The family group home provider and the family group home liaison must jointly establish intake procedures for children and young adults being placed in the home. The intake procedure must include:

(a) Consultation between the caseworker, the family group home liaison, and the family group home provider to discuss the child or young adult being referred, and

(b) A pre-placement visit in the family group home by the child or young adult being referred.

(6) Individual service plans:

(a) Within 30 days of placement, an individual service plan must be developed for each child or young adult. The child, the foster family home liaison, the caseworker, and the family group home provider must be included in the development of the individual service plan. Other service providers may also be included.

(b) Individual service plans must be goal-oriented and time-limited. Each plan must consider the strengths and needs of the child or young adult, identify desired behavior changes, and estimate when the behavior changes will be achieved. The individual service plan must prioritize the behavior change goals, identify services and supports that will address each goal, and must include an after-care plan.

(c) For any child or young adult 16 years or older, the individual service plan must incorporate the Comprehensive Transition Plan (referred to as a youth's service plan in Child Welfare Policy I-B.2.3.5, "Independent Living Programs", OAR 413-030-0400 to 413-030-0455).

(7) The family group home provider must establish procedures for review of the individual service plan and after-care plan of the child or young adult. The after-care plan identifies the placement for the child or young adult after the child or young adult leaves the family group home.

(a) Each element of the individual service plan of the child or young adult is reviewed by the child or young adult, the family group home provider, the family group home liaison, and the caseworker

every three months after the development of the plan. The individual service plan is revised or modified as necessary based on the progress of the child or young adult in meeting the behavior change goals.

(b) The after-care plan is reviewed by the child or young adult, the family group home provider, the family group home liaison, and the caseworker at the time of each individual service plan review, and the after-care plan is revised or modified as necessary based on the progress of the child or young adult in meeting the behavior change goals.

(8) Transitions.

(a) When a child or young adult has completed his or her individual service plan, the child or young adult is transitioned to the after-care resource in accordance with the individual service plan.

(b) If the child or young adult needs to be moved before the child or young adult has completed the individual service plan, the child or young adult, the family group home provider, the family group home liaison, and the caseworker of the child or young adult develop the transition plan for the move of the child or young adult. Whenever possible, the family group home provider provides 10 working days notice to the caseworker and the family group home liaison, requesting a child or young adult be moved from the home. Whenever possible, the caseworker provides 10 working days notice to the family group home provider and the family group home liaison when a child or young adult will be moved from the home.

(9) Staffing.

(a) A family group home must be staffed by the family group home provider.

(b) There must be a minimum of one adult to every five children and young adults who are present in the home.

(c) Any other adult providing care and supervision of a child or young adult in the home must meet the alternative caregiver requirements of Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0396.

(10) The family group home provider must plan for a minimum of 48 hours per month away from child care responsibilities. The family group home provider must prepare a written plan for respite care with the family group home liaison.

(11) Each family group home provider must participate in 30 hours of professional training each year. The certifier and the family group home provider jointly agree upon a written training plan.

Stat. Auth.: ORS 418.005, 418.640

Stats. Implemented: ORS 418.005, 418.635

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 28-2000(Temp) f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 6-2001, f. & cert. ef. 3-23-01; CWP 9-2006(Temp), f. & cert. ef. 5-15-06 thru 11-9-06; CWP 21-2006, f. & cert. ef. 11-1-06

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; Suspended by SOSCF 28-2000 (Temp), f. 9-27-00, cert. ef. 9-27-00 thru 3-23-01

Department Responsibilities for Certification and Supervision of Relative Caregivers, Foster Parents and Pre-Adoptive Parents

413-200-0270

Purpose

(1) The purpose of these rules (OAR 413-200-0270 to 413-200-0296) is to describe the activities of the Department related to:

(a) The certification of a relative caregiver or foster parent, and the assessment of a pre-adoptive applicant;

(b) Monitoring a certified family's compliance to the Certification Standards; and

(c) Recertification of a family.

(2) A certified relative caregiver, foster parent, and pre-adoptive parent will be referred to as a certified family throughout these rules.

(3) Regardless of the nature of the relationship between a family and a child or young adult, a family must be assessed and certified prior to the placement of the child or young adult in the home. No child

or young adult in the care or custody of the Department may be placed in an uncertified home.

(4) In these rules, unless otherwise indicated, a child or young adult refers to a child or young adult in the care or custody of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 18-2007, f. & cert. ef. 11-1-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0272

Definitions

The following definitions apply to OAR 413-200-0270 to 413-200-0296:

(1) "Applicant" means an individual or individuals who apply for a Certificate of Approval to become a certified family.

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

(3) "Certified family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(4) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

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

(6) "Child-Specific Certificate of Approval" means a document authorizing an individual or individuals to operate a home to provide care for a specific child or young adult in the care or custody of the Department.

(7) "Criminal records check" means the process for obtaining and reviewing an individual's criminal history information.

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

(9) "Denial" means the refusal of the Department to issue an initial or renew a Certificate of Approval to operate a certified home to provide care for a child or young adult in the care or custody of the Department.

(10) "Designee" means a person whom the designator directly and immediately supervises, or a person with equal or greater management responsibility than the designator.

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

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

(13) "Home study" means a document containing an analysis of the ability of the applicant to provide safe and appropriate care of a child or young adult in the care or custody of the Department.

(14) "Inactive Referral Status" means a period of time, not to exceed 12 months, during which neither the Department nor any other agency will place an additional child or young adult with a certified family. The certified family or the Department may initiate the Inactive Referral Status.

(15) "Member of the household" means any adult or child living in the home, including any caregiving employees and volunteers who may reside in the home.

(16) "Placement support plan" means a documented set of actions or resources that is developed to assist a relative caregiver or foster parent to maintain conditions that provide safety and well-being for children or young adults in the home.

(17) "Pre-adoptive parent" means an individual with a current Certificate of Approval to operate a home to provide care for a child placed by the Department for purposes of adoption.

(18) "Psychotropic medication" means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant,

and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

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

(20) "Relief or Respite Care" means:

(a) A formal planned arrangement to relieve a certified family's responsibilities by a person temporarily assuming responsibility for the care and supervision of the child or young adult; or

(b) Assistance provided by a person who comes into the home of the certified family to care for the child or young adult in the care or custody of the Department.

(21) "Revocation" means an administrative act by the Department that rescinds an existing Certificate of Approval.

(22) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; Renumbered from 413-200-0280, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0274

Responsibilities for Certification

(1) Sections (2) to (5) of this rule cover Department responsibilities for an expedited process for certification of an applicant for a Child-Specific Certificate of Approval. Sections (6) and (7) cover Department responsibilities for certification of all other applicants.

(2) To complete the expedited process for assessment of an applicant for a Child-Specific Certificate of Approval, the certifier must:

(a) Review the completed application.

(b) Have face-to-face contact with the applicant and all members of the household. If a member of the household is unavailable when conducting face-to-face contact for a child-specific certificate of approval, the certifier must:

(A) Obtain the approval of the supervisor to delay face-to-face contact with that member of the household; and

(B) Determine a date and time for the face-to-face contact within one week of the date the member of the household becomes available.

(c) Verify applicant identity by viewing photo identification of each applicant.

(d) Explain the certification process.

(e) Discuss with the applicant the role and responsibility of the Department.

(f) Assess the applicant's motivation for and interest in caring for the child or young adult.

(g) Complete a home visit. Observe and assess the safety of the physical environment and complete a Safety Assessment of the home.

(h) Gather and analyze information, through interview and observation, as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.

(i) Assure completion of a criminal records check on each adult member of the household; and, at the Department's discretion, on any child under 18, as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470.

(A) Assess any safety concerns regarding the applicant or member of the household; and

(B) If appropriate, obtain an exception pursuant to OAR 413-120-0450(6) for any criminal history of an applicant or member of the household.

(j) Assure initiation of Child Abuse History Background Checks for each adult member of the household.

(A) A child abuse history background check must be completed in the state of Oregon and requested from any other state where the individual has resided in the last five years;

(B) Assess any safety concerns regarding the applicant or member of the household; and

(C) If appropriate, obtain approval from the District Manager, Assistant District Manager, or designee on a form approved by the Department when Child Protective Services has concluded that a

member of the household is the perpetrator of a Founded Disposition or has on his or her record an Unable to Determine Child Abuse or Neglect Disposition in Oregon or has a similar disposition from another state to continue certification.

(k) Obtain at least two personal references for the applicant.

(l) Assure the applicant possesses a valid driver license and auto insurance if the applicant will transport a child or young adult in the care or custody of the Department.

(m) Determine, with input from the applicant, the gender, ages, and maximum number of children and young adults that may be placed in the home by the Department.

(n) If appropriate, obtain approval from the Child Welfare program manager or designee on a form approved by the Department when:

(A) The applicant or a member of the household is an in-home day care provider or foster care provider licensed by another child-caring agency, unless placement is authorized under an Interagency Agreement;

(B) The applicant or a member of the household is an adult foster care or in-home adult day care provider; or

(C) The applicant applying to become a relative caregiver is 18, 19, or 20 years of age.

(o) If appropriate, obtain approval from the District Manager on a form approved by the Department, when the applicant applies for a child specific Certificate of Approval through an office other than the office in the county in which the family resides.

(p) If appropriate, obtain the approval of the Child Welfare program manager when the children or young adults placed in the home will exceed the maximum number of children or young adults as described in OAR 413-200-0276.

(q) After completing the activities in section (2)(a)-(p) of this rule, the Department may issue a child-specific Certificate of Approval for up to 90 days.

(3) Within 90 days of the date the Child-Specific Certificate of Approval is issued, the certifier must:

(a) Obtain at least two additional references. Two of the four required references may be provided by the applicant's relatives.

(b) Contact the caseworker of the child or young adult placed in the home regarding the child or young adult's adjustment in placement and the certified family's ability to meet the child or young adult's needs.

(c) Conduct another home visit to gather social history information regarding personal qualifications of the certified family and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.

(d) Complete the Child Abuse History Background Checks for each adult member of the household as required in paragraph (2)(j)(A) of this rule and request a Child Abuse History Background Check for each adult member of the household who has lived in another country in the last five years.

(e) Verify that the certified family will have completed:

(A) Orientation within 30 days after the Child-Specific Certificate of Approval was issued; and

(B) Foundations of Relative Care, Foster Care, and Pre-Adoptive Care (Foundations) training before or within 12 months after the date on which the Certificate of Approval was issued, or have written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for a Certificate of Approval from the Department.

(f) Discuss and develop a training plan for each certified adult in the family.

(g) Document the assessment of the certified family's ability to provide safety and well-being for the child or young adult in a home study.

(4) After completing the activities in section (3) of this rule, the Department may approve the certified family for the two-year certification period and issue a Child-Specific Certificate of Approval with an effective date on the day which the activities in section (3) of this rule were completed and an end date two years from the effective date on the initial Child-Specific Certificate of Approval.

(5) When the activities described in subsections (3)(a) to (3)(g) of this rule have not been completed within 90 days, the District Manager, Assistant District Manager, or designee may extend the Child-Specific Certificate of Approval for:

- (a) No longer than 60 days; or
- (b) Longer than 60 days if an activity has not been completed due to circumstances beyond the control of the Department.
- (6) To complete the assessment for the certification of all other applicants, the certifier must:
 - (a) Review the completed application.
 - (b) Have face-to-face contact with the applicant and all members of the household.
 - (c) Verify applicant identity by viewing the photo identification of each applicant.
 - (d) Explain the certification process.
 - (e) Discuss with the applicant the role and responsibility of the Department.
 - (f) Assess the applicant's motivation for and interest in caring for the child or young adult.
 - (g) Complete a minimum of two home visits. Observe and assess the safety of the physical environment and complete a safety assessment of the home.
 - (h) Gather social history information through interview and observation. Analyze information as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.
 - (i) Assure completion of a criminal records check on each adult member of the household; and, at the Department's discretion, on any child under 18, as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470.
 - (A) Assess any safety concerns regarding the applicant or member of the household; and
 - (B) If appropriate, obtain an exception pursuant to OAR 413-120-0450(6) for any criminal history of an applicant or member of the household.
 - (j) Assure completion of Child Abuse History Background Checks for each adult member of the household.
 - (A) If the applicant or an adult member of the household has lived outside the state of Oregon and within the United States in the previous five years, a child abuse history background check must be obtained from each state where the individual resided in the last five years;
 - (B) If the applicant or an adult member of the household has lived outside of the United States in the previous five years, a child abuse history background check must be requested from each country where the individual lived within the past five years;
 - (C) Assess any safety concerns regarding the applicant or member of the household; and
 - (D) If appropriate, obtain approval from the District Manager, Assistant District Manager, or designee on a form approved by the Department when Child Protective Services has concluded that a member of the household is the perpetrator of a Founded Disposition, has on his or her record an Unable to Determine Child Abuse or Neglect Disposition in Oregon, or has a similar disposition from another state to continue certification.
 - (k) Obtain at least four personal references for the applicant, only two of which may be provided by the applicant's relatives.
 - (l) Assure the applicant possesses a valid driver license and auto insurance if the applicant will transport a child or young adult in the care or custody of the Department.
 - (m) Determine, with input from the applicant, the gender, ages, and maximum number of children and young adults that may be placed in the home by the Department.
 - (n) If appropriate, obtain approval from the Child Welfare program manager or designee on a form approved by the Department when:
 - (A) The applicant or a member of the household is an in-home day care provider or foster care provider licensed by another child-caring agency, unless placement is authorized under an Interagency Agreement;
 - (B) The applicant or a member of the household is an adult foster care or in-home adult day care provider; or
 - (C) The applicant applying to become a relative caregiver is 18, 19, or 20 years of age.
 - (o) If appropriate, obtain approval from the District Manager on a form approved by the Department when the applicant applies for a Certificate of Approval through an office other than the office in the county in which the family resides.

(p) If appropriate, obtain the approval of the Child Welfare program manager when the children or young adults placed in the home will exceed the maximum number of children or young adults as described in OAR 413-200-0276.

(q) Verify that the applicant has completed Orientation and Foundations of Relative Care, Foster Care, and Pre-Adoptive Care (Foundations) before or within 12 months after the date on which the Certificate of Approval was issued, or has written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for a Certificate of Approval from the Department.

(r) Discuss and develop a training plan with each applicant.

(s) Document the assessment of the applicant's ability to provide safety and well-being for the child or young adult in a home study.

(7) After completing the activities in section (6) of this rule, the Department may issue a Certificate of Approval for a two-year period.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0276

Responsibility to Determine the Maximum Number of Children or Young Adults in a Certified Family Home

(1) Unless extraordinary circumstances exist, a supervisor may not issue a Certificate of Approval that, when the home is fully occupied, exceeds the following maximum number of children or young adults living in the home:

(a) A total of four children or young adults to one certified adult living in the home;

(b) A total of seven children or young adults to two certified adults living in the home; or

(c) A total of two children under the age of three.

(2) When making the determination of the maximum number of children or young adults in the home as described in section (1) of this rule, the supervisor includes all children and young adults residing in the home.

(3) The Child Welfare program manager may approve placing additional children or young adults in the home in extraordinary circumstances.

(a) Extraordinary circumstances include, but are not limited to:

(A) Placing siblings together; or

(B) Placing a special needs child or young adult with a family that has demonstrated extraordinary ability in meeting the special needs of a child or young adult.

(b) In these extraordinary circumstances, the certifier must assess:

(A) The skills, abilities, and training of the certified family related to the quantity of services that are required by the child or young adult;

(B) The skills, abilities, and special needs of the child or young adult;

(C) The amount of Departmental supervision the certified family requires and the certified family's network of support to the child or young adult related to the child or young adult's needs;

(D) The maximum safe physical capacity of the home, including sleeping arrangements; and

(E) The plan for each individual to escape from the home in case of fire or other emergency.

(4) The certifier must document the assessment described in subsection (3)(b) of this rule on a form approved by the Department and obtain Child Welfare program manager approval prior to permitting the home to exceed the maximum number of children or young adults specified in section (1) of this rule.

(5) When a Child Welfare program manager approves placing additional children or young adults in a certified home, the certifier must:

(a) Visit the home every 90 days;

(b) Assess the certified family's compliance with certification standards; and

(c) Document the family's compliance with certification standards after each visit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0278

Responsibilities for Issuing a Certificate of Approval

(1) The Department must complete the assessment activities described in OAR 413-200-0274, and issue a Certificate of Approval or provide notice of intent to deny a Certificate of Approval within 180 days of receipt of an application to become a foster parent or relative caregiver, unless the application is withdrawn or the assessment period is extended by the District Manager, Assistant District Manager, or designee. Approval and notice of adoptive homes is described in Child Welfare Policy I-G.1.3, "Adoption Applications", OAR 413-120-0230 and 413-120-0240.

(2) The supervisor reviews all assessment activities, ensures all safety components of the certification standards are met, ensures any required exception has been obtained for OAR 413-200-0274(2)(i)(B) or 413-200-0274(6)(i)(B), and required approvals have been obtained for OAR 413-200-0274(2)(j)(C), 413-200-0274(2)(n)-(p), 413-200-0274(6)(j)(C), 413-200-0274(6)(n)(A)-(C), or 413-200-0274(6)(o) or (p) prior to the Department issuing a Certificate of Approval.

(a) The Department may issue a Child-Specific Certificate of Approval for up to 90 days when all activities required in OAR 413-200-0274(2) have been completed; or

(b) When all assessment activities are completed and written documentation has been submitted, the Department may issue a two-year Certificate of Approval to provide relative or foster care.

(3) A Certificate of Approval must include the following information:

(a) The name of each primary adult, including married couples and domestic partners, approved as the certified family;

(b) The address to which the certificate applies;

(c) The age range (birth – 20) and gender of the children or young adults for whom the certified family is approved to provide care;

(d) The maximum number of children or young adults that can be placed in the home;

(e) The provider number that the Department has given the home;

(f) The beginning and expiration dates of the certificate; and

(g) The signature of the Child Welfare program manager or designee.

(4) A Child-Specific Certificate of Approval must state the number, age range, and gender of the specific children or young adults placed in the home.

(5) The Department may at its discretion modify the Certificate of Approval to increase or decrease the maximum number of children or young adults, within the limits prescribed in OAR 413-200-0276(1), the age range, or the gender of the children or young adults for whom the family is certified.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0280 [Renumbered to 413-200-0272]

413-200-0281

Alternate Caregivers

The certifier must:

(1) Discuss with the certified family the plan for providing care to a child or young adult, when the certified family will be unavailable to provide care.

(2) Assure completion of criminal records checks on any person the certified family has identified to provide relief or respite care for the certified family; review the information, and, if needed and appropriate, obtain an exception as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470 and in 413-200-0274(6)(j)(A)-(D) prior to the individual providing relief or respite care.

(3) Conduct Child Abuse history background checks on any person the certified family has identified to provide relief or respite care as described in OAR 413-200-0274(6)(j)(A)-(D) and review the information to assure the person presents no safety concerns.

(4) Analyze information under sections (2) and (3) of this rule prior to determining the person is safe and appropriate to provide relief or respite care and authorizing the person to provide relief and respite care.

(5) Document the analysis under section (4) of this rule in the certification record.

(6) Notify the certified family of the authorization for the person identified to provide relief or respite care.

(7) Verify that any certified family identified to provide relief or respite care for another certified family has a current Certificate of Approval.

(8) When the analysis under section (4) of this rule results in a determination that the person is not either a safe or appropriate person to provide relief or respite care, notify the certified family that the person cannot be used to provide relief or respite care.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0283

Responsibilities to Monitor Certification Compliance

(1) The certifier must monitor each certified family's compliance with Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0396. To monitor compliance, a certifier must:

(a) Conduct a minimum of one home visit every 180 days to assure compliance with Certification Standards.

(b) When a certified family has been approved to exceed the maximum number of children or young adults as prescribed in OAR 413-200-0276(1), conduct a minimum of one home visit every 90 days as long as the approval is applicable.

(c) Whenever it becomes known that the certified family wishes to become an in-home child care, an adult foster care, or in-home adult day care provider, assess the certified family's ability to maintain conditions in the home that provide safety and well-being for the child or young adult placed in the home by the Department and, when appropriate, obtain approval from the Child Welfare program manager or designee on a form approved by the Department, as described in OAR 413-200-0274(2)(n)(A)-(B) and (4)(n)(A)-(B) when appropriate.

(d) Whenever it becomes known that another agency wishes to place a child or young adult in a certified home, obtain approval from the Child Welfare program manager or designee on a form approved by the Department prior to the placement of the child or young adult.

(2) To complete the monitoring responsibilities, the certifier must:

(a) Seek input from the caseworkers of children placed or living in the home during the past 180 days and assess the conditions that appear to exist in the home that provide safety and well-being for the child or young adult;

(b) Assess the information that the certifier learns from these contacts to determine whether conditions appear to exist in the home that provide safety and well-being for the child or young adult placed in the home by the Department;

(c) Review and assess the conditions that appear to exist in the home that provide safety and well-being for the child or young adult when any extraordinary circumstances described in OAR 413-200-0276(3)(a) exist; and

(d) Document the contacts with the certified family and the assessment information obtained under this rule in the certification record.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0285

Responsibilities When Developing a Placement Support Plan

(1) When a certifier determines that a certified family needs additional support to maintain conditions that provide safety and well being in the home, the certifier must develop a Placement Support Plan. A Placement Support Plan is appropriate when one or both of the following circumstances apply:

(a) The certified family needs additional training or instruction to improve the care giving practices to meet the needs of the children or young adults placed in the certified family's home.

(b) The certified family is not in compliance with one or more of the Department's certification standards, and the non-compliance does not result in a safety threat to a child.

(2) When a Placement Support Plan is appropriate to support a certified family, the certifier must gather information regarding current circumstances from:

(a) The certified family;

(b) The children or young adults placed in the certified family's home, when appropriate;

(c) The caseworkers of the children or young adults currently placed in the home; and

(d) Other collateral contacts that may have information regarding the characteristics of substitute care provided in the certified family's home.

(3) The certifier must schedule a meeting with the certified family to discuss the current circumstances and appropriate supports and services to assist the certified family.

(4) The certifier must prepare a Placement Support Plan that specifies:

(a) The actions or services in which the certified family will participate;

(b) The actions or services the Department will provide to support the certified family in maintaining conditions that provide safety and well-being for the children or young adults placed in the home by the Department;

(c) Written agreement that the certified family is willing and able to participate in the actions or services;

(d) Written agreement to review the Placement Support Plan on a specified date, which is within at least 90 days; and

(e) The anticipated end date of the Placement Support Plan.

(5) A supervisor must approve the Placement Support Plan.

(6) When the Placement Support Plan has been approved, the certifier must:

(a) Provide a copy to the certified family;

(b) File a copy in the certification file;

(c) Document a summary of the Placement Support Plan in FACIS, provider notes; and

(d) Provide written notification to the caseworkers of each child or young adult placed in the home of the Placement Support Plan.

(7) The certifier must contact the certified family prior to the anticipated end date of the Placement Support Plan to assure that all activities and services have been completed, or the certified family can meet the needs of the children or young adults placed in the home by the Department and is in compliance with Department certification standards.

(8) The certifier must document the end of a Placement Support Plan in the certification file, in FACIS provider notes, and notify the caseworkers of each child or young adult placed in the certified family's home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0287

Responsibilities Regarding Two-Year Renewal of the Certificate of Approval

(1) A certified family must be assessed every two years. The Department must complete the assessment and provide written notice of the decision to renew a certificate approval or intent to deny the renewal of the certified family's certificate of approval, prior to expiration of the existing certificate. To renew a Certificate of Approval, the certifier must complete all of the following:

(a) Complete a home visit and have face-to-face contact with all members of the household.

(b) Review the completed Certified Family Certificate Renewal or Change of Status Application.

(c) Confirm completion of required hours of training, and develop a training plan for the new certification period.

(d) Assure completion of criminal records checks on each adult member of the household; and, at the Department's discretion, any child under 18, as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470:

(A) Assess any safety concerns regarding the applicant or member of the household; and

(B) Obtain an exception per OAR 413-120-0450(6) Criminal History Checks for any new criminal history conviction for an applicant or member of the household, if appropriate.

(e) Assure completion of Child Abuse History Background Checks for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon in the previous five years, and an out-of-state child abuse history background check has not been completed,

a child abuse history background check must be requested from each state or country where the individual resided in the last five years.

(B) Assess any safety concerns regarding the applicant or adult member of the applicant's household.

(C) If appropriate, obtain approval from the District Manager or designee, on a form approved by the Department, when Child Protective Services has concluded that a member of the applicant's household is the perpetrator of a Founded Disposition or has on his or her record an Unable to Determine Child Abuse or Neglect Disposition or similar disposition from another state to continue certification.

(f) Review and assess whether conditions appear to exist in the home that provide safety and well-being for the child or young adult.

(g) Review and analyze the certified family's skills and abilities in maintaining conditions in the home that provide safety and well-being for the child or young adult, maintaining relationships with the community and the Department, and supporting the child or young adult's case plan.

(h) Update the home study including results of the assessment completed in subsections (a) to (g) of this section and submit to the supervisor for approval.

(2) The supervisor reviews and may approve or deny the home study and, if he or she approves, the Department issues a two-year certificate of approval.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0289

Responsibilities Regarding Voluntary Termination of an Application or an Existing Certificate of Approval

(1) When an applicant requests to withdraw his or her application for a Certificate of Approval, the certifier must document his or her communication regarding the applicant's request.

(2) When a certified family requests to close their home or does not wish to renew a Certificate of Approval, the certifier must document his or her communication regarding the certified family's request.

(3) A Child-Specific Certificate of Approval terminates when the specific child or young adult leaves the certified home. The certifier must confirm the certified family understands that the Child-Specific Certificate of Approval is void when the child or young adult is no longer placed in the home. When a child-specific certified family requests to become certified as a foster parent, the certifier must:

(a) Provide the family with a Certified Family Certificate Renewal or Change of Status Application; and

(b) Assess the family as a general applicant.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0292

Responsibilities Regarding Recertification of a Previously Certified Home

(1) When a certified family has been closed less than six months, the previous Certificate of Approval would not have expired during the months the home was closed (if the Certificate of Approval was not revoked), the certified family continues to live in the same residence, and the certified family requests that the Department reopen the Certificate of Approval, the certifier must:

(a) Provide the family with a Certified Family Certificate Renewal or Change of Status Application;

(b) Complete criminal records and child abuse history background checks on any new adult member living in the household as described in OAR 413-200-0272(2)(i)-(j).

(c) Conduct a home visit to identify and assess any changes in the environment or family;

(d) Observe and assess the safety of the physical environment and complete a safety assessment of the home; and

(e) Document in the certification file the circumstances that the Department reopened the Certificate of Approval.

(2) When a certified family has been closed for six months or more or the previous Certificate of Approval would have expired during the months the home was closed, and the previously certified family contacts the Department to become certified again, the certifier must:

(a) Provide the necessary documents for an initial application for a Certificate of Approval to provide care to the certified family for completion;

(b) Complete the assessment process as described in OAR 413-200-0274;

(c) Update the family's home study and document any changes in the family's circumstances since the most recent closure of the Certificate of Approval; and

(d) Submit the updated home study to the supervisor for approval.

(3) The supervisor reviews and may approve or deny the home study and, if he or she approves, issue a two-year Certificate of Approval.

(4) Foundations training is required if a family previously certified by the Department has not been certified within the last two years unless the supervisor waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(5) When the certified family moves to another residence in the State of Oregon, the Certificate of Approval automatically terminates. The Department may issue a new Certificate of Approval for the new residence after the activities described in this section have been completed. Within 14 working days, the certifier must:

(a) Provide the certified family a Certified Family Certificate Renewal or Change of Status Application;

(b) Review the completed Certified Family Certificate Renewal or Change of Status Application;

(c) Conduct a home visit and Safety Assessment prior to recommending a Certificate of Approval for the family to the supervisor; and

(d) Document in the certification file the circumstances of the family's relocation.

(6) When a certified family has been initially certified by the local Child Welfare office in the county in which the family resides and the family moves to another county, all of the following actions are required:

(a) The issuing Child Welfare office's certification supervisor must notify the certification supervisor in a Child Welfare office in the county to which the certified family is moving;

(b) The certification file and ongoing Department responsibilities are transferred to a Child Welfare office in the county to which the certified family is moving, unless the District Manager in the county to which the certified family is moving has approved that Department certification responsibilities remain in the Child Welfare office in the county from which the certified family is moving.

(c) Complete the actions described in section (5) of this rule.

(7) When a certified family wishes to move outside the State of Oregon with a child or young adult, refer to Child Welfare Policy I-B.3.4.2, "Interstate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0294

Responsibilities Regarding Inactive Referral Status

(1) The certified family or the Department may initiate an Inactive Referral Status. When a certified family is on inactive referral status, no additional child or young adult may be placed in the home.

(2) A certified family may ask the Department to place their home on Inactive Referral Status for any reason for up to 12 months. The inactive referral status begins immediately upon the request of the family.

(3) The certifier must immediately notify Department staff responsible for placement that the home is unavailable for placement of a child or young adult.

(4) Within 30 days of a certified family requesting inactive referral status, the certifier must send a letter to the certified family that documents the inactive status, the reasons for the status, and the requested length of the inactive referral status.

(5) The Department may place a certified family on Inactive Referral Status for one or more of the following reasons:

(a) The special needs of a child or young adult, who is currently in the home, require so much of the certified family's care and atten-

tion that no agency should place an additional child or young adult in the home.

(b) The family or members of the household are experiencing significant family or life stress.

(c) The certified family does not currently meet one or more of the certification standards.

(6) The Department must place a certified family on Inactive Referral Status when the Department is assessing an allegation of child abuse or neglect in the home.

(7) Within 14 days of the Department's initiating inactive referral status, the certifier must send a letter to the certified family that documents the beginning date of inactive referral status, the reason for the inactive referral status, and any specific certification standards that have been violated, if any.

(a) The certifier and the certified family may collaborate to develop a Placement Support Plan to address the concerns precipitating the inactive referral status; and

(b) The certification supervisor reviews and approves the Placement Support Plan.

(8) The Department may revoke a Certificate of Approval if a certified family is unable to remedy a violation of a certification rule within the time frame of the Inactive Referral Status.

(9) When the certified family initiates Inactive Referral Status, the inactive status ends at the request of the certified family.

(10) When the Department initiates Inactive Referral Status, the Department determines, within the time frame of the Inactive Referral Status, when the conditions that warranted the Inactive Referral Status have been resolved.

(11) When the Inactive Referral Status ends, the certifier must:

(a) Document removal of the Inactive Referral Status in the certification file;

(b) Send written notification to the family within 30 days; and

(c) Notify Department staff responsible for placement that the home is available for placement of a child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0296

Responsibilities Regarding Denial or Revocation of a Certificate of Approval

(1) The Department may deny an application for a Certificate of Approval or revoke a Certificate of Approval when the applicant or certified family does not meet one or more of the certification rules.

(2) The certifier must provide the applicant a written notice of the intent to deny a Certificate of Approval, which must state the reason or reasons for the denial.

(3) The Department must revoke a Certificate of Approval when a certified family violates one or more of the rules in Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0396, and at the conclusion of a CPS assessment, the Department determines that a child is unsafe and the certified family cannot or will not protect the child.

(4) The Department may deny an application or revoke a Certificate of Approval if the Department discovers an Applicant or certified family has falsified information (by act of commission or omission) before or after the Certificate of Approval has been issued or if a certified family fails to provide information or inform the Department of any disqualifying condition that arises after the Certificate of Approval has been issued.

(5) The certifier must provide the certified family a written notice of intent to revoke, which must state each reason for the revocation.

(6) The Department must remove from the home all the children or young adults in the care or custody of the Department upon making the decision to revoke the certified family's Certificate of Approval.

(7) When the Department has revoked a family's Certificate of Approval or denied an application for a Certificate of Approval, the Department has the discretion to require a waiting period of up to five years before the Department will accept a new application.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents

413-200-0301

Purpose of Certification Standards

(1) The purpose of these rules (OAR 413-200-0301 to 413-200-0396) is to describe the criteria for becoming a certified relative caregiver, foster parent, or pre-adoptive parent. A certified relative caregiver, foster parent, or pre-adoptive parent will be referred to as a certified family throughout these rules.

(2) These rules apply to any person requesting a Certificate of Approval, any person who has a current Certificate of Approval, or any person who is requesting re-certification to provide immediate, temporary, or permanent care for a child or young adult in the care or custody of the Department. The person may be an adult related to the child, an unrelated adult with an existing relationship to the child, or an adult unrelated and unknown to the child.

(3) In these rules, unless otherwise indicated, a child or young adult refers to a child or young adult in the care or custody of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0305

Authorization

(1) Title IV-E, section 471(a)(10) Social Security Act, requires the State of Oregon to establish a state authority responsible for establishing and maintaining standards for foster family homes and child care institutions.

(2) ORS 418.005–418.640 give the Department the authority and responsibility to approve homes for children and young adults in the care or custody of the Department. ORS 418.005–418.640 further authorize the Department to develop rules to approve homes.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0306

Definitions

The following definitions apply to OAR 413-200-0301 to 413-200-0396:

(1) “Applicant” means an individual or individuals who apply for a Certificate of Approval to become a certified family.

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

(3) “Certified family” means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(4) “Certifier” means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

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

(6) “Child-Specific Certificate of Approval” means a document authorizing an individual or individuals to operate a home to provide care for a specific child or young adult in the care or custody of the Department.

(7) “Criminal records check” means the process for obtaining and reviewing an individual’s criminal history information.

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

(9) “Denial” means the refusal of the Department to issue or renew a Certificate of Approval to operate a home to provide care for a child or young adult in the care or custody of the Department.

(10) “Designee” means a person who the designator directly and immediately supervises, or a person with equal or greater management responsibility than the designator.

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

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

(13) “Inactive Referral Status” means a period of time, not to exceed 12 months, during which neither the Department nor any other agency will place an additional child or young adult with a certified family. The certified family or the Department may initiate the Inactive Referral Status.

(14) “Member of the household” means any adult or child living in the home, including any caregiving employees and volunteers who may reside in the home.

(15) “Physical restraint” means the act of restricting a child or young adult’s voluntary movement as an emergency measure in order to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult’s behavior. “Physical restraint” does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(16) “Pre-adoptive parent” means an individual with a current Certificate of Approval to operate a home to provide care for a child placed by the Department for purposes of adoption.

(17) “Psychotropic medication” means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including but not limited to, antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(18) “Relative caregiver” means a person who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(19) “Relief or Respite Care” means:

(a) A formal planned arrangement to relieve a certified family’s responsibilities by a person temporarily assuming responsibility for the care and supervision of the child or young adult; or

(b) Assistance provided by a person who comes into the home of the certified family to care for the child or young adult in the care or custody of the Department.

(20) “Revocation” means an administrative act by the Department that rescinds an existing Certificate of Approval.

(21) “Surrogate” means a person who has been appointed to safeguard a child’s rights in the special education decision-making process. The person may be appointed pursuant to OAR 581-015-2320 for school-age children, OAR 581-015-2760 for preschool children, or by the juvenile court under ORS 419B.220.

(22) “Young adult” means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department’s Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0307

Decisions on Approval and Placement

(1) DHS Child Welfare has the responsibility to assess a family’s appropriateness for relative care, foster care, and adoption. This assessment process involves both family members and the family’s residence. To complete the assessment, DHS Child Welfare employees gather information about the family, its parenting capabilities, and network of support. They also gather information about the safety and capacity of the residence.

(2) Although certified relative care and foster care families and approved adoptive families meet these safety standards, it is the responsibility of DHS Child Welfare to exercise its discretion and judgement and select the home in which to place a specific child.

(3) A foster parent or relative caregiver who accepts a child for placement from DHS Child Welfare may accept a child for relative care, foster care, or adoptive placement from any other source, with the written approval of the branch responsible for the caregiver’s

certificate of approval or adoption approval. The written approval must be obtained prior to accepting an additional child unless the placement is on an emergency basis such as weekends, holidays or evenings, where as in such cases the written approval must be obtained within two working days after the placement has occurred.

(4) A foster parent or relative caregiver must not provide adult foster care, or day care without the prior written approval of the branch responsible for the caregiver's certificate of approval or adoption approval.

(5) Assessment Process.

(a) The assessment process for receipt and maintenance of a Certificate of Approval will include all persons living with the applicant and at the applicant's or certified family's address. This process requires the applicant and certified family to communicate substantial information as outlined in OAR 413-200-0381 to DHS Child Welfare, which will result in a written home study.

(b) An assessment of the applicant or certified family must include an assessment of the risk for child abuse or neglect:

(A) The certifying worker must ensure that the DHS Child Welfare information system is checked for child welfare history on all adults at the address of the applicant or certified family.

(B) A certifying worker may contact another state's Child Welfare Agency to request information regarding child abuse history in that state.

(C) Any Founded or Unable to Determine Dispositions from Oregon, or comparable dispositions from another state, must have SDA Manager or Child Welfare Program Manager approval prior to issuing a certificate of approval.

Stat. Auth.: ORS 418.005 & 418.640

Stats. Implemented: ORS 418.005-418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 6-2006(Temp), f. & cert. ef. 3-1-06 thru 8-28-06; CWP 19-2006, f. & cert. ef. 8-1-06

413-200-0308

Personal Qualifications of Applicants and Certified Families

(1) An applicant has the burden of proving that he or she possesses the required qualifications to become a certified family.

(2) To provide care for a child or young adult, an applicant must be at least 21 years of age unless:

(a) Otherwise specified in Child Welfare Policy I-E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260; or

(b) A Child Welfare program manager or designee has approved an applicant, between the ages of 18 through 20 years, to become a relative caregiver.

(3) An applicant must:

(a) Possess an ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior;

(b) Possess the ability to manage the applicant's home and personal life;

(c) Maintain conditions in the home that provide safety and well-being for the child or young adult;

(d) Have supportive relationships with adults and children living in the household and with others in the community;

(e) Have a lifestyle and personal habits free of criminal activity, and abuse or misuse of alcohol or drugs;

(f) Have adequate financial resources to support the household independent of the monthly foster care payments; and

(g) Have the physical and mental capacity to care for a child or young adult. Upon request, an applicant must provide copies of medical reports from a health care professional, or may be required to complete an expert evaluation with a report provided to the Department.

(4) To maintain a Certificate of Approval, in addition to continuing to meet the personal qualifications in sections (1) to (3) of this rule, a certified family must:

(a) Learn and apply effective childrearing and behavior intervention practices focused on helping a child or young adult grow, develop, and build positive personal relationships and self-esteem;

(b) Incorporate into the family's care-giving practices positive non-punitive discipline and ways of helping a child or young adult build positive personal relationships, self-control, and self-esteem;

(c) Respect and support the child or young adult's relationships with the birth family and other significant persons in the child or young adult's life;

(d) Respect each child or young adult's spiritual beliefs, lifestyles, sexual orientation, disabilities, national origin, cultural identities, and provide opportunities to enhance the child or young adult's heritage;

(e) Work in partnership with the Department to identify the strengths and needs of each child or young adult;

(f) Follow through and comply with prescribed services, activities, and restrictions of each child or young adult in the care or custody of the Department placed in the certified home; and

(g) Use reasonable efforts to prevent anyone from influencing the child or young adult regarding allegations in a judicial or administrative proceeding in which the child or young adult's family or legal guardian, the child or young adult, or other persons may be involved.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0309

Protection of Civil Rights

(1) No person in the United States shall, on the ground of gender, disability, religion, age, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

(2) Foster Parents shall respect persons with differing values, lifestyles, philosophies, religions, national origin, and cultural identities and heritage.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01

413-200-0314

Process to Apply for a Certificate of Approval

(1) To become a certified family, the applicant must:

(a) Apply for certification in the county of the applicant's residence, except as provided in OAR 413-200-0274(2)(o)(A) and 413-200-0274(4)(o)(A);

(b) Complete a Department application;

(c) Provide the names and contact information of four references, two of whom may be relatives of the applicant, who can attest to the applicant's character and ability to provide safe and protective care for a child or young adult, and the names and contact information of at least two persons with whom the certified family is likely to remain in contact if displaced due to a natural disaster;

(d) Complete all required paperwork requested by the Department;

(e) Allow Department staff to conduct an in home safety assessment of conditions that appear to exist in the home that provide safety and well-being for the child or young adult;

(f) Allow Department staff to have face-to-face contact with all members of the applicant's household;

(g) Provide social and family history information to the Department; and

(h) Provide information about any current or previous licenses, certifications, or applications for relative care, foster care, day care, adoption, or any other types of services for vulnerable individuals including adult care giving. Information must include the organization's name, any denials, suspensions, revocations, or terminations.

(2) All adult members of the applicant's household must have face-to-face contact with a Department certifier and must provide:

(a) Information regarding criminal involvement, including arrests and convictions regarding any member of the household; and

(b) Consent to a criminal records check.

(3) The applicant must allow the Department, at its discretion, to gather information regarding the criminal records of any child under 18 who lives in the household.

(4) All adult members of the applicant's household must provide:

(a) Information regarding any previous allegations of child abuse and neglect; and

(b) Consent to a child abuse and neglect background check.

(5) Withdrawal of Application. Applicants who have applied or are applying for a Certificate of Approval may voluntarily withdraw their application to provide care for a child or young adult. The family must provide their voluntary withdrawal notice --

(a) On a form provided by the Department;

(b) In a written format of their choice; or

(c) Verbally to a certifier or certifier's supervisor.
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005 - 418.640
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0381, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0335**Certification Standards Regarding the Home Environment**

(1) The home and surrounding environment of a certified family must comply with all of the following requirements:

(a) Be the primary residence of the certified family and the residence where the child or young adult resides with the certified family.

(b) Have adequate space for each member of the household, including space for safe and appropriate sleeping arrangements.

(A) A certified family and Department staff must consider a child or young adult's age, gender, special needs, behavior, and history of abuse or neglect in determining appropriate sleeping arrangements.

(B) Unrelated foster children may not share a bed.

(c) Have safe and adequate drinking water and an adequate source of safe water to be used for personal hygiene.

(d) Have access to a working telephone to make and receive phone calls.

(e) Have the necessary equipment for the safe preparation, storage, serving, and clean-up of food.

(f) Provide safe storage of all medications in the household, and store psychotropic medications for any member of the household in locked storage.

(g) Have easily accessible first aid supplies, and a reasonable understanding of how to use such supplies.

(h) Have a safe, properly maintained, and operational heating system. Space heaters must be plugged directly into a wall outlet and must be equipped with tip-over protection.

(2) In order to maintain a safe environment for a child or young adult, a certified family must:

(a) Comply with state and local ordinances and consider a child or young adult's age, special needs and capabilities, to establish the necessary safeguards around potential water hazards, outdoor play equipment, or other outdoor tools, chemicals, or potentially dangerous hazards.

(b) Assure that:

(A) Swimming pools, wading pools, ponds, hot tubs and other water hazards are inaccessible to a child or young adult unless responsibly supervised;

(B) Outdoor tools and equipment, machinery, chemicals, flammables, and combustibles are stored in a safe manner;

(C) Animals are properly cared for and kept in compliance with local ordinances; and

(D) A child or young adult's access to potentially dangerous animals is restricted.

(c) Consider the child or young adult's age, special needs and capabilities when determining if an animal is a safe and appropriate pet.

(d) Notify and receive authorization from a child or young adult's caseworker or the caseworker's supervisor prior to a child or young adult's beginning hunting or target practice.

(3) In order to protect the safety of a child or young adult in care, a certified family must store hunting and sporting equipment, such as knives, spears, arrows, hunting sling shots, bows, and martial art weapons, in a safe and secure manner, and inaccessible to a child or young adult.

(4) The certified family must comply with all of the following fire safety requirements.

(a) The home of a certified family must:

(A) Have at least one working smoke alarm on each floor and one in each bedroom where a child or young adult sleeps;

(B) Have at least one operable fire extinguisher rated 2-A:10-B-C or higher;

(C) Have at least one means of emergency exit and one means of rescue from the home;

(D) Have a barrier around fireplaces, wood stoves, or other heating systems which may cause burns to a child or young adult developmentally unable to reasonably follow safety rules regarding such devices; and

(E) Have operable, quick-release mechanisms on barred windows. No bedroom occupied by a child or young adult, who is unable to use the quick-release mechanism, may have a barred window.

(b) Provide to the Department and display in the home a written comprehensive home evacuation plan, share the plan with each child or young adult at the time of placement, and practice the evacuation plan at least every six months. A certified family must include in the written comprehensive home evacuation plan a provision for the safe exit of a child or young adult who is not capable of understanding or participating in the evacuation plan.

(c) Assure that a bedroom used by a child or young adult has:

(A) One unrestricted exit;

(B) At least one secondary means of exit or rescue;

(C) A working smoke alarm; and

(D) Unrestricted, direct access, at all times, to hallways, corridors, living rooms or other such common areas.

(5) Any door that locks on the inside must be operable from the outside of the room, and any door that locks on the outside must be operable from the inside of the room.

(6) Transportation requirements.

(a) A certified family must have available, and be willing to use, a safe and reliable method of transportation.

(b) Any member of the household transporting a child or young adult must provide proof of a valid driver's license and current insurance, as required by law, on any family-owned motorized vehicle by which a child or young adult might be transported when a family has applied for certification and at each re-certification.

(c) As required by current state law, a certified family must assure that:

(A) Only a licensed and insured driver transports a child or young adult in motorized vehicles; and

(B) A child or young adult uses a seat belt or age and size appropriate safety seat when transported in motorized vehicles.

(d) A certified family must obtain written authorization from the Department prior to transporting a child or young adult out of the State of Oregon.

(7) Smoking limitations. A certified family must assure that:

(a) A child or young adult is not exposed to any type of second-hand smoke in the certified family's home or vehicle; and

(b) No member of the household provides any form of tobacco products to a child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0346 [Renumbered to 413-200-0362]**413-200-0347 [Renumbered to 413-200-0358]****413-200-0348****Requirements Regarding the Number of Children and Young Adults Placed by the Department**

(1) Except as provided in section (3) of this rule, a certified family may not exceed the following maximum number of children and young adults in the home:

(a) A total of:

(A) Four children or young adults when one certified adult lives in the home; or

(B) Seven children or young adults when two certified adults live in the home.

(b) Two children under the age of three.

(2) The limits in section (1) of this rule include all children or young adults residing in the home.

(3) Under extraordinary circumstances, a Child Welfare program manager may approve placement of a child or young adult in a certified family that exceeds the maximum number of children and young adults in section (1) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0349 [Renumbered to **413-200-0379**]

413-200-0352

Requirements for the Care of Children and Young Adults

A certified family must:

(1) Work cooperatively with the Department, the child or young adult, and his or her family to meet the child or young adult's needs for educational, physical, recreational, social, intellectual, and emotional development;

(2) Include the child or young adult as part of the family household;

(3) Assure that when a child or young adult leaves the certified home, the child or young adult's belongings, both those brought with him or her and those obtained while living in the home, remain with the child or young adult;

(4) Not subject any child to abuse, as described in ORS 419B.005;

(5) Not accept a child or young adult for placement from another agency without prior approval of the Child Welfare program manager or designee; and

(6) Not provide formal or informal adult foster care or child day care without prior approval of the Child Welfare program manager or designee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0375, CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0354

Requirements Regarding a Child or Young Adult's Education

(1) The certified family must comply with all of the following requirements:

(a) Enroll the child or young adult in his or her school or educational placement, after the school or educational placement has been determined by the Department.

(b) Support the child or young adult in his or her school or educational placement.

(c) Assure the child or young adult regularly attends the school or educational placement and monitor the child or young adult's educational progress, including keeping records of:

(A) The child or young adult's report cards;

(B) Any reports received from the teacher or the school or educational placement;

(C) Any evaluations received as a result of educational testing or assessment; and

(D) Disciplinary reports regarding the child or young adult.

(d) Monitor the child or young adult's educational successes, learning style, and potential learning difficulties.

(e) Work with the child or young adult's caseworker when referring the child or young adult for assessment of a possible disability.

(f) Notify the child or young adult's caseworker of the certified family's interest in or intent to be appointed as the child or young adult's educational surrogate parent ("surrogate" is defined in OAR 413-100-0506).

(g) Work with the Department to regularly share information regarding the child or young adult's educational progress.

(2) The certified family may be appointed to safeguard a child's rights in the special education decision-making process. This appointment may occur pursuant to OAR 581-015-2320 for school-age children, OAR 581-015-2760 for preschool children, or by the juvenile court under ORS 419B.220.

(3) The certified family may provide consent for a child or young adult placed in the home to participate in routine school-related activities, such as school enrollment, field trips within the state of Oregon, routine social events, sporting events, and cultural events.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0358

Requirements Regarding a Child or Young Adult's Discipline

(1) When disciplining a child or young adult, the certified family must not use corporal punishment, verbal abuse, or withholding food or other items essential to a child or young adult's protection, safety,

or well-being. Examples of prohibited discipline include, but are not limited to, the following:

(a) Use of or threatened use of any form of physical force.

(b) Verbal abuse including derogatory remarks about the child or young adult, the child or young adult's family characteristics, physical traits, culture, ethnicity, language, sexual orientation, or traditions.

(c) Denying a child or young adult visits, telephone, or other types of contact with persons authorized in a visit and contact plan.

(d) Assigning extremely strenuous exercise or work.

(e) Use of or threatened use of restraining devices.

(f) Punishment for bed-wetting or punishment related to toilet training.

(g) Directing a child or young adult or permitting a child or young adult to punish another child or young adult.

(h) Threat of removal from the certified family home as punishment.

(i) Use of the shower as punishment.

(j) Group punishment for the misbehavior of one child or young adult.

(k) Extreme isolation as a means of punishment that restricts a child or young adult's ability to talk with or associate with others.

(l) Locking a child or young adult in a room.

(2) The certified family must demonstrate a willingness to understand the meaning of the child or young adult's behaviors and the ability to develop and use appropriate strategies to address challenging behaviors. Appropriate strategies may include:

(a) Concentrating on changing only the behavior that is causing the most difficulty for the child or young adult and others;

(b) Emphasizing ways to help the child or young adult develop self-control;

(c) Taking a positive approach to changing challenging behavior;

(d) Selecting and implementing strategies that respect and involve the child or young adult in the change process; and

(e) Being mindful of the child or young adult's age, developmental level, and past experiences with abuse and neglect.

(3) The certified family may use a time-out only for the purpose of giving the child or young adult a short break to allow the child or young adult to calm himself or herself and regain control, and not as a punishment. The certified family must take into consideration the child or young adult's age and developmental level in determining the length of a time-out.

(4) Only an adult in a certified family or Department staff, who has been trained to use a physical restraint, may do so, except in circumstances described in Child Welfare Policy I-B.1.6, "Behavior Intervention", OAR 413-020-0200 to 413-020-0245 when a child, young adult, or others are at imminent risk of danger. Physical restraint (defined in OAR 413-200-0306) must be a safety measure of last resort.

(5) The certified family must notify and request assistance of the Department when the child or young adult's challenging behavior may be beyond the certified family's ability to discipline in a positive manner.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0347, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0362

Requirements Regarding a Child or Young Adult's Medical Care and Notification Requirements

(1) In addressing the health care for a child or young adult, the certified family must:

(a) Work collaboratively with the Department in managing the child or young adult's health care needs;

(b) Regularly exchange the child or young adult's medical information with the Department;

(c) Work collaboratively with medical providers in managing the child or young adult's health care needs; and

(d) Maintain documentation of each child or young adult's:

(A) Medical appointments;

(B) Medical information regarding the child or young adult;

(C) Medical appointment follow-up reports; and

(D) Immunization records.

(2) A certified family must comply with the Department's direction on obtaining medical care for a child or young adult.

(3) A certified family may consent to routine medical care for a child or young adult in the Department's custody, including vaccinations, immunizations, routine examinations, and laboratory tests.

(4) Except as provided in section (5) of this rule, the certified family must contact the child or young adult's caseworker to obtain appropriate prior consent from the Department before a child or young adult receives any medical care or undergoes a procedure, other than routine medical care.

(5) In an emergency, a certified family must notify the child or young adult's caseworker as soon as possible and no later than 24 hours after an injury requiring medical treatment.

(6) Medication management requirements.

(a) The certified family must comply with all of the following requirements:

(A) Administer prescription medications to a child or young adult only in accordance with the written prescription or authorization.

(B) Record the dosage, date, and time that all medications are administered to a child or young adult on a form approved by the Department. If medication is given in a location other than the certified home, such as at school or in daycare, the institution or program's medication log must be attached to the Department form. The medication form, with any attachments, must be submitted to the child or young adult's caseworker monthly.

(C) Take the medication form to each medical appointment and share with the medical provider.

(D) Inform the child or young adult's caseworker or his or her supervisor within one working day when a child or young adult is prescribed a psychotropic medication or the dosage of any existing prescription is changed.

(E) Maintain the documentation received from the caseworker when a child is prescribed a psychotropic medication or when the dosage of any existing prescription for a psychotropic medication is changed.

(b) The certified family must store all medications in such a way that the medications are inaccessible to a child or young adult and must store all psychotropic medications in locked storage.

(c) When a child or young adult is learning to manage his or her own medications, the certified family, the child or young adult, and the caseworker may collaborate on an individualized, written plan for the child or young adult to access the medication. The child or young adult must not have access to medication that is not his or her own. The plan must state how the medication will be inaccessible to other children or young adults in the home. The certified family, the child, and the caseworker will keep a copy of the plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0346, CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0371

Responsibilities and Notification Requirements for Selection and Use of Alternate Caregivers

(1) Except as provided in section (2) of this rule, the certified family is responsible for identifying and selecting safe and responsible alternate caregivers for a child or young adult placed in their home, and take into consideration:

(a) Each child or young adult's age, special needs, attachment, and individual behaviors; and

(b) The length of time that the child or young adult will be with the alternate caregivers described in this rule.

(2) The Department may determine that a particular alternate caregiver is inappropriate based upon the needs of the child or young adult.

(3) Responsibilities when Using a Babysitter.

(a) The certified family must use a responsible person 14 years of age or older for short-term intermittent child care, and must:

(A) Have an available method through which they may be contacted in an emergency;

(B) Assure the babysitter is capable of assuming child care responsibilities required to meet the needs of the children in the certified family's home, and will be present at all times; and

(C) Assure the babysitter does not provide overnight care.

(b) A babysitter does not need to complete a criminal history background check.

(4) Responsibilities and notification requirements when using Relief Care or Respite Care.

(a) The certified family must select a relief or respite caregiver who is:

(A) At least 18 years of age;

(B) Capable of assuming child care responsibilities, including meeting any special needs of each child or young adult in the certified family's care; and

(C) Present at all times.

(b) The certified family must:

(A) Have an available method through which they may be contacted in an emergency; and

(B) Provide to the Department the name, address, and telephone number of the relief or respite caregiver for the purpose of the Department's conducting the criminal records check and child abuse and neglect history check, prior to the person providing relief or respite care.

(c) The certified family must receive Department approval prior to using a relief or respite caregiver.

(5) A certified family may use a licensed, registered, or approved childcare center or day care provider for a child or young adult and must notify the Department in advance of using the licensed childcare center or day care provider.

(6) Family and childhood activities.

(a) The certified family may give consent for a child or young adult in the Department's care or custody to participate in ordinary childhood activities, such as sleepovers with friends and organized activities provided by schools, churches, civic organizations, scouts, or similar groups.

(b) The certified family must verify that the event is safe, adequately supervised, and appropriate for the child or young adult based upon his or her needs.

(c) When the certified family has any questions regarding the child or young adult participating in the activity, the family must consult with the child or young adult's caseworker.

(7) The certified family must notify the child or young adult's caseworker prior to the child or young adult being absent from the certified family for more than 24 hours.

(8) The certified family is responsible for notifying the certifier or the certifier's supervisor in advance when the certified family plans to provide relief or respite care for another certified family and the number of children or young adults in the home will exceed the maximum number of children or young adults on the certified family's Certificate of Approval.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; SOSCF 15-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 29-2003, f. 7-31-03 cert. ef. 8-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0375 [Renumbered to 413-200-0352]

413-200-0377

Confidentiality

(1) The certified family must exercise good judgment in sharing personal information about the child or young adult and the child or young adult's family. The certified family must store documents regarding the child or young adult or child or young adult's family in a way that protects the privacy of the child or young adult and the child or young adult's family.

(2) The certified family may not disclose confidential information regarding a child or young adult or the family of a child or young adult, except when necessary to promote or to protect the health and welfare of the child, young adult, or the community.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0379

Education and Training for Applicants and Certified Families

(1) All applicants must participate in the Department's Orientation prior to receiving a Certificate of Approval, or within 30 days after

the placement of a child or young adult in a home that has been issued a Child-Specific Certificate of Approval.

(2) Applicants and certified families must complete the Foundations of Relative Care, Foster Care, and Pre-Adoptive Care (Foundations) training before or within 12 months after the date on which the Certificate of Approval was issued, or have written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for a Certificate of Approval from the Department.

(3) Foundations training is required if an applicant previously certified by the Department has not been certified within the last two years unless the supervisor waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(4) The certified family and the Department certifier must develop a training plan for each person certified in the family to complete at least 30 hours of training during each two-year certification period.

(5) Applicants and certified families who have limited English proficiency or a hearing or visual impairment, and cannot meet the training requirements outlined in sections (1) to (3) of this rule may be provided an individualized training plan prepared by the certifier and approved by the Children, Adults and Families Division, Foster Care Program Office.

(6) The Department may require a certified family to obtain more than the 30 hours of training for a two-year certification period depending on the needs of the child or young adult placed in their home or the knowledge, skills, and abilities of the certified family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 – 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0349, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0381 [Renumbered to 413-200-0314]

413-200-0383

Other Required Notifications

A certified family must notify the certifier or certifier's supervisor of all of the following:

- (1) Any person joining or leaving the household.
- (2) Any anticipated change in address.
- (3) Any physical or structural changes in the home in which they live.
- (4) Any arrests or court convictions for any member of the household. This notification must occur within one working day.
- (5) Any known allegation of child abuse or neglect perpetrated by any member of the household, or an individual who regularly visits the home. Such notification must occur on the day that the certified family learns of the allegation.
- (6) The suspension of a driver's license of any adult on the Certificate of Approval or any member of the household.
- (7) Any change in the physical or mental health of a member of the household that reasonably could affect the member's or the family's ability to meet the needs of safety, health, and well-being of a child or young adult.
- (8) Any time any member of the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider, in order to obtain the approval of the Department prior to providing such care.
- (9) Any time another agency wishes to place a child or young adult in the certified home, in order to obtain the approval of the Department prior to providing such care.
- (10) Any time the certified family agrees to provide relief or respite care for another certified family.
- (11) Any other circumstance that could reasonably affect the safety or well-being of a child or young adult in the certified family's home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 – 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0386

Requirements Regarding Mandatory Reporting

Any member of the household and any certified family's employee, independent contractor, or volunteer who works in the certified

family's home, must report the pertinent information to the Department upon reasonable cause to believe that any child with whom the person comes in contact has suffered abuse or neglect or that any adult with whom the person comes in contact has abused or neglected a child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 – 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0388

Requirements Regarding Visits in the Certified Family's Home

For purposes of assessing the conditions in the home that provide safety and well-being for the child or young adult, a certified family must:

- (1) Allow on-going in-home visits, both scheduled and unscheduled, by Department staff; and
- (2) Allow Department staff unsupervised contact with a child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 – 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0390

Requirements Regarding the Certificate of Approval

(1) An applicant may receive a Child-Specific Certificate of Approval for up to 90 days when assessment activities described in Child Welfare Policy II-B.1.1, "Department Responsibilities for Certification and Supervision of Relative Caregivers, Foster Parents, and Pre-Adoptive Parents", OAR 413-200-0274(2)(a)–(p) have been completed; and, when all assessment activities have been completed, may receive a Certificate of Approval for up to two years.

(2) A certified family must apply every two years to be re-certified as a foster parent or relative caregiver.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.630 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07

413-200-0393

Requirements Regarding Inactive Referral Status

(1) A certified family may request that the Department place their home on Inactive Referral Status for any reason for up to 12 months. The inactive referral status begins immediately and while it is in effect:

- (a) The Department will place no additional child or young adult in the home; and
 - (b) The certified family may not accept placement of any child or young adult from another agency.
- (2) Inactive Referral Status, when requested by the certified family, ends:

- (a) At the request of the certified family; or
- (b) When the certificate expires and:
- (A) The family has not timely applied for renewal of the certificate; or
- (B) The Department has not renewed the certificate.

(3) The Department may initiate a certified family's inactive referral status under the conditions described in Child Welfare Policy II-B.1.1, "Department Responsibilities for Certification and Supervision of Relative Caregivers, Foster Parents and Pre-Adoptive Parents", OAR 413-200-0294(5) or (6). When the Department initiates inactive referral status, the Department must:

- (a) Provide written notification to the certified family of the inactive referral status within fourteen working days; and
- (b) Provide written notification to the certified family when inactive referral status ends.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0394

Requirements Regarding Termination of a Certificate of Approval

(1) A certified family may voluntarily request that the Department terminate the Certificate of Approval and close the home. The certified family must give the Department ten-days notice before the Certificate of Approval is terminated. The Department must remove any child or young adult in the care or custody of the Department from the home before closing the home.

(2) When a child or young adult leaves a home that has a Child-Specific Certificate of Approval, the Department terminates the Child-Specific Certificate of Approval and closes the home.

(3) When a certified family moves to a different residence, the Department terminates the Certificate of Approval and closes the home. The Department may issue a new Certificate of Approval when the activities described in OAR 413-200-0292(5) have been completed.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.005 - 418.640
 Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0395

Requirements Regarding Denial and Revocation of a Certificate of Approval

(1) The Department may deny an application for a Certificate of Approval if an applicant fails to provide requested information within 90 days of a written request from the Department.

(2) The Department may deny an application or revoke a Certificate of Approval when:

(a) The applicant or certified family does not meet one or more of these rules (OAR 413-200-0301 to 413-200-0396);

(b) The Department discovers an applicant or a certified family has falsified information (by act of commission or omission) before or after the Certificate of Approval has been issued; or

(c) An applicant or certified family fails to provide information to or inform the Department of any disqualifying condition that arises after the Certificate of Approval has been issued.

(3) The Department must provide the certified family a written notice of revocation or denial, which must state the reason or reasons for the revocation or the denial.

(4) The Department must revoke a Certificate of Approval when a certified family violates one or more of these rules (OAR 413-200-0301 to 413-200-0396) and, at the conclusion of a CPS assessment, the Department determines that a child or young adult is unsafe and the certified family cannot or will not protect the child or young adult.

(5) Upon deciding to revoke a certified family's Certificate of Approval, the Department must remove from the home any child or young adult in the Department's care or custody.

(6) When the Department revokes a certified family's Certificate of Approval or denies an application, the Department has the discretion to require up to a five-year waiting period before the individual or family can reapply as a relative caregiver or foster parent.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.005 - 418.640
 Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

413-200-0396

Requirements Regarding Contested Case Hearings

(1) Except as provided in section (4) of this rule, an applicant may request a contested case hearing to contest the Department's decision to deny the approval of the application for a Certificate of Approval.

(2) A certified family may request a contested case hearing to contest the Department's decision to revoke the Certificate of Approval.

(3) The applicant or family requests a contested case hearing, as provided in ORS Chapter 183, by providing a Child Welfare program manager a written request for a hearing within 30 days of the date that the Department mailed the notice of denial or revocation.

(4) ORS Chapter 183 does not provide a contested case process for adoptive applicants who are denied approval as an adoptive resource.

(5) If the Department does not receive a request for a contested case hearing within 30 days of the date that the Department mailed the notice of denial or revocation, the certified family or applicant has waived the right to a hearing, except as provided in OAR 137-003-0003(1).

(6) When a contested case hearing is timely requested but such request is subsequently withdrawn, the Department will document in the certification file the circumstance of the withdrawal.

(7) Child Welfare Policy I-A.5.2.1, "Contested Case Hearings", outlines the procedures for handling a request for a contested case hearing due to the denial or revocation of a Certificate of Approval.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 418.005 - 418.640
 Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07

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 Services 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 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 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 Services 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 Services 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

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

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 back-up 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 home-grown 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

Outdoor Youth Programs

413-210-0800

Purpose and Applicability of Rules

(1) **Value Statement.** The State of Oregon, through the statutorily required adoption of administrative rules for licensing outdoor youth programs, has determined that the services provided by these programs are an important and valuable resource option for children, youth and families and the continued provision of these services is in the State's interest. Application of the rules is intended to recognize the treatment values of the Outdoor Youth wilderness experience and, to the extent that the required elements of safety and accountability are in place, to facilitate the provision of appropriate wilderness youth treatment programs in Oregon.

(2) **Required Compliance.** Rules 413-210-0800 through 413-210-0883 set forth the Department of Human Services (DHS) requirements for licensing private child caring agencies providing outdoor youth programs, subject to Oregon laws governing private child caring agencies, ORS 418.205 to 418.325 and 418.990 to 418.998 and Oregon laws governing outdoor youth programs, ORS 418.205 to 418.246.

(3) **Additional Required Compliance.** Private child caring agencies providing outdoor youth programs must also comply with OAR 413-210-000 through 0070, 413-210-00140, 413-210-0190 – 0250 except that 413-210-0020(2)(c)(A)–(E) shall not apply.

(4) **Severability.** If any court of law finds that any clause, phrase or provision of these rules is illegal or in conflict with any law, this finding shall not affect the validity of the remaining portion of these rules.

(5) **Acceptability.** In some instances there are no common definitions as to degree of acceptability. For purposes of these rules, the determination of compliance or non compliance shall be made by DHS. DHS may at its discretion, but is not required to, consult with the Outdoor Youth Program Advisory Board regarding general issues of acceptability in outdoor youth programs.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; CWP 1-2004, f. & cert. ef. 1-9-04

413-210-0803

Definitions

(1) "Child-caring Agency" (Agency) for the purpose of these rules means any private agency or private organization providing an outdoor youth program.

(2) "Contraband" means items the possession of which is prohibited by the outdoor youth program such as weapons or drugs.

(3) "Critical Incident" means an incident occurring in the outdoor youth program which endangers the safety of an individual or the group and requires response to protect the health and safety of youths and staff. Critical incidents include, but are not limited to, runaways, assaults, suicide attempts, use of physical restraint, any injury or illness requiring more than the use of routine first aid.

(4) "Debrief" means to interview (as youth or staff member) usually upon return (as from an expedition) in order to obtain useful information.

(5) "Executive Director" means the person designated by the private child-caring agency as the principal agent for the daily operation and maintenance of the outdoor youth program.

(6) "Expired Medication" means any medication whose designated period of potency, as indicated on the label, has expired.

(7) "Global Positioning System (GPS) Receiver" A receiver which receives signals from a network of 24 satellites known as the Global Positioning System, or GPS, which identifies the receiver's location: latitude, longitude and altitude to within a few hundred feet.

(8) "Leave No Trace Principles" means wilderness and land use ethics which are designed to minimize the impact of visitors to back country areas. The principles include: Plan Ahead and Prepare, Travel and Camp on Durable Surfaces; Pack it in, Pack it Out; Properly Dispose What You Can't Pack Out; Leave What You Find; and Minimize Use and Impact of Fire.

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

(10) "Near Miss" A close call. A potentially dangerous situation where safety was compromised but that did not result in injury. An unplanned and unforeseen event after which those involved express relief that the incident ended without harm.

(11) "Outdoor Youth Program" means a program that provides, in an outdoor living setting, services to youth who are enrolled in the program because they have behavioral problems, mental health problems or problems with abuse of alcohol or drugs. "Outdoor youth program" does not include any program, facility or activity operated by a governmental entity, operated or affiliated with the Oregon Youth Conservation Corps, or licensed by the Department of Human Services as a child caring agency under other authority of the Department. It does not include outdoor activities for youth designed to be primarily recreational such as Boy Scouts, Girl Scouts, Campfire, church groups or other similar activities.

(12) "Outdoor Youth Program Activity" means an outdoor activity, provided to youth for the purpose of behavior management or treatment, which requires specially trained staff or special safety precautions to reduce the possibility of an accident or injury. Outdoor youth activities include, but are not limited to: hiking, adventure challenge courses, climbing and rappelling, winter camping, soloing, expeditioning, orienteering, river and stream swimming and whitewater activities. In some instances there are no common definitions as to the identification of an outdoor youth activity. For purposes of these rules, the determination of the identification of an outdoor youth activity shall be made by DHS.

(13) "Outdoor Youth Program Advisory Board" means the advisory board established pursuant to ORS 418.243 and 418.244 for the purpose of providing advice to DHS on licensing of outdoor youth programs.

(14) "Over the Counter Medication" means any medication that does not require a written prescription for purchase or dispensing.

(15) "Physical Assist" occurs when staff members physically aid, support or redirect youth who are not resisting. Physical assists include staff leading youth along the trail or moving youth to his or her campsite by gently pulling on a backpack strap, guiding him or her by the hand or elbow, or placing a hand on the youth's back. The youth may not want to be physically assisted but he or she does not offer resistance.

(16) "Physical Restraint" means using a non violent physical intervention that restricts or controls a youth's movement, restricts the movement or normal function of a portion of the youth's body, or moves the youth against his or her will, as described in a DHS approved Non Violent Crisis Intervention training.

(17) "Psychotropic Medication" is medication prescribed for the purpose of affecting or altering 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 as prescribed and not the side effect when prescribed for another primary purpose.

(18) "Service Plan" means an individualized plan of services to be provided to each youth based on his or her identified needs and designed to help him or her reach mutually agreed upon goals. The service plan shall address, at a minimum, the youth's physical and medical needs, behavior management issues, mental health treatment methods, education plans, and any other special needs.

(19) "Sole Supervision" means being alone with a youth or being temporarily the only staff in charge of a youth or subgroup of youth.

(20) "Time Out" means imposed separation of a youth from any group activity or contact as a means of behavior management.

(21) "Unused Medication" means any medication which has not been used for sixty (60) days, or a medication held by the facility which has been prescribed for a resident who has been released from the facility.

(22) "Wilderness First Responder" means a medical training course and certification for outdoor professionals.

(23) "Youth" means a child aged ten (10) through seventeen (17) years of age who may be admitted to or is a participant in an outdoor youth program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0806

License Required

(1) License Required. Unless exempted by Oregon laws governing private child caring agencies, no person or organization shall operate an outdoor youth program in Oregon without a valid license issued by DHS in accordance with OAR 413-210-0800 through 0883.

(2) Compliance Required. Any agency which provides the services of an outdoor youth program shall comply with these rules governing outdoor youth programs and OAR 413-210-0010 through 0070; 413-210-0140, 413-210-0190 – 0250 except that 413-210-0020(2)(c)(A)-(E) shall not apply.

(3) Inspection. The outdoor youth program shall provide to DHS representatives upon request access to all of the program's accounts and records.

(4) Bond Required. Each outdoor youth program applying for licensure shall file with DHS a Fiduciary Bond in the amount of \$50,000 or 50 percent of the program's yearly budget, whichever amount is less. The Bond shall be issued by a surety or insurer that is licensed to do business in the State of Oregon. The Bond must be written and issued on the Surety Bond Form DHS CF1066, provided to the outdoor youth program by DHS. The required Bond shall be continuous until canceled and shall remain in full force at all times to comply with the section. Any claims or potential impairment to the Bond shall be reported to DHS within 30 days of the incident or occurrence involving the claim or potential impairment. In the event of impairment to the Bond, the outdoor youth program will be required to obtain additional bonding to satisfy the requirements of this section. The surety or insurer shall give DHS at least 30 days written notice before canceling or terminating its liability under the Bond. An action on the Bond may be brought by any person aggrieved by the misconduct of an outdoor youth program required to be licensed under ORS 418.205 to 418.310. As evidence of the Bond, the outdoor youth program shall keep a certified copy of the Bond on file with DHS at all times.

(5) Insurance Required. The outdoor youth program shall secure, and keep in effect during the term of the license, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the State of Oregon. This insurance shall include personal injury liability, completed operations and contractual liability coverage, and be written on an occurrence basis. Combined single limit per occurrence shall not be less than one million dollars (\$1,000,000). Each annual aggregate limit shall not be less than two million dollars (\$2,000,000). Coverage shall be primary and non-contributory with any other insurance and self-insurance. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the outdoor youth program or its insurer(s) to the Department of Human Services. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of licensure requirements and may be grounds for immediate termination of the license to operate the outdoor youth program. As evidence of the insurance coverages required by this section, the outdoor youth program shall furnish Certificate(s) of Insurance to DHS prior to the issuance of license to the outdoor youth program and at the time of all subsequent renewals. The Certificate(s) will specify all of the parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The outdoor youth program shall pay for all deductibles, self-insured retention and/or self-insurance included hereunder.

(6) Workers Compensation. The outdoor youth program shall comply with all provisions of ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. The outdoor youth program shall ensure that each of its subcontractors complies with these requirements.

(7) Financial Stability. The outdoor youth program shall demonstrate sufficient financial stability and backing to ensure effective and responsible delivery of its services. Consideration of the program's financial stability will be based on its reports using generally accepted accounting practices. The reports should reflect a program with the capacity to meet current and future obligations; reasonably free from debt obligations; and free from onerous liens or bankruptcy proceedings.

(8) Unless otherwise exempt, an outdoor youth program is subject to the requirements of the Interstate Compact for Placement of Children. The program shall have written policy and procedures

regarding compliance with Compact as found in ORS 417.200 through 417.260.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205-418.325, 418.990-418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; CWP 1-2004, f. & cert. ef. 1-9-04; CWP 7-2007, f. & cert. ef. 5-1-07

413-210-0809

Administration

(1) The outdoor youth program shall have and provide to DHS representatives upon request:

(a) Written policies and procedures for operation of the program

(b) A written program description which includes agency mission and goals, description of youth served, services provided, geographical area covered, and a clear delineation of fees.

(c) A written description of the management structure of the agency, to include an organizational chart and job descriptions which reflects the responsibilities of staff positions.

(2) **Base of Operations.** An outdoor youth program providing outdoor youth program services in Oregon shall have a base of operation or field office in Oregon. Base of operation at a minimum shall have the following information immediately available upon the request of DHS:

(a) Current staff personnel files;

(b) Current list of the names of staff and youth in each field group;

(c) Master map of all activity areas used by the program in Oregon, copies of which shall be made available to DHS, the land managing agency and local law enforcement and emergency services upon request;

(d) Copies of each group's expeditionary route with its schedule and itinerary, copies of which shall be made available to DHS, the land managing agency and local law enforcement and emergency services upon request;

(e) Current logs of communications with each field group away from the base of operations; and

(f) Emergency response plan that is reviewed annually.

(3) **Youth File Requirements.** The base of operations shall have files on each youth in the program, which include:

(a) Family and guardian identification, contact information and status of child custody;

(b) Emergency contact information for family and guardian(s) of youth which provides for contact with family or guardian at any time, twenty four (24) hours a day, seven (7) days a week;

(c) Demographics;

(d) Eligibility criteria, including the basis for admission of the youth into the program;

(e) Medical forms;

(f) Authorization for medical treatment; and

(g) Parental/guardian consent for outdoor youth program to treat the youth with the specific interventions used by the program.

(4) **Proof of Compliance.** An outdoor youth program which operates in Oregon shall comply with the federal, state, local and land managing agency regulations in the operations area and shall maintain proof of compliance at the base of operations.

(5) **Multidisciplinary Team.** An outdoor youth program shall have a multi-disciplinary team of staff or consultants who have knowledge of the physical and emotional demands of the program and be available to program youths and staff upon the recommendation of the field director or senior field staff. The multidisciplinary team shall also be available to outdoor youth program staff upon request for consultation regarding the appropriateness of admission of youth. At a minimum the team shall consist of:

(a) A licensed health care professional (physician, doctor of osteopathy, nurse practitioner, or physician's assistant);

(b) A treatment professional who is a licensed or certified psychologist, clinical social worker, marriage and family counselor, or professional counselor; and

(c) If the program does not exclude clients with substance abuse problems, the multidisciplinary team shall include a professional who is a Certified Alcohol Drug Counselor or who has demonstrated equivalent experience and training in the field of alcohol and drug abuse counseling.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0812**Admissions**

(1) **Written Policy.** The outdoor youth program shall screen, assess and admit clients according to a written policy which lists specific inclusion and exclusion criteria defining the range of clients which the program serves.

(2) **Affirmative Duty to Gather Sufficient Information.** The outdoor youth program has an affirmative duty to make reasonable efforts to gather sufficient information to determine the appropriateness of the youth for the program.

(3) **Admissions Assessments.** The outdoor youth program shall perform an admission assessment on each youth.

(a) **Admissions Process.** An assigned staff member with documented experience in the area of admissions screening and assessment, who is familiar with the outdoor youth program, shall complete an individual admissions assessment for each youth prior to enrollment.

(b) **Admissions to be Based on Admissions Assessment.** The program shall base admission of each youth on the individual admissions assessment. The assessment shall be the basis for the youth's individual service plan. The assessment shall include the following components:

(A) Social history including home, community and environment;

(B) Health history, including current prescriptions and over the counter medication;

(C) Psychological history, including behavior problems, aggression, substance abuse, family dynamics, prior evaluations and any previous treatment;

(D) For a youth with a history of mental health issues, a review by a mental health professional of any available psychological or psychiatric assessment of the youth; and

(E) For a youth with indications of substance abuse, the assessment shall include a determination by a professional in chemical dependency whether detoxification is indicated for the youth before the youth enters the field portion of the program.

(c) **Consultation and Additional Information.** If after a review of the components required by the Admissions Assessment, there is any question as to the appropriateness of admission of a youth, the assigned staff member shall consult with the Multidisciplinary Team and document the decision. If the information available about the youth is inadequate for the determination of appropriateness for the program, the outdoor youth program shall require additional necessary information which may include evaluations by consulting professionals.

(d) **Evaluation of Appropriateness of Admission.** Each admissions assessment shall include a summary evaluation of the appropriateness of the admission of the youth into the program.

(e) **Field Entry:**

(A) The outdoor youth program shall conduct an interview and orientation with each youth before the youth leaves for the field portion of the program away from the main base of operations.

(B) The field director or senior field staff assigned to the youth's field experience shall conduct an interview with the youth prior to entrance into the field; and

(C) The medically trained field staff assigned to the youth's field experience shall conduct a review of the youth's health history and physical examination report.

(4) **Service Planning.** Each youth shall be served according to an individual service plan, developed by the outdoor youth program staff and including, whenever possible, the program director, child-care workers, other involved professionals, and the youth and his/her family. The outdoor youth program has an affirmative responsibility to provide competent individualized service planning for each youth to include ongoing evaluation and change as needed. Service planning time lines shall be as follows:

(a) **Initial Service Plan.** The outdoor youth program shall write the initial service plan based on the admission assessments and the youth's individual needs on or before admission, and provide a copy to the senior field staff upon the youth's entry into the program.

(b) **Updated Service Plan.** The outdoor youth program shall write an updated service plan based on field observations and additional information received, (e.g., family information, medical reports, youth disclosures) within fourteen (14) days of the date the youth enters the field.

(c) **Monthly Review.** The outdoor youth program shall review and update the service plan monthly, and document the review.

(d) **Discharge Summary.** The discharge summary shall include a written summary of the youth's participation and progress achieved, results of evaluations, conditions of the youth, interactions of youth and staff, briefings and debriefings, compliance with program policies and procedures and recommendations. The discharge summary shall be retained in the youth's file and a copy provided to the youth's family.

(5) **Areas of Emphasis in the Service Plan and Planning Process.** It is the intent of DHS that the outdoor youth program make every reasonable effort to ensure participation by the youth's family in all aspects of the service and service planning process. To that end, the outdoor youth program staff shall:

(a) Encourage parent participation in the intake process;

(b) Ensure participation in the intake process by those responsible for the environment in which the youth resides prior to placement with the outdoor youth program, if the youth's parent cannot participate in the intake process;

(c) Support the family and/or those responsible for the environment in which the youth lives during intervention activities, including alternate suggestions for any youth not accepted at intake;

(d) Consider the family's responsibility, needs, and values in the planning and service process;

(e) Provide an orientation procedure for the youth and his/her family;

(f) Ensure that information regarding significant events in the youth's family is passed on to appropriate staff members;

(g) Review service plans, activities and progress with the family monthly; and

(h) Ensure that the educational needs of the child are an integral part of the service plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0815**Physical Examination and Evaluation**

(1) Prior to a youth engaging in strenuous physical activity, the outdoor youth program shall review and place in the file a physical examination report for the youth. The health history and physical examination shall be recorded on a form provided by the program, which clearly documents the type and extent of physical activity in which the youth will be engaged. The examination shall cover areas required by DHS and after the appropriate consents are obtained from the youth or youth's legal custodian, shall be completed by a licensed physician, physician's assistant or nurse practitioner, who signs the form.

(a) In addition to any other areas required by DHS, the examination shall include a physical assessment based on the climate and temperature the youth will be participating in given the participant's age, weight, and sex;

(b) For an outdoor youth program operated by a children's residential care facility, a health history and physical examination report for a youth who is coming directly from the residential care facility may be utilized if the physical examination is current and meets the criteria for the physical examination required by this rule;

(c) If a youth is currently taking or has been receiving prescribed medication within the past six (6) months, a specific notation must be made on the physical examination form, by the clearing medical professional, which must include clearance for participation in an outdoor, high impact environment and a description of any possible special needs due to use of the medication in the field environment; and

(d) If a youth is in a risk group for Sickle Cell Anemia or Thalassemia, written clearance must be noted on the physical examination form, stating that the youth may participate in activities, which may:

(A) Occur in altitudes over 5000 feet;

(B) Include strenuous exercise; and

(C) Expose youth to cold temperatures.

(2) **Health Information Availability.** The health history and physical exam form and authorization to obtain medical care shall be copied and the original maintained at the base of operations and the copy carried by field staff in a waterproof container when the youth is away from the base of operations.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998
Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0818

Age Grouping

(1) **Minimum Age.** A program participant shall be at least ten (10) years of age.

(2) **Grouping.** The program shall have policy and documentation regarding age grouping. The outdoor youth program shall place youth in groups only after taking into consideration these factors: the age, developmental level, physical maturity, social maturity, behavioral functioning, cognitive level, diagnosis (if any) and individual needs of each youth.

(3) **Placement of Youth Age 10 Years through 12 Years.** The outdoor youth program shall place youth ten (10) years of age through twelve (12) years of age only in a program component designed for this age group unless the program has been granted an exception by DHS.

(4) **Placement with Adults.** If the program serves adults age eighteen (18) years of age or older it shall place youth in the same group as adults only after taking special care to assess and minimize the risk to the youth.

(5) **Placement Decisions.** The outdoor youth program shall make placements of youth in groups to maximize each youth's functioning and minimize the possibility of exploitation. In making the placement decision in (4) of this rule or in deciding to request an exception to place a youth age ten (10) years of age through twelve (12) years of age in an older group, an assigned staff member with documented experience placing youth in groups and who is familiar with the outdoor youth program shall:

(a) Base the placement on the factors listed in section (2) of this rule;

(b) Document the basis for the decision and the appropriateness of the placement in the youth's service plan;

(c) Review the therapeutic appropriateness of the decision subsequent to the placement and document whether the decision remains appropriate and make any changes indicated.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0821

Staff

The outdoor youth program will have written policy regarding minimum staff requirements.

(1) **Verification.** The outdoor youth program shall verify qualifications of staff through documentation of minimum requirements for work experience, education and classroom instruction. A program which provides outdoor youth programming as its primary function shall have the following staff:

(2) **Executive Director.** The executive director may also function as the field director if the executive director meets those qualifications. The executive director shall:

(a) Be at least twenty-five (25) years of age;

(b) Have the following qualifications at time of hire:

(A) Five (5) years of paid full time experience in the social services or wilderness field with at least one (1) year in a paid administrative capacity; or

(B) A Bachelor's degree and four (4) years of paid full time experience in the social services or wilderness field with at least one (1) year in a paid administrative capacity; or

(C) A Master's degree and three (3) years of paid full time experience in the social services or wilderness field with at least one (1) year in a paid administrative capacity.

(c) Have knowledge and experience demonstrating competence in the performance or oversight of the following essential job functions: program planning and budgeting, fiscal management, supervision of staff, personnel management, employee performance assessment, data collection, reporting, program evaluation, quality assurance, and developing and maintaining community resources; and

(d) Demonstrate by his or her conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules; and

(e) Have completed the field training as required by these rules.

(3) **Field Director.** An outdoor youth program shall have a field director who is primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director shall:

(a) Be at least twenty-five (25) years of age;

(b) Have a minimum of thirty (30) college level semester hours or forty-five (45) quarter hours in recreational therapy or in a related field or one year of outdoor youth program field experience;

(c) Demonstrate knowledge and understanding of applicable licensing rules;

(d) Have completed the field training as required by these rules;

(e) Hold a Wilderness First Responder (WFR) certificate or equivalent; and

(f) Have completed an approved course in non violence crisis intervention.

(4) **Senior Field Staff.** An outdoor youth program shall have a senior field staff working directly with each group of program youths. Senior field staff shall:

(a) Be at least twenty-one (21) years of age;

(b) Have an associate degree or high school diploma or equivalent with thirty (30) college level semester hours or forty-five (45) quarter hours of study or comparable experience and training in a field related to recreation and adventure activities;

(c) Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in the personnel file;

(d) Have completed the field training as required by these rules;

(e) Hold a Wilderness First Responder (WFR) certificate or equivalent; and

(f) Have completed an approved course in non violent crisis intervention.

(5) **Field Staff.** Each field staff member shall:

(a) Be at least twenty-one (21) years of age;

(b) Have a high school diploma, or its equivalent, or comparable experience directly relevant to assigned outdoor youth program responsibilities;

(c) Have completed the field training as required by these rules; and

(d) Be certified to provide cardiopulmonary resuscitation (CPR) and first aid.

(6) **Specific Activity Training.** All staff of the outdoor youth program shall have documented training and experience in conducting any outdoor youth program activities (such as hiking, winter camping, soloing, expeditioning, etc.,) he or she is assigned to conduct.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02; CWP 1-2004, f. & cert. ef. 1-9-04

413-210-0824

Staff Health Requirements for Outdoor Youth Programs

Staff Health Requirements: The outdoor youth program staff members having responsibility for youth shall be free of infectious diseases and shall be capable of all responsibilities reasonably associated with their employment.

(1) **Health History Questionnaire.** As part of orientation, and annually thereafter, staff must complete a health history questionnaire similar to that completed by the youth entering the program. It shall include injuries or ailments that might affect the ability to function well in the field, or put other field staff or youth at risk of injury or infection.

(2) **Health History Questionnaire Content.** The health history questionnaire shall include but not be limited to the following content areas:

(a) Standard physical health questions, including history of infectious diseases;

(b) History of physical injuries; and

(c) History of drug or alcohol abuse/dependence that required residential or outpatient treatment, or that might currently interfere with employment responsibilities.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0827

Staffing Requirements

The program shall have policy and maintain documentation of program compliance on the following staff requirements:

(1) **Group Size.** For a field group, the number of participants shall not exceed twelve (12) youth.

(2) **Staffing Ratio.** Each group of two (2) or more youth shall be staffed as follows:

(a) By at least two (2) staff members, one (1) of which shall be a senior field staff member;

(b) There shall be at least one (1) staff member to every three (3) youth;

(c) Where the gender of a group is mixed, there shall be at least one (1) female staff and one (1) male staff member; and

(d) There shall be a minimum of five (5) years difference in age between a direct care staff member and the youth for whom the staff member has sole supervision.

(e) Volunteers and interns shall not be included in the staff youth ratio unless they meet the qualifications required of staff.

(3) **Wilderness First Responder (WFR).** At least one staff member per group shall have a current Wilderness First Responder (WFR) Certificate or equivalent.

(4) **Non Violent Crisis Intervention Training.** At least one (1) staff per group will be trained in non violent crisis intervention.

(5) **Field Staff Training.**

(a) At no time shall there be more than one (1) staff member who has not completed all field training.

(b) Where there are four (4) or more youth, at least two (2) staff members shall have completed all field training.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0830

Staff Training

(1) **Written Policies, Procedures and Training Curriculum.**

The outdoor youth program shall have written policies, procedures, and training curriculum regarding minimum requirements for orientation, field training, and ongoing training.

(2) **Orientation.** Each employee will complete orientation before having any contact with clients or prospective clients (youth or their parents). The orientation training shall include at a minimum:

(a) Outdoor youth program mission and goals, including admissions criteria and services provided.

(b) Personnel structure of the outdoor youth program, to include an organizational chart and job descriptions which accurately reflect the responsibilities of staff positions involved in the care and management of youth and the management and supervision of field staff;

(c) Overview of the quality improvement program, including the critical incident program;

(d) Risk management procedures and safety precautions;

(e) Instruction in behavior management policies and procedures of the program;

(f) Review and discussion of all other policies relevant to field staff responsibilities, such as clothing, nutrition, vehicle use, communication methods, cooking and camping equipment and their use; and

(g) Emergency plan.

(3) **Field Training.** Each field staff shall receive a minimum of seven (7) days of field training and shall be assessed by the field director or designee for the following minimum required field skills before assuming sole supervision of youth:

(a) Water, food, and shelter procurement, preparation and conservation;

(b) "Leave No Trace Principles" for outdoor activities;

(c) Recognition and management of the presenting issues of the youth served, to include mental health and substance abuse issues;

(d) Instruction in safety procedures and safe equipment use of fuel, fire, and life protection;

(e) Sanitation procedures related to food, water, and waste;

(f) Special instruction to ensure proficiency in the specific activities for staff who conduct and staff who supervise outdoor youth program activities;

(g) Wilderness medicine, including health issues related to acclimation, exposure to the environment and environmental elements;

(h) First aid kit contents and use;

(i) Basic navigation skills including understanding of contour maps, use of compass, and navigation using the positions of sun, moon and stars to determine direction;

(j) Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations;

(k) Critical incident prevention, identification and response;

(i) Knowledge of and ability to implement the program's emergency plan;

(m) Report writing, including development and maintenance of logs, journals and incident reports;

(n) Other hard skills as required by the program.

(4) **Sole Supervision.** No outdoor youth program staff member shall provide sole supervision of program youth prior to:

(a) Successful completion of orientation and field training; and

(b) Documented assessment by a senior field staff member of:

(A) Effective understanding of the supervision structure of the outdoor youth program, who is responsible and to whom staff can refer questions or problems; and

(B) Understanding, knowledge and compliance with the outdoor youth program's behavior management policies.

(5) **Ongoing Training.** Programs shall provide ongoing training for field staff to maintain and upgrade their skills.

(6) **Documentation of Training.** The outdoor youth program shall document the training received by each staff member and volunteer in their personnel file. The documentation shall include for each training session; the name and qualifications of the person providing the training, date of training, training content and the number of hours of the training.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0833

Field Operations; Field Activities

(1) **Written Description.** There shall be a written description of field activities and schedule, including a detailed itinerary.

(2) **Staff Briefing.** The Executive Director or Field Director or designee shall brief staff entering the field. The briefing at a minimum shall include:

(a) The planned route, terrain, time schedule, weather forecast and any potential hazards;

(b) Any procedures unique to that field experience; and

(c) Youth background and any potential problems.

(3) **Itinerary.** Field staff shall carry map routes, anticipated schedules and times when a group is in the field.

(4) **Supervision.** The Field Director or designee shall conduct and document supervisory evaluation of each youth and staff in a field group at least every seven (7) days, either in person or through DHS approved procedures. If the planned itinerary is longer in duration than three (3) weeks, the Field Director or designee must make on-site visits at minimum increments of three (3) weeks.

(5) **Staff Debriefing.** The Field Director or designee shall debrief staff after they return from the field.

(6) **Youth Debriefing.** The Field Director or designee shall debrief youth after returning from the field. The debriefing shall at a minimum:

(a) Include a written summary of the youth's participation and progress achieved;

(b) Be provided in written form to the youth's parents or guardian; and

(c) Parents or guardians and youth shall be given the opportunity and encouraged to submit a written evaluation of the outdoor youth experience, to be maintained by the program.

(7) **Documentation.** The outdoor youth program shall document results of the evaluation of the conditions of the youth, interactions of youth and staff, briefings, debriefings, and compliance with program policies and procedures and include them in the youth's record and discharge summary.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0836

Communication

(1) **Communication Support System.** The outdoor youth program shall maintain a communication system that includes the use of Global Positioning System receivers, two (2) way radio communication and cell phone communication or follows the applicable land managing agency requirement and includes:

(a) Reliable communication between each group and the base of operations; and

(b) A back up plan for re-establishing communication to be implemented in the event regular communication fails.

(2) **Communication Requirements.** The outdoor youth program shall have a reasonable communication plan which is sufficient to provide routine and emergency care and takes into consideration individual youth needs and terrain considerations.

(a) There shall be verbal communication between each field group and the base of operations on a regularly scheduled basis according to program procedures unless special documented arrangements have been made;

(b) In no case shall the absence of verbal communication between a field group and the base of operations exceed seventy-two (72) hours unless DHS has approved an exception for alternate program procedures for communication; and

(c) In no case shall a field group be more than two (2) hours away from the ability to make contact with emergency services.

(3) **Emergencies.** The base of operations support personnel shall have immediate access to emergency telephone numbers, contact personnel and procedures for an emergency evacuation or field incident requiring emergency medical support.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0839

Medication Storage and Administration

(1) **Policies and Procedures Required.** An outdoor youth program shall have and follow policies and procedures on the storage and administration of prescription and non-prescription medication.

(2) **Medication Storage and Administration.** The outdoor youth program shall store prescription and over-the-counter medication under lock and key safeguarded from youth. For medications taken in the field, medication shall be in the possession of a staff member.

(3) **Psychotropic Medication.** The outdoor youth program shall not administer psychotropic medication:

(a) Unless a qualified medical professional determines that the medication is clinically indicated and it has been prescribed by a physician through a written order;

(b) For disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services.

(4) **Documentation.** Prescription medication must be issued by a qualified medical professional's valid order that includes the dosage to be given. Senior field staff shall administer all medication. Administration of medication shall be documented and include:

(a) The youth's name;

(b) The name of the medication;

(c) The date and time;

(d) The amount of dosage given and whether the youth did not take the medication; and

(e) The person who administered or assisted in self-administration of the medication.

(5) **Medication Changes.** The outdoor youth program shall not stop or change dosage or administration of prescribed medication nor discontinue any prescription without consulting with a qualified medical professional and documenting the consultation and the change.

(6) **Disposal of Unused Medication.** The outdoor youth program must return all unused and expired medication to the base of operations and dispose of it so it is not available to youth. A Field Director or Senior Field Staff shall witness the disposal of the unused medication.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0841

Work

The outdoor youth program may give youth non-vocational work assignments as a constructive experience in compliance with child labor laws, which are age appropriate and within the youth's capabilities. The primary purpose of work shall not be to substitute for paid labor for the benefit of the outdoor youth program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0843

Animals and Pets

(1) Animals and pets shall be free from disease and cared for in a safe and clean manner.

(2) The outdoor youth program shall take reasonable measures to assure that youth are not exposed to danger from animals.

(3) All domestic animals and pets shall be vaccinated against rabies. Documentation of the vaccination against rabies shall be available in the responsible employee's personnel file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0846

Transporting Youth

(1) **Vehicle.** Transportation of youth in an outdoor youth program shall be in a vehicle that is:

(a) Properly registered;

(b) Covered by insurance for personal injury and liability;

(c) Driven by a person with a valid driver's license for the type of vehicle who complies with all applicable traffic laws while transporting youth;

(d) Maintained in a safe condition;

(e) Equipped with a red triangle reflector device for use in emergency;

(f) Equipped with a first aid kit; and

(g) Equipped with a fire extinguisher that is properly secured and not readily available to youth.

(2) **Proper Seating of Youth And Adults:** Youth and adults shall ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads. The outdoor youth program shall take all reasonable steps to assure the safety of youth and adults traveling in off road vehicles.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0849

Solo Experiences in Outdoor Youth Programs

If an outdoor youth program conducts individual or separate components for youth (solo experiences) as part of the therapeutic process, the program shall have and follow written policies and procedures. The policies and procedures at a minimum shall require:

(1) **Individual Solo Plan.** Each youth participating in a solo experience shall have a plan which includes the goals, methods, techniques, time frames and takes into consideration the maturity, health and physical ability of the youth.

(a) **Preparation.** The youth shall be instructed on the solo experience and individual plan including expectations, restrictions, communication, environment, and emergency procedures;

(b) **Back-up Plan.** Each youth shall have and receive instruction on a back up plan in case the primary plan does not work; and

(c) **Responsible Staff.** A designated staff member shall be responsible for coordination and implementation of the plan.

(2) **Environmental Requirements.** Staff shall be familiar with the site chosen to conduct solos and shall pre investigate the site to ensure the terrain is appropriate for the skill level of the youth and that hazardous conditions are considered. Staff shall make arrangements for medication, food, and water drops if needed.

(3) **Supervision.** Plans for supervision shall be in place during the solo to include the assignment of a staff member responsible for the supervision of the solo participant, and procedures for placement, supervision, and observation of the participant. Supervision shall include communication systems, visual checks and regular checks of the youth's emotional and physical condition.

(4) **Emergency Procedures.** In addition to the requirements of the Emergency Plan section of these rules, solo emergency plans shall include but are not limited to instructing the youth on the safety and emergency procedures, establishing a system for emergency communication, instruction of other youth on how to respond if the emergency notification system is put into use; and a check-in system should an emergency occur.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0852

Safety

The outdoor youth program will have written policies and procedures on the following:

(1) **Equipment Safety Procedures.** Appropriate instruction and maintenance of equipment.

(2) **Environmental Hazards.**

(3) **Risk Management Procedures.**

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0855

Emergency Plan

(1) **Written Emergency Plan Required.** An outdoor youth program shall have and follow a written emergency plan for disasters, medical emergencies, hostage situations, casualties and missing youth and other critical incidents identified by the program. The plan shall at a minimum include:

(a) Designation of authority and staff assignments;

(b) Plans for evacuation;

(c) That an implementation of emergency evacuation system is on standby;

(d) Transportation and relocation of program youth when necessary;

(e) Supervision of program youth after an evacuation or a relocation;

(f) Arrangements for medical care and notification of a program participant's physician and nearest relative or guardian; and

(g) A procedure for a review of the emergency plan by the local law enforcement and emergency services agencies from the area in which the outdoor youth program is operating.

(2) **Emergency Instruction.** The outdoor youth program shall instruct youth on what to do in case of emergency.

(3) **Emergency Plan Response Review.** In the case of the activation of an emergency plan response, the outdoor youth program shall subsequently review the response in the context of the emergency plan to determine if changes need to be made to improve safety and efficiency. If local law enforcement and emergency services agencies have been involved in an emergency response on behalf of an outdoor youth program, the outdoor youth program shall invite them to participate in the review of the emergency plan response.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0858

Physical Activity Limits and Requirements

(1) **Physical Capability.** Physical activity shall not exceed the physical capability of a youth. Field staff shall monitor the physical capability and condition of each youth to ensure that the activity does not exceed the youth's capability.

(2) **Environmental Conditions.** Staff of the outdoor youth program shall consider environmental conditions including but not limited to temperature, humidity, precipitation, etc., when planning a program activity so as to minimize the risk of harm (heatstroke, frostbite, exposure, etc.) to participants.

(3) **Acclimation to Environment.** Staff shall closely monitor youth for acclimation to the environment.

(4) **Log.** There shall be a common daily log, which is signed and dated by the participating senior staff daily. The log shall:

(a) Contain information on health problems, accidents, injuries, illnesses, medications used, behavioral problems, and unusual occurrences; and

(b) Include notation of environmental factors such as weather, temperature, terrain, etc.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0860

Critical Incident Program

(1) **Quality Improvement Program.** The outdoor youth program shall have a written quality improvement program which identifies and defines critical incidents, includes a response to each type of critical incident and includes procedures for the review of critical incidents.

(2) **Critical Incident Training.** The outdoor youth program shall train staff in critical incident prevention, identification and response.

(3) **Documentation of Critical Incidents.** The outdoor youth program staff shall document each critical incident as follows:

(a) Record. Record each incident in the common daily log and complete an incident report immediately following the incident;

(b) Categorize. Categorize each incident as to type and seriousness; and

(c) Staff Debriefing. Record the results of staff debriefing of each critical incident.

(d) Management Review. Management will document review of each critical incident report within twenty-four (24) hours of receipt.

(4) **Review of Critical Incidents.** The outdoor youth program shall have procedures for review of critical incidents which include management and board review of critical incidents and a process for deciding if revisions to program policy and procedures, operations or training are warranted for quality improvement.

(5) **Documentation of Critical Incident Review.** The outdoor youth program shall document in writing the process and results of its review of critical incidents and resulting program quality improvements if any and shall provide this information to staff.

(6) **Near Miss.** The outdoor youth program shall review any near miss and determine whether to respond to it as if it were a critical incident in accordance with this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0862

Health Care

(1) The outdoor youth program shall ensure, through staff assignments, training and program providers, that injuries, illness or physical complaints by youth will be promptly and accurately assessed; and that appropriate care is provided.

(2) **Prompt First Aid Treatment.** The outdoor youth program shall provide first aid treatment in as prompt a manner as the location and circumstances allow.

(3) **First Aid.** There shall be a first aid kit with sufficient supplies available at all times. The first aid kit shall:

(a) Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used;

(b) Be reviewed with new staff for contents and use;

(c) Be reviewed at least annually with all staff for contents and use; and

(d) Be inventoried after each expedition and restocked as needed.

(4) **Field Treatment.** The outdoor youth program shall immediately transport any youth with an illness or physical complaint needing care or treatment, beyond what can be provided in the field, to appropriate medical care.

(5) **Documentation.** The outdoor youth program shall document complaints or reports by a youth of illness and injuries in a daily log along with any treatment provided.

(6) **Negative Consequences.** The outdoor youth program shall impose no negative consequence on a youth for reporting an injury or illness or for requesting to see a health care professional.

(7) **Daily Physical Assessment.** Field staff shall monitor and document youth's hydration, skin condition, extremities, and general physical condition on a daily basis.

(8) **Weekly Physical Assessment.** A Wilderness First Responder (W.F.R.) or equivalent, an Emergency Medical Technician (E.M.T.), or qualified medical professional shall assess each youth's physical condition at least every seven (7) days. The assessment shall be documented and shall at a minimum include:

(a) Heart rate;

(b) Check of extremities;

(c) Condition of skin;

(d) Allergies if any;

(e) General physical condition;

(f) Any health issues specific to the individual youth; and

(g) Provision of appropriate medical treatment if needed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0864

Water Requirements; Written Policy

(1) The outdoor youth program shall have and follow written policy and procedures on water requirements.

(2) **Water.** Youth shall have access to potable water while engaged in hiking. Outdoor youth program staff shall ensure that youth drink a sufficient amount of water to provide adequate hydration. Staff shall encourage youth to consume at least three (3) quarts of potable water a day.

(3) **Water Caches.** When water caches are used, field staff shall place each water cache and verify its location in advance of the group arrival.

(4) **Water From a Natural Source.** Water from a natural source used for drinking or cooking shall be treated for sanitation to eliminate health hazards.

(5) **Electrolytes.** Each group shall have a supply of electrolyte replacement, quantities to be determined by group size and environment conditions.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0866

Nutritional Requirements; Written Policy

(1) The outdoor youth program shall have and follow written policy and procedures on nutritional requirements.

(2) **Menu.** There shall be a written menu approved by a qualified dietitian or nutritionist with knowledge of program activity levels, listing the food supplies for each group.

(3) **Calories.** The outdoor youth program shall provide each youth a level of nutrition which will supply their individual caloric need; but no youth shall be offered less than three thousand (3,000) calories a day. When heat is not available for cooking the outdoor youth program shall provide sufficient food of sufficient caloric value which does not require cooking.

(4) **Hygiene Procedures.** The program shall have reasonable hygiene procedures to prevent infection which are consistent with program risk of infection.

(a) Cleansing of hands shall occur after each latrine use.

(b) Means of cleansing the hands shall be available to youth prior to food preparation and prior to food consumption.

(c) Weekly opportunity for total body hygiene.

(d) Fasting. There shall be no imposed fasting.

(6) **Monitoring.** Field staff are responsible for maintaining the safety and well being of clients and shall monitor each youth's food intake to ensure that the youth has adequate nutrition.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0868

Participant Clothing, Equipment and Supplies

(1) **Participant Requirements.** Each program participant shall have appropriate clothing and equipment and supplies for the types of activities and for the weather conditions likely to be encountered.

(2) **Clothing, Equipment And Supplies Requirements.** Clothing, equipment and supplies shall include at a minimum:

(a) Sunscreen if appropriate for the environmental conditions generally expected for the area and season;

(b) Insect repellent if appropriate for the environmental conditions generally expected for the area and season;

(c) A commercial backpack or the materials to construct a safe backpack or bedroll;

(d) Personal hygiene items necessary for cleansing;

(e) Appropriate feminine hygiene supplies;

(f) Wool blankets or an appropriate sleeping bag and a tarp or poncho for when the average nighttime temperature is expected to be forty (40) degrees Fahrenheit or higher;

(g) Shelter from precipitation, appropriate sleeping bag and ground pad when the average nighttime temperature is expected to be thirty-nine (39) degrees Fahrenheit or lower;

(h) Clothing appropriate for the temperature changes generally expected for the area; and

(i) Each youth shall be provided a clean change of clothing at least once a week or an opportunity to wash his or her clothing at least once a week.

(3) **Denial of Clothing, Equipment And Supplies.** The outdoor youth program shall not remove, deny, or make unavailable for any reason the appropriate clothing or equipment and supplies.

(4) **Monitoring.** Field staff are responsible for maintaining the safety and well being of youth and shall monitor each youth to make sure that clothing, equipment and supplies are maintained in a manner adequate to ensure the youth's safety.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0870

Potential Weapons Written Policy

(1) The outdoor youth program shall have and follow written policy and procedures on management of weapons and potential weapons.

(2) **Firearms Prohibited.** Firearms shall not be allowed in outdoor youth programs.

(3) **Inventory Required.** The outdoor youth program staff shall inventory knives, hatchets, other edged tools or any item which might pose a danger to self or others and complete a daily count of these items against the inventory.

(4) **Supervision Required.** The outdoor youth program staff shall supervise participant possession and use of knives, hatchets, other edged tools or any item which might pose a danger to self or others.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0872

Behavior Management

(1) **Behavior Management.** An outdoor youth program shall have and follow behavioral management policies including a description of the model, program, or techniques used (e.g. a level system or token economy), consistent with the program description required in these rules, a discipline policy, a non violent crisis intervention policy and a time out policy. Behavior management shall be based on an individual assessment of each youth's needs, stage of development and behavior. It shall be designed with the goal of teaching youth to manage their own behavior and be based on the concept and application of least restrictive effective treatment.

(2) **Documentation.** The outdoor youth program shall document that the policy has been provided to a youth and is made available to parents, guardians, and referral sources.

(3) **Discipline Policy.** The policy shall prohibit:

(a) Physical force, or physical restraint as discipline;

(b) Pain compliance;

(c) The placing of anything in or on a youth's mouth;

(d) Cruel or excessive physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort;

(e) Verbal abuse, ridicule, humiliation, profanity and other forms of degradation directed at a youth or a youth's family;

(f) Locked confinement;

(g) Withholding of necessary food, water, clothing, shelter, bedding, rest, medical care, or toilet use;

(h) Denial of visits or communication with the youth's family except as specified in the program's design and planned activities, the youth's service plan or court order;

(i) If an outdoor youth program's policies allow for disciplining a youth or group of youth for actions of one (1) youth, the organization's policies and procedures for behavior management and/or discipline shall clearly prescribe the circumstances and safeguards under which disciplining the group is allowed;

(j) Isolation as punishment, except as provided for in the Time Out section of this rule;

(k) Mechanical and chemical restraints; and

(l) Any other kind of harsh punishment.

(4) If the youth refuses or is unable to hike a contingency plan shall be developed based on DHS approved policies and procedures. The contingency plan shall ensure that if the group is split, there is proper staff coverage for each group and communication between the groups is maintained.

(5) **Non Violent Crisis Intervention.** The outdoor youth program shall have written policies and procedures governing the appropriate use of non violent crisis intervention strategies, which includes the use of de-escalation techniques, physical assists and physical restraints. The policy and procedures shall be in accordance with a non violent crisis intervention program approved for use by DHS, (CPI, PCS, OIS/PART) and shall comply with the following:

(a) **De-escalation Techniques.** Crisis prevention and verbal and non-verbal de-escalation techniques are the preferred methods and shall be used first.

(b) **Physical Assists.** Appropriate use of physical assists occurs when staff members physically aid, support or redirect youth who are not physically resisting. Physical assists include staff leading youth along the trail or moving youth to his or her campsite by gently pulling on a backpack strap, guiding him or her by the hand or elbow, or placing a hand on the youth's back. If a youth resists reasonable staff direction, staff must assess whether the use of physical restraint is warranted based on the outdoor youth program's written non violent physical restraint policy. An intervention becomes a physical restraint when the youth resists, has "dug in his or her heels" and is propelled or held still against that resistance.

(c) **Use of Physical Restraint.** Physical restraint shall be used to safely control a youth until he or she can regain control of his or her own behavior only in the following circumstances;

(A) When a youth's behavior is out of control and could physically harm self or others, or to prevent the substantial destruction of property and the youth has failed to respond to de-escalation techniques and/or physical assists;

(B) When a youth's behavior such as a refusal to hike puts himself or others at substantial risk of harm and he/she must be forcibly moved.

(d) **Physical Restraint Time Limit.** Physical restraint shall be used only until the youth has regained control and shall not exceed fifteen (15) consecutive minutes. If the youth remains a danger to self or others after fifteen (15) minutes, the record shall include written documentation of attempts made to release the youth from the restraint and the reasons that continuation of restraint is necessary;

(e) **Physical Restraint Training Requirements.** Physical restraint may be used only by employees documented to have been specifically trained in non violent crisis intervention techniques;

(f) **Limitations.** Program policies shall prohibit the application of a non violent physical restraint if a youth has a documented physical condition that would contraindicate its use, unless a qualified medical professional has previously and specifically authorized its use in writing. Documentation shall be maintained in the youth's record;

(g) **Physical Restraint Documentation.** Program policies shall require documentation of the behavior which required the physical restraint, the specific attempts to de-escalate the situation before using physical restraint, the length of time the physical restraint was applied which shall include documentation of the time started and completed, and the debriefing completed with the staff and youth involved in the physical restraint; and

(h) **Review.** Program policies shall require that whenever a physical restraint has been used on a youth more than two (2) times in one (1) week, there is a review by the executive director or his designee, to determine the suitability of the youth remaining in the program, whether modification to the youth's plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques. The outdoor youth program shall take appropriate action as a result of the review.

(6) Time Out:

(a) **Use.** The outdoor youth program shall use time out only when a youth's behavior is disruptive to the youth's ability to learn, to participate appropriately, or to function appropriately with other youth or the activity.

(b) **Observation.** The outdoor youth program shall designate a staff member to be responsible for visually observing the youth at random intervals at least every fifteen (15) minutes.

(c) **Documentation.** If the duration of the time out exceeds one (1) hour, or there is visual separation of the youth, the outdoor youth program must write an incident report in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the youth being placed in time out, and staff's attempts to help the youth avoid time out.

(d) **Re-Introduction to the Group.** The outdoor youth program must re-introduce a youth to the group in a sensitive and non-punitive manner as soon as control is regained.

(e) **Review.** If there are more than ten (10) one (1) hour time outs for a youth in a twenty-four (24) hour period or the separation lasts for twenty-four (24) hours, the executive director or designee shall conduct a review, to determine the suitability of the youth remaining in the program, whether modifications to the youth's plan are warranted, and whether staff need additional training in alternative therapeutic behavior management techniques. The outdoor youth program shall take appropriate action as a result of the review.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0880

Contraband

(1) **Written Policy.** An outdoor youth program shall have and follow written policy and procedures on contraband.

(2) **Confiscation.** Staff shall confiscate contraband found in the possession of youth or staff and, if stored, secure it in a location inaccessible to youth.

(3) **Disposal.** It shall be the responsibility of the outdoor youth program to store or dispose of all contraband not confiscated by law enforcement, in accordance with the contraband policy.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

413-210-0883

Searches

(1) **Written Policy.** If an outdoor youth program conducts searches of youth, staff or visitors, it shall have and follow written policies and procedures. The program shall obtain the appropriate consents for searches.

(2) **Searches.** The outdoor youth program shall complete searches in the least intrusive manner possible for the type of search being conducted. The policies and procedures at a minimum shall require:

(a) **Pat Down Searches.** The outdoor youth program shall conduct pat down searches of youth only when the outdoor youth program judges that it is necessary to discourage the introduction of contraband, or to promote the safety of staff and other youth. The outdoor youth program shall conduct pat down searches as follows:

(A) By staff trained in proper search techniques;

(B) By a staff member of the same sex as the youth being searched, and shall be in the presence of another staff member;

(C) The youth shall be told he or she is about to be searched;

(D) The youth should remove all outer clothing (gloves, coat, hat and shoes) and empty all pockets;

(E) The staff member shall then pat the clothing of the youth using only enough contact to conduct an appropriate search;

(F) If the staff detects anything unusual the youth shall be asked to identify the item and appropriate steps should be taken to remove the item for inspection;

(G) If the youth refuses to comply, the executive director or designee will be notified immediately and be responsible to resolve the matter; and

(H) All searches shall be documented in writing.

(b) **Initial Intake Inspection.** The outdoor youth program may require a complete change of clothing as part of the intake process in order to confiscate any contraband. This may include a brief visual search of each resident and a search of each resident's personal belongings. The outdoor youth program shall conduct such intake inspections individually and in the most respectful manner possible, using same sex staff.

(c) **Strip Searches.** The outdoor youth program shall not perform strip searches.

(d) **Body Cavity Searches.** The outdoor youth program shall not perform body cavity searches.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.205 - 418.325 & 418.990 - 418.998

Hist.: SOSCF 9-2002, f. & cert. ef. 5-29-02

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.

Stat. Auth.: HB 2004

Stats. Implemented: ORS 418.205 - 418.325

Hist.: SCF 6-1995, f. 12-22-94, cert. ef. 12-29-95

413-220-0010

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 arrange-

ment 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

DIVISION 300**GENERAL ADMINISTRATION****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) "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.

(3) "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.

(4) "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.

(5) "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 short-term, crisis-oriented treatment.

Stat. Auth.: OL 1993, Ch. 676

Stats. Implemented: ORS 418.746 - 418.747

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-1998, f. & cert. ef. 1-28-98

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 OAR, 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**Report**

(1) Annual Report. The chair of each county's multidisciplinary team will assume responsibility for the multidisciplinary team's submission of an annual progress report. See section (1)(b) for report format. The 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 each 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 annual report 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 report 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 report is 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.: OL 1993, Ch. 676

Stats. Implemented: ORS 418.746 - 418.747

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-1998, f. & cert. ef. 1-28-98

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 Child Protection and Family Based Services 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 Program Operations. Request for such a review should be made in writing to the assistant administrator of Program Operations 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 director 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 director within 30 days after receiving written notice of the decision of the assistant administrator.

Stat. Auth.: OL 1993, Ch. 676
Stats. Implemented: ORS 418.746 - 418.747
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-1998, f. & cert. ef. 1-28-98

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

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 291s, 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 292s 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 Overpayments 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 overpayments 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 Services.

(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 foster and adoptive parent trainers will notify foster parents of the amount available for reimbursement from central 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 foster parent trainers.

(4) **Exceptions.** Any exceptions to this policy must be approved by the regional administrator or designee.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 292.235 & 292.240
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2001, f. 6-29-01 cert. ef. 7-1-01

Erroneous Payments Based on Error or Fraud

413-310-0200

Purpose

These rules describe SOSCF's procedures for handling payments made by SOSCF which are in error or result from fraudulent acts committed by service providers and subcontractors of service providers contracting with SOSCF, persons working under personal service contracts with SOSCF, or SOSCF employees.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 293.235 - 293.245
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-2000, f. & cert. ef. 9-6-00

413-310-0210

Definitions

(1) "Fraud": Intentional acts, claims, statements, or payments resulting in misrepresentation and/or willful withholding of material facts for the purpose of deceiving.

(2) "Unintentional Error": Errors in payments or billings made without intent to deceive.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 293.235 - 293.245 & 42 CFR 433
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-2000, f. & cert. ef. 9-6-00

413-310-0220

Unintentional Error

In instances of unintentional error, SOSCF will report the details of the inappropriate payment to SOSCF Collections Unit for review. The Collections Unit will establish an account receivable and collect from future payments or prepare a billing invoice.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 293.235 - 293.245 & 293.265
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-2000, f. & cert. ef. 9-6-00

413-310-0230

Fraud or Willful Deception

(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 and supervisor having responsibility for payment 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 immediately forwarded to the SOSCF Assistant Administrator of Management Operations who will notify the Administrator.

(3) In instances involving potential fraud, it is not appropriate to follow the chain of command since that can interfere with the investigation.

(4) If the investigation of the referral can best be accomplished by an audit, the Assistant Administrator of Management Operations will refer all or part of the investigation to the SOSCF Management Operations Audit Unit.

(5) The client, claimant, or payee shall not be contacted unless directed by Management Operations or a law enforcement agency to do so.

(6) The Audit Unit will begin the investigation immediately. If sufficient documentation establishes fraud, referral will be made to the appropriate agencies.

(7) The Audit Unit investigation is intended to either clear any suspicion of wrongful action or, if needed, result in subsequent referral for recovery of improperly expended funds and possible prosecution.

(8) At all times the civil rights and personal liberties of a person who is suspected of fraudulent activities or willful deception to obtain services or payments will be protected.

(9) When incorrect information has been provided which affects the payment or when a client or provider is unwilling to resolve the incorrect payment problem, the division may terminate services, or terminate the contract. The decision whether to terminate service or the contract will be made by the regional administrator or assistant administrator responsible for the program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 293.235 - 293.245

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-2000, f. & cert. ef. 9-6-00

413-310-0235

Referral to Other Agencies

(1) The Chief Financial Officer of the Department of Human Services (DHS) Financial Services Section will be responsible for coordinating the investigation of fraud committed by an agency employee or designated non-state employee who has been entrusted with the custody of funds or property or has been an accomplice to financial fraud.

(2) SOSCF Assistant Administrator of Management Operations will be responsible for coordination of the investigation of fraud committed by an individual or organization external to the agency, such as a client. Examples include fraudulent reporting and eligibility fraud.

(3) Those coordinating the investigation are responsible for notifying the following parties, as appropriate:

(a) The Director of DHS;

(b) DHS Collections Unit (to collect from future payments or prepare invoice for contracted providers);

(c) DHS Communications (to handle all media inquiries);

(d) DHS Human Resources/Organization Development (when SOSCF employees are involved);

(e) DHS Internal Audit Director;

(f) Department of Justice (for administrative recovery);

(g) Department of Justice Medicaid Fraud Unit (for funds established by Title XIX of the Social Security Act);

(h) Oregon State Police (when criminal intent is suspected);

(i) Secretary of State Audits Division (within 30 days of the beginning of the investigation);

(j) Department of Administrative Services Risk Management (within 30 days of the beginning of the investigation).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 293.235

Hist.: SOSCF 23-2000, f. & cert. ef. 9-6-00

413-310-0240

Employee Responsibility

(1) It is the responsibility of each employee of the division 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 and that proper internal controls are enforced to limit agency risk.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 293.235 - 293.245

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 23-2000, f. & cert. ef. 9-6-00

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, 293.240 and the criteria established by the Sec-

retary 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

413-310-0350

Recovery of Overpayments — General

These rules describe SOSCF's procedures for handling the collection of overpayments to contracted providers of child care and treatment services, and for granting Administrative Reviews and hearings in contested cases. Contested case hearings of SOSCF are conducted in accordance with the Attorney General's Model Rules OAR 137-003-0501 and the following, entitled "Model Rules of Procedure for Contested Cases"; Hearing Officer Panel Rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 293.250 - 293.260

Hist.: SOSCF 34-2000, f. & cert. ef. 12-14-00

413-310-0355

Definition

"Overpayment" is defined for purposes of these rules as a payment for child care or treatment services and for related services to a family made by SOSCF, on behalf of a client, that either is paid to an ineligible provider or that exceeds the amount authorized by terms of the contract, SOSCF policies and rules, or law. An overpayment includes payments where a service provider is paid:

(1) Beyond an authorization date or contract end date;

(2) In excess of what is authorized;

(3) For services not provided;

(4) For services not meeting policy criteria;

(5) Under circumstances of Erroneous Payments Based on Error or Fraud described in OAR 413-310-0200 through 0240.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 293.250 - 293.260

Hist.: SOSCF 34-2000, f. & cert. ef. 12-14-00

413-310-0360
Policy

(1) In instances of overpayment as defined above, SOSCF will initiate action to recover money inappropriately paid out.

(a) When an overpayment is discovered, notice will be sent to the service provider in writing stating that deductions will be made from future payments and that if the provider is no longer receiving payments from SOSCF, the provider is directed to refund the overpayment. The notice will direct the provider to call a specified person(s) in the DHS Accounting Services office at a listed phone number to establish a repayment schedule or to discuss details of the issue, including contesting the SOSCF claim of overpayment.

(b) If the provider is no longer receiving payments from SOSCF, or the overpayment amount is larger than remaining payments, and if satisfactory resolution is not reached through the personal contact described above, a billing process will be initiated.

(c) In the billing process, an invoice along with a letter explaining the circumstances of the overpayment and payment options is sent to the service provider. This letter gives 30 days to make repayment in full, or to request to make mutually agreeable installment payments, or to appeal for a review or hearing as described in paragraphs (3) and (4) below.

(d) If after the 30 days, a satisfactory response is not received, SOSCF will send a second notice with a copy of the invoice and explanations, again asking for payment in 30 days. If satisfactory response is still not received, SOSCF will send a final notice requesting payment in full by the end of 30 days. The final notice will state that if payment is not received in full by the end of the 30 days, the case will be referred to the Department of Revenue for collection in accordance with ORS 293.250–293.260, or to a private collection agency.

(2) With the first billing notice (see (1)(b) & (c) above) to the service provider that an overpayment is to be repaid, SOSCF will include information on appealing the SOSCF claim for repayment in an Administrative Review by the SOSCF Administrator or designee, as well as a Contested Case Notice informing the provider of rights to a hearing as described in OAR 137-003-0505, failing resolution in the Administrative Review.

(3) The service provider will have 30 days following notice of an overpayment (see (1)(a) above) to request an Administrative Review by the SOSCF Administrator or designee. This Administrative Review will be a required step prior to the provider requesting a contested case hearing described in (4) below.

(4) The service provider will have 30 days following the conclusion of an Administrative Review and issuance of a decision to appeal the finding in a contested case hearing before a hearing officer from the Hearing Officer Panel of the Oregon Employment Department. The proceedings shall be conducted pursuant to OAR 137-003-0501 to 137-003-0700.

(5) A contractor may request an Administrative Review or a hearing before a hearing officer from the Hearing Officer Panel to contest the finding that an overpayment exists for the following reasons:

- (a) To contest the finding that an overpayment exists;
- (b) To contest the extent and amount of the overpayment to be repaid; or
- (c) To contest the terms for repayment.

(6) Upon receipt by SOSCF of a formal request for an Administrative Review or for a hearing as described in (3) and (4) above, any withholding of otherwise appropriate contract payments may be discontinued pending the outcome of the review or hearing.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 293.250 - 293.260
Hist.: SOSCF 34-2000, f. & cert. ef. 12-14-00

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 419B.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 198s 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 Services. 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 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:

Prior to 1-1-85 — \$1,500;
Beginning 1-1-85 — \$1,600;
Beginning 1-1-86 — \$1,700;
Beginning 1-1-87 — \$1,800;
Beginning 1-1-88 — \$1,900;
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 198s 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

DIVISION 330

POLICY

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 employee 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) The State utilizes contracts to pay for personal and professional services provided by an organization or private individual. State law normally prohibits payment for personal and professional services which are provided prior to there being an appropriately written, fully signed contract. Any person who authorizes services to be performed prior to entry of a contract, signed in accordance with state law, may be held 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.: OL 1993, Ch. 676

Stats. Implemented: ORS 279.727 & 279.729
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-1998, f. 2-5-98, cert. ef. 2-6-98

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. Contracts will not be written with persons who are, by definition, SOSCF employees.

Stat. Auth.: OL 1993, Ch. 676
Stats. Implemented: ORS 279.727 & 279.729
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 5-1998, f. 2-5-98, cert. ef. 2-6-98

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

413-330-0080**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 (7) 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 Home/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) Exceptions to OAR 413-330-0010(1), where payments would be authorized, can only be granted after a Departmental finding has been made, in consultation with the Department of Justice, that there is a substantial basis in law for the claim and a substantial risk of liability to the agency.

Stat. Auth.: OL 1993, Ch. 676
Stats. Implemented: ORS 279.727 & 279.729
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; SOSCF 5-1998, f. 2-5-98, cert. ef. 2-6-98

Criminal History Check for Non-Traditional Contractors**413-330-0085****Purpose**

It is the goal of the Department of Human Services (Department or DHS) to reduce the risk of exploitation and abuse of children in the care of or receiving services from DHS. To that end, DHS will conduct criminal offender information background checks on individuals before they provide services to DHS clients under contracts paid for with the flexible funds allocated by DHS under the Department's system-of-care settlement agreement with the Juvenile Rights Project, Inc. These rules (OAR 413-330-0085 to 413-330-0098) establish procedures by which DHS obtains criminal offender information on these individuals and considers the information when determining the individual's suitability for working with children.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 181.537
Hist.: SOSCF 10-1999, f. & cert. ef. 5-24-99; CWP 42-2003(Temp), f. & cert. ef. 12-17-03 thru 6-11-04; CWP 10-2004, f. & cert. ef. 6-1-04

413-330-0087**Definitions**

(1) "Child" means an unmarried person who is under 18 years of age. A person between 18 and 21 years of age and in the custody of DHS is also considered a child for the purposes of these rules.

(2) "Client" means a child or adult receiving services from DHS.

(3) "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.

(4) "FBI" means the Federal Bureau of Investigation.

(5) "OSP" means the Oregon State Police.

(6) "Subject individual" means, in the context of these rules, a contractor seeking to enter into a system-of-care contract with DHS. If the contractor is a business with more than one employee, the executive director, president, CEO, or equivalent is the subject individual. A contractor certified by DHS as provided for in OAR 413-200-0301 to 413-200-0401, "Safety Standards for Foster Care, Relative Care and Adoptive Families," and a contractor licensed by DHS as provided for in OAR 413-220-0000 to 413-220-0160, "Private Child-Caring Agency Licensing Standards," are not subject individuals.

(7) "System-of-care contractor" means an individual or business that has contracted with DHS and is paid with flexible funds allocated by DHS as part the Department's system-of-care settlement agreement with the Juvenile Rights Project, Inc.

(8) "System-of-care settlement agreement" means the agreement between the Department of Human Services and the Juvenile Rights Project, Inc. that includes provisions for the use of flexible funds to meet the individual needs of children and their families in order to promote safety, permanency, and well being.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 181.537

Hist.: SOSCF 10-1999, f. & cert. ef. 5-24-99; CWP 42-2003(Temp), f. & cert. ef. 12-17-03 thru 6-11-04; CWP 10-2004, f. & cert. ef. 6-1-04

413-330-0090

System of Care Contractor Criminal History Policy

(1) As a result of the Department's system-of-care settlement agreement with the Juvenile Rights Project, Inc., DHS enters into personal service contracts with community service providers. Many of these providers are not licensed or certified by DHS, but they can provide important services to clients such as mentoring, tutoring, and therapeutic support. Before the Department contracts with one of these providers, the Department will complete a criminal background check as described below.

(2) DHS will not enter into a contract with a subject individual unless the subject individual consents to a criminal offender information records check and consents to be fingerprinted when required by these rules. DHS may decide not to contract with the subject individual if the individual makes a false statement about having been arrested for or convicted of a crime.

(3) A subject individual must provide all information required for a criminal offender information records check, including fingerprints, if required, on forms provided by DHS and according to procedures established by DHS, including:

(a) The subject individual must complete and sign form CF 1011F.

(b) If the subject individual acknowledges a prior arrest or a conviction of a crime, the subject individual must provide an explanation of the facts that supported the arrest or conviction and of the intervening circumstances and must provide written authorization required by DHS to verify the information.

(c) When required by these rules, two properly completed FBI fingerprint cards (form FD 258) with red overprinting in the "reason fingerprinted" block from the subject individual.

(4) In the process of obtaining a subject individual's consent to a criminal records check, DHS may ask the subject individual to consent to the Department's use of his or her social security number in conducting the criminal records check. Subject individuals will indicate their consent by their signatures.

(5) DHS will obtain and forward fingerprint cards to request criminal offender information on subject individuals from OSP and FBI as follows:

(a) If the subject individual lives or has lived outside the State of Oregon during any part of the five years prior to application, DHS will instruct OSP to conduct a fingerprint criminal offender records check through the FBI.

(b) If the subject individual has disclosed an arrest or conviction for a crime, DHS will instruct OSP to conduct a fingerprint-based criminal offender records check through the FBI.

(c) If the subject individual's Oregon record indicates an arrest or conviction for a crime, DHS will forward the fingerprint cards to OSP for a positive identification verification and instruct OSP to conduct a fingerprint criminal offender records check through the FBI.

(6) DHS may grant an exception to the fingerprint requirement as described in this rule if DHS determines that the subject individual is unable to submit fingerprints due to a physical or mental condition that makes compliance impossible or presents an undue safety risk to the applicant or staff. For the exception to be effective, a form DHS 1011D, "Criminal History Exception Request," must be signed by the SDA manager or designee.

(7) DHS will not enter into a system-of-care contract with a subject individual unless:

(a) A check of Oregon LEDS has been completed and documented;

(b) All processes required by these rules to complete the criminal history check process, including a fingerprint-based criminal offender check for a subject individual, have been authorized and have commenced; and

(c) An exception authorized by OAR 413-330-0095 regarding a criminal conviction, if necessary for approval, has been granted and documented.

(8) If after the Department enters into a contract with a contractor it learns the contractor has a potentially disqualifying record, the Department will rescind the contract unless an exception is granted.

(9) DHS will review the criminal offender information of subject individuals. The assessment of the subject individual's suitability will be documented and filed in the contractor's file. Criminal offender information received from the OSP or the FBI is confidential and will not be released.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537

Hist.: SOSCF 10-1999, f. & cert. ef. 5-24-99; CWP 42-2003(Temp), f. & cert. ef. 12-17-03 thru 6-11-04; CWP 10-2004, f. & cert. ef. 6-1-04

413-330-0095

Crimes to Be Considered

(1) DHS has determined that persons who engage in certain criminal conduct may not be qualified to be a system-of-care contractor because the criminal conduct is fundamentally inconsistent with having responsibility for the care, treatment, or supervision of children. It may also be inappropriate for them to have contact with a child likely to occur while providing services to the child's family. Unless an exception is granted under these rules, a conviction for a crime listed in these rules or a false statement about a conviction may disqualify a subject individual from being approved as a system-of-care contractor.

(2) If a subject individual has been convicted of a crime described in section (3) of this rule, DHS will not enter into a system-of-care contract with the subject individual, and no exception will be granted.

(3)(a) DHS will not enter into a system-of-care contract with a subject individual, and no exception will be granted, if a subject individual has been convicted in Oregon or in another jurisdiction of any of the following crimes:

(A) A felony or misdemeanor crime of violence against a child.

(B) A felony involving:

(i) Rape, sodomy, or sexual abuse;

(ii) Intentional starvation or torture;

(iii) Murder or voluntary manslaughter;

(iv) Child abuse or neglect;

(v) Aiding, abetting, attempting, soliciting, or conspiring to cause the death of a child;

(vi) Violence, including domestic violence; or

(vii) A felony drug-related offense.

(b) Crimes described in section (3)(a) of this rule include the following crimes under Oregon law and substantially similar crimes in Oregon and other jurisdictions:

(A) ORS 163.095 Aggravated murder;

(B) ORS 163.115 Murder;

(C) ORS 163.118 Manslaughter in the first degree;

(D) ORS 163.125 Manslaughter in the second degree;

(E) ORS 163.355 Rape in the third degree;

(F) ORS 163.365 Rape in the second degree;

(G) ORS 163.375 Rape in the first degree;

(H) ORS 163.385 Sodomy in the third degree;

(I) ORS 163.395 Sodomy in the second degree;

(J) ORS 163.405 Sodomy in the first degree;

(K) ORS 163.408 Unlawful sexual penetration in the second degree;

(L) ORS 163.411 Unlawful sexual penetration in the first degree;

(M) ORS 163.425 Sexual abuse in the second degree;

(N) ORS 163.427 Sexual abuse in the first degree;

(O) ORS 163.525 Incest, if the victim of the offense is a child;

(P) ORS 163.537 Buying or selling a person under 18 years of age;

(Q) ORS 163.670 Using a child in display of sexually explicit conduct;

(R) ORS 162.155 Escape in the second degree, if the offense involves the use or threatened use of violence;

(S) ORS 162.165 Escape in the first degree, if the offense involves the use or threatened use of violence or a dangerous or deadly weapon;

(T) ORS 162.325 Hindering prosecution, if the crime involves the use of violence;

(U) ORS 163.145 Criminally negligent homicide;

(V) ORS 163.160 Assault in the fourth degree, if the victim is a spouse or a child and the person has previously been convicted of assaulting the same victim;

(W) ORS 163.160 Assault in the fourth degree, if person previously convicted of assaulting same victim or assault witnessed by child/step child of defendant or victim or other child living in household of defendant or victim;

(X) ORS 163.160 Assault in the fourth degree if the victim is a child (misdemeanor);

(Y) ORS 163.165 Assault in the third degree;

(Z) ORS 163.175 Assault in the second degree;

(AA) ORS 163.185 Assault in the first degree;

(BB) ORS 163.205 Criminal mistreatment in the first degree, if the victim is a child or if the crime involves violence;

(CC) ORS 163.213 Unlawful use of an electrical stun gun, tear gas or mace in the first degree;

(DD) ORS 163.225 Kidnapping in the second degree, if the victim is a child or spouse or if the crime involves violence;

(EE) ORS 163.235 Kidnapping in the first degree, if the victim is a child or spouse or if the crime involves violence;

(FF) ORS 163.535 Abandonment of a child;

(GG) ORS 163.547 Child neglect in the first degree;

(HH) ORS 163.555 Criminal nonsupport;

(II) ORS 163.684 Encouraging child sexual abuse in the first degree;

(JJ) ORS 163.686 Encouraging child sexual abuse in the second degree;

(KK) ORS 163.688 Possession of materials depicting sexually explicit conduct of a child in the first degree;

(LL) ORS 163.689 Possession of materials depicting sexually explicit conduct of a child in the second degree;

(MM) ORS 164.125 Theft of services, if the theft is by force for services valued at \$750 or more;

(NN) ORS 164.225 Burglary in the first degree, if the offense involves violence;

(OO) ORS 164.395 Robbery in the third degree;

(PP) ORS 164.405 Robbery in the second degree;

(QQ) ORS 164.415 Robbery in the first degree;

(RR) ORS 166.015 Riot;

(SS) ORS 166.165 Intimidation in the first degree;

(TT) ORS 166.220 Unlawful use of weapon;

(UU) ORS 167.017 Compelling prostitution;

(VV) ORS 167.212 Tampering with drug records;

(WW) ORS 167.262 Adult using minor in commission of controlled substance offense (for controlled substance other than less than 5 grams of marijuana);

(XX) ORS 475.992(1) Manufacture or delivery of Schedule I, II or III counterfeit substance;

(YY) ORS 475.992(2) Delivery of marijuana for consideration;

(ZZ) ORS 475.992(3) Creation or delivery of Schedule I, II or III counterfeit substance;

(AAA) ORS 475.992(4) Possession of Schedule I or II controlled substance;

(BBB) ORS 475.993 Prohibited acts for registrants related to Schedule I controlled substance;

(CCC) ORS 475.995 Distribution of Schedule I, II or III controlled substances to minors;

(DDD) ORS 475.999 Manufacture or delivery of Schedule I, II or III controlled substance within 1000 feet of school.

(4) The Department will not enter into a system-of-care contract with a contractor who has been convicted of a crime not described in section (3) of this rule unless an exception is granted in accordance with this rule. The following persons are authorized to grant an exception:

(a) If a subject individual has been convicted of a misdemeanor, other than one resulting from domestic violence or one described in section (3) of this rule, a written exception issued by the SDA Manager is required to approve the subject individual. The SDA Manager may authorize the SDA Assistant Manager, the SDA Child Welfare Manager, or a child welfare supervisor to grant an exception authorized by this subsection.

(b) If a subject individual has been convicted of a felony or of a crime involving domestic violence, other than one described in section (3) of this rule, a written exception issued by the SDA Manager is required to approve the subject individual. The SDA manager may authorize the SDA Assistant Manager or the SDA Child Welfare Manager to grant an exception under this subsection.

(5) A person authorized by section (4) of this rule to grant an exception must determine whether the subject individual is suitable to be a system-of-care contractor notwithstanding the criminal convictions. The person authorized to grant an exception must consider the following factors and must document the bases for the approval or denial on form DHS 1011D, "Criminal History Exception Request":

(a) The severity and nature of the crime.

(b) The number of criminal offenses.

(c) The time elapsed since commission of the crime.

(d) The circumstances surrounding the crime.

(e) Content of police reports concerning the crime.

(f) The subject individual's explanation of the crime.

(g) The relationship of the criminal activity to the subject individual's capacity to safely provide the proposed services.

(h) Whether the subject individual's participation in counseling, therapy, education, or employment constitutes evidence of rehabilitation or a change in behavior.

(6) An exception granted with respect to a specific conviction need only be granted one time.

(7) An exception granted under this rule does not establish a precedent.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & 181.010 - 181.560

Hist.: SOSCF 10-1999, f. & cert. ef. 5-24-99; SOSCF 28-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 42-2003(Temp), f. & cert. ef. 12-17-03 thru 6-11-04; CWP 10-2004, f. & cert. ef. 6-1-04

413-330-0097

Consideration of Arrests

(1) Behavior that results in an arrest or a history of arrests may raise concerns about a subject individual's suitability to be a system-of-care contractor. If a subject individual has a history of arrests for crimes involving any of the following conduct, the Department's field staff must consider the behavior that resulted in the arrests and assess whether or not the subject individual is suitable to be a system-of-care contractor:

(a) Child abuse or neglect.

(b) Spousal abuse.

(c) A crime against children, including pornography.

(d) A crime involving violence, including rape, sexual abuse, manslaughter or homicide.

(e) Physical assault.

(f) Battery.

(g) Drug or alcohol offenses.

(h) Weapons-related offenses.

(2) If a subject individual has been arrested for any of the crimes listed in section (1) of this rule, the supervisor and caseworker, in consultation with the management staff as designated by the SDA Manager, must assess the suitability of the subject individual to be a system-of-care contractor and document their findings. The persons conducting the assessment must consider and document their findings regarding the behavior or conduct that led to each arrest, how that behavior relates to the subject individual's qualifications to be a system-of-care contractor, and whether, given the behavior that led to the arrests, the subject individual is qualified to be a system-of-care contractor.

(3) In conducting the assessment, the supervisor and caseworker must consider the following with regard to the arrests:

(a) The subject individual's explanation of the circumstances surrounding and the behavior that led to each arrest.

(b) The severity and nature of the behavior that led to the arrests.

(c) Whether the subject individual's behavior that led to the arrests relates to or raises concerns about the individual's qualifications to be a system-of-care contractor.

(d) The time elapsed since the arrests.

(e) The circumstances surrounding each arrest.

(f) Whether the subject individual was charged with or indicted for a crime related to the arrests.

(g) The disposition of any charge or indictment related to the arrests.

(h) Whether the subject individual's participation in counseling, therapy, education, or employment constitutes evidence of rehabilitation or a change in behavior.

(i) Any other information related to the circumstances of the arrests or the behavior that led to the arrests that may relate to the subject individual's qualifications to be a system-of-care contractor.

(j) The number of arrests.

(4) The supervisor and worker may also obtain and review a copy of the police report of the arrest and interview the subject individual about the arrest.

(5) Under no circumstances will DHS 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.: ORS 418.005

Stats. Implemented: ORS 181.537 & 181.010 - 181.560

Hist.: CWP 42-2003(Temp), f.& cert. ef. 12-17-03 thru 6-11-04; CWP 10-2004, f. & cert. ef. 6-1-04

413-330-0098

Rights for Review and Contested Case Hearings

(1) If DHS determines that the subject individual is not suitable to be a System of Care Contractor based on criminal history or false statement on the application form (unless the subject individual voluntarily withdraws from the process), DHS will notify the subject individual, by certified mail, that the subject individual:

(a) Has the right to inspect and challenge Oregon criminal offender information through the OSP procedures (ORS 181.555(3)).

(b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the Assistant Director of the FBI Identification Division, Washington, D.C., 20537-9700.

(c) May appeal DHS's determination of unsuitability and may 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 provided that DHS receives a request for a contested case hearing in writing within 10 calendar days after the notice is mailed.

(2) A contested case hearing is conducted in accordance with ORS 183.413 to 183.470, OAR 137-003-0501 to 137-003-0700, and 413-120-0470.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537

Hist.: CWP 42-2003(Temp), f.& cert. ef. 12-17-03 thru 6-11-04; CWP 10-2004, f. & cert. ef. 6-1-04

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 & 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 & 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 Clearing-house.

(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 sanitation, 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 & 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 & 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 & 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 & 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 con-

tractor whose price is equal or lower, the better qualifications will be explained.

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

Stat. Auth.: HB 2004

Stats. Implemented: ORS 279.051 & 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 & 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 & 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 & 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 & 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 & 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 & 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 & 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 & 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 & 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 & 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 ser-

vices 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

Short Form Contracts**413-330-0900****Purpose**

These administrative rules (OAR 413-330-0900 to 413-330-1010) describe the use of the system-of-care short-form personal-services contract. These rules also describe how approval authority for these contracts is delegated to agency managers and supervisors.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 279.727 & 279.729

Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0910**Definitions**

As used in OAR 413-330-0900 to 413-330-1010:

(1) "Approval authority" means the authority to approve and execute a contract. OAR 125-020-0220(1) gives the Department of Administrative Services (DAS) approval authority for all state agency contracts. DAS has delegated the approval authority to the Department of Human Services (the Department) for client services contracts (*see* OAR 125-020-0600(1)(a)).

(2) "Child" means an unmarried person under 18 years of age. A person between 18 and 21 years of age and in the custody of the Department is also considered a child for purposes of these rules.

(3) "Client" means a child or adult receiving services from the Department.

(4) "Contract authority" means the authority to select a contractor, negotiate a contract, and sign a contract.

(5) "Family member" means a person related to the child.

(6) "Independent contractor" means an individual at least 18 years of age or a business that is an independent contractor as defined in ORS 670.600.

(7) "Nontraditional contractor" means an individual at least 18 years of age or a business not currently licensed by the Department as a child-caring agency who has contracted with the Department if the total authorized expenditure of all contracts is less than \$8,000.

(8) "Primary care giver" means a person who is responsible for providing care and supervision of a child.

(9) "System-of-care short-form personal-services contract" or "SOC short-form contract" means a class of personal services con-

tracts funded by flexible funds allocated by the Department as part of the Department's system-of-care settlement agreement with the Juvenile Rights Project, Inc., and developed by the Department to provide expedited service delivery to children and families as allowed by these rules.

(10) "System-of-care contractor" or "SOC contractor" means an individual or business that has contracted with the Department and is paid with flexible funds allocated by the Department as part of the Department's system-of-care settlement agreement with the Juvenile Rights Project, Inc.

(11) "System-of-care settlement agreement" means the agreement between the Oregon Department of Human Services and the Juvenile Rights Project, Inc., which includes provisions for the use of flexible funds in meeting the individual needs of children and their families to promote safety, permanency, and well being.

(12) "Traditional contractor" means an individual at least 18 years of age who has exceeded \$8,000 in total SOC contracts during the preceding 12 month period, regardless of funding source or purpose; or a business currently licensed by the Department as provided for by OAR 413-220-0000 to 413-220-0160.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 279.727 & 279.729

Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0920

Policy

(1) The Department's implementation of its strengths-and-needs-based system-of-care model for delivering client services has placed an increased emphasis on providing the child and the child's primary care giver with the individualized services they need in a timely manner. The client's strengths and needs are collaboratively identified by the following parties:

- (a) The child, if appropriate;
- (b) The primary care giver;
- (c) Members in addition to the primary care giver;
- (d) Appropriate employees of the Department;
- (e) Other interested parties.

(2) Services are designed to meet the child's needs and reach the agreed-upon outcomes.

(3) The SOC short-form contract helps the Department's staff expedite the contracting. It is designed to:

- (a) Provide nonresidential services to meet the needs of a child.
- (b) Increase the resource pool of service contractors by allowing the use of both traditional and nontraditional contractors.
- (c) Provide more timely delivery of services by delegating approval authority for SOC short-form contracts to local Child Welfare program managers and supervisors.

(4) An SOC short-form contract can be used when the following conditions are met:

- (a) The contractor is an independent contractor.
- (b) The services are:
 - (A) Provided for a specific child, sibling group, or primary care giver.
 - (B) Provided to help the caseworker, the child, and the child's family reach mutually agreed-upon outcomes.
 - (C) Nonresidential.
 - (D) Limited to a maximum length of 12 months. The expectation is that the mutually agreed-upon outcomes will be reached within that time period.
 - (E) Limited to a maximum dollar amount of \$4,000. The expectation is that the mutually agreed-upon outcomes will be reached without spending more than that amount.
- (c) The contracted services do not include:
 - (A) Services the recipient is eligible to receive that are available from another public agency or institution or from a private contractor under an existing contract; or
 - (B) The same services or services similar to those being provided by Department staff.
- (d) Funds are available and authorized for the type of service and client to be served by the contract, and the cost is reasonable and commensurate with the cost of similar services.

(5) The statement of work, in an SOC short-form contract, is written to describe the agreed-upon outcomes and the services to be provided.

Outcomes must be specifically related to one or more of the following goals:

(a) Safety — to prevent placement or re-entry into care and to ensure the child's safety in the home.

(b) Permanency — to prevent movement in care and to ensure stability in the living situation or facilitate permanency for a child for whom the plan is categorized as an "other planned permanent living arrangement."

(c) Facilitate reunification — to facilitate the child's return home and preserve continuity of family relationships and permanency for the child.

(d) Permanency — to facilitate the child's permanency plan of adoption or guardianship.

(e) Well-being — to facilitate the child's well-being by enhancing the family's capacity to provide for its children's needs.

(f) Well-being — to facilitate the child's well-being by ensuring the child receives adequate and appropriate services to meet medical, physical, mental health, social, emotional-development, or educational needs.

(6) Contracted services must be provided by the contractor. The SOC short-form contract does not allow subcontracting. A traditional contractor may use an employee or volunteer to provide the contracted services. A nontraditional contractor must provide the services himself or herself and cannot use an employee or volunteer to provide the contracted services.

(7) The Department may terminate an SOC short-form contract upon written notice to the contractor.

(8) The printed contract cannot be altered. If the format is changed by anyone, regardless of the reason or circumstances, the contract cannot be executed and is void.

(9) Within 24 hours after the contract is signed by both parties, the contract and cover sheet must be sent by facsimile to the Technical Assistance Unit.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 279.727 & 279.729

Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0930

Contractor

(1) A short-form contract is used by the Department only to contract with a provider who is an independent contractor.

(2) An SOC contractor must be at least 18 years of age.

(3) A contractor for an SOC short-form contract is selected by direct negotiations. The Department negotiates directly with the contractor who is determined to be the best able to provide the services at a reasonable price. No informal or formal contractor selection and solicitation process is required.

(4) A nontraditional contractor is considered a traditional contractor once the total dollar amount of all contracts the individual has with the Department, regardless of funding source or purpose, exceeds \$8,000 during a 12-month period. At that point, the insurance and liability coverage requirements increase. A traditional contractor is required to meet all contractual insurance requirements, including the requirement to obtain professional liability insurance, if the contractor must be licensed or accredited to do the contracted work. The 12-month period is measured from the earliest contract effective date to the latest contract end date for all contracts that the nontraditional contractor has with the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 279.727 & 279.729

Hist.: SOSCF 21-2000(Temp), & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0940

Types of Service

(1) The Department uses an SOC short-form contract with a traditional contractor for such services as the following:

(a) Housing and food services — including housing deposits, utilities, home repairs, food, household necessities, cleaning services, supplies, and equipment.

(b) Transportation — including transportation for visitation, bus passes, other fares, automobile repair, and reimbursement when the family is transported by a community or family member.

(c) Assessment, testing, and evaluations — including psychiatric, psychological, psycho-social, behavioral, developmental, medical, or educational services not available through other resources such as other programs operated by the Department or from a school district.

(d) Therapeutic and rehabilitative services — including family, group, and individual therapy (including drug and alcohol treatment services) not available through other sources, such as from other programs operated by the Department or from family-based service contracts, including intensive family services (IFS), and family sex abuse treatment (FSAT), and parent training.

(e) Skills training and support — including parent coaching, mentoring, psycho-social skills training and support, shadowing or one-on-one supervision, and support of daily activities, transition support services, sub-care or in-home behavior support or management, and educational services not available through other programs operated by the Department or from a school districts.

(f) Support services for care givers — including time-limited services for parents, foster parents, and relative care takers not provided by other sources.

(g) Well-being and developmental needs — including expenses related to school or recreational activities, such as fees for sports, camps, school trips, music, arts, and other activities, and activities related to a child's traditional or cultural needs or developmental milestones.

(2) The nontraditional contractor is a contractor chosen for his or her unique capacity to connect with the child based on the specific strengths and needs of the child as identified in the strengths-and-needs-based service planning process. The nontraditional contractor focuses on working with the family in addressing the specific strengths and needs of the child. The nontraditional contractor gives special care to planning activities that can eventually be maintained without the contractor's involvement. A short-form contract can be used with a nontraditional contractor only for the following services:

(a) Individual Mentoring: Social, behavioral, and recreational skill development. Assisting the child in exploring special talents or interests, arranging for on-going social or recreational opportunities, and modeling appropriate interaction with others with special care given to planning activities that can eventually be maintained without the mentor.

(b) Family Mentoring: Engagement of families for parenting skill development, including modeling appropriate interactions with children in the home, effective problem-solving, establishment of routines, and assisting with development of natural helping systems to enable the family to function independently with success.

(c) Individual Tutoring: Educational support services tailored specifically to the needs of the child. This assistance should be offered when the child's developmental functioning is significantly compromised without tutoring and is not obtainable through an Individual Education Plan (IEP) or any other appropriate resource.

(d) Developmental Support: Chosen activities requiring adult supervision at all times to meet the child's identified developmental needs or milestones.

(e) Therapeutic Visitation: Visitation services to address the child's needs and encompass specific therapeutic goals. The contractor, if not licensed, must obtain supervision from a licensed therapist, at his or her own expense, for consultation and feedback on the therapeutic process and progress of the visitation.

(3) The Department's worker must enter the System of Care Service Codes, Open Reasons, and Disposition in the Department's Integrated Information System (IIS), including the person letter for the parents and children who benefit from or participate in the authorized service.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 279.727 & 279.729

Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0950 Insurance

(1) Traditional contractor insurance requirements. The coverage and limits of insurance required for a traditional contractor are specified

in the contract. The Department requires a traditional contractor to provide proof that all required insurance is effective and in force before the SOC short-form contract can be executed.

(2) Nontraditional contractor insurance requirements.

(a) If a nontraditional contractor is providing a service that requires transporting the client, the Department requires the nontraditional contractor to provide proof of:

(A) A valid Oregon driver's license; and

(B) Automobile liability coverage that has limits not less than required by ORS 806.060. The nontraditional contractor must have automobile insurance in effect during the term of the SOC short-form contracts.

(b) The State of Oregon, through the Risk Management Division of the Department of Administrative Services provides nontraditional contractors with general liability insurance coverage including legal defense and excess automobile liability coverages. These coverages are provided to a nontraditional contractor, while acting within the course and scope of duties listed in the short-form contract, to the extent that a claim arises out of the provisions of services pursuant to the Short Form Contract's terms and statement of work. The provision of general liability coverage does not make the nontraditional contractor an agent of the Department or of the State of Oregon or subject the contractor to ORS 30.260 to 30.300 (the Oregon Tort Claims Act).

(c) The coverage described in subsection (b) of this section is not provided for acts, errors, or omissions due to malfeasance; for willful or wanton neglect of duty; for acts outside the short-form contract's specified scope of work; or for punitive damages.

(d) Following are the limits of coverage provided by the State to nontraditional contractors:

(A) \$50,000 to a claimant for any number of claims for damage to or destruction of property, including consequential damages, arising out of a single accident or occurrence;

(B) \$100,000 to a claimant as general and special damages for all other claims arising out of a single accident or occurrence;

(C) \$200,000 for all claims arising out of a single accident or occurrence;

(D) The dollar limits for defense cost coverage are included in the above dollar limits. Once this dollar limit is reached, further defense costs are the responsibility of the nontraditional contractor.

(e) The nontraditional contractor must report, in writing, each claim and each occurrence that reasonably may give rise to a claim to the contract administrator, who will forward the information to the Risk Management Division as promptly as practicable.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 279.727 & 279.729

Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0960

Dispute Resolution: Short-Form Contracts

(1) When a short-form contract is used to contract with a nontraditional contractor, the child's case worker requests that the client sign a "Dispute Resolution Agreement." The client and the Department are parties to the "Dispute Resolution Agreement." The agreement provides a procedure to resolve disputes between the client and the nontraditional contractor. The client is encouraged to participate in good-faith in the dispute resolution process.

(2) The client's signature and participation in the dispute resolution process are voluntary.

(3) Dispute resolution between the client and a nontraditional contractor must be conducted in accordance with procedures established by the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 279.727 & 279.729

Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; Suspended by CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0970

Criminal History Records Check for SOC Contractors

(1) The Department has determined that persons who engage in certain criminal conduct may not be qualified to be system-of-care contractors because their criminal conduct is fundamentally inconsistent with having any responsibility for the care, treatment, or supervision of children or other vulnerable persons.

(2) SOC contractors are subject to a criminal-history-records check as described in OAR 413-330-0085 to 413-330-0105 (*see* Child Welfare policy “System of Care Short Form Contracts,” policy III-D.1.1.2). In the case of a non-traditional contractor, the Department will perform the check. If the SOC contractor is a business with more than one employee, the executive director, or equivalent, of the business is considered the contractor under those rules.

(3) Once the contractor has been approved and the contract has been executed, and prior to services being performed, the contractor must verify that each employee and each volunteer who will have contact with children in the course of their duties has not been convicted of child abuse, an offense against persons, a sexual offense, child neglect, or any other offense bearing a substantial relation to the qualifications, functions, or duties of an employee or volunteer who will have contact with children.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 279.727 & 279.729
 Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0980

DHS Abuse and Neglect Information Check

(1) To further protect children from abuse and neglect, the Department checks all SOC contractors against the Department’s child-abuse and neglect-assessment information.

(2) The Department maintains the confidentiality of client information in accordance with its administrative rules on confidentiality, OAR 413-010-0000 to 413-010-0075.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 279.727 & 279.729
 Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-0990

Unauthorized Services

The state is not obligated to pay for services obtained before the contract has been written, approved, and signed by the contractor and a representative of the Department who has contract approval authority. A Department employee who authorizes a service that requires a contract, prior to a contract being fully executed, or obtains a service not covered by a contract, may be held personally liable for the cost of the service.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 279.727 & 279.729
 Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-1000

Delegation of Short-Form Contract Approval Authority

(1) Authority to approve short-form contracts is hereby delegated to the Administrator for Program Performance and Reporting.

(2) The Administrator for Program Performance and Reporting may delegate to a Child Welfare program manager or supervisor representing the SDA or the local office, upon written request, authority to approve SOC short-form contracts. The authority may be granted when the following conditions have been met:

(a) Management staff, including the Child Welfare program manager, line manager or supervisor, office manager or equivalent, and system-of-care resource developer or equivalent have received specific training regarding SOC short-form contract policy and procedure from Program Performance and Reporting staff and staff from the Department’s Contracts and Procurement unit.

(b) The Child Welfare program manager has submitted an implementation plan to the Administrator for Program Performance and Reporting or the Administrator’s delegate that describes how SOC short-form contracts will be processed at the local field office. The field office implementation plan may be submitted only after the management staff has received the SOC short-form contract training.

(c) Staff from the Program Performance and Reporting program have reviewed the implementation plans to ensure compliance with these administrative rules and sound business and fiscal practices.

(d) The Administrator for Program Performance and Reporting, or the Administrator’s delegate, may, with consent of the Department’s Office of Contracts and Procurement, delegate authority to approve

SOC short-form contracts to a Child Welfare program manager or supervisor. The Administrator or the Administrator’s delegate may delegate short-form contract approval authority only after the field office management staff has received training and the implementation plan has been approved. Once authority has been delegated, the Child Welfare program manager or supervisor is responsible for the proper processing and use of the SOC short-form contract. Except as authorized in OAR 413-330-1010, a Child Welfare program manager or supervisor cannot further delegate approval authority or contract responsibilities.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 279.727 & 279.729
 Hist.: SOSCF 21-2000(Temp), f. & cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; SOSCF 29-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

413-330-1010

Responsibilities of Child Welfare Program Managers and Supervisors with Delegated Authority

(1) A Child Welfare program manager or supervisor with delegated approval authority is responsible for the following duties relating to SOC short-form contracts. The responsibility for the duties may or may not be further delegated by either as follows:

(a) A Child Welfare program manager or supervisor may delegate the duty:

(A) To determine whether a contractor is an independent contractor.

(B) To determine whether a contractor is a traditional or nontraditional SOC contractor.

(C) To determine whether a contractor has the required insurance.

(D) To negotiate the following contract conditions:

(i) Services;

(ii) Outcomes;

(iii) Contract begin date;

(iv) Contract end date;

(v) Contract payment rate and number of services units.

(E) To monitor and act as the Department’s contract administrator for the SOC short-form contract.

(b) A Child Welfare program manager or supervisor cannot delegate the duty:

(A) To determine whether the services being contracted for are the same as services provided by Department staff.

(B) To determine whether the contractor has a criminal history record that would prevent the Department from contracting with the contractor (*see* OAR 413-330-0085 to 413-330-0097).

(C) To determine whether there are concerns or reasons why using the contractor may not be in the best interests of the child by checking the Department’s child abuse and neglect assessment information.

(D) To sign and execute the short-form contract as the authorized agency representative. Services can begin only after the contractor and an authorized Child Welfare program manager or supervisor have both signed the short-form contract.

(E) To authorize payments due for the performance of contracted services.

(2) A Child Welfare program manager or supervisor may be held personally liable for the cost of services provided before an SOC short-form contract has been fully executed or for services provided outside the scope of the contract.

Stat. Auth.: ORS 418.005
 Stats. Implemented: ORS 279.727 & 279.729
 Hist.: SOSCF 21-2000(Temp), f. 8-31-00, cert. ef. 8-31-00 thru 2-26-01; SOSCF 5-2001, f. & cert. ef. 2-26-01; CWP 50-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 6-28-04; CWP 11-2004, f. & cert. ef. 6-1-04

DIVISION 350

INFORMATION MANAGEMENT

Inspection and Copying of Records

413-350-0000

Purpose

The purpose of these rules (OAR 413-350-0000 to 413-350-0090) is to prescribe procedures for viewing and copying public records held by the Child Welfare program and describe the process

for charging fees when the Department makes the public records available.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0010**Definitions**

The following definitions apply to OAR 413-350-0000 to 413-350-0090:

(1) "Custodian" means the Child Welfare program manager or designee of the program 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, including but not limited to records prepared, owned, used, or retained by a public body regardless of physical form or characteristics.

(3) "Writing" means the definition of "writing" in the version of OAR 407-003-0000 that is current when the public record request is made.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0020**Access**

Any person has a right to inspect any public record held by the Child Welfare Program to the extent provided by these rules (OAR 413-050-0000 to 413-050-0090).

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0030**Access to Electronic Public Records**

When access is permitted under these rules (OAR 413-350-0000 to 413-350-0090):

(1) If the public record is maintained in electronic form, Child Welfare shall provide copies of the electronic public record, in the form requested, if available.

(2) If the public record is not available and maintained in the form requested, Child Welfare shall provide copies of the public record in the form in which it is maintained.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

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 that 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 that 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 that 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 659A.820 or 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under ORS 659A.850.

(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 that 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 ORS 36.256.

(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 would interfere with the rehabilitation of a person in custody of the Department of Corrections or substantially prejudice or prevent the carrying out of the functions of the Department of Corrections, 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 rule, 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 chapters 238 and 238A.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0050

Supervisory Review

Prior to any person viewing or copying a public record held by Child Welfare, the supervisor or person designated by the branch must determine which material in the record is exempt from disclosure. If the supervisor or person designated by the branch has any doubt as to whether information contained in the record is exempt from disclosure, the supervisor must consult with designated or Central office staff.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 30-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0060

Time Frame

Child Welfare provides an opportunity for the inspection and copying of records when access and copying is otherwise permitted under these rules (OAR 413-350-0000 to 413-350-0090). To protect its records and prevent interference with the regularly scheduled duties of its staff, Child Welfare 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 ten working days. When this time frame is not possible, the custodian or person designated by the branch will discuss the reasons with the requester and provide an expected date for inspecting the record. If copies are requested, Child Welfare shall make them within a reasonable time period, not to exceed five working days from the date of the request for the specific material, and shall mail the material to the requester.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0070

Viewing and Copying Procedures

(1) When Child Welfare 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 viewing and copying of the public record, Child Welfare shall separate any material that 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. The names of alleged perpetrators if the perpetrators are juveniles in Child Welfare custody and the names of victims must also be covered.

(3) Child Welfare shall provide the person requesting examination a place to review the record. A person designated by Child Welfare 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 Child Welfare staff may copy the designated material.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

413-350-0080

Charges

(1) Child Welfare shall charge for the cost of making the record available to the extent permitted by OAR 407-003-0010.

(2) Child Welfare shall inform the requester of estimated charges as provided by OAR 407-003-0010(5).

(3) The requester may ask Child Welfare for a waiver of the charges for the cost of making the record available. Child Welfare may reduce or waive fees as provided by OAR 407-003-0010.

(4) If Child Welfare denies the initial request for a waiver of all or part of the actual cost of providing the record, the requester may proceed as provided by OAR 407-003-0010(7).

Stat. Auth.: ORS 192.430, 409.050, 418.005

Stats. Implemented: ORS 192.430, 192.440, 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 12-2000, f. & cert. ef. 5-5-00; CWP 20-2007, f. & cert. ef. 11-1-07

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 (OAR 413-350-0000 to 413-350-0090), Child Welfare will consult with that individual about making the requested records available in alternative print format at no additional cost to the requester and follow OAR 407-005-0010(8).

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 20-2007, f. & cert. ef. 11-1-07

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