

Secretary of State  
Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

**FILED**  
10-1-15 8:38 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the  
Department of Human Services, Child Welfare Programs 413

Agency and Division

Administrative Rules Chapter Number

Kris Skaro

(503) 945-6067

Rules Coordinator

Telephone

500 Summer St. NE, E-48, Salem, OR 97301

Address

To become effective Upon filing. Rulemaking Notice was published in the September 2015 Oregon Bulletin.

**RULE CAPTION**

Amending child welfare rules

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**

413-120-0000, 413-120-0010, 413-120-0016, 413-120-0020, 413-120-0021, 413-120-0025, 413-120-0035, 413-120-0057, 413-120-0060, 413-120-0220, 413-120-0243, 413-120-0246, 413-120-0635, 413-120-0700, 413-120-0720, 413-120-0730, 413-120-0750, 413-120-0760, 413-120-0800

**REPEAL:**

413-120-0010(T), 413-120-0020(T), 413-120-0021(T), 413-120-0035(T), 413-120-0105, 413-120-0150, 413-120-0195, 413-120-0420, 413-120-0500, 413-120-0510, 413-120-0521, 413-120-0541, 413-120-0570, 413-120-0580, 413-120-0590, 413-120-0595, 413-120-0610, 413-120-0710, 413-120-0720(T), 413-120-0730(T), 413-120-0760(T), 413-120-0810, 413-120-0905

**RENUMBER:**

**AMEND AND RENUMBER:**

**Statutory Authority:**

ORS 409.050, 411.050, 411.060, 418.005

**Other Authority:**

**Statutes Implemented:**

ORS 409.010, 409.050, 411.060, 411.070, 418.005, SB 741 (2015)

**RULE SUMMARY**

Division 120 relating to adoption placement selection and identification and consideration of potential adoptive resources is being amended to implement SB 741 (2015) which requires Department rules governing home studies and placement reports in adoption proceedings to give equal status and priority to relatives and current caretakers as is given to prospective adoptive parents with regard to child safety, attachment, and well-being.

Adoption Placement Selection 413-120-0016 to 413-120-0060

OAR 413-120-0010 - Definitions

- Modifies definition of current caretaker in section (8) to conform with statute

OAR 413-120-0020 - Adoption Placement Selection Options

- Modifies (1) to clarify the need to ensure there is no other identified relative or current caretaker who is being assessed as a potential

adoptive resource

- Modifies section (2) to clarify the local adoption committee does not make recommendation in cases involving a current caretaker
- Modifies section (3) to remove (C) of subsection (a) since the scenario is no longer possible under the new SB 741 order of preference. Modifies new (C) to clarify that an exception to the order of preference may only be granted to a relative defined in 413-120-0010 (16)(d) (and only when there is no current caretaker per modified 413-120-0760(4))

OAR 413-120-0021 - Adoption Placement Selection by Caseworker

- Adds current caretaker to section (6) regarding what to do when a new relative or current caretaker shows up after an adoption selection date has been scheduled
- Adds new section (7) to provide that a program manager in consultation with the permanency manager make the determination whether to consider a relative or current caretaker under section (6)

OAR 413-120-0035 - Invitation to and Notification of Adoption Committee

- Adds current caretaker to section (8) regarding what to do when a new relative or current caretaker shows up after an adoption committee has been scheduled and notice sent
- Adds new section (9) to provide that a program manager in consultation with the permanency manager make the determination whether to consider a relative or current caretaker under section (8)

Foster Parent Request for Consideration as a Current Caretaker 413-120-0500 to 413-120-0595

- This section is repealed in its entirety; under the amendments described above, a foster parent will be considered a current caretaker when the foster parent is currently caring for a child who has a permanency plan or concurrent permanent plan of adoption and has cared for the child or a sibling for at least the past 12 months or for one-half of the child's or sibling's life if the child or sibling is younger than two years of age

Identification and Consideration of Potential Adoptive Resources 413-120-0700 to 413-120-0760

OAR 413-120-0720 - Department Efforts to Place with Relatives, Current Caretakers, and to Place Siblings Together

- Amends (1) to declare that placement with current caretakers is a department preference
- Amends (2) adding a requirement (c) to confirm there are no current caretakers being assessed as a potential adoptive resource

OAR 413-120-0730 - Order of Preference for Identification of Potential Adoptive Resources

- Amends section (1) to give current caretaker and relative equal standing, and prioritize relatives and current caretakers above general applicants
- Adds section (4) limiting the authority of the Permanency Manager to grant exceptions to the order of preference to only cases that do not involve a current caretaker

OAR 413-120-0760 - Identification of a Child's Potential Adoptive Resources

- Modifies (1) so it applies only to general applicants rather than all potential adoptive resources
- Adds new provision in section (4) to permit a program manager to request an exception to increase the number of potential adoptive resources to be considered. (For example, if there are two current caretakers and two relatives)
- Deletes section (6) which provided an exception to the order of preference since it is no longer needed and is inconsistent with intent of SB 741

Makes additional non-substantive amendments to improve clarity and readability.

These changes make permanent temporary rules adopted September 1, 2015.

## 413-120-0000

### Purpose/Definitions

~~(Amended 12/29/10)~~ (Amended 10/01/15)

#### THIS RULES IS REVISED IN ITS ENTIRETY

These rules (OAR 413-120-0000 to 413-120-0060) describe the Department's responsibilities when making an *adoption placement selection* for a *child* or *sibling* group who—

- ~~(1) Is in the custody of the Department; and~~
- ~~(2) In the case of a *sibling* group, the Department is planning to place together for the purposes of adoption.~~

The following definitions apply to OAR chapter 413, division 120:

- (1) "Adoption" means a legal or administrative process that establishes a permanent legal parent-child relationship between a *child* and an adult who is not already the child's legal parent and terminates the legal parent-child relationship between the adopted *child* and any former parent.
- (2) "Adoption agency" means an organization providing the services under any one of the following subsections:
  - (a) Identifying a *child* for *adoption* and arranging an *adoption*.
  - (b) Securing the necessary consent to relinquishment of parental rights and to *adoption*.
  - (c) Performing a background study on a *child* or a *home study* on a prospective adoptive parent and reporting on such a study.
  - (d) Making determinations of the best interests of a *child* and the appropriateness of *adoption* placement for a *child*.
  - (e) Monitoring a case after placement until final *adoption*.
  - (f) When necessary because of *disruption* before final *adoption*, assuming custody and providing child care or other social services for a *child* pending an alternative placement.
- (3) "Adoption committee" means a group of individuals convened by Department staff to make recommendations to an Adoption Decision Specialist (ADS) regarding adoptive resources for a *child*.

- (4) "Adoption decree" means a decree which a court issues, pursuant to a *petition for adoption*, setting forth the facts of the case and ordering that from the date of the decree the *child*, to all legal intents and purpose, is the *child* of the petitioner.
- (5) "Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed *adoption agency*, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a *child* or children.
- (6) "Adoption placement selection" means a decision made by the Department that an individual or individuals have been identified as the *adoptive resource* for the *child*.
- (7) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed *adoption agency* as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.
- (8) "Adoption transition" means activities related to the placement of a *child* or *sibling* group under consideration in the home of the family selected as the *adoptive resource*.
- (9) "ADS" means an Adoption Decision Specialist, who is a Department employee appointed by the Adoption Program Manager to attend an *adoption committee* and make an *adoption placement selection* for a *child*.
- (10) "Authorized designee" means a Department employee who is designated and authorized by the Department to receive and process *criminal records check* request forms from subject individuals, receive criminal records information from the Background Check Unit, and make fitness determinations as described in these rules.
- (11) "Battery" means the use of physical force to injure, damage, or abuse or to cause offensive physical contact.
- (12) "Birth Relatives" means birth parents, grandparents, siblings and other members of the child's birth family, pursuant to ORS 109.305.
- (13) "Central authority" means the entity designated as such by a *Convention country* that is authorized to discharge the duties imposed on *Convention* countries.
- (14) "Central authority functions" means any duty required to be carried out by a *central authority* or *foreign authorized entity* under the *Convention*.
- (15) "Certified family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a *child* or *young adult* in the care or custody of the Department.

- (16) "Child" means a person under 18 years of age.
- (17) "Child welfare mediator" means a neutral third party who meets or exceeds Department qualifications to provide *mediation* services for *mediation participants* in the *cooperative adoption mediation* process, and has a legal assistance mediation contract with the Department.
- (18) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a *permanency committee* or *adoption committee* meeting.
- (19) "Concurrent permanent plan" means the alternate *permanency plan* whenever the *child* has been placed in *substitute care* when the goal of the *permanency plan* is to return the *child* to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the *child* to the parents or legal guardians.
- (20) "Consent to the Adoption": The "Consent to the Adoption" documents that the adoptive parents have been investigated and approved by the Department and gives permission for the *adoption*.
- (21) "Contested case hearing" means a hearing conducted under ORS chapter 183 and applicable administrative rules.
- (22) "Convention" means the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions, concluded at The Hague, the Netherlands, on May 29, 1993, which went into effect in the United States on April 1, 2008.
- (23) "Convention adoption" means an *adoption* of a *child* who is a habitual resident in a *Convention country* by an individual in another *Convention country* when the *child* has been, is being, or will be moved between the two *Convention* countries for the purpose of *adoption*.
- (24) "Convention country" means a country that is a party to the *Convention*.
- (25) "Cooperative adoption mediation" or "Mediation" means a process in which a trained neutral third party assists parties in voluntarily reaching mutually acceptable resolution of issues, as well as assisting the parties in establishing relationships built on mutual trust and respect. Throughout these rules, "cooperative adoption mediation" will be referred to as "mediation".
- (26) "Current caretaker" means a *foster parent* who:
- (a) Is currently caring for a *child* in the care and custody of the Department and has a *permanency plan* or *concurrent permanent plan* of *adoption*; and

- (b) Has cared for the *child* or at least one *sibling* of the *child* for at least the past 12 consecutive months or for one-half of the child's or sibling's life if the *child* or *sibling* is younger than two years of age.
- (27) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:
- (a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of *other criminal records information* obtained from other sources.
- (b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of *other criminal records information*.
- (c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or *other criminal records information* sources located in, or regarding, a state or jurisdiction outside Oregon.
- (28) "Department" means the Department of Human Services, Child Welfare.
- (29) "Disruption" means an approval by the Child Permanency Program Manager to end an *adoption* process after *adoption placement selection* but before the *adoption* is legally finalized.
- (30) "Fitness determination" means the decision made by an *authorized designee*, with regard to information obtained through a *criminal records check*, to either approve or deny a *subject individual* under these rules. A *subject individual* who is approved following a criminal records based "fitness determination" may still be denied approval to be a *relative caregiver, foster parent, adoptive resource* or an *other person in the household* if the *subject individual* does not meet other requirements contained in Department rules governing relative care, foster care, and *adoption*.
- (31) "Foreign authorized entity" means a foreign *central authority* or an accredited entity authorized by the foreign country to perform *central authority functions* in *Convention adoption* cases.
- (32) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated *child* or *young adult* placed in the home by the Department.
- (33) "General applicant" means an individual who:
- (a) Is neither a *relative* or *current caretaker*; and

- (b) Has submitted a completed application to adopt a *child*.
- (34) "Home Study" means a written evaluation of the prospective adoptive parent's suitability to adopt and parent a *child* who may be placed for *adoption*. The "home study" is completed prior to the filing of a petition to adopt, in accordance with the Department's reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes as set forth in OAR 413-0120-0190 to 413-120-0246.
- (35) "Hague adoption certificate" means a certificate issued by the *Secretary of State* in an *outgoing Convention adoption* certifying that the *child* has been adopted in the United States in conformity with the *Convention* and IAA.
- (36) "Hague custody declaration" means a declaration issued by the *Secretary of State* in an *outgoing Convention adoption* declaring that custody of the *child* for purposes of *adoption* has been granted in the United States in conformity with the *Convention* and IAA.
- (37) "IAA" means the Intercountry Adoption Act of 2000, Public Law 106-279, 42 USC 14901 to 14954.
- (38) "ICPC" means the Interstate Compact on the Placement of Children (see ORS 417.200).
- (39) "Incoming Convention adoption" means a case in which a *child* who is a resident of another *Convention country* has been, is being, or will be moved to the United States for placement and *adoption*.
- (40) "Indian child" means any unmarried person who is under 18 years of age and is either:
- (a) A member of an Indian tribe; or
  - (b) Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.
- (41) "Legal Assistance Mediation Program" means, for the purpose of these rules, services contracted through the Department Legal Assistance program to assist the birth family and the identified adoptive family to participate in a cooperative *adoption* process that may result in a Post Adoption Communication Agreement (PACA).
- (42) "Legal Assistance Referral" means an attorney-client privileged document used to prepare the termination of parental rights petition and or trial preparation work.
- (43) "Legal assistance specialist (LAS)" means a central office Department staff who provides a vital link in the execution of the technical and legal processes of the alternative

permanent plans for children whose best interests are not served by returning to their families of origin.

(44) "Legalization" means the process of giving an adoptive placement legal validity.

(45) "Mediation communications" means, as defined in ORS 36.110(8):

(a) All communications that are made, in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and

(b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or by a mediator, a mediation program or a party to, or any other person present at, mediation proceedings.

(46) "Mediation participants" means persons who will be working directly with the mediator in the cooperative adoption mediation process and who will be responsible for the creation and implementation of any PACA that results.

(47) "OSP" means the Oregon State Police.

(48) "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. "Other criminal records information" includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(49) "Other person in the household" means any individual described in one or more of the following subsections:

(a) An individual 18 years of age or older, who is not in the care and custody of the Department pursuant to ORS 418.015, who is living in the home of --

(A) An applicant to adopt a child in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246; or

(B) An applicant to be a foster parent, relative caregiver, or adoptive resource as described in OAR 413-200-0301 to 413-200-0396.

- (b) A respite care provider.
- (c) A person who volunteers or is employed by a foster parent or relative caregiver to assist with the care of the children placed in the home.
- (d) Any of the following individuals if there is reason to believe the individual may pose a risk to children placed in the home: A member of the household under 18 years of age, a babysitter, or a person who frequents the home.
- (50) "Outgoing Convention adoption" means a case in which a child in the United States has been, is being, or will be moved to another Convention country for placement and adoption.
- (51) "Parties" means those participants whose signatures are necessary for the PACA to be implemented and are subject to enforcement of ORS 109.305.
- (52) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.
- (53) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other individuals who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.
- (54) "Petition for Adoption" means a petition, filed in circuit court by any person, for leave to adopt another person.
- (55) "Placement Report" means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department's prescribed reporting format and includes information about the child's background and placement; medical and genetic history; birth parents' history; status and adjustment of the child in the adoptive home; and status and adjustment of the child's prospective adoptive parents.
- (56) "Post-adoption communication" means the manner and frequency of contact and communication between the birth family and the child and/or the birth family and the adoptive family.
- (57) "Post Adoption Communication Agreement (PACA)" means a written agreement for post-adoptive communication, signed by birth parents and adoptive parents and is based on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.

- (58) "Post-placement supervision" means the supervision of a *child* following placement with an *adoptive resource*.
- (59) "Prospective adoptive parents" means the parents, family members, or other people who reside in the residence, or the physical home location of the family, who have been studied and approved by a *foreign authorized entity* to adopt a *child* in the legal and physical custody of the Department and with whom the Department has made an official decision to place the *child* in the family home for the purpose of *adoption*.
- (60) "RCWAC" means the Refugee Child Welfare Advisory Committee.
- (61) "Receiving Convention country" means a *Convention country* in which a *child* who is the subject of an outgoing *adoption* will be placed for the purpose of *adoption*.
- (62) "Refugee child" has the meaning given that term under ORS 418.925.
- (63) "Relative" means any of the following:
- (a) An individual with one of the following relationships to the *child* or *young adult* through the *parent* of the *child* or *young adult* unless the relationship has been dissolved by *adoption* of the *child*, *young adult*, or *parent*:
    - (A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.
    - (B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.
    - (C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.
    - (D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the *child* or *young adult* must have had a relationship with the spouse prior to the most recent episode of Department custody.
  - (b) An individual with one of the following relationships to the *child* or *young adult*:
    - (A) A *sibling*, also to include an individual with a sibling relationship to the *child* or *young adult* through a putative father.
    - (B) An individual defined as a relative by the law or custom of the tribe of the *child* or *young adult* if the *child* or *young adult* is an *Indian child* under the Indian Child Welfare Act or in the legal custody of a tribe.

- (C) An individual defined as a relative of a *refugee child* or *young adult* under OAR 413-070-0300 to 413-070-0380.
- (D) A stepparent or former stepparent if the *child* or *young adult* had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.
- (E) A *registered domestic partner* of the *parent* of the *child* or *young adult* or a former *registered domestic partner* of the *parent* of the *child* or *young adult* if the *child* or *young adult* had a relationship with the former *domestic partner* prior to the most recent episode of Department custody.
- (F) The adoptive parent or an individual who has been designated as the *adoptive resource* of a *sibling* of the *child* or *young adult*.
- (G) An unrelated legal or biological father or mother of a half-sibling of the *child* or *young adult* when the half-sibling of the *child* or *young adult* is living with the unrelated legal or biological father or mother.
- (c) An individual identified by the *child* or *young adult* or the family of the *child* or *young adult*, or an individual who self-identifies, as being related to the *child* or *young adult* through the *parent* of the *child* or *young adult* by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by *adoption* of the *child*, *young adult*, or *parent*.
- (d) An individual meeting the requirements of at least one of the following:

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

    - (i) Who is identified as a member of the family by the *child* or *young adult* or by the family of the *child* or *young adult*; and
    - (ii) Who had an emotionally significant relationship with the *child* or *young adult* or the family of the *child* or *young adult* prior to the most recent episode of Department custody.
  - (B) An individual who has a blood relationship to the *child* or *young adult* as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the *child* or *young adult*, but the prior legal relationship has been dissolved by *adoption* of the *child*, *young adult*, or birth parent, and who is identified as a member of the family by the *child* or *young adult* or who self-identifies as a member of the family.
- (e) For eligibility for the guardianship assistance program:

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

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

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

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

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

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

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

(65) "Respite care" means a formal planned arrangement to relieve a certified family's responsibilities by an individual temporarily assuming responsibility for the care and supervision of a *child* or *young adult* in the home of the respite provider or *certified family*. "Respite care" must be less than 14 consecutive days.

(66) "Secretary of State" means the Secretary of the United States Department of State, the *central authority* for the United States.

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

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

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

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

- (68) "Subject individual" means an individual who:
- (a) Applies to adopt a *child* in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246;
  - (b) Applies to be a *foster parent, relative caregiver, or adoptive resource* as described in OAR 413-200-0301 to 413-200-0396; or
  - (c) Is an *other person in the household*.
- (69) "Substitute care" means the out-of-home placement of a *child* or *young adult* who is in the legal or physical custody and care of the Department.
- (70) "Substitute caregiver" means a *relative caregiver, foster parent, or provider* who is authorized to provide care to a *child* or *young adult* who is in the legal or physical custody of the Department.
- (71) "U.S. State Department" means the United States Department of State.
- (72) "Violence" means the use of physical force to injure, damage, or abuse.
- (73) "Weighing test" means the process in which an *authorized designee* considers available information to make a *fitness determination* when a *subject individual* has potentially disqualifying convictions, arrests, or conditions.
- (74) "Young adult" means an individual aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285

## **413-120-0010**

### **Definitions Purpose**

*(Temporary Effective 09/01/15—2/27/16)(Amended 10/01/15)*

#### **THIS RULE IS REVISED IN ITS ENTIRETY**

The following definitions apply to OAR 413-120-0000 to 413-120-0060:

- (1) ~~"Adoption committee" means a group of individuals convened by Department staff to make recommendations to an Adoption Decision Specialist (ADS) regarding adoptive resources for a *child*.~~
- (2) ~~"Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to~~

evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a *child* or children.

- (3) — "~~Adoption placement selection~~" means a decision made by the Department that an individual or individuals have been identified as the *adoptive resource* for the *child*.
- (4) — "~~Adoptive resource~~" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.
- (5) — "~~ADS~~" means an Adoption Decision Specialist, who is a Department employee appointed by the Adoption Program Manager to attend an *adoption committee* and make an *adoption placement selection* for a *child*.
- (6) — "~~Child~~" means a person under 18 years of age.
- (7) — "~~Committee facilitator~~" means a Department staff member appointed as a member of the committee to facilitate a *permanency committee* or *adoption committee* meeting.
- (8) — "~~Current caretaker~~" means a *foster parent* who:
  - (a) — Is currently caring for a *child* in the care and custody of the Department and who has a permanency plan or concurrent permanent plan of adoption; and
  - (b) — Has cared for the *child* or at least one *sibling* of the *child* for at least the past 12 consecutive months or for one-half of the *child's* or *sibling's* life if the *child* or *sibling* is younger than two years of age.
- (9) — "~~Department~~" means the Department of Human Services, Child Welfare.
- (10) — "~~Foster parent~~" means an individual who operates a home that has been approved by the Department to provide care for an unrelated *child* or young adult placed in the home by the Department.
- (11) — "~~General applicant~~" means an individual who:
  - (a) — Is neither a *relative* or *current caretaker*; and
  - (b) — Has submitted a completed application to adopt a *child*.
- (12) — "~~Indian child~~" means any unmarried person who is under 18 years of age and is either:
  - (a) — A member of an Indian tribe; or

- (b) — Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.
- (13) — ~~"Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the *child* or young adult likely is not returning to his or her parent.~~
- (14) — ~~"RCWAC" means the Refugee Child Welfare Advisory Committee.~~
- (15) — ~~"Refugee child" means, as defined under 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, sex, sexual orientation, 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, sex, sexual orientation, nationality, 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 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.~~
- (16) — ~~"Relative" means any of the following:~~
- (a) — ~~An individual with one of the following relationships to the *child* or *young adult* through the *parent* of the *child* or *young adult* unless the relationship has been dissolved by adoption of the *child*, *young adult*, or *parent*:~~
- (A) — ~~Any blood relative of preceding generations denoted by the prefixes of grand, great, or great great.~~
- (B) — ~~Any half blood relative of preceding generations denoted by the prefixes of grand, great, or great great. Individuals with one common biological parent are half blood relatives.~~
- (C) — ~~An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.~~
- (D) — ~~A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative"~~

~~under this paragraph, the *child* or *young adult* must have had a relationship with the spouse prior to the most recent episode of Department custody.~~

- ~~(b) — An individual with one of the following relationships to the *child* or *young adult*:~~
  - ~~(A) — A *sibling*, also to include an individual with a sibling relationship to the *child* or *young adult* through a putative father.~~
  - ~~(B) — An individual defined as a relative by the law or custom of the tribe of the *child* or *young adult* if the *child* or *young adult* is an *Indian child* under the Indian Child Welfare Act or in the legal custody of a tribe.~~
  - ~~(C) — An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.~~
  - ~~(D) — A stepparent or former stepparent if the *child* or *young adult* had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.~~
  - ~~(E) — A *registered domestic partner* of the *parent* of the *child* or *young adult* or a former *registered domestic partner* of the *parent* of the *child* or *young adult* if the *child* or *young adult* had a relationship with the former domestic partner prior to the most recent episode of Department custody.~~
  - ~~(F) — An adoptive parent of a *sibling* of the *child* or *young adult*.~~
  - ~~(G) — An unrelated legal or biological father or mother of a half-sibling of the *child* or *young adult* when the half-sibling of the *child* or *young adult* is living with the unrelated legal or biological father or mother.~~
- ~~(c) — An individual identified by the *child* or *young adult* or the family of the *child* or *young adult*, or an individual who self-identifies, as being related to the *child* or *young adult* through the *parent* of the *child* or *young adult* by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the *child*, *young adult*, or *parent*.~~
- ~~(d) — An individual meeting the requirements of at least one of the following:~~
  - ~~(A) — An individual not related to the *child*, *young adult*, or *parent* by blood, adoption, or marriage:~~
    - ~~(i) — Who is identified as a member of the family by the *child* or *young adult* or by the family of the *child* or *young adult*; and~~

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

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

~~(e) — For eligibility for the guardianship assistance program:~~

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

~~(B) — A *foster parent* may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:~~

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

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

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

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

~~(17) — "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:~~

~~(a) — By blood or adoption through a common *parent*;~~

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

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

(18) ~~"Substitute 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.~~

The purpose of OAR 413-120-0010 to 413-120-0060 is to describe the responsibilities of the Department when making an adoption placement selection for a child or sibling group who is in the custody of the Department.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285, 418.937, 419B.100, 419B.192

## **413-120-0016**

### **Confidentiality**

(Amended ~~12/29/10~~ 10/01/15)

- (1) To be considered as a potential *adoptive resource*, each applicant who is the subject of an *adoption home study* must provide a signed, valid release of information to release the *adoption home study* and associated documents to be considered in the *adoption placement selection*.
- (2) When the Department considers written information in addition to the *adoption home study* concerning a potential *adoptive resource* during the *adoption placement selection*, the adoption worker must:
  - (a) Notify the potential *adoptive resource* of the additional written information; and
  - (b) Have the potential *adoptive resource* sign a release of information for the additional written information to be considered in the *adoption placement selection*.
- (3) The ~~Adoption Program~~ Child Permanency Program Manager, at his or her discretion, may determine that any written information released under section (1) or (2) of this rule must be a summary or redacted copy when:
  - (a) An individual who is a subject of the *adoption home study* or additional information has requested that information be redacted or summarized; or
  - (b) There is a conflict of interest as described in Child Welfare Policy I G.1.3, "Adoption Application, Home Study and Standards for Adoption", OAR 413-120-0222.
- (4) Any written information released under section (1), (2) or (3) of this rule must:
  - (a) Be kept confidential by the recipients;

- (b) Be used only for the purpose of making the recommendation and selection of a child's *adoptive resource*;
- (c) Not be redisclosed verbally or in writing;
- (d) Not be copied; and
- (e) Be returned to the Department when the *adoption placement selection* has been made.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.225, 418.005, 418.280, 418.285, 418.305, 419A.255

## 413-120-0020

### Adoption Placement Selection Options

*(Temporary Effective 09/01/15—02/27/16) (Amended 10/01/15)*

When a *child or sibling group* has a *permanency plan of adoption*, the Department uses one of the three options below to make an *adoption placement selection*:

~~(1)~~ Selection by Caseworker. After considering the input from the child's team and following consultation with the supervisor, the caseworker may make the *adoption placement selection* for a *child or sibling group* ~~under consideration as part of case planning~~ using the process in OAR 413-120-0021 when the requirements of at least one of the following ~~subsections~~ is met:

~~(a)~~ The *child* is identified as an *Indian child* and the *adoption placement selection* complies with Child Welfare Policy I E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260. An *Indian child* is being considered for *adoption alone* or as part of a *sibling group* and there is a single potential *adoptive resource* who:

(A) Meets the ICWA order of placement preference;

(B) Has been identified as the placement preference through tribal resolution;  
or

(C) Has been identified as the placement preference by a good cause order as provided in ICWA and OAR 413-070-0100 to 413-070-0260.

(b) The *child* is identified as a *refugee child* and the *adoption placement selection* complies with ~~Child Welfare Policy I E.2.2, "Placement of Refugee Children"~~, OAR 413-070-0300 to 413-070-0380.

(c) A *relative of a child or sibling group* is being considered alone as the potential *adoptive resource for a child or sibling group under consideration*, unless subsections ~~(3)(c)~~, ~~(3)(d)~~, or ~~(3)(e)~~ of section (3) of this rule apply. Prior to making a selection, ensure the Department has conducted a diligent search and there is no other identified relative who has expressed an interest in, or who is being assessed as a potential adoptive resource and there is no current caretaker who has expressed an interest in, or who is being assessed, as a potential adoptive resource.

~~(d)~~ The Department has conducted a diligent search and is not assessing, identifying, nor is the Department or another entity conducting an *adoption home study* for any *relative* as a potential *adoptive resource* and, unless subsections ~~(3)(c)~~, ~~(3)(d)~~, or ~~(3)(e)~~ of this rule apply, the requirements of one of the following paragraphs is met:

(Ad) A *current caretaker of the child or sibling group* is being considered alone ~~for a child or sibling group under consideration~~ as a potential *adoptive resource* unless subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no relative who has expressed an interest in, or who is being assessed as, a potential adoptive resource, and there is no other current caretaker who has expressed an interest, or who is being assessed, as a potential adoptive resource.

(Be) The *child* is under six years of age with no extraordinary needs and each potential *adoptive resource* is a *general applicant*, unless subsection ~~(2)(d)~~ of section (2) of this rule or subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no relative who has expressed an interest in, or who is being assessed as, a potential adoptive resource, and there is no current caretaker who has expressed an interest, or who is being assessed, as a potential adoptive resource.

(2) Local Adoption Committee and ADS. The local *adoption committee* recommends an *adoptive resource*; and the ADS makes the *adoption placement selection* when section (3) of this rule does not apply and at least one of the following ~~subsections~~ applies:

(a) The *child* is six years of age or older.

(b) The *child* has extraordinary needs.

(c) A *sibling group* is being placed together for the purpose of *adoption* and each potential *adoptive resource* is a *general applicant*.

(d) The identified potential adoptive resources include the child's current *foster parent*, who is not a current caretaker, being considered as a *general applicant* with other general applicants.

- (3) Central Office Adoption Committee and ADS. The central office *adoption committee* recommends an *adoptive resource*, and the ADS makes the *adoption placement selection* when one of the following ~~subsections~~ applies:
- (a) The potential adoptive resources include:
    - (A) More than one *relative* as defined in OAR 413-120-00100(~~1663~~)(a)-(c);
    - (B) A *relative* as defined in OAR 413-120-00100(~~1663~~)(a)-(d) and a *current caretaker*; or
    - ~~(C) A *current caretaker* considered under OAR 413-120-0595 and a *general applicant*; or~~
    - ~~(DC) A *relative*, as defined in OAR 413-120-0000(63)(d)-*current caretaker*, or *specific general applicant* for whom an exception to the order of preference has been granted under OAR 413-120-0760.~~
  - (b) The potential adoptive resources include more than one *current caretaker* being considered for siblings who will be placed together in *adoption*.
  - (c) A DHS staff member is a potential *adoptive resource*, and the requirements of the DHS-060-002, "Conflict of Interest Policy" and the "Conflict of Interest Policy Addendum for CAF Employees" apply.
  - (d) A non-DHS staff member with a potential conflict of interest with the Department is a potential *adoptive resource*.
  - (e) The potential *adoptive resource* is an individual living outside ~~the USA, or Child Welfare Policy I G.1.14, "Intercountry Adoption Pursuant to the Hague Convention and Intercountry Adoption Act", U.S. and OAR 413-120-0900 to 413-120-0970~~ applies of the United States.
- (4) The caseworker, following consultation with the supervisor, may request that the *adoption placement selection* be made by an ADS following an *adoption committee* recommendation based on the complexities or dynamics of a case. The request must be approved by --
- (a) The Child Welfare Program Manager or designee for the use of a local *adoption committee* rather than a caseworker selection; ~~and~~ or
  - (b) The ~~Adoption-Child Permanency~~ Program Manager, Assistant ~~Adoption-Child Permanency~~ Program Manager, or designee for the use of a central office *adoption committee* rather than a local *adoption committee*.

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

## 413-120-0021

### Adoption Placement Selection by Caseworker

~~(Temporary Effective 09/01/15—02/27/16)~~(Amended 10/01/15)

- (1) Before making an *adoption placement selection*, the child's caseworker must comply with the provisions of ~~Child Welfare Policy I-G.1.2, "Identification and Consideration of Potential Adoptive Resources"~~, OAR 413-120-0700 to 413-120-0760.
- (2) When the caseworker, after considering the input from the child's team and following consultation with the supervisor, has identified ~~up to three~~ the potential adoptive resources to be considered for *adoption placement selection*, the caseworker must consult with the adoption worker for each of the identified families to --
  - (a) Provide the adoption worker with written information, redacted to remove identifying information, about the history and needs of each *child* under consideration for adoption; and
  - (b) Discuss the ability of the potential *adoptive resource* to meet the needs of each *child* under consideration for adoption.
- (3) The adoption workers must complete all of the following:
  - (a) Provide the identified potential adoptive resources with the information described in subsection (2)(a) of this rule.
  - (b) Describe the *adoption placement selection* process to the potential adoptive resources to --
    - (A) Inform them of the individuals who will be reviewing their *adoption home study* or other information during the *adoption placement selection* process; and
    - (B) Assure all appropriate releases of information described in OAR 413-120-0016(1) and (2) have been obtained.
  - (c) Confirm with the caseworker for each *child* who is under consideration that the potential *adoptive resource* is willing and available to be considered for adoption.
- (4) When the caseworker has ~~confirmed~~ been informed that the identified potential adoptive resources are available and appropriate to be considered, the caseworker must set a date for the *adoption placement selection* and notify the adoption worker for each of the identified potential adoptive resources.

- (5) At least ten business days before the *adoption placement selection*, the caseworker must complete all of the following:
- (a) Notify the following individuals of the ~~up to three~~ potential adoptive resources to be considered and the date the *adoption placement selection* will occur:
    - (A) The CASA;
    - (B) The child's attorney;
    - (C) A tribal representative if the *child* is an *Indian child*; and
    - (D) A member of the RCWAC, if the *child* is a *refugee child*.
  - (b) Ensure that the individuals identified in subsection (a) of this section are sent copies of the *adoption home study* and any additional written information released under OAR 413-120-0016 for each potential *adoptive resource*, unless the individual has notified the caseworker that they do not want a copy of the materials.
  - (c) Notify the individuals identified in subsection (a) of this section that any input regarding the ability of a potential *adoptive resource* to meet the current and lifelong needs of the *child* or *sibling* group must be received at least two days before the date of the *adoption placement selection* to assure it will be considered.
- (6) When the caseworker has provided the notifications in section (5) of this rule, an adoption selection date has been scheduled by the caseworker or committee, and a child's *relative* or current caretaker now expresses interest in being considered as a potential *adoptive resource*, the Child Welfare Program Manager ~~or designee~~ must:
- (a) ~~Review~~ If the newly expressed interest is from a relative, review the diligent efforts to identify a child's relatives required under Child Welfare Policy I-E.1.1, "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0063;
  - (b) If the newly expressed interest is from a current caretaker, review the efforts to determine if the current caretaker was given adequate and reasonable time to request consideration as the potential adoptive resource;
  - (~~b~~c) Consider the impact of a delay in achieving permanency on the best interests of the *child*; and
  - (~~c~~d) Make a determination whether it is in the ~~child's~~ best interest of the child for an *adoption home study* to be conducted with a *relative* or current caretaker despite the delay in achieving permanency.

- (7) The Child Welfare Program Manager in consultation with the Child Permanency Program Manager makes the determination whether to consider a relative or current caretaker under section (6) of this rule.
- (78) When a Child Welfare Program Manager informs the caseworker of the determination to consider a relative or current caretaker identified under section (6) of this rule, the caseworker must notify each individual in subsection (5)(a) of this rule and the adoption worker for each identified potential *adoptive resource* that the adoption selection process has been suspended.
- (89) When the adoption selection process has been suspended, the adoption workers must notify each identified potential *adoptive resource* that the adoption selection process has been suspended.
- (910) The timelines in this rule may be changed when the caseworker, the adoption worker for each of the identified potential adoptive resources, and each individual in section (5) of this rule agree on a new timeline.
- (1011) After considering the input from individuals in section (5) of this rule, the caseworker -- following consultation with his or her supervisor -- makes the *adoption placement selection* for a *child* or *sibling* group under consideration for adoption when OAR 413-120-0020(1) applies.
- (1112) On the day that the selection is made, the child's caseworker must notify the adoption workers for each of the identified potential adoptive resources who were considered for the *adoption placement selection*.
- (1213) By the end of the next business day following the *adoption placement selection*, the child's caseworker must send written notification of the *adoption placement selection* to each of the following individuals:
- (a) The CASA;
  - (b) The child's attorney;
  - (c) A tribal representative if the *child* or young adult is an *Indian child*; and
  - (d) A member of the RCWAC, if the *child* is a *refugee child*.
- (1314) By the end of the next business day following the *adoption placement selection*, written notification on a form approved by the Department must be sent to each identified potential *adoptive resource* of whether ~~or not~~ they were selected as the *adoptive resource* by the following individuals:
- (a) A Department adoption worker; or

(b) The child's caseworker when the adoption worker is a private agency employee.

(~~14~~15) Notifications in sections (12) and (13) of this rule must contain information on the Department's review process as described in OAR [413-120-0060](#), unless the identified potential adoptive resources were all general applicants.

(~~15~~16) Within three days of the *adoption placement selection*, the caseworker must assure that:

(a) The *adoption placement selection* and the basis for that selection are documented on a Department-approved form; and

(b) The central office Adoption Program is notified of the *adoption placement selection*.

(~~16~~17) Any individual who received a copy of an *adoption home study* or other written documents during the adoption selection process must return the materials to the Department within seven business days of the notice of the *adoption placement selection*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285, 419B.192

## **413-120-0025**

### **Composition of an Adoption Committee**

(Amended ~~12/29/10~~ [10/01/15](#))

(1) An *adoption committee* must be composed of the following individuals:

(a) The caseworker of each *child* for whom *adoption placement selection* is being made;

(b) Three individuals appointed by the Child Welfare Program Manager or designee for a local *adoption committee*, and by the ~~Adoption-Child Permanency~~ Program Manager, ~~a~~Assistant ~~Adoption-Child Permanency~~ Program Manager, or designee for a central office *adoption committee*:

(A) The *committee facilitator*, who must be a Department staff person; and

(B) Two other individuals, who may be a community partner or a Department staff person.

(2) ~~The~~ [In addition to the committee members identified in section \(1\), the](#) following individuals for each *child* for whom *adoption placement selection* is being made must be notified of the *adoption committee* and may be adoption committee members, if they so choose, under OAR 413-120-0053(1):

- (a) The CASA;
  - (b) The child's attorney;
  - (c) A tribal representative if the *child* is an *Indian child*; and
  - (d) A member of the RCWAC, if the *child* is a *refugee child*.
- (3) The adoption worker for each identified potential *adoptive resource* must attend the full *adoption committee*.
- (4) With the approval of the *committee facilitator*, the following individuals may attend the *adoption committee*:
- (a) The supervisor for an individual identified in section (1), (2), or (3) of this rule; ~~and~~
  - (b) Department staff who may have information about the *child* or *sibling group* under consideration for adoption or the potential *adoptive resources* being considered; and
  - ~~(b)~~ (c) Department staff, for training or observation purposes.
- ~~(5) When the caseworker for a *child* or the adoption worker for a potential *adoptive resource* is unavailable, the responsible agency may substitute another worker or supervisor, who is familiar with the case, to attend the *adoption committee* on their behalf.~~
- (6) Committee members appointed under subsection (1)(b) of this rule must meet the following requirements:
- (a) Be knowledgeable of *adoption* and permanency issues;
  - (b) Be knowledgeable of the importance of lifelong family and cultural connections; and
  - (c) Have no personal or current professional relationship to any of the children for whom *adoption placement selection* is being made or to the potential adoptive resources being considered.
- (7) The *committee facilitator* appointed under paragraph (1)(b)(A) of this rule must comply with all of the following subsections:
- (a) Hold the meeting in accordance with the requirements of Chapter 413 of the Oregon Administrative Rules;
  - (b) Inform each individual who is present of the responsibilities of the committee;

- (c) Have each individual who is present sign a confidentiality agreement for the proceedings of the *adoption committee* meeting;
- (d) Ensure the individuals who are invited to attend and present information to the committee as described in OAR 413-120-0035(5) are --
  - (A) Allowed to present information appropriate for consideration for each *child* for whom *adoption placement selection* is being made; and
  - (B) Excused in a timely manner.
- (e) Give the committee recommendations to the ADS at the end of the *adoption committee* meeting.

(87) The ADS --

- (a) Is appointed by the ~~Adoption~~ Child Permanency Program Manager or designee and must --
  - (A) Have significant expertise in the areas of *adoption* and permanency issues;
  - (B) Have experience with adoption placement planning;
  - (C) Be knowledgeable of the importance of lifelong family and cultural connections; and
  - (D) Have no personal or current professional relationship to the *child, sibling* group under consideration for adoption, or the potential adoptive resources being considered.
- (b) Must attend the *adoption committee* and may ask clarifying questions, but does not participate in the deliberations or recommendations of the *adoption committee*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

## **413-120-0035**

### **Invitation to and Notification of Adoption Committee**

(Amended 10/01/15)

- (1) In preparation for and prior to scheduling an *adoption committee*, the caseworker for each *child* and the *adoption worker* for each potential *adoptive resource* must comply with the

provisions of ~~Child Welfare Policy I-G.1.2, "Identification and Consideration of Potential Adoptive Resources"~~, OAR 413-120-0700 to 413-120-0760.

- (2) No later than ten business days before the scheduled *adoption committee*, the Department must send the ADS and each individual identified in OAR 413-120-0025(1), (2), and (3) all of the following:
  - (a) Notification of the date, time, and location of the *adoption committee*.
  - (b) A copy of each of the ~~up to three~~ adoption home studies and the written information released under OAR 413-120-0016(1) and (2).
  - (c) Written information about the needs of each *child* under consideration.
  - (d) A notice that confidential information may not be re-released, under OAR 413-120-0016(4).
  - (e) A request to thoroughly review all of the information provided before the date of the *adoption committee* when the individual will be serving as a committee member.
- (3) Information in subsections ~~(2)(b), (2)(c), (2)(d) and to (2)(e)~~ of section (2) of this rule need not be provided again to the caseworker for each *child* under consideration for adoption and the adoption worker for each potential adoptive resource.
- (4) Individuals identified in OAR 413-120-0025(1), (2), and (3) may request that the Department invite individuals to the *adoption committee* to present information regarding a child's needs.
- (5) The Department has the discretion to invite the following individuals to attend and present information regarding the child's current and lifelong needs to an *adoption committee*:
  - (a) The *child*, on a case by case basis, when the child's caseworker determines the child's attendance is appropriate;
  - (b) The child's current or previous *substitute caregiver*, unless the individual is being considered as a potential *adoptive resource* for the *child*; and
  - (c) Any other individual who has significant information about the current and lifelong needs of the *child* relevant to the selection of an *adoptive resource*.
- (6) Any individual invited to provide information related to the child's needs may present information to the *adoption committee* in person, by telephone, through electronic communication, or in writing.

- (7) A potential *adoptive resource* may provide supplemental information regarding his or her ability to meet the current and lifelong needs of the *child* or *sibling* group under consideration for adoption through the *adoption worker*. An identified potential *adoptive resource* and his or her legal or personal advocate may not attend an *adoption committee*.
- (8) When the notification in section (2) of this rule has been provided and a child's *relative* or current caretaker now expresses interest in being considered as a potential *adoptive resource*, the Child Welfare Program Manager ~~or designee~~ must:
- (a) ~~Review~~ If the newly expressed interest is from a relative, review the diligent efforts to identify a child's relatives under ~~Child Welfare Policy I E.1.1., "Search for and Engagement of Relatives"~~, OAR 413-070-0060 to 413-070-0063;
  - (b) If the newly expressed interest is from a current caretaker, review the efforts to determine if the current caretaker was given adequate and reasonable time to request consideration as the potential adoptive resource;
  - (~~bc~~) Consider the impact of a delay in achieving permanency on the best interests of the *child*; and
  - (~~ed~~) Make a determination whether it is in the child's best interest for an *adoption home study* to be conducted with the *relative* or current caretaker despite the delay in achieving permanency.
- (9) The Child Welfare Program manager in consultation with the Child Permanency Program manager makes the determination whether to consider a relative or current caretaker under section (8) of this rule.
- (~~9~~10) When a Child Welfare Program Manager informs the caseworker of the determination to consider a *relative* or current caretaker identified under section (8) of this rule, the caseworker must notify each individual identified in OAR 413-120-0025(1), (2), and (3) that the adoption selection process has been suspended.
- (10~~1~~) When the adoption selection process has been suspended, the adoption workers must notify each identified potential *adoptive resource* that the adoption selection process has been suspended.
- (11~~2~~) The timelines in this rule may be changed by the *committee facilitator* when the individuals identified in OAR 413-120-0025(1), (2), and (3) agree on a new timeline.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## 413-120-0057

### Adoption Placement Selection, Notification, and Documentation

(Amended ~~12/29/10~~ 10/01/15)

- (1) Adoption Placement Selection.
  - (a) The ADS must make a decision regarding the *adoption placement selection* no later than the end of the next business day following the scheduled *adoption committee*.
  - (b) The ADS may make one of the following *adoption placement selection* decisions from the identified potential adoptive resources presented at the *adoption committee*:
    - (A) Select one *adoptive resource*.
    - (B) Select an *adoptive resource* and identify a second *adoptive resource* as an alternate in the event that the selected *adoptive resource* is subsequently found to be unavailable or no longer deemed by the Department to meet the current and lifelong needs of the *child* under ~~Child Welfare Policy I-G.1.10, "Supervision and Support of an Adoptive Placement"~~, OAR 413-120-0800 to 413-120-0880.
    - (C) Select none of the potential adoptive resources.
- (2) Notification of the Adoption Placement Selection.
  - (a) The ADS must send written notification to the child's caseworker, the adoption workers, and the *committee facilitator* of the *adoption placement selection*, and alternate if one was named, no later than the end of the next business day following the scheduled *adoption committee*.
  - (b) By the end of the next business day following the notice sent in subsection (a) of this section, written notification on a form approved by the Department must be sent as follows:
    - (A) Each potential *adoptive resource* who was presented at the *adoption committee* must be notified by the following individuals of whether or not they were selected:
      - (i) A Department adoption worker; or
      - (ii) The child's caseworker when the adoption worker is not an agency employee.

- (B) The child's attorney, CASA, tribal representative, a member of the RCWAC, and the private *adoption agency* representing a potential *adoptive resource*, as applicable, must be notified of the *adoption placement selection* by the child's caseworker.
  - (C) Notices in paragraphs (A) and (B) of this subsection must contain information on the Department's review process as described in OAR 413-120-0060, except when the potential adoptive resources were all general applicants.
- (3) The ADS must send written documentation on a form approved by the Department regarding the *adoption placement selection*, the alternate when one is named, and the basis for those decisions to the central office Adoption Program within two business days following the *adoption committee*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0060**

### **Review of the Adoption Placement Selection**

(Amended ~~09/19/11~~[10/01/15](#))

- (1) A review may not be requested of an *adoption placement selection* when each potential *adoptive resource* was a *general applicant*.
- (2) Except as provided in section (1) of this rule:
  - (a) Each of the following individuals may request a review of the process and the *adoption placement selection* under OAR 413-120-0021(10) or 413-120-0057(1):
    - (A) The *child*.
    - (B) The child's attorney.
    - (C) The CASA.
    - (D) A tribal representative.
    - (E) A member of the RCWAC.
    - (F) The child's caseworker, with the approval of the caseworker's supervisor and the Child Welfare Program Manager or designee.
    - (G) A *relative* or *current caretaker* who was considered as the *adoptive resource* but was not selected.

- (b) A request for review of the process and decision made in the *adoption placement selection* must be in writing and received by the Child Permanency Program Manager or designee within seven calendar days of the notification of the *adoption placement selection* under OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b).
- (c) When a request for review has been received, the ~~Adoption-Child Permanency~~ Program Manager, Assistant Child Permanency Program Manager, or designee must notify the ~~DHS Assistant~~ Director of ~~CAF-Child Welfare~~ or designee and must send written notice of the request to the following individuals:
  - (A) Each of the potential adoptive resources considered by the caseworker or *adoption committee* and ADS;
  - (B) The child's caseworker;
  - (C) The adoption worker for each of the potential adoptive resources considered;
  - (D) The supervisors of the workers;
  - (E) The child's attorney;
  - (F) The child's CASA;
  - (G) The tribe, if the *child* is an *Indian child*;
  - (H) A member of the RCWAC, if the *child* is a *refugee child*; and
  - (I) The local Child Welfare Program Manager.
- (d) The ~~DHS~~ Director of ~~CAF-Child Welfare~~ or designee must decide whether to grant a review of the *adoption placement selection* within 14 calendar days after the notice of the *adoption placement selection* under OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b). Written notice of the decision whether or not to conduct a review must be sent to the individuals listed in subsection (c) of this section and to the ~~Adoption-Child Permanency~~ Program Manager. This written notice is not required to be provided within the 14 calendar day timeline for the decision whether to grant a review.
- (e) The ~~DHS~~ Director of ~~CAF-Child Welfare~~ or designee may, on his or her initiative and without a request for a review, give notice of intent to review the *adoption placement selection* when the decision to review is made within seven calendar days following the date of the notice of the *adoption placement selection* in OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b).

- (f) The ~~DHS~~ Director of CAF-Child Welfare or designee may conduct the review by any of the following methods:
    - (A) Personally conduct a review of information considered in making the *adoption placement selection* and may consider additional, relevant information about the *child* or potential *adoptive resource*.
    - (B) Refer the *adoption placement* selection to a review committee appointed by and at the discretion of the ~~DHS~~ Director of CAF-Child Welfare or designee to --
      - (i) Review the information considered in making the original *adoption placement selection*;
      - (ii) Consider additional relevant information about the *child* or potential adoptive resources; and
      - (iii) Issue a recommendation that the ~~DHS~~ Director of CAF-Child Welfare or designee affirm or modify the original *adoption placement selection* of the caseworker or the ADS or recommend a different *adoption placement selection*.
    - (C) Appoint another individual to --
      - (i) Review the information considered in making the original *adoption placement selection*;
      - (ii) Consider additional relevant information about the *child* or potential adoptive resources; and
      - (iii) Issue a recommendation that the ~~DHS~~ Director of CAF-Child Welfare or designee affirm or modify the original *adoption placement selection* of the caseworker or the ADS, or recommend a different *adoption placement selection*.
  - (g) The ~~DHS~~ Director of CAF-Child Welfare or designee must provide written notification of the decision affirming or changing the original *adoption placement selection* to the individuals identified in subsection (2)(c) of this rule and the Adoption Program Manager.
- (3) Notwithstanding sections (1) and (2) of this rule, the ~~DHS~~ Director of CAF-Child Welfare may reconsider a decision and require the actions in subsection (2)(f) of this rule to occur when the following conditions exist:

- (a) The time to request review of an *adoption placement selection* under subsection (2)(b) of this rule has expired;
  - (b) There is no request for review pending; and
  - (c) The deadline set by statute for a person entitled to seek judicial review of an *adoption placement selection* entered under this rule has not expired.
- (4) The *adoption placement selection* made by the ~~DHS~~ Director of CAF Child Welfare or designee under this rule is final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0105**

### **Definition**

#### THIS RULE IS REPEALED

- ~~(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

## **413-120-0150**

### **Definitions**

#### THIS RULE IS REPEALED

- ~~(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 administrative rules, OAR 413-0120-0300 through 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

## **413-120-0195**

### **Definitions**

#### THIS RULE IS REPEALED

The following definitions apply to ~~OAR 413-120-0190 to 413-120-0246:~~

- (1) — ~~"Adoption agency" means an organization providing the services under any one of the following subsections:~~
- (a) — ~~Identifying a *child* for adoption and arranging an adoption.~~
  - (b) — ~~Securing the necessary consent to relinquishment of parental rights and to adoption.~~
  - (c) — ~~Performing a background study on a *child* or a home study on a prospective adoptive parent and reporting on such a study.~~
  - (d) — ~~Making determinations of the best interests of a *child* and the appropriateness of adoption placement for a *child*.~~
  - (e) — ~~Monitoring a case after placement until final adoption.~~
  - (f) — ~~When necessary because of disruption before final adoption, assuming custody and providing child care or other social services for a *child* pending an alternative placement.~~
- (2) — ~~"Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed *adoption agency*, or by another public agency to~~

evaluate the suitability of an individual or individuals to adopt and to make a lifelong permanent commitment to a *child* or children.

- (3) — "Adoption placement selection" means a decision made by the Department that an individual or individuals have been identified as the *adoptive resource* for a *child*.
- (4) — "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed *adoption agency* as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.
- (5) — "Child" means a person under 18 years of age.
- (6) — "Current caretaker" means a *foster parent* who:
  - (a) — Is currently caring for a *child* in the legal custody of the Department who has a permanency plan or concurrent permanent plan of adoption;
  - (b) — Has cared for the *child* or at least one *sibling* in a sibling group under consideration for at least the past 12 consecutive months; and
  - (c) — Has been identified by the Department as a potential *adoptive resource* for the *child* and when appropriate, the siblings in a sibling group under consideration for adoption in the same adoptive family.
- (7) — "Department" means the Department of Human Services, Child Welfare.
- (8) — "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated *child* or young adult placed in the home by the Department.
- (9) — "General applicant" means an individual who:
  - (a) — Is neither a *relative* or *current caretaker*; and
  - (b) — Has submitted a completed application to adopt a *child*.
- (10) — "ICPC" means the Interstate Compact on the Placement of Children (see ORS 417.200).
- (11) — "Indian child" means any unmarried person who is under 18 years of age and is either:
  - (a) — A member of an Indian tribe; or
  - (b) — Eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(12) — "Relative" means any of the following:

- (a) — An individual with one of the following relationships to the *child* or *young adult* through the *parent* of the *child* or *young adult* unless the relationship has been dissolved by adoption of the *child*, *young adult*, or *parent*:
  - (A) — Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.
  - (B) — Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.
  - (C) — An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.
  - (D) — A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the *child* or *young adult* must have had a relationship with the spouse prior to the most recent episode of Department custody.
- (b) — An individual with one of the following relationships to the *child* or *young adult*:
  - (A) — A *sibling*, also to include an individual with a sibling relationship to the *child* or *young adult* through a putative father.
  - (B) — An individual defined as a relative by the law or custom of the tribe of the *child* or *young adult* if the *child* or *young adult* is an *Indian child* under the Indian Child Welfare Act or in the legal custody of a tribe.
  - (C) — An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.
  - (D) — A stepparent or former stepparent if the *child* or *young adult* had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.
  - (E) — A *registered domestic partner* of the *parent* of the *child* or *young adult* or a former *registered domestic partner* of the *parent* of the *child* or *young adult* if the *child* or *young adult* had a relationship with the former domestic partner prior to the most recent episode of Department custody.
  - (F) — An adoptive parent of a *sibling* of the *child* or *young adult*.

- ~~(G) — An unrelated legal or biological father or mother of a half-sibling of the *child* or *young adult* when the half-sibling of the *child* or *young adult* is living with the unrelated legal or biological father or mother.~~
- ~~(e) — An individual identified by the *child* or *young adult* or the family of the *child* or *young adult*, or an individual who self-identifies, as being related to the *child* or *young adult* through the *parent* of the *child* or *young adult* by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the *child*, *young adult*, or *parent*.~~
- ~~(d) — An individual meeting the requirements of at least one of the following:
  - ~~(A) — An individual not related to the *child*, *young adult*, or *parent* by blood, adoption, or marriage:
    - ~~(i) — Who is identified as a member of the family by the *child* or *young adult* or by the family of the *child* or *young adult*; and~~
    - ~~(ii) — Who had an emotionally significant relationship with the *child* or *young adult* or the family of the *child* or *young adult* prior to the most recent episode of Department custody.~~~~
  - ~~(B) — An individual who has a blood relationship to the *child* or *young adult* as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the *child* or *young adult*, but the prior legal relationship has been dissolved by adoption of the *child*, *young adult*, or birth parent, and who is identified as a member of the family by the *child* or *young adult* or who self-identifies as a member of the family.~~~~
- ~~(e) — For eligibility for the guardianship assistance program:
  - ~~(A) — A stepparent is considered a *parent* and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the *child* has been terminated by divorce or death.~~
  - ~~(B) — A *foster parent* may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:
    - ~~(i) — There is a compelling reason why adoption is not an achievable permanency plan;~~
    - ~~(ii) — The *foster parent* is currently caring for a *child*, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;~~~~~~

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

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

~~(13) — "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:~~

~~(a) — By blood or adoption through a common *parent*;~~

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

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

~~(14) — "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.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0220**

### **Adoption Application Requirements**

*(Amended ~~12/29/10~~ 10/01/15)*

(1) A resident of Oregon applying to adopt a *child* in the legal custody of the Department must submit an application for an *adoption home study* to the Department or to a licensed *adoption agency* willing to contract with the Department or willing to allow another licensed *adoption agency* to contract with the Department for post placement supervision services as outlined in OAR 413-120-0830(2)(c).

(2) Applications.

(a) The Department accepts applications for an *adoption home study* from Oregon residents applying to adopt a *child*:

(A) In the custody of the Department;

(B) In the custody of a public child welfare agency in another state following receipt of an ICPC request from the agency in the other state; or

- (C) In the custody of a public child welfare agency in another country following a request from the agency in the other country and in accordance, when applicable, with [Child Welfare Policy I-G.1.14 "Intercountry Adoption Pursuant to the Hague Convention and Intercountry Adoption Act"](#), OAR 413-120-0900 to 413-120-0970.
- (b) The Department accepts applications for an *adoption home study* for Oregon residents who have previously applied or are currently applying through another *adoption agency*. The applicant must:
  - (A) Sign a release of information allowing ongoing communication with the other *adoption agency*; and
  - (B) Sign a release of information allowing the Department to obtain a copy of the adoption file of the individual.
- (3) An application submitted to the Department must include all of the following:
  - (a) An adoption application form;
  - (b) A signed, valid release of information from each applicant who is a subject of the *adoption home study* allowing the *adoption home study* to be released to the individuals and for the purposes described in OAR 413-120-0246(2);
  - (c) An Adoptive Family Information and Placement Preference form, unless the Department determines this is not required due to the existing relationship between the *child* and the applicant;
  - (d) Financial information, current within 12 months of application, demonstrating the ability of the applicant to meet the needs of the family and the *child* to be adopted;
  - (e) Medical information current within 24 months of application;
  - (f) When applicable, mental health information;
  - (g) When applicable, copy of marriage certificate, divorce verification, or death certificate of spouse;
  - (h) Consent to a criminal offender information records check for each applicant and all household members age 18 and older under Child Welfare Policy I-G.1.4, "Oregon Computerized Criminal History Checks and Nationwide Criminal History Checks through the FBI for Relative Caregivers, Foster Parents, Other Persons in the Household and Adoptive Parents for Children in the Care or Custody of DHS", OAR 413-120-0400 to 413-120-0470;

- (i) Consent to a child abuse and neglect background check for each adoptive applicant and all household members age 18 and older; and
  - (j) Names and contact information of four references, two of whom may be relatives of the adoptive applicant, who can attest to the character and ability of the adoptive applicant to provide safe and protective care for a *child*.
- (4) The Department may require additional information from an adoptive applicant to assess the ability of the applicant to meet the standards of an adoptive home.
- (5) The adoptive applicant must be at least 21 years of age, unless one of the following subsections applies:
- (a) The Child Welfare Program Manager or designee has approved a *relative* adoptive applicant between the ages of 18 through 20 years; or
  - (b) The *child* is an *Indian child* and the adoptive applicant is:
    - (A) A member of the child's extended family;
    - (B) Another member of the Indian child's tribe; or
    - (C) Another Indian family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

### **413-120-0243**

#### **Prioritization of an Adoption Home Study Application**

(Amended ~~12/29/10~~ 10/01/15)

The Department has discretion to prioritize *adoption home study* applications received from the following individuals according to the needs of the *child* or children awaiting *adoption* rather than the date of receipt of an application;

- (1) An individual applying to adopt a related *child*.
- (2) An individual applying as a *current caretaker* for a *child*.
- (3) An individual who is a *general applicant* when the Department has determined that further general recruitment is not required under [Child Welfare Policy I-G.1.2, "Identification and Consideration of Potential Adoption Resources"](#), OAR 413-120-0750.
- (4) An individual who is a *general applicant* interested in adopting a *child* with special needs for whom there are few or no available approved homes.

- (5) An individual who is a *general applicant* other than those described in sections (3) and (4) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## 413-120-0246

### Standards for an Adoptive Home and Release of an Adoption Home Study

(Amended ~~12/29/10~~ 10/01/15)

- (1) Except to the extent provided otherwise in section (2) of this rule, to be approved to adopt a *child* in the legal custody of the Department, an individual must complete all of the following:
- (a) Have an *adoption home study* recommending the applicant as a potential *adoptive resource* written, amended, or updated within the 12 months prior to the *adoption placement selection*, completed by --
- (A) The Department under ~~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) An Oregon licensed private agency for an Oregon resident when the *home study* is prepared by a private agency for an Oregon resident under ~~Child Welfare Policy II C.1.3, "Licensing Adoption Agencies"~~, OAR 413-215-0401 to 413-215-0481;
- (C) An out-of-state agency under ~~Child Welfare Policy I B.3.4.2, "Interstate Compact on the Placement of Children"~~, OAR 413-040-0200 to 413-040-0330; or
- (D) An agency in another country under ~~Child Welfare Policy I G.1.14, "Intercountry Adoption Pursuant to the Hague Convention and Intercountry Adoption Act"~~, OAR 413-120-0900 to 413-120-0970.
- (b) Meet the Department's standards for adoptive homes by demonstrating the knowledge, skills, and ability to meet, without agency oversight, the current and lifelong needs of the *child* for all of the following:
- (A) Physical and emotional safety and well-being;
- (B) Developing and maintaining connections to the child's family;
- (C) Continuity and familiarity;

- (D) Appropriate social, educational, developmental, emotional, and physical support;
  - (E) Integration into the family;
  - (F) Stability and permanency; and
  - (G) Maintaining his or her identity, cultural, religious, and spiritual heritage.
- (c) Provide evidence of successful completion of a training program approved by the Department, unless the Adoption Program Manager has approved an alternate training program.
- (2) In the case of an individual or individuals residing in a state that does not complete an *adoption home study* prior to a *child* being placed with the individual or individuals or prior to the *child* being legally free for *adoption*:
- (a) The Child Permanency Program may approve a foster home study or a relative study as an *adoption home study* for the purpose of *adoption placement selection* only as long as all other requirements of subsections (1)(a), (b), and (c) of this rule are met.
  - (b) An approved *adoption home study* must be completed prior to designation of the child's placement for the purpose of *adoption*.
- (3) Release of an adoption home study. An *adoption home study* is considered confidential information and, when released under this rule must have a signed, valid release of information from each applicant who is a subject of the *adoption home study*.
- (a) The Department may release a copy of the *adoption home study* to:
    - (A) An adoption applicant who is a subject of the *adoption home study*;
    - (B) Individuals involved in the *adoption placement selection* process, under [Child Welfare Policy I-G.1.5, Adoption Placement Selection](#), OAR 413-120-0021 and OAR 413-120-0035;
    - (C) The court for the purposes of finalizing an *adoption*; and
    - (D) A public agency upon the written request of an applicant who is a subject of the *adoption home study*.
  - (b) A Child Welfare Program Manager must approve the release of an *adoption home study* requested for a purpose other than those listed in subsection (a) of this rule.

- (c) An individual receiving a copy of an *adoption home study* must keep the information contained therein confidential.
- (d) Before releasing an *adoption home study*, the Department must redact or summarize information, when necessary, to prevent the identification of individuals, other than the applicants, who provided information for the *adoption home study*.
- (e) When an agency or entity other than the Department completes the *adoption home study*, the Department must receive approval from the agency or entity that completed the *adoption home study* before release.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## 413-120-0420

### Definitions

#### THIS RULE IS REPEALED

~~For purposes of these rules (OAR 413-120-0400 to 413-120-0475):~~

- ~~(1) "Authorized designee" means a Department employee who is designated and authorized by the Department to receive and process *criminal records check* request forms from subject individuals, receive criminal records information from the Background Check Unit, and make fitness determinations as described in these rules.~~
- ~~(2) "Battery" means the use of physical force to injure, damage, or abuse or to cause offensive physical contact.~~
- ~~(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) "Child" means an individual under the age of 18.~~
- ~~(5) "Contested case hearing" means a hearing conducted under ORS Chapter 183 and applicable administrative rules.~~
- ~~(6) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:
 
  - ~~(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data~~~~

~~System (LEDS). The Oregon criminal records check may also include a review of other criminal records information obtained from other sources.~~

~~(b) — A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.~~

~~(c) — A state specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information sources located in, or regarding, a state or jurisdiction outside Oregon.~~

~~(7) — "Department" means the Department of Human Services.~~

~~(8) — "Fitness determination" means the decision made by an authorized designee, with regard to information obtained through a criminal records check, to either approve or deny a subject individual under these rules. A subject individual who is approved following a criminal records based fitness determination may still be denied approval to be a relative caregiver, foster parent, adoptive resource or an other person in the household if the subject individual does not meet other requirements contained in Department rules governing relative care, foster care, and adoption.~~

~~(9) — "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.~~

~~(10) — "OSP" means the Oregon State Police.~~

~~(11) — "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. "Other criminal records information" includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.~~

~~(12) — "Other person in the household" means any individual described in one or more of the following subsections:~~

~~(a) — An individual 18 years of age or older, who is not in the care and custody of the Department pursuant to ORS 418.015, who is living in the home of—~~

(A) — An applicant to adopt a *child* in the custody of the Department as described in Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption" (OAR 413-120-0190 to 413-120-0246); or

(B) — An applicant to be a *foster parent, relative caregiver*, or adoptive resource as described in Child Welfare Policy II-B.1, "Standards for Certification of Foster Parents and Relative Caregivers and Approval of Potential Adoptive Resources" (OAR 413-200-0301 to 413-200-0396).

(b) — A *respite care* provider.

(c) — A person who volunteers or is employed by a *foster parent or relative caregiver* to assist with the care of the children placed in the home.

(d) — Any of the following individuals if there is reason to believe the individual may pose a risk to children placed in the home: A member of the household under 18 years of age, a babysitter, or a person who frequents the home.

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

(14) — "Respite care" means a formal planned arrangement to relieve a certified family's responsibilities by an individual temporarily assuming responsibility for the care and supervision of a *child or young adult* in the home of the respite provider or *certified family*. "Respite care" must be less than 14 consecutive days.

(15) — "Subject individual" means an individual who:

(a) — Applies to adopt a *child* in the custody of the Department as described in Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption", OAR 413-120-0190 to 413-120-0246;

(b) — Applies to be a *foster parent, relative caregiver*, or adoptive resource as described in Child Welfare Policy II-B.1, "Standards for Certification of Foster Parents and Relative Caregivers and Approval of Potential Adoptive Resources", OAR 413-200-0301 to 413-200-0396; or

(c) — Is an *other person in the household*.

(16) — "Violence" means the use of physical force to injure, damage, or abuse.

(17) — "Weighing test" means the process in which an *authorized designee* considers available information to make a *fitness determination* when a *subject individual* has potentially disqualifying convictions, arrests, or conditions.

~~(18) — "Young adult" means an individual aged 18 through 20 years.~~

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016

## **413-120-0500**

### **Purpose**

#### THIS RULE IS REPEALED

~~These rules (OAR 413-120-0500 to 413-120-0595) establish the process by which a *foster parent* may request consideration as a *current caretaker* for the purpose of consideration as a potential *adoptive resource* as a part of permanency planning for a *child* or *sibling* group under consideration.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.285

## **413-120-0510**

### **Definitions**

#### THIS RULE IS REPEALED

~~The following definitions apply to OAR 413-120-0500 to 413-120-0595:~~

- ~~(1) — "Adoptive resource" means an individual or individuals selected by the Department as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the Department review is complete.~~
- ~~(2) — "Child" means a person under 18 years of age.~~
- ~~(3) — "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.~~
- ~~(4) — "Current caretaker" means a *foster parent* who:
  - ~~(a) — Is currently caring for a *child* in the legal custody of the Department who has a *permanency plan* or *concurrent permanent plan* of adoption;~~~~

- (b) — Has cared for the *child* or at least one *sibling* in a sibling group under consideration for at least the past 12 consecutive months; and
  - (c) — Has been identified by the Department as a potential *adoptive resource* for the *child* and when appropriate, the siblings in a sibling group under consideration for adoption in the same adoptive family.
- (5) — "Department" means the Department of Human Services, Child Welfare.
- (6) — "Foster parent" means a person who operates a home that has been approved by the Department to provide care for unrelated children or young adults who are placed in the home by the Department.
- (7) — "General applicant" means an individual who:
- (a) — Is neither a *relative* nor *current caretaker*; and
  - (b) — Has submitted a completed application to adopt a *child*.
- (8) — "Indian child" means any unmarried person who is under 18 years of age and is either:
- (a) — A member of an Indian tribe; or
  - (b) — Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.
- (9) — "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a *permanency plan* or potential permanency resource when the *child* or *young adult* likely is not returning to his or her parent.
- (10) — "Permanency plan" means a written course of action for achieving safe and lasting family resources for the *child*. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other individuals who will assume legal responsibility for the *child* during the remaining years of dependency and be accessible and supportive to the *child* in adulthood.
- (11) — "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, sex, sexual orientation, 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, sex, sexual orientation, nationality, 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.~~

(12) — ~~"Relative" means any of the following:~~

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

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

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

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

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

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

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

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

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

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

- (E) — ~~A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.~~
- (F) — ~~An adoptive parent of a sibling of the child or young adult.~~
- (G) — ~~An unrelated legal or biological father or mother of a half sibling of the child or young adult when the half sibling of the child or young adult is living with the unrelated legal or biological father or mother.~~
- (c) — ~~An individual identified by the child or young adult or the family of the child or young adult, or an individual who self identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.~~
- (d) — ~~An individual meeting the requirements of at least one of the following:~~
  - (A) — ~~An individual not related to the child, young adult, or parent by blood, adoption, or marriage:~~
    - (i) — ~~Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and~~
    - (ii) — ~~Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.~~
  - (B) — ~~An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self identifies as a member of the family.~~
- (e) — ~~For eligibility for the guardianship assistance program:~~
  - (A) — ~~A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.~~
  - (B) — ~~A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:~~

- (i) ~~There is a compelling reason why adoption is not an achievable permanency plan;~~
- (ii) ~~The *foster parent* is currently caring for a *child*, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;~~
- (iii) ~~The *foster parent* has cared for the *child* for at least 12 of the past 24 months; and~~
- (iv) ~~The Department or tribe has approved the *foster parent* for consideration as a guardian.~~

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

- (a) ~~By blood or adoption through a common *parent*;~~
- (b) ~~Through the marriage of the legal or biological parents of the children or young adults; or~~
- (c) ~~Through a legal or biological parent who is the *registered domestic partner* of the legal or biological parent of the children or young adults.~~

(14) ~~"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.~~

(15) ~~"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, 418.945

Stats. Implemented: ORS 418.005, 418.945

## **413-120-0521**

### **Substitute Care is a Temporary Resource**

#### THIS RULE IS REPEALED

- (1) ~~At initial placement, the caseworker must inform the *foster parent* that *substitute care* is intended as a temporary placement resource.~~
- (2) ~~In limited circumstances, a *foster parent* may become an *adoptive resource* for a *child*.~~

~~(3) — The child's caseworker must keep the *foster parent* informed of the child's *permanency plan* and *concurrent permanent plan*.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.648, 419B.192

## **413-120-0541**

### **When a Foster Parent Can Request Consideration as a Potential Adoptive Resource**

#### THIS RULE IS REPEALED

~~(1) — A *foster parent* may request consideration as a *current caretaker* for a *child* or a *sibling group* under consideration in the legal custody of the Department when the requirements of all of the following subsections are met:~~

~~(a) — Adoption is each child's identified *permanency plan* or *concurrent permanent plan*, and the Department determines it is in the best interest of the *child* or a *sibling group* under consideration to proceed with identifying potential adoptive resources.~~

~~(b) — The *child* or at least one *sibling* in a *sibling group* under consideration has been in the physical custody of the *foster parent* for the most recent 12 consecutive months.~~

~~(c) — The *foster parent* is willing to be considered as a potential *adoptive resource* for the child's siblings currently in *substitute care* and under consideration for adoption in the same adoptive family.~~

~~(d) — The caseworker and the caseworker's supervisor have complied with the requirements of both of the following paragraphs:~~

~~(A) — Reviewed the Department's diligent efforts to identify, contact, and place a *child* with relatives and to place siblings together as required under both Child Welfare Policy I E.1.1, "Search for and Engagement of a Child's Relatives", OAR 413-070-0060 to 413-070-0087 and Child Welfare Policy I G.1.2, "Identification and Consideration of Potential Adoption Resources", OAR 413-120-0700 to 413-120-0760; and~~

~~(B) — Confirmed there are no current Department actions to —~~

~~(i) — Identify a child's relative as defined in OAR 413-120-0510(12)(a)-(c); or~~

~~(ii) — Assess an identified relative as defined in OAR 413-120-0510(12)(a)-(c) who has either expressed an interest in and needs to be or currently is being assessed as a potential *adoptive resource*.~~

~~(2) — When a *child* has one or more siblings, and two or more foster parents meet the requirements of subsections (1)(a) to (1)(c) of this rule, each may request consideration as a *current caretaker*, and if a request is received, the Department must review each request as described in these rules (OAR 413-120-0500 to 413-120-0595).~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

## **413-120-0570**

### **Permanency Committee Consideration of Current Caretaker**

#### THIS RULE IS REPEALED

~~(1) — When a *foster parent* is requesting consideration as *current caretaker*, the Department schedules a *permanency committee* pursuant to Child Welfare Policy, I.E.3.6, "Legal Permanency, Concurrent Planning, and Use of Permanency Committee", OAR 413-070-0500 to 413-070-0519.~~

~~(2) — The *permanency committee* must review all of the information presented to the committee and consider the extent to which the *foster parent* meets the following:~~

~~(a) — The standards for an adoptive home under OAR 413-120-0246;~~

~~(b) — The extent to which the *foster parent* has the knowledge, skills, abilities and commitment to raise the *child* and each *sibling* if there are siblings under consideration for adoption in the same adoptive family; and~~

~~(c) — The extent to which the ongoing needs for safety, permanency, and well-being of each *child* and each *sibling*, if there are siblings under consideration for adoption in the same adoptive family, will be met under OAR 413-070-0640.~~

~~(3) — After completing the review under section (2) of this rule, the *permanency committee* considers all of the information, deliberates, and, when committee members agree, makes a recommendation to the Child Welfare Program Manager or designee.~~

~~(4) — When the *permanency committee* cannot reach agreement, each *permanency committee* member makes his or her respective recommendations known to the committee facilitator.~~

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.937, 418.945, 419B.192

## 413-120-0580

### Decision and Department Actions

#### THIS RULE IS REPEALED

- (1) ~~The Child Welfare Program Manager or designee who makes the decision on behalf of the Department regarding a request of *foster parent* for consideration as a *current caretaker* must consider all of the following when making the decision:~~
- (a) ~~The considerations in OAR 413-120-0570(2);~~
  - (b) ~~The information presented to the *permanency committee*; and~~
  - (c) ~~The recommendations of the *permanency committee*.~~
- (2) ~~The Child Welfare Program Manager's or designee's decision regarding the request of a *foster parent* for consideration as a *current caretaker* must be documented on a form approved by the Department and must specify:~~
- (a) ~~Whether the *foster parent* will be considered; and~~
  - (b) ~~When the *foster parent* will be considered as a *current caretaker*, whether the adoption selection process will also include consideration of a potential *adoptive resource* who either is a —~~
    - (A) ~~Child's relative as defined in OAR 413-120-0510(12)(d); or~~
    - (B) ~~*General applicant*.~~
- (3) ~~When the *foster parent* will be considered as a *current caretaker*, the certifier or an adoption worker must complete a home study update within 90 calendar days of the decision.~~

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.937, 418.945, 419B.192

## 413-120-0590

### When a Relative is Identified

#### THIS RULE IS REPEALED

~~When a child's *relative* is identified and expresses interest in being considered as a potential *adoptive resource* after a *foster parent* has requested consideration or a *permanency committee* has been scheduled, the Child Welfare Program Manager or designee must:~~

- ~~(1) — Review the diligent efforts to identify and place a *child* with a *relative* and to place siblings together as required under Child Welfare Policy I-E.1.1., "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0063;~~
- ~~(2) — Determine whether it is in the child's best interest for the *relative* to be considered; and~~
- ~~(3) — Determine whether the *permanency committee* to consider the request of the *foster parent* will be held, cancelled, or postponed.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-120-0595**

### **Foster Parent Determined as Current Caretaker before July 1, 2010**

#### THIS RULE IS REPEALED

- ~~(1) — When a *foster parent* had been recommended for consideration as a potential *adoptive resource* through a *current caretaker committee* or *current caretaker committee* held prior to July 1, 2010, the decisions made by the Department remain in effect until an adoption selection has been made.~~
- ~~(2) — When a *permanency committee* recommends the *current caretaker* for consideration as a potential *adoptive resource* for a *child*, the *current caretaker* is considered pursuant to Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0000 to 413-120-0060.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

## **413-120-0610**

### **Definitions**

#### THIS RULE IS REPEALED

- ~~(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

## **413-120-0635**

### **Cooperative Adoption Planning Through Legal Assistance Mediation Services**

*(Adopted ~~10/03/03~~ 10/01/15)*

- (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 413-120-00010 through to 413-120-00860 \(1-G.1.5, Adoption Placement Selection.\)](#)
- (6) To support the development of a cooperative adoption planning process through *mediation*, the Department ~~must have~~ has the following responsibilities:
  - (a) After a *Legal Assistance Referral* has been approved, the caseworker must consult with the LAS and the assigned legal assistance attorney. Consultation must

address whether the birth 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~~ 413-120-0628.
  - (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 Form DHS 2099 authorizing release of information to the mediator;
  - (d) Be responsible to contact the mediator if the adoption worker is assigned after the *cooperative adoption mediation* process has already begun.
- (8) The Cooperative Adoption Mediation Referral form must be forwarded to the central office LAS assigned to the local Department office for approval of funds disbursement. If

funds are approved, Central office staff must notify the mediator that funds have been approved and that the *mediation* service may begin. (See Flow Chart Box 6.)

- (9) A *child welfare mediator* contracted to provide *cooperative adoption mediation* must have the following responsibilities:
- (a) The mediator must keep confidential all *mediation communications*. (ORS 36.220-25.238 ~~and OAR 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.

Stat. Auth.: ORS 418.005  
 Stats. Implemented: ORS 109.305

## 413-120-0700

### Purpose

(Amended ~~12/29/10~~ 10/01/15)

(1) ~~These rules (The purpose of OAR 413-120-0700 to 413-120-0760)~~ is to describe the responsibilities of the Department to ---

- (1a) Identify the potential adoptive resources for a *child* or *sibling group* under consideration for adoption to best meet the current and lifelong needs of each *child* for safety, permanency attachment, and well-being; and
- (2b) Establish an order of preference for assessment and consideration of potential adoptive resources.

(2) The term "sibling group" means siblings in the care and custody of the Department who are under consideration for adoption together.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.309, 409.010, 418.005, 418.280, 418.285, 418.937, 419B.090, 419B.100, 419B.192

## 413-120-0710

### Definitions

#### THIS RULE IS REPEALED

The following definitions apply to ~~OAR 413-120-0700 to 413-120-0760~~:

- (1) ~~"Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a *child* or children.~~
- (2) ~~"Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.~~
- (3) ~~"Child" means a person under 18 years of age.~~
- (4) ~~"Current caretaker" means a *foster parent* who:~~
  - (a) ~~Is currently caring for a *child* in the legal custody of the Department who has a permanency plan or concurrent permanent plan of adoption;~~
  - (b) ~~Has cared for the *child* or at least one *sibling* in a sibling group under consideration for at least the past 12 consecutive months; and~~
  - (c) ~~Has been identified by the Department as a potential *adoptive resource* for the *child* and when appropriate, the siblings in a sibling group under consideration for adoption in the same adoptive family.~~

- (5) — "~~Department~~" means the Department of Human Services, Child Welfare.
- (6) — "~~Foster parent~~" means an individual who operates a home that has been approved by the Department to provide care for an unrelated *child* or young adult placed in the home by the Department.
- (7) — "~~General applicant~~" means an individual who:
- (a) — Is neither *relative* or *current caretaker*; and
  - (b) — Has submitted a complete application to adopt a *child*.
- (8) — "~~Indian child~~" means any unmarried person who is under 18 years of age and is either:
- (a) — A member of an Indian tribe; or
  - (b) — Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.
- (9) — "~~Permanency committee~~" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or potential permanent resource when the *child* or young adult likely is not returning to his or her parent.
- (10) — "~~RCWAC~~" means the Refugee Child Welfare Advisory Committee.
- (11) — "~~Refugee child~~" has the meaning given that term per ORS 418.925.
- (12) — "~~Relative~~" means any of the following:
- (a) — An individual with one of the following relationships to the *child* or *young adult* through the *parent* of the *child* or *young adult* unless the relationship has been dissolved by adoption of the *child*, *young adult*, or *parent*:
    - (A) — Any blood relative of preceding generations denoted by the prefixes of grand, great, or great great.
    - (B) — Any half blood relative of preceding generations denoted by the prefixes of grand, great, or great great. Individuals with one common biological parent are half blood relatives.
    - (C) — An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.
    - (D) — A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative"

~~under this paragraph, the *child* or *young adult* must have had a relationship with the spouse prior to the most recent episode of Department custody.~~

- ~~(b) — An individual with one of the following relationships to the *child* or *young adult*:~~
  - ~~(A) — A *sibling*, also to include an individual with a sibling relationship to the *child* or *young adult* through a putative father.~~
  - ~~(B) — An individual defined as a relative by the law or custom of the tribe of the *child* or *young adult* if the *child* or *young adult* is an *Indian child* under the Indian Child Welfare Act or in the legal custody of a tribe.~~
  - ~~(C) — An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.~~
  - ~~(D) — A stepparent or former stepparent if the *child* or *young adult* had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.~~
  - ~~(E) — A *registered domestic partner* of the *parent* of the *child* or *young adult* or a former *registered domestic partner* of the *parent* of the *child* or *young adult* if the *child* or *young adult* had a relationship with the former domestic partner prior to the most recent episode of Department custody.~~
  - ~~(F) — An adoptive parent of a *sibling* of the *child* or *young adult*.~~
  - ~~(G) — An unrelated legal or biological father or mother of a half-sibling of the *child* or *young adult* when the half-sibling of the *child* or *young adult* is living with the unrelated legal or biological father or mother.~~
- ~~(c) — An individual identified by the *child* or *young adult* or the family of the *child* or *young adult*, or an individual who self-identifies, as being related to the *child* or *young adult* through the *parent* of the *child* or *young adult* by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the *child*, *young adult*, or *parent*.~~
- ~~(d) — An individual meeting the requirements of at least one of the following:~~
  - ~~(A) — An individual not related to the *child*, *young adult*, or *parent* by blood, adoption, or marriage:~~
    - ~~(i) — Who is identified as a member of the family by the *child* or *young adult* or by the family of the *child* or *young adult*; and~~

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

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

~~(e) — For eligibility for the guardianship assistance program:~~

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

~~(B) — A *foster parent* may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:~~

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

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

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

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

~~(13) — "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:~~

~~(a) — By blood or adoption through a common *parent*;~~

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

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

(14) ~~"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.~~

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 418.937, 419B.090, 419B.100, 419B.192

#### **413-120-0720**

### **Department's Efforts to Place with Relatives and Current Caretakers and to Place Siblings Together**

*(Temporary Effective 09/01/15—02/27/16)(Amended 10/01/15)*

- (1) The Department's preference for placement of a *child* is to place siblings together for the purpose of *adoption* ~~is placement~~ with relatives or current caretakers and placing siblings together.
- (2) Prior to pursuing a ~~non-related general applicant~~ as a potential adoptive resource, the caseworker and the caseworker's supervisor must comply with all of the following requirements of both of the following subsections:
  - (a) Review the Department's diligent efforts of the Department to identify, contact, and place a *child or young adult* with relatives and to place siblings together as required under Child Welfare Policy I E.1.1, "Search for and Engagement of a Child's Relatives", by OAR 413-070-0060 to 413-070-0087, and
  - (b) Confirm there are no current *Department* actions to identify or assess a child's relative who has either expressed an interest in and needs to be or currently is being assessed as a potential *adoptive resource* for the child or sibling group, unless OAR 413-120-0730(1)(b) applies.
  - (c) Confirm there are no Department actions to identify or assess a current caretaker who has expressed an interest in being assessed as a potential adoptive resource for the child or sibling group.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.309, 409.010, 418.005, 418.285, 419B.090, 419B.192

#### **413-120-0730**

### **Order of Preference for Identification of Potential Adoptive Resources**

*(Temporary Effective 09/01/15—02/27/16)(Amended 10/01/15)*

- (1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a *child* or *sibling* group under consideration, the caseworker must

consider the needs and the best interest of each *child*, and assess the knowledge, skills, and abilities of each potential *adoptive resource* in the following order of preference:

- (a) ~~A~~ Except when (c) of this section applies, a relative as defined in OAR 413-120-071000(1263)(a)-(c).
  - (b) ~~A~~ Except when (c) of this section applies, a relative as defined in OAR 413-120-071000(1263)(d), or a current caretaker (except when OAR 413-120-0580(2)(b)(B) applies), or both.
  - (c) When a child or sibling group has a current caretaker as defined in OAR 413-120-071000(26), the current caretaker and a relative as defined in OAR 413-120-071000(63)(a)-(d).
  - ~~(e) A current caretaker and a general applicant, when a determination has been made under OAR 413-120-0580(2)(b)(B).~~
  - (d) ~~Except as provided in subsection (c) of this section, a~~ general applicant.
  - ~~(e) When an individual would otherwise meet the definition of current caretaker, except for being a relative as defined in OAR 413-120-0000(d), the individual is considered a current caretaker for purposes of this section.~~
- (2) ~~When the child is identified as~~ For an Indian child, the caseworker must comply with Child Welfare Policy I.E.2.1, "Placement of Indian Children", ICWA and OAR 413-070-0100 to 413-070-0260.
  - (3) ~~When the child is identified as~~ For a refugee child, the caseworker must comply with Child Welfare Policy I.E.2.2, "Placement of Refugee Children", OAR 413-070-0300 to 413-070-0380.
  - (4) When no current caretaker is being considered as a potential adoptive resource, and when it is determined in the best interest of the child, the Child Permanency Program Manager, upon receipt of a written request from the Child Welfare Program Manager, may grant an exception to the order of preference to a relative as defined in OAR 413-120-0000(63)(d). Within 30 days of receipt of the written request, the Child Permanency Program Manager must review the request and determine whether to grant the exception.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 419B.192

**413-120-0750**

## Recruitment Efforts

*(Adopted 09/19/11 Amended 10/01/15)*

- (1) The Department must begin recruitment for the *child* or *sibling group* in a timely manner that is appropriate to each child's permanency and concurrent permanent plans.
- (2) The Department may consider up to three general applicants as adoptive resources for a *child* or *sibling group*.
- (13) Except as provided in section (24) of this rule, the Department's recruitment efforts may not consider the race, color, or national origin of a potential *adoptive resource* or a *child*.
- (24) When recruiting potential adoptive resources for an *Indian child*, the Department may consider the cultural heritage of a potential *adoptive resource* or the *child* under Child Welfare Policy I.E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260.
- ~~(3) The Department must begin recruitment for the *child* or *sibling group* under consideration in a timely manner that is appropriate to each child's permanency and concurrent permanent plans.~~
- (45) When a *child* is not fully free for *adoption*, the *legal assistance specialist* must:
  - (a) Determine when recruitment may begin;
  - (b) Determine whether recruitment may begin for a *child* with extraordinary needs before the Department initiates the process to free the *child* for *adoption*; and
  - (c) Notify the caseworker to begin recruitment efforts.
- (56) As part of the identification of general applicants who will be considered in the *adoption placement selection* process, the *child's* caseworker must conduct recruitment activities including, at a minimum, ensuring a Waiting Child Bulletin has been posted, for at least 30 days, unless one or more of the following subsections applies:
  - (a) An exception to this timeline has been approved by the Assistant Adoption-Child Permanency Program Manager or designee.
  - (b) The Department has determined, under Child Welfare Policy I.E.3.6, "Legal Permanency, Concurrent Planning and Use of Permanency Committee", OAR 413-070-0516, ~~that~~ an individual known to the *child* or *sibling group* ~~under consideration~~, should be assessed ~~for consideration as the~~ a potential *adoptive resource*, based upon all of the following:
    - (A) The best interest of each *child* ~~under consideration~~;

- (B) The strength of the relationship between each *child* ~~under consideration~~ and the individual;
- (C) The likelihood ~~that~~ the individual will have a positive *adoption home study* and ~~be able to meet the Department standards under Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption, requirements of~~ OAR 413-120-0246(1); ~~and,~~
- (D) The ~~individual has demonstrated the~~ knowledge, skills, abilities, and commitment of the individual to raise each *child* ~~under consideration for adoption; and,~~
- (E) The ~~individual has the~~ capacity of the individual to meet the current and lifelong safety, ~~permanency attachment,~~ and well-being needs of the *child* ~~under Child Welfare Policy I-E.3.1, "Placement Matching", as required by~~ OAR 413-070-0640.

~~(e) — An exception to the order of preference was granted by the Adoption Program Manager under OAR 413-120-0760.~~

(67) Recruitment activities under section (56) of this rule are not required when ~~the Department has planned for:~~

(a) The Department has planned for the *child* or *sibling group* ~~under consideration~~ to be adopted by a *relative* of at least one of the siblings;  
~~or~~

(b) The Department has planned for the *child* or *sibling group* ~~under consideration~~ to be adopted by a *current caretaker*; or

(c) In the case of an *Indian child*, alone or as part of a *sibling group*, the Department has planned for *adoption* by an identified potential *adoptive resource* meeting the order of placement preference in ICWA.

(78) The ~~Department's~~ recruitment efforts of the Department for a *child* or *sibling group* ~~under consideration~~ must be documented in the Department's electronic information system.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 419B.192

## 413-120-0760

### Identification of a Child's Potential Adoptive Resources

~~(Temporary Effective 09/01/15 — 02/27/15)~~ Effective 10/01/15

- (1) When identifying potential general applicant adoptive resources for a child or sibling group, the ~~child's~~ caseworker may:—
  - (a) After discussion with his or her supervisor and on a case-by-case basis, consult with a birth parent to identify one to three potential adoptive resources; and
  - (b) Provide a birth parent with non-identifying information from the *adoption home study* of a potential *adoptive resource* who is a *general applicant* not known to the parent or *child*.
- (2) When more than one *relative* is interested in being an *adoptive resource* for a child or sibling group, the Department must consult with ~~those the~~ interested relatives to facilitate agreement on the most appropriate potential *adoptive resource*.
  - (a) When agreement cannot be reached, the Department considers relatives among both maternal and paternal family members who have expressed an interest, and may choose up to three relatives for adoption home studies-
  - (b) When an *adoption home study* has been initiated and the potential *adoptive resource* is not approved or withdraws, the Child Welfare Program Manager or designee decides whether the Department will initiate adoption home studies with additional relatives based upon:
    - (A) The best interest of the *child or sibling group*; and
    - (B) The impact on timeliness to achieving permanency ~~when pursuing additional studies~~.
  - (c) For an *Indian child* alone or part of a *sibling group*, the Department must identify potential *adoptive resources* and initiate adoption home studies as necessary to comply with ICWA.
- (3) The child's caseworker must comply with the requirements of all of the following subsections:
  - (a) Make reasonable efforts to identify and place the *child or sibling group* with an *adoptive resource* in a timely manner.
  - (b) Request input about the knowledge, skills, abilities, and commitment a potential *adoptive resource* needs to best ~~be able to~~ meet the current and lifelong needs of the *child* from --
    - (A) Professionals who have worked closely with the *child*, when applicable; and

- (B) The child's attorney, CASA, tribal representative, RCWAC representative, and *substitute caregiver*, when applicable.
- (c) Receive and review adoption home studies in a timely manner.
- (d) ~~Following~~ Unless section (4) of this rule applies, following consultation with his or her supervisor, identify up to three potential adoptive resources following the order of preference in OAR 413-120-0730 to be considered for *adoption placement selection* who:
  - (A) Meet the standards of an adoptive home in ~~Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption"~~, OAR 413-120-0246;
  - (B) Have the knowledge, skills, abilities, and commitment to raise each *child under consideration for adoption*; and
  - (C) Have the capacity to meet the current and lifelong safety, ~~permanency attachment~~, and well-being needs of the *child or sibling group* under ~~Child Welfare Policy I-E.3.1, "Placement Matching"~~, OAR 413-070-0640.
- ~~(4) If the caseworker is unable to identify any potential adoptive resources for adoption placement selection in the first order of preference set forth in OAR 413-120-0730(1) who are relatives as defined in OAR 413-120-0710(12)(a)-(c) and meet the criteria in paragraphs (3)(d)(A)-(C) of this rule, the caseworker may identify one to three potential adoptive resources who meet the criterion in paragraphs (3)(d)(A)-(C) of this rule who may include a *relative* or relatives as defined in OAR 413-120-0710(12)(d) or a *current caretaker*.~~
- ~~(5) If the caseworker is unable to identify any potential adoptive resources for adoption placement selection in the first or second order of preference set forth in OAR 413-120-0730(1) who are relatives as defined in OAR 413-120-0710(12)(a)-(d) or a *current caretaker* and meet the criteria in paragraphs (3)(d)(A)-(C) of this rule or a Child Welfare Program Manager has made the decision to consider a *current caretaker* along with *general applicant* under OAR 413-120-0580(2), the caseworker must identify one to three general applicants as potential adoption resources.~~
- (4) Upon the recommendation of a caseworker and supervisor, and when it is determined in the best interest of the child, the Child Welfare Program Manager may submit a written request to the Child Permanency Program Manager for an exception to subsection (d) of section (3) of this rule to increase the number of potential adoptive resources to be considered for adoption placement who are in the order of preference as described in 413-120-0730(1)(c).
- ~~(6) The caseworker may, in consultation with his or her supervisor, submit a written recommendation to the Child Welfare Program Manager that an exception to the order of~~

~~preference set forth in OAR 413-120-0730(1) be requested to allow consideration of additional potential adoptive resources for adoption placement selection when the caseworker believes that an exception is in the best interest of each *child*.~~

- ~~(a) Upon the recommendation of a caseworker and supervisor, the Child Welfare Program Manager may submit a written request for an exception to the order of preference set forth in OAR 413-120-0730(1) from the Adoption Program Manager if the Child Welfare Program Manager determines that an exception is in the best interest of each *child*.~~
- ~~(b) The Child Welfare Program Manager's written request must include the following documentation:
  - ~~(A) The potential adoptive resources already identified for the adoption placement selection process;~~
  - ~~(B) The *relative, current caretaker, or specific general applicant* the caseworker is requesting for inclusion in the adoption placement selection process;~~
  - ~~(C) How the *relative, current caretaker, or specific general applicant* meets the criteria in subsection (3)(d) of this rule;~~
  - ~~(D) Why inclusion of the *relative, current caretaker, or specific general applicant* in the adoption placement selection process is in the best interest of each *child*;~~
  - ~~(E) The special needs of each *child*; and~~
  - ~~(F) Whether and how the *relative, current caretaker, or specific general applicant* support the child's ability to continue emotionally significant relationships with relatives.~~~~
- ~~(c) Within 30 calendar days of receipt of the request for exception, the Adoption Program Manager must review the materials submitted and determine whether or not to grant the exception to the order of preference and include the *relative, current caretaker, or specific general applicant* in the adoption selection process.~~
- ~~(d) In reviewing the request and determining whether or not to grant the exception, the Adoption Program Manager shall consider the following factors:
  - ~~(A) How the *relative, current caretaker, or specific general applicant* meets the criteria in subsection (3)(d) of this rule;~~
  - ~~(B) Why inclusion of the *relative, current caretaker, or specific general applicant* in the adoption placement selection process is in the best interest of each *child*;~~
  - ~~(C) The special needs of each *child*; and~~~~

- ~~(D) Whether and how the *relative, current caretaker, or specific general applicant* supports the child's ability to continue emotionally significant relationships with relatives.~~
- ~~(E) The length of a child's placement with an individual may not be considered as the sole basis for granting an exception.~~
- ~~(e) Within ten business days of making a determination whether or not to grant the exception, the Adoption Program Manager must specify in writing to the Child Welfare Program Manager:~~
  - ~~(A) Whether or not the exception was granted;~~
  - ~~(B) How the determination supports the best interest of each child; and~~
  - ~~(C) The *relative, current caretaker, or specific general applicant* to be included in the adoption placement selection process along with the one to three potential adoptive resources already identified by the caseworker.~~

(75) In consultation with the supervisor, the caseworker must determine the appropriate adoption selection process pursuant to [Child Welfare Policy I-G.1.5, "Adoption Placement Selection"](#), OAR 413-120-0020.

(86) The caseworker must consult with the adoption worker for each of the identified potential adoptive resources pursuant to [Child Welfare Policy I-G.1.5, "Adoption Placement Selection"](#), OAR 413-120-0021(2).

(97) The caseworker must document the actions taken under this rule in the Department's [electronic](#) information system.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 419B.192

## 413-120-0800

### Purpose

(Amended ~~12/29/10~~ [10/01/15](#))

~~These rules~~ [\(The purpose of OAR 413-120-0800 to 413-120-0880\)](#) [is to](#) describe --

- (1) Department responsibilities following the selection of an *adoptive resource* pursuant to [Child Welfare Policy I-G.1.5, "Adoption Placement Selection"](#), OAR 413-120-00010 to 413-120-0060 for:
  - (a) *Adoption transition* and placement of the *child* with the *adoptive resource*;
  - (b) Supervision of the adoptive placement;

- (c) Support for the *child* and adoptive family after placement; and
  - (d) Actions required by the Department when a *disruption* of an adoptive placement of a *child* in the legal custody of the Department is likely or has occurred.
- (2) The actions required by the Department when concerns arise regarding the appropriateness of an *adoptive resource* for a *child* or children in the legal custody of another public child welfare agency that the Department is supervising.
  - (3) The additional requirements for an international *adoption* of a *child* in the legal custody of the Department ~~are referenced in Child Welfare Policy I-G.1.14, "Intercountry Adoption Pursuant to the Hague Convention and Intercountry Adoption Act", pursuant to~~ OAR 413-120-0900 to 413-120-0970.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## 413-120-0810

### Definitions

#### THIS RULE IS REPEALED

~~The following definitions apply to OAR 413-120-0800 to 413-120-0880:~~

- ~~(1) — "Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a *child* or children.~~
- ~~(2) — "Adoption placement selection" means a decision made by the Department that an individual or individuals have been identified as the *adoptive resource* for the *child*.~~
- ~~(3) — "Adoption transition" means activities related to the placement of a *child* or sibling group under consideration in the home of the family selected as the *adoptive resource*.~~
- ~~(4) — "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.~~
- ~~(5) — "Child" means a person under 18 years of age.~~
- ~~(6) — "Department" means the Department of Human Services, Child Welfare.~~

- (7) ~~"Disruption" means an approval by the Adoption Program Manager to end an adoption process after *adoption placement selection* but before the adoption is legally finalized.~~
- (8) ~~"Post placement supervision" means the supervision of a *child* following placement with an *adoptive resource*.~~
- (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.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0905**

### **Definitions**

#### THIS RULE IS REPEALED

The following definitions apply to ~~OAR 413-120-0900 to 413-120-0970:~~

- (1) ~~"Adoption" means a legal or administrative process that establishes a permanent legal parent-child relationship between a *child* and an adult who is not already the child's legal parent and terminates the legal parent-child relationship between the adopted *child* and any former parent.~~
- (2) ~~"Central authority" means the entity designated as such by a *Convention country* that is authorized to discharge the duties imposed on *Convention countries*.~~
- (3) ~~"Central authority functions" means any duty required to be carried out by a *central authority* or *foreign authorized entity* under the *Convention*.~~
- (4) ~~"Child" means a person under 18 years of age.~~
- (5) ~~"Convention" means the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions, concluded at The Hague, the Netherlands, on May 29, 1993, which went into effect in the United States on April 1, 2008.~~
- (6) ~~"Convention adoption" means an *adoption* of a *child* who is a habitual resident in a *Convention country* by an individual in another *Convention country* when the *child* has been, is being, or will be moved between the two *Convention countries* for the purpose of *adoption*.~~
- (7) ~~"Convention country" means a country that is a party to the *Convention*.~~

- (8) — "~~Department~~" means the Department of Human Services, Child Welfare.
- (9) — "~~Foreign authorized entity~~" means a foreign ~~central authority~~ or an accredited entity authorized by the foreign country to perform ~~central authority functions in Convention adoption cases~~.
- (10) — "~~Hague adoption certificate~~" means a certificate issued by the ~~Secretary of State~~ in an ~~outgoing Convention adoption~~ certifying that the ~~child~~ has been adopted in the United States in conformity with the ~~Convention~~ and IAA.
- (11) — "~~Hague custody declaration~~" means a declaration issued by the ~~Secretary of State~~ in an ~~outgoing Convention adoption~~ declaring that custody of the ~~child~~ for purposes of ~~adoption~~ has been granted in the United States in conformity with the ~~Convention~~ and IAA.
- (12) — "~~IAA~~" means the Intercountry Adoption Act of 2000, Public Law 106-279, 42 USC 14901 to 14954.
- (13) — "~~Incoming Convention adoption~~" means a case in which a ~~child~~ who is a resident of another ~~Convention country~~ has been, is being, or will be moved to the United States for placement and ~~adoption~~.
- (14) — "~~Outgoing Convention adoption~~" means a case in which a ~~child~~ in the United States has been, is being, or will be moved to another ~~Convention country~~ for placement and ~~adoption~~.
- (15) — "~~Prospective adoptive parents~~" means the parents, family members, or other people who reside in the residence, or the physical home location of the family, who have been studied and approved by a ~~foreign authorized entity~~ to adopt a ~~child~~ in the legal and physical custody of the Department and with whom the Department has made an official decision to place the ~~child~~ in the family home for the purpose of ~~adoption~~.
- (16) — "~~Receiving Convention country~~" means a ~~Convention country~~ in which a ~~child~~ who is the subject of an ~~outgoing adoption~~ will be placed for the purpose of ~~adoption~~.
- (17) — "~~Relative~~" means:
- (a) — An individual with one of the following relationships to the ~~child~~ or ~~young adult~~ through the parent of the ~~child~~ or ~~young adult~~:
    - (A) — Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.
    - (B) — Any half blood relative of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological parent are half blood relatives).

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

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

~~(b) — The unrelated legal or biological father or mother of a half-sibling of the *child* or *young adult* for the purpose of placing the half-siblings together.~~

~~(c) — An individual with a relationship to the *child* or young adult's half-sibling through the half-sibling's legal or biological father or mother as described in paragraphs (a)(A) through (D) of this section, for the purpose of placing the half-siblings together.~~

~~(18) — "Secretary of State" means the Secretary of the United States Department of State, the *central authority* for the United States.~~

~~(19) — "U.S. State Department" means the United States Department of State.~~

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

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005