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

Agency and Division

Administrative Rules Chapter Number

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To become effective 09/01/2015 through 02/27/2016.

RULE CAPTION

Changing rules relating to the consideration of relatives and current caretakers as adoptive resources

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:

413-070-0516, 413-070-0518, 413-070-0519, 413-120-0010, 413-120-0020, 413-120-0021, 413-120-0035, 413-120-0710, 413-120-0720, 413-120-0730, 413-120-0760

SUSPEND:

413-120-0500, 413-120-0510(T), 413-120-0521, 413-120-0541, 413-120-0570, 413-120-0580, 413-120-0590, 413-120-0710(T), 413-120-0010(T)

Statutory Authority:

ORS 409.050, 418.005; Or Laws 2015, chapter 795

Other Authority:

None.

Statutes Implemented:

OR 409.010, 409.050, 411.141, 418.005, Or Laws 2015, chapter 795

RULE SUMMARY

The Department of Human Services, Office of Child Welfare Programs, is amending rules to comply with Oregon Laws 2015, chapter 795, section 5 (SB 741). The amendments state that the Department will give equal consideration to relatives and current caretakers seeking to adopt as is given to prospective adoptive parents when considering the ability to meet the safety, attachment, and well-being needs of the child. Further, the Department will prefer relatives and current caretakers over other persons seeking to adopt when considering suitability as prospective adoptive parents. The amendments are described below.

Legal Permanency, Concurrent Planning, and Use of Permanency Committee

OAR 413-070-0516 - Use of Permanency Committee

- Adds section (6) to require a permanency committee be scheduled when a current caretaker requests consideration as a potential adoptive resource, but prior to the completion of an adoption home study for a child or sibling group

OAR 413-070-0518 - Composition, Scheduling, Responsibilities, and Recommendations of the Permanency Committee

- Adds section (7). Subsection (a) delineates the composition of the committee for purposes of review of a current caretaker
- (7)(b) provides that current caretaker, relative caretaker, and any other individual from the child's team can provide input and may be invited to present, but will be excused after presenting and answering any questions.
- (7)(c) specifies the considerations the permanency committee must review when considering the current caretaker or relative caregiver, such as the safety, attachment, and well-being needs of the child, and the current caretaker's or relative caregiver's history of compliance with certification standards
- (7)(d) requires the permanency committee to document and provide to the adoption worker any specific information the worker determines must be explored in the completed home adoption study for the current caretaker and relative caregiver.

OAR 413-070-0519 - Decision and Notice

- Amends (1) to exempt current caretaker and relative caregiver requests to be considered an adoptive resource from the provisions of section (1) since the permanency committee does not make a recommendation, and no decision is being made at this stage.

Adoption Placement Selection

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 a 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

- 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

OAR 413-120-0710 - Definitions

- Modifies definition of current caretaker in section (4) to conform with statute

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

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Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules
accompanies this form

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Department of Human Services, Child Welfare Programs
Agency and Division

413
Administrative Rules Chapter Number

Changing rules relating to the consideration of relatives and current caretakers as adoptive resources

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

In the Matter of:

Temporary amendment of OAR413-120-0010, 413-120-0020, 413-120-0021, 413-120-0035, 413-120-0710, 413-120-0720, 413-120-0730, 413-120-0760 and temporary suspension of OAR 413-120-0500, 413-120-0510, 413-120-0521, 413-120-0541, 413-120-0570, 413-120-0580, 413-120-0590, 413-120-0595

Statutory Authority:

ORS 409.050, 418.005; Or Laws 2015, chapter 795

Other Authority:

None.

Statutes Implemented:

OR 409.010, 409.050, 411.141, 418.005; Or Laws 2015, chapter 795

Need for the Temporary Rule(s):

These rules need to be amended to comply with Oregon Laws 2015, chapter 795, section 5. Without the amendments, the Department will be out of compliance with state law as of September 1, 2015. The amendments require the Department to give equal consideration to relatives and current caretakers as prospective adoptive parents, and to give greater consideration to relatives and current caretakers as compared to other persons. This brings the Department into compliance with state law.

Documents Relied Upon, and where they are available:

Legislative materials relating to the passage of SB 741 (2015) are available at <https://olis.leg.state.or.us/liz/2015R1/Measures/Overview/SB741>.

Justification of Temporary Rule(s):

The Department finds that failure to act promptly by amending these rules will result in serious prejudice to the public interest, the Department, relatives and current caretakers applying to be considered as an adoptive resource, and children in the care and custody of the Department. The Department needs to proceed by temporary rule because the public, the Department, relatives and current caretakers applying to be considered as an adoptive resource, and children in the care and custody of the Department will immediately benefit because Department rules relating to the consideration of relatives and current caretakers to be adoptive resources will comply with the requirements of state law.

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Legal Permanency, Concurrent Planning, and Use of Permanency Committee

413-070-0500

Purpose

(Amended 07/17/15)

The purpose of OAR 413-070-0500 to 413-070-0519 is to describe the Department's responsibility to seek legal permanency for a *child* or *young adult* in the legal custody of the Department and the use of a *permanency committee*.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0510

Obligation to Seek Legal Permanency

(Amended 12/29/10)

- (1) Except as provided in section (3) of this rule, the Department must make reasonable efforts to preserve and reunify families--
 - (a) Prior to placing a *child* in *substitute care* to prevent or eliminate the need for removing the *child*;
 - (b) By establishing *conditions for return* described in OAR 413-010-0006 when a *child* is removed; and
 - (c) By implementing a *permanency plan* to make it possible for the *child* to safely return home.
- (2) The Department must also make reasonable efforts to achieve the *concurrent permanent plan* for legal permanency through *adoption* or guardianship and to complete the steps necessary to finalize permanency.
- (3) Reasonable efforts to prevent a child's placement in *substitute care* or safely reunite a *child* with the family are not required when a *parent* has subjected a *child* to aggravated circumstances as defined in ORS 419B.340.

- (4) The Department must seek the court's approval prior to changing the *permanency plan* of a *child* or *young adult*.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0512

Development and Review of the Concurrent Permanent Plan

(Amended 07/17/15)

- (1) When developing the *permanency plan* and *concurrent permanent plan*, the Department must:
- (a) Describe the purpose of permanency and concurrent planning to the family;
 - (b) Involve the child's or young adult's parents, identified relatives, the CASA, attorneys, the tribe when the *child* or *young adult* is an *Indian child*, the RCWAC when the *child* or *young adult* is a *refugee child*, and other service providers, as appropriate;
 - (c) Provide full disclosure of the timelines under which the Department pursues permanency pursuant to federal and state law; and
 - (d) Describe the resources which may be available to relatives when *adoption* or guardianship is a *permanency plan*.
- (2) The caseworker must:
- (a) Develop a *permanency plan* and a *concurrent permanent plan* for each *child* in the Department's custody within 60 days of the placement of the *child* or *young adult* into *substitute care*; and
 - (b) Review the plan every 90 days, pursuant to OAR 413-040-0000 to 413-040-0032.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0514

Working with a Child's Team Regarding a Permanency Plan and Concurrent Permanent Plan

(Amended 07/17/15)

- (1) The caseworker must consult with a team of individuals, knowledgeable about the needs of the *child* or *young adult*, including the ongoing assessment of the most appropriate *permanency plan* and *concurrent permanent plan* for the *child* or *young adult*, throughout the course of the case.
 - (a) The team must include the following individuals to the extent required in each of the following paragraphs:
 - (A) The parents, unless a supervisor approves not including a specified *parent* because the contact may compromise the safety of a *child*, *young adult*, or another individual; parental rights have been terminated; or the *parent* has signed a release and surrender agreement;
 - (B) The parent's attorney, unless parental rights have been terminated or the *parent* has signed a release and surrender agreement;
 - (C) The *child* or *young adult*, whenever developmentally appropriate;
 - (D) The CASA;
 - (E) A *child* or young adult's attorney;
 - (F) A tribal representative if the *child* or *young adult* is an *Indian child*; and
 - (G) A member of the RCWAC, if the *child* is a *refugee child*.
 - (b) The team may include:
 - (A) The *child* or young adult's *substitute caregiver*;
 - (B) The substitute caregiver's certifier;
 - (C) The child's or young adult's relatives;
 - (D) Persons with a *caregiver relationship*;
 - (E) Other individuals with involvement in the *child* or young adult's life; and
 - (F) Individuals with expertise in permanency.

- (2) The caseworker utilizes the ongoing contact with these individuals to --
 - (a) Monitor the progress toward achieving the *permanency plan*;
 - (b) Provide the *child* or *young adult*, and the parents of the *child* or *young adult*, the opportunity to identify available permanency resources should reunification not be achievable;
 - (c) Review the efforts to identify and place the *child* or *young adult* with a *relative* and to place siblings together;
 - (d) Consider the parents' acceptance of a plan other than reunification and their desire for continued contact with the *child* or *young adult*;
 - (e) Identify and consider which *concurrent permanent plan* best meets the current and lifelong safety, permanency, and well-being needs of the *child* or *young adult* in the following preferential order:
 - (A) *Adoption*;
 - (B) Guardianship, which may be considered only when there are compelling reasons why *adoption* cannot be achieved; or
 - (C) Another Planned Permanency Living Arrangement, which may be considered only when there are compelling reasons why *adoption* or guardianship cannot be achieved.
- (3) After the caseworker has complied with section (2) of this rule and prior to considering a change in *permanency plan*, the caseworker must determine that the Department has taken action on the potential permanency resources identified by the Department, the *child* or *young adult*, the family of *child* or *young adult*, or a member of the team of the *child* or *young adult*; and the caseworker must review with the team of the *child* or *young adult*:
 - (a) The outcome of the assessment of potential permanency resources; and
 - (b) The Department's efforts to develop and maintain the relationship of the *child* or *young adult* with potential permanency resources.
- (4) When the caseworker determines a change in *permanency plan* should be considered, the caseworker must determine which *permanency plan* best --
 - (a) Meets the safety, permanency, and well-being needs of the *child* or *young adult*;
 - (b) Provides the *child* or *young adult* with support and connections in adulthood.

- (c) The caseworker documents the basis for the determination.
- (5) The *legal assistance specialist* must approve changing the *permanency plan* to *adoption* prior to the caseworker recommending *adoption* to the court.
- (6) The *permanency committee* must make recommendations; and
 - (a) A Child Welfare Program Manager or *designee* must make the decision on behalf of the Department:
 - (A) To approve changing the *permanency plan* to guardianship prior to the caseworker recommending the plan to the court; and
 - (B) To identify the *substitute caregiver* as the appropriate permanency placement resource for the plan of guardianship.
 - (b) A Child Welfare Program Manager must make the decision on behalf of the Department:
 - (A) To approve changing the *permanency plan* to APPLA prior to the caseworker recommending the plan to the court; and
 - (B) To identify the *substitute caregiver* as the appropriate permanency placement resource for the plan of APPLA.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0516

Use of Permanency Committee

~~(Amended 07/17/15)~~ ~~(Temporary Effective 09/01/15 – 02/27/16)~~

A *permanency committee* must be scheduled when any of the following sections applies:

- (1) The caseworker is recommending a change in *permanency plan* to guardianship. The *permanency committee* provides a recommendation based upon the considerations in OAR 413-070-0660 and OAR 413-070-0665.
- (2) The caseworker is recommending a change in *permanency plan* to APPLA. The *permanency committee* provides a recommendation based upon the considerations in OAR 413-070-0550(1).

- (3) A foster parent's request to be considered an *adoptive resource* as a *current caretaker* pursuant to OAR 413-120-0500 to 413-120-0595. The *permanency committee* provides a recommendation based upon the considerations in OAR 413-120-0570.
- (4) A caseworker is considering the separation of siblings in *adoption* under OAR 413-110-0132. The *permanency committee* provides a recommendation based upon the considerations in OAR 413-110-0132(2).
- (5) The caseworker requests that a *permanency committee* review the relationship between a *general applicant* and a *child* whose *permanency plan* is *adoption*. The *permanency committee* provides a recommendation based upon the considerations in OAR 413-120-0750(5)(b).
- (6) [A current caretaker or relative caregiver requests consideration as a potential adoptive resource but prior to the completion of an adoption home study for a child or sibling group.](#)

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0518

Composition, Scheduling, Responsibilities and Recommendations of the Permanency Committee

[\(Amended 07/17/15\)-\(Temporary Effective 09/01/15 – 02/27/16\)](#)

- (1) Composition. A *permanency committee* includes the following individuals.
 - (a) Two individuals who have been appointed by a Child Welfare Program Manager to attend a *permanency committee*.
 - (A) A *committee facilitator*, who must be a Department staff member and who must ensure all of the following:
 - (i) The meeting is held according to the requirements of OAR chapter 413.
 - (ii) Individuals are informed of the responsibilities of the committee and the confidentiality of information presented during the meeting.
 - (iii) Committee recommendations are thoroughly and accurately documented.

- (B) A second individual who may be either a community partner or another Department staff member.
- (C) The individuals in this section must meet the requirements of all of the following paragraphs:
 - (i) Be knowledgeable about permanency issues.
 - (ii) Be knowledgeable of the importance of lifelong family attachment and cultural connections.
 - (iii) Have no current personal or professional relationship to the *child* or a potential placement resource or potential *adoptive resource* being considered.
- (b) The following members of the child's team:
 - (A) The caseworker of the *child* or *young adult*;
 - (B) The attorney of the *child* or *young adult*;
 - (C) The CASA of the *child* or *young adult*;
 - (D) A tribal representative, if the *child* or *young adult* is an *Indian child*; and
 - (E) A member of the RCWAC, if the *child* or *young adult* is a *refugee child*.
- (2) The *substitute caregiver* of the *child* or *young adult*, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the *permanency committee*, may be invited to come and present information to the *permanency committee*, but is excused after presenting information and responding to questions.
- (3) The Child Welfare Program Manager or *designee* responsible for making the decision on behalf of the Department attends the *permanency committee* and may ask clarifying questions, but does not participate in the deliberation and recommendation.
- (4) Scheduling. The Department is responsible for scheduling and notifying the following individuals of the date, time, and location of the *permanency committee*.
 - (a) Appointed *permanency committee* members;
 - (b) The Child Welfare Program Manager or *designee* making a decision on the issue before the *permanency committee*;

- (c) Each member of the child's or young adult's team identified in subsection (1)(b) of this rule; and
 - (d) Any other individual invited to present specific information to the *permanency committee*.
- (5) Confidentiality. Each individual attending a *permanency committee* is bound by Oregon statutes regarding confidentiality and OAR 413-010-0000 to 413-010-0075.
- (6) Consideration, review, and recommendation.
- (a) The *permanency committee* must consider and review the information presented by any individual invited to the *permanency committee*, whether the information is presented in person, by phone, through other electronic communication, or in writing.
 - (b) The *permanency committee* may seek clarifying and request additional information during the presentations.
 - (c) The *permanency committee* must consider the safety, permanency, and well-being needs of the *child* or *young adult* and when there are siblings; the safety, permanency, and well-being needs of each *sibling*; and make a recommendation regarding the issue brought before the committee to the Child Welfare Program Manager or *designee*.
 - (d) When members of the *permanency committee* have not come to consensus on a recommendation, the *committee facilitator* must document all recommendations and the basis provided by the *permanency committee* member for that recommendation.
 - (e) The *committee facilitator* must provide the written documentation of the permanency committee's recommendation or recommendations to the Child Welfare Program Manager or *designee* within three business days of the date on which the *permanency committee* was held.
- (7) For the purpose of OAR 413-070-0516(6), review of a *current caretaker or relative caregiver* request for consideration as an *adoptive resource*, the following also apply:
- (a) The *permanency committee* is composed of the individuals in sections (1) and (3) of this rule, and:
 - (A) The assigned certifier for the *current caretaker or relative caregiver*; and
 - (B) The assigned adoption worker for the *current caretaker or relative caregiver*.

- (b) The current caretaker or relative caregiver of the child or sibling group under consideration for adoption, and any other individual from the child's team who a caseworker believes can provide important input into the issue before the permanency committee, may be invited to present information to the permanency committee, but is excused after presenting information and responding to questions.
- (c) The permanency committee must review the following:
- (A) The safety, attachment, and well-being needs of the child or sibling group under consideration for adoption together and how the current caretaker or relative caregiver has met those needs to date;
 - (B) The current caretaker's or relative caregiver's history of meeting the standards of certification pursuant to OAR 413-200-0301 to 413-200-0396;
 - (C) Any child abuse and neglect referrals made to the Department on behalf of the child or sibling group under consideration for adoption together that were assigned for assessment, closed at screening, or documented in the provider file or electronic case notes;
 - (D) Recommendations for continued contact with birth parents, birth family, or other significant persons for the child or sibling group under consideration for adoption; and
 - (E) Any other information pertinent to the evaluation of the ability of the current caretaker or relative caregiver to meet the lifelong safety, attachment, and well-being needs of the child or sibling group under consideration.
- (d) The permanency committee must document and provide to the assigned adoption worker any specific information they determine must be explored in the completed adoption home study for the current caretaker or relative caregiver.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0519

Decision and Notice

(Amended 07/17/15) (Temporary Effective 09/01/15 – 02/27/16)

- (1) Except to the extent that section (2) of this rule indicates otherwise when a permanency committee is scheduled for the purpose of a current caretaker or relative caretaker

request to be considered as a potential *adoptive resource*, the Child Welfare Program Manager or *designee* must:

- (a) Consider the recommendations of the *permanency committee*;
- (b) Make a decision within one business day following the receipt of the written recommendations of the *permanency committee*; and
- (c) Provide written notification of the decision and the basis of the decision to the caseworker on a form approved by the Department.

~~(2) — When the decision of the *permanency committee* applies to changing a *permanency plan* to APPLA, the Child Welfare Program Manager must make the decision and may not appoint a *designee*.~~

(32) The caseworker must notify the following individuals of the decision under section (1) of this rule:

- (a) Each *child* or *young adult*, when required by law and developmentally appropriate;
- (b) Each child's or young adult's attorney, if one has been appointed;
- (c) Each child's or young adult's CASA, if one has been appointed;
- (d) Each child's or young adult's tribal representative, when a *child* or *young adult* is an *Indian child*;
- (e) The member of the RCWAC when a *child* or *young adult* is a *refugee child*; and
- (f) Each child's or young adult's *substitute caregiver*.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Adoption Placement Selection

413-120-0000

Purpose

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.

Stat. Auth.: ORS 409.050, 418.005

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

413-120-0010

Definitions

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 ~~legal 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* ~~in a sibling group under consideration 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; 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.~~
- (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.

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

- (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* to be considered in the *adoption placement selection*.
- (2) When the Department considers 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 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

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~~ the *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 ~~ment~~ 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 or other current caretaker who has expressed an interest in, or who is being assessment 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 or current caretaker who has expressed an interest in, or who is being assessment 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 413-120-0010(16)(a)-(c);
 - (B) A relative as defined in OAR 413-120-0010(16)(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 413-120-0010(16)(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.
- (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*.

Stat. Auth.: ORS 418.005

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

413-120-0021

Adoption Placement Selection by Caseworker

- (1) Before making an *adoption placement selection*, the child's caseworker must comply with the provisions of 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;
 - (~~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 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.
- | (4011) 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.
- | (4112) On the day that the selection is made, the child's caseworker must notify the adoption workers for each of the ~~id~~identified potential adoptive resources who were considered for the *adoption placement selection*.
- | (4213) 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*.
- | (4314) 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.
- | (4415) 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.
- | (4516) 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*.

(4617) Any individual who received a copy of an *adoption home study* or other written documents during the adoption selection process must return the materials to the Department within seven business days of the notice of the *adoption placement selection*.

Stat. Auth.: ORS 418.005

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

413-120-0025

Composition of an Adoption Committee

- (1) An *adoption committee* must be composed of the following individuals:
 - (a) The caseworker of each *child* for whom *adoption placement selection* is being made;
 - (b) Three individuals appointed by the Child Welfare Program Manager or designee for a local *adoption committee*, and by the Adoption Program Manager, assistant Adoption 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 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, 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.
- (8) The ADS --
- (a) Is appointed by the Adoption Program Manager 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, 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

- (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)(e), (2)(d) and (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.

(910) 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.

(101) 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.

(142) 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

413-120-0053

The Adoption Committee

- (1) An individual described in OAR 413-120-0025(2) attending an *adoption committee* must inform the *committee facilitator* at the beginning of the *adoption committee* whether the individual intends to serve as an *adoption committee* member. These individuals may present written or oral information regarding the needs of the *child* during the *adoption committee*, whether or not they are serving as *adoption committee* members.
- (2) An individual invited to attend the *adoption committee* under OAR 413-120-0035(5) to present information about the *child* must:
 - (a) Present written or oral information regarding the needs of the *child* during the *adoption committee*; and
 - (b) Respond to clarifying questions from *adoption committee* members and the ADS; and
 - (c) Leave when excused from the *adoption committee*, prior to the presentation of the potential adoptive resources.
- (3) The adoption workers must present information on the knowledge, skills, and abilities of the potential *adoptive resource* in relation to meeting the current and lifelong needs of the *child*.
- (4) After all presentations have been completed:

- (a) The following individuals must remain at the *adoption committee*:
 - (A) The *adoption committee* members;
 - (B) Each adoption worker presenting information regarding a potential *adoptive resource*; and
 - (C) The ADS.
 - (b) The following individuals may remain at the *adoption committee*, if they so choose:
 - (A) Department staff or supervisors as described in OAR 413-120-0025(4).
 - (B) Individuals described in OAR 413-120-0025(2) attending an *adoption committee* who have elected not to serve as committee members.
- (5) The *adoption committee* members must:
- (a) Consider all of the information, deliberate, and make recommendations regarding the *adoptive resource* most likely to permanently and fully integrate the *child* into the family and meet the current and lifelong needs of each *child* for whom potential adoptive resources are being considered.
 - (A) When *adoption committee* members all agree, the *adoption committee* may make one or more of the following recommendations:
 - (i) A single potential *adoptive resource* is the most appropriate.
 - (ii) An order of preference of appropriate adoptive resources.
 - (iii) A potential *adoptive resource* is not appropriate and should not be considered.
 - (B) When the *adoption committee* cannot reach agreement, each *adoption committee* member makes his or her respective recommendations known to the *committee facilitator*.
 - (b) At the conclusion of the *adoption committee*, the *committee facilitator* must record the recommendations on a form approved by the Department and submit the form to the ADS.
- (6) All confidential written information provided for the purpose of *adoption placement selection* to individuals who are not Department staff must be:

- (a) Retained by the Department at the conclusion of the *adoption committee* when the individual attended the committee; and
- (b) Returned to the Department within seven business days when the individual did not attend the committee.

Stat. Auth: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

413-120-0057

Adoption Placement Selection, Notification, and Documentation

- (1) Adoption Placement Selection.
 - (a) The ADS must make a decision regarding the *adoption placement selection* no later than the end of the next business day following the scheduled *adoption committee*.
 - (b) The ADS may make one of the following *adoption placement selection* decisions from the identified potential adoptive resources presented at the adoption committee:
 - (A) Select one *adoptive resource*.
 - (B) Select an *adoptive resource* and identify a second *adoptive resource* as an alternate in the event that the selected *adoptive resource* is subsequently found to be unavailable or no longer deemed by the Department to meet the current and lifelong needs of the *child* under 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 a private 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

- (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 Adoption 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 Program Manager or designee must notify the DHS Assistant Director for CAF 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 Assistant Director for CAF 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 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 Assistant Director for CAF 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 Assistant Director for CAF 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 Assistant Director for CAF 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 Assistant Director for CAF 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 Assistant Director for CAF 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 Assistant Director for CAF 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 Assistant Director for CAF 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 Assistant Director for CAF or designee under this rule is final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Foster Parent Request for Consideration as a Current Caretaker

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)-(e); 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

Identification and Consideration of Potential Adoptive Resources

413-120-0700

Purpose

These rules (OAR 413-120-0700 to 413-120-0760) describe the responsibilities of the Department to ---

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

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

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~~ 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* ~~in a sibling group under consideration 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; 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, Current Caretakers and to Place Siblings Together

- (1) The Department's preference for placement of a *child* is to place siblings together for the purpose of adoption ~~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, 418.005

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

413-120-0730

Order of Preference for Identification of Potential Adoptive Resources

- (1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a *child* or *sibling* group ~~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 413-120-0710(12)(a)-(c).
 - (b) ~~A~~ Except when (c) of this section applies, a relative as defined in OAR 413-120-0710(12)(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 413-120-0710(4), the current caretaker and a relative as defined in OAR 413-120-0710(12)(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 (e) of this section, a~~ general applicant.
- (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 413-120-0710(12)(d). Within 30 days of receipt of the written request, the Child Permanency Program Manager must review the request and determine whether or not 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

- (1) Except as provided in section (2) 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*.
- (2) 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.
- (4) 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.
- (5) 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 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 potential *adoptive resource*, based upon 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, OAR 413-120-0246(1); and

- (D) The individual has demonstrated the knowledge, skills, abilities, and commitment to raise each *child* under consideration for adoption; and
 - (E) The individual has the capacity to meet the current and lifelong safety, permanency, and well-being needs of the *child* under Child Welfare Policy I-E.3.1, "Placement Matching", OAR 413-070-0640.
- (c) An exception to the order of preference was granted by the Adoption Program Manager under OAR 413-120-0760.
- (6) Recruitment activities under section (5) of this rule are not required when the Department has planned for:
- (a) The *child* or *sibling* group under consideration to be adopted by a *relative* of at least one of the siblings under consideration; or
 - (b) The *child* or *sibling* group under consideration to be adopted by a *current caretaker*.
- (7) The Department's recruitment efforts for a *child* or *sibling* group under consideration must be documented in the Department's 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

- (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 chooses up to ~~a total of three families-relatives~~ for adoption home studies, ~~to be conducted by either the Department or another public or private agency.~~
 - (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 Child Permanency 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* as defined in OAR 413-120-0710(15)(d), *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.~~
- (e) ~~Within 30 calendar days of receipt of the request for exception, the Adoption Child Permanency 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 Child Permanency 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.~~~~

~~(76)~~ 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.

~~(87)~~ 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).

~~(98)~~ 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