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Department of Human Services, Child Welfare Programs 413

Agency and Division

Administrative Rules Chapter Number

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

RULE CAPTION

Amending rules relating to children and young adults in substitute care

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:

413-040-0014, 413-215-0554

AMEND:

413-020-0000, 413-020-0005, 413-020-0020, 413-020-0075, 413-020-0120, 413-020-0130, 413-020-0140, 413-020-0150, 413-020-0160, 413-020-0170, 413-030-0000, 413-030-0003, 413-030-0006, 413-030-0009, 413-030-0200, 413-030-0210, 413-030-0220, 413-030-0300, 413-030-0310, 413-030-0410, 413-030-0445, 413-030-0449, 413-030-0454, 413-030-0456, 413-030-0460, 413-040-0000, 413-040-0005, 413-040-0006, 413-040-0008, 413-040-0010, 413-040-0013, 413-040-0016, 413-040-0017, 413-040-0024, 413-040-0032, 413-040-0100, 413-215-0306, 413-215-0311, 413-215-0313, 413-215-0316, 413-215-0326, 413-215-0336, 413-215-0341, 413-215-0349, 413-215-0351, 413-215-0356, 413-215-0371, 413-215-0391, 413-215-0506, 413-215-0556, 413-215-0561, 413-215-0576

REPEAL:

413-020-0065, 413-020-0110, 413-020-0210, 413-020-0610, 413-030-0405, 413-040-0009, 413-040-0110, 413-040-0210, 413-040-0410

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

409.050, 411.060, 411.070, 418.005

Other Authority:

Preventing Sex Trafficking and Strengthening Families Act of 2014

Statutes Implemented:

409.010, 409.050, 411.060, 411.070, 418.005, 418.015, Or Laws 2015, ch 254

RULE SUMMARY

The Department of Human Services, Office of Child Welfare Programs, is amending rules to implement provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014 and make general updates consistent with current Department practices. Specifically:

Rules about case management (division 413-30); rules about developing the case plan (division 413-40); and rules about licensing foster care agencies and licensing residential care agencies (division 413-215) are being amended to establish the "reasonable and prudent parent" standard to guide the Department and caregivers in making decisions about whether to allow foster youth to engage in typical and appropriate childhood activities. The amendments:

- Define "reasonable and prudent parenting standard" as a standard characterized by sensible parental decision-making that protects a child or ward, while also encouraging developmental growth, to be used when determining whether to allow a child or ward in substitute care

to participate in activities;

- Define "age-appropriate or developmentally appropriate activities" as activities generally suitable for the age and abilities of a child or young adult;
- Require caseworkers and caregivers to apply the "reasonable and prudent parent standard" when authorizing a child to participate in appropriate activities;
- Require the Department to review Department's efforts to ensure the child has ongoing opportunities to engage in appropriate extracurricular activities, include it in the case plan of the child or young adult, and provide it to the court at permanency hearings;
- Allow foster care agencies to only approve providers who possess the ability to apply the reasonable and prudent parent standard;
- Require foster care agencies to provide training relating to the "reasonable and prudent parent standard" and "age-appropriate or developmentally appropriate activities";
- Require residential care agencies to support the child or young adult in his or her interests to participate in activities and ensure the child or young adult has opportunities to participate; and
- Require residential care agencies to train staff in applying the "reasonable and prudent parent standard" and designate at least one on-site employee to be the caregiver authorized to apply the standard.

OAR 413-030-0400 to 413-030-0460 about youth transitions and OAR 413-040-0000 to 413-040-0032 about developing and managing the case plan are being amended to create new case plan and transition planning requirements intended to empower youth in substitute care. The amendments:

- Require that any case plan developed for a child 14 and older must be developed in consultation with the child and, at the option of the child, up to two members of the case planning team who are chosen by the child.
- State that a case plan must include:
 - o A document that describes the rights of the child with respect to education, health, visitation, and court participation; and
 - o A signed acknowledgement by the child that he or she has been provided a copy of the document and that the rights contained therein have been explained to the child in an age-appropriate way.
- Require planning for youth transition to adulthood to begin by age 14 for all youth in foster care.
- Require the Department to provide foster youth leaving the system with a social security card, driver license or ID, birth certificate, health insurance information, and a copy of his or her medical records.

Additionally, non-substantive changes were made throughout divisions 20, 30, and 40 to update rules; improve organization and readability; remove unnecessary language; and improve overall clarity.

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413-020-0000

Purpose-Definitions

(Amended ~~03/20/07~~ 10/01/15)

THIS RULE IS AMENDED IN ITS ENTIRETY

These rules, OAR 413-020-0000 to 413-020-0050, describe:

- ~~(1) The circumstances in which parents or legal guardians and the Department may enter into a Voluntary Custody Agreement concerning a child who is in a parent's or legal guardian's legal custody; and~~
- ~~(2) The responsibilities of the parents or legal guardians and the Department in connection with these agreements.~~
- (1) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the *pre-adoptive family* or *adoptive family* of an eligible *child* or *young adult*, setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the responsibilities of the *pre-adoptive family* or *adoptive family* and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.
- (2) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the *child* through a judgment of the court.
- (3) "Age-appropriate or developmentally appropriate activities" means:
 - (a) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a *child*, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
 - (b) In the case of a specific *child*, activities or items that are suitable for the *child* based on the developmental stages attained by the *child* with respect to the cognitive, emotional, physical, and behavioral capacities of the *child*.
- (4) "BRS" means Behavior Rehabilitation Services, a Medicaid-funded program that provides behavioral intervention, counseling, or skill building services in a professional, shelter, or residential (including therapeutic foster care formerly referred to as proctor care) placement setting.
- (5) "CANS screener" means an individual, who performs CANS screenings under the supervision of the Level of Care Manager, under a contract with the Department, and who annually completes the training in the use of the Oregon CANS Comprehensive Screening Tool with a documented reliability score of 0.70 or greater.

- (6) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a *child* or *young adult* used for one or more of the following purposes:
- (a) To identify case planning, service planning, and supervision needs of the *child* or *young adult* in *substitute care* with a *certified family*;
 - (b) To determine the *level of care payment* while in *substitute care* with a *certified family*; and
 - (c) To determine the *level of care payment* included in an *adoption assistance agreement* or *guardianship assistance agreement*.
- (7) "Caseworker" means the agency staff person assigned primary responsibility for a *child* or *young adult* served by the Department.
- (8) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which he or she resides, to a *child* or *young adult* in the care or custody of the Department.
- (9) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a *child* or *young adult* in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster care home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.
- (10) "Child" means a person under 18 years of age.
- (11) "Department" means the Department of Human Services, Child Welfare.
- (12) "Designated Consultant Neonatologist" means a neonatologist whose services are available to Child Welfare to review medical information and consult with Child Welfare and other experts deemed necessary in cases of suspected *medical neglect*.
- (13) "Designated hospital liaison" means an individual, usually the hospital administrator, designated by each respective hospital to assist Child Welfare with coordination, consultation, and prompt notification of suspected cases of *medical neglect*.
- (14) "Disabled infant" means a child of less than one year of age having a physical or mental impairment which may substantially limit one or more major life functions such as *breathing, seeing, hearing, walking, caring for one's self, performing manual tasks, learning, and working*.
- (15) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a *child* or *young adult* when the *child* or *young adult* qualifies for a *level of care payment*.

- (16) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated *child* or *young adult* placed in the home by the Department.
- (17) "Guardian" means an individual who has been granted guardianship of the *child* through a judgment of the court.
- (18) "Guardianship assistance" means assistance provided on behalf of an eligible *child* or *young adult* to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the *child* or *young adult*. "Guardianship assistance" may be in the form of payments, medical coverage, or reimbursement of nonrecurring guardianship expenses.
- (19) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the *guardian* of an eligible *child* or *young adult* setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the responsibilities of the *guardian* and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.
- (20) "Hospital Review Committee (HRC)" is a committee established by a medical facility or hospital to offer counsel and review in cases involving a *disabled infant* with life-threatening conditions.
- (21) "Legal custodian" means a person, agency, or institution with *legal custody* of a *child* and all of the following duties and authority:
- (a) To have physical custody and control of a *child*.
 - (b) To supply the *child* with food, clothing, shelter, and incidental necessities.
 - (c) To provide the *child* with care, education, and discipline.
 - (d) To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the *child* and, in an emergency where the *child's* safety appears urgently to require it, to authorize surgery or other extraordinary care.
 - (e) To make such reports and to supply such information as the court may require.
 - (f) To apply for any benefits to which the *child* is entitled and to use them to pay for the *child's* care.
- (22) "Legal custody" means that a person or agency has legal authority:
- (a) To have physical custody and control of a *child*;
 - (b) To supply the *child* with food, clothing, shelter and other necessities;

- (c) To provide the *child* with care, education and discipline;
- (d) To authorize medical, dental, psychiatric, psychological, hygienic or other remedial care or treatment for the *child*, and in any emergency where the *child's* safety appears urgently to require it, to authorize surgery or other extraordinary care; and
- (e) "Legal custody" includes temporary custody of a *child* under an order of a court.
- (23) "Level of care payment" means the payment provided to an approved or *certified family*, a *guardian*, a *pre-adoptive family* or an *adoptive family* based on the *child* or young adult's need for *enhanced supervision* as determined by applying the CANS algorithm to the results of the *CANS screening*.
- (24) "Mechanical restraint" means the use of any physical device to involuntarily restrain the movement of all or a portion of a *child's* body as a means of controlling his or her physical activities in order to protect the *child* or other persons from injury. "Mechanical restraint" does not apply to movement restrictions stemming from medicinal, dental, diagnostic, or surgical procedures which are based on widely accepted, clinically appropriate methods of treatment by qualified professionals operating within the scope of their licensure.
- (25) "Medical neglect" means the failure to provide adequate medical care, including the *withholding of medically indicated treatment*, from a *disabled infant* with life-threatening conditions.
- (26) "Medical Neglect Investigator" means Child Welfare staff designated and trained to provide consultation and complete investigations of alleged *medical neglect* reports.
- (27) "Medically indicated treatment" means treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's *reasonable medical judgment*, is most likely to be effective in amelioration or correcting a life-threatening condition. It does not include the failure to provide treatment other than nutrition, hydration, or medication to an infant when, in the treating physician's *reasonable medical judgment*, any of the following circumstances apply:
 - (a) The infant is chronically irreversibly comatose.
 - (b) The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of survival of the infant.
 - (c) The provisions of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.
- (28) "Participating tribe" means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

- (29) "Permanent custody" means legal custody of a child:
- (a) Who has been permanently committed to the Department by the juvenile court after parental rights have been terminated under ORS 419B.527; or
 - (b) Who has been released and surrendered to the Department by the parents under ORS 418.270.
- (30) "Physical custodian" means a person or agency, including a child's legal or biological parent, a relative, foster parent, adoptive parent, or a licensed child-caring agency who is authorized by the Department to provide a residence and day-to-day care for a child who is in the legal custody of the Department.
- (31) "Physical restraint" means the act of restricting a child or young adult's voluntary movement as an emergency measure to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult's behavior. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.
- (32) "Potential guardian" means an individual who:
- (a) Has been approved by the Department or participating tribe to be a child's guardian; and
 - (b) Is in the process of legalizing the relationship to the child through the judgment of the court.
- (33) "Pre-adoptive family" means an individual or individuals who:
- (a) Has been selected to be a child's adoptive family; and
 - (b) Is in the process of legalizing the relationship to the child through the judgment of the court.
- (34) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult to participate in extracurricular, enrichment, cultural, and social activities.
- (35) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

- (36) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related *child* or *young adult* placed in the home by the Department.
- (37) "Seclusion" means the involuntary confinement of a *child* alone in a specifically designed room from which the *child* is physically prevented from leaving.
- (38) "Substitute care" means the out-of-home placement of a *child* or *young adult* who is in the legal or physical custody and care of the Department.
- (39) "Supervision plan" means a documented set of strategies that is developed to assist a *relative caregiver* or *foster parent* in providing the additional support, observation, direction, and guidance necessary to promote and ensure the safety and well-being of a *child* or *young adult*.
- (40) "Voluntary custody" means *legal custody* given to the Department, by written agreement, by a parent or *guardian* of a *child*.
- (41) "Voluntary Custody Agreement" means a written agreement between the Department and the parent or *guardian* of a *child*, which transfers *legal custody* to the Department; the Department assumes all parental authority and responsibilities that the agreement does not specifically reserve to the parents or guardians, as permitted by state law; and the Department provides the *child substitute care* or treatment, or both, if the family falls within a circumstance described in OAR 413-020-0010(2)(a)-(c).
- (42) "Voluntary Placement Agreement" means a binding, written agreement between the Department and the *parent* or *guardian* of a *child* that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the *child* and the rights and obligations of the *parent* or *guardian*, the *child*, and the Department while the *child* is in placement.
- (43) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening condition.
- (44) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

413-020-0005

DefinitionsPurpose

(Amended ~~03/20/07~~ 10/01/15)

THIS RULE IS AMENDED IN ITS ENTIRETY

The following definitions apply to ~~OAR 413-020-0000 to 413-020-0050:~~

- (1) ~~"Child" means a person under 18 years of age.~~
- (2) ~~"Department" means the Department of Human Services, Child Welfare.~~
- (3) ~~"Legal custodian" means a person, agency, or institution with legal custody of a child and the following duties and authority:~~
 - (a) ~~To have physical custody and control of a child;~~
 - (b) ~~To supply the child with food, clothing, shelter, and incidental necessities;~~
 - (c) ~~To provide the child with care, education, and discipline;~~
 - (d) ~~To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the child, and in an emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care;~~
 - (e) ~~To make such reports and to supply such information as the court may require; and~~
 - (f) ~~To apply for any benefits to which the child is entitled and to use them to pay for the child's care.~~
- (4) ~~"Legal custody" means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.~~
- (5) ~~"Legal guardian" means a person or agency that has the duties and authority of a parent with legal custody to make decisions concerning a child, including but not limited to the following:~~
 - (a) ~~Authorize surgery and other extraordinary treatment for the child;~~
 - (b) ~~Authorize the child to enlist in the armed forces of the United States;~~
 - (c) ~~Consent to child's adoption; and~~
 - (d) ~~Make other decisions of substantial legal significance concerning the child, (but a guardian is not a conservator of the child's property or estate).~~
- (6) ~~"Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.~~
- (7) ~~"Voluntary Custody Agreement" means a written agreement between the Department and the parent or legal guardian of a child, which transfers legal custody of the child to the Department; the Department assumes all parental authority and responsibilities that the agreement does not specifically reserve to the parents or legal guardians, as permitted by~~

~~state law; and the Department provides the child substitute care or treatment, or both, if the family falls within a circumstance described in OAR 413-020-0010(2)(a)–(c).~~

- ~~(8) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.~~

The purpose of OAR 413-020-0005 to 413-020-0050 is to describe:

- (1) The circumstances in which parents or guardians and the Department may enter into a *Voluntary Custody Agreement* concerning a *child* who is in the *legal custody* of the parents or guardians; and
- (2) The responsibilities of the parents or guardians and the Department in connection with these agreements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

413-020-0020

Legal Consent

(Amended ~~03/20/07~~ 10/01/15)

- (1) Only a parent or ~~legal~~ guardian who has *legal custody* of the *child* may enter into a *Voluntary Custody Agreement* (CF 1005).
- (2) All persons who have *legal custody* of the *child* must sign the agreement unless one person with *legal custody* of the *child* is missing.
- (3) If one person with *legal custody* of the *child* is missing, all other persons with *legal custody* of the *child* must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person's whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with *legal custody* of the *child* to provide him or her notice of the agreement.
- (4) The parent or ~~legal~~ guardian must provide information to the Department about insurance and other financial resources to meet the medical, dental, and mental health needs of the *child* by completing a Medical Resource Report Form (DHS 415H).
- (5) If the *child* is an Indian child, who is an enrolled member of or may be eligible for membership in an Indian tribe, each parent or Indian custodian who has *legal custody* must sign the *Voluntary Custody Agreement* in a hearing before a judge of a court with appropriate jurisdiction. The *child* must be more than 10 days old. ~~Refer to Child Welfare Policy I E.2.1, "Placement of Indian Children", See~~ OAR 413-070-0240 for detailed requirements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015

413-020-0065

Definitions

(Adopted ~~03/20/07~~ 10/01/15)

THIS RULE IS REPEALED

The following definitions apply to ~~OAR 413-020-0060 to 413-020-0090~~:

- ~~(1) — "Child" means a person under 18 years of age.~~
- ~~(2) — "Department" means the Department of Human Services, Child Welfare.~~
- ~~(3) — "Legal custodian" means a person, agency, or institution with legal custody of a child and the following duties and authority:
 - ~~(a) — To have physical custody and control of a child;~~
 - ~~(b) — To supply the child with food, clothing, shelter, and incidental necessities;~~
 - ~~(c) — To provide the child with care, education, and discipline;~~
 - ~~(d) — To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the child, and in an emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care;~~
 - ~~(e) — To make such reports and to supply such information as the court may require; and~~
 - ~~(f) — To apply for any benefits to which the child is entitled and to use them to pay for the child's care.~~~~
- ~~(4) — "Legal custody" means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.~~
- ~~(5) — "Legal guardian" means a person or agency that has the duties and authority of a parent with legal custody of a child to make decisions concerning a child, including but not limited to the following:
 - ~~(a) — Authorize surgery and other extraordinary treatment for the child;~~
 - ~~(b) — Authorize the child to enlist in the armed forces of the United States;~~
 - ~~(c) — Consent to child's adoption; and~~~~

- (d) ~~Make other decisions of substantial legal significance concerning the child (but a guardian is not a conservator of the child's property or estate).~~
- (6) ~~"Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.~~
- (7) ~~"Voluntary Placement Agreement" means a binding, written agreement between the Department and the parent or legal guardian of a child that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department while the child is in placement.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

413-020-0075

Legal Consent

(Adopted ~~03/20/07~~ 10/01/15)

- (1) Only a parent or ~~legal~~ guardian who has *legal custody* of the *child* may enter into a "*Voluntary Placement Agreement*".
- (2) All persons who have *legal custody* of the *child* must sign the agreement unless one person with *legal custody* of the *child* is missing.
- (3) If one person with *legal custody* of the *child* is missing, all other persons with *legal custody* of the *child* must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person's whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with *legal custody* of the *child* to provide him or her notice of the agreement.
- (4) If the *child* is an Indian child who is an enrolled member of or may be eligible for membership in an Indian tribe, each parent or Indian custodian who has *legal custody* of the *child* must sign the "*Voluntary Placement Agreement*" in a hearing before a judge of a court with appropriate jurisdiction. The *child* must be more than 10 days old. ~~Refer to Child Welfare Policy I-E.2.1, "Placement of Indian Children", Sec~~ OAR 413-070-0240 for detailed requirements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

413-020-0110

Definitions

(Amended ~~01/09/03~~)

THIS RULE IS REPEALED

- (1) ~~"Child Placement Agreement" means an agreement between the legal parent(s)/legal guardian of a child and the Department. The Parent(s) retain "all legal authority for child while services are being provided by the Department.~~
- (2) ~~"Department" means Department of Human Services.~~
- (3) ~~"Guardian" means a person or agency having the powers and responsibilities of a parent to make binding decisions for a child, including the authority to:
 - (a) ~~Authorize surgery for the child;~~
 - (b) ~~Authorize enlistment in the armed forces;~~
 - (c) ~~Consent to the child's adoption when the child is in the permanent custody of the agency;~~
 - (d) ~~Make other decisions of substantial legal significance concerning the child; but~~
 - (e) ~~A guardian is not a conservator of the child's property or estate.~~~~
- (4) ~~"Legal Custody" means that a person or agency has legal authority:
 - (a) ~~To have physical custody and control of a child;~~
 - (b) ~~To supply the child with food, clothing, shelter and other necessities;~~
 - (c) ~~To provide the child with care, education and discipline;~~
 - (d) ~~To authorize medical, dental, psychiatric, psychological, hygienic or other remedial care or treatment for the child, and in any emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care; and~~
 - (e) ~~Legal custody includes temporary custody of a child under an order pursuant to ORS 419B.233 and 419B.331.~~~~
- (5) ~~"Permanent Custody" means legal custody of a child:
 - (a) ~~Who has been permanently committed to the Department by the juvenile court after parental rights have been terminated under ORS 419B.527;~~
 - (b) ~~Who has been released and surrendered to the Department by the parents under ORS 418.270.~~~~

- (6) ~~"Physical Custodian" means a person or agency, including a child's legal or biological parent, a relative, foster parent, adoptive parent or a licensed child caring agency who is authorized by the Department to provide a residence and day to day care for a child who is in the legal custody of the Department.~~
- (7) ~~"Service Worker" means the agency staff person assigned primary responsibility for a child served by the Department.~~
- (8) ~~"Voluntary Custody" means legal custody given to the Department, by written agreement, by a parent or legal guardian of a child.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640, 418.312

413-020-0120

Responsibility of Staff to Secure a Legal Consent

(Amended ~~01/09/03~~ 10/01/15)

~~Whenever~~When the legal consent of a parent or *guardian* is needed for a *child* in the care and custody of the Department, the ~~service worker~~caseworker shall secure the consent of the person authorized to approve the proposed service or activity. Relevant information shall be provided to the authorized person to assure the Department's authority to consent, the need for and advisability of the service or activity; and, ~~whenever~~when feasible, the concurrence of parents and ~~of~~ physical custodians.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640, 418.312

413-020-0130

Department Authority in Child Voluntary Placement and Voluntary Custody Agreements

(Amended ~~01/09/03~~ 10/01/15)

- (1) When a parent or *guardian* of a *child* authorizes a Child voluntary Placement Agreement with the Department, the parent(s) or *guardian* ~~will remain~~remains *guardian* of the *child* and ~~will retain~~retains legal authority, and ~~are~~is obligated to continue to exercise and perform all parental duties and legal responsibilities except those delegated to the Department by the signed CF 499 Child Voluntary Placement Agreement.
- (2) ~~When a child is in the voluntary custody of the Department, the Department or the physical custodian will exercise the authority of a legal custodian as assigned in the CF 1005 Voluntary Custody Agreement.~~

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

(3) When a *child* is in the *voluntary custody* of the Department, the Department or the *physical custodian* exercises the authority of a *legal custodian* as assigned in the CF 1005 *Voluntary Custody Agreement*.

(4) Voluntary custody agreements are covered in OAR 413-020-0005 to 413-020-0050 and voluntary placement agreements are covered in OAR 413-020-0060 to 413-020-0090.

Note: ~~Please refer to *Child Voluntary Placement Agreement* and *Voluntary Custody OAR (CAF Agreement (I B.1.3 and I B.1.3.1))* for additional information regarding these two options for services.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640, 418.312

413-020-0140

Exercise and Delegation of Legal Authority

(Amended ~~02/01/06~~ 10/01/15)

(1) ~~Where~~When the Department has *legal custody* of a *child* through a *Voluntary Custody Agreement*, a court order, or a Release and Surrender Agreement, the Department will exercise its authority through Department staff and through delegation to other persons as ~~follows;~~described in this rule.

(2) Physical Custodian. The Department delegates the following responsibilities to the *physical custodian* ~~by this administrative rule~~. This delegation ~~shall~~continues as long as the *child* or young adult is in the *legal custody* of the Department and resides with the *physical custodian*. Any exception to this rule ~~shall~~must be given in writing to the ~~child's~~child's custodian of the *child* or *young adult* and a copy will be maintained in the ~~child's~~child's or young adult's case record with the Department. The ~~department~~Department will delegate to the child's ~~Physical Custodian~~physical custodian its authority to consent to:

(a) ~~The~~Enrollment and disenrollment of the *child*/youth's registration or *young adult* in regular public school; assisting ~~them~~ with selecting or changing class schedules; authorizing absence from school; ~~participation in school and extracurricular activities;~~ and enrollment in school~~free and reduced~~ meal and school insurance programs. Consent for ~~traditional school~~ standardized testing as ~~deemed necessary and assessment. Assessment and implementation of special education, unless the *child* or *young adult* has a surrogate parent assigned (see OAR 581-015-2000).~~ School pictures, except those listed under ~~413-020-0130~~ subsection (2)(e) of this rule;

(b) Routine medical care and dental care, including vaccinations and immunization; routine examinations and lab tests;

- (c) Short term inter-county travel;
- (d) Application for work permits or releases; and
- (e) Participation of the *child* or *young adult* in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities. When determining whether to allow a *child* or *young adult* to participate, the *physical custodian* must apply the *reasonable and prudent parent standard*. When applying the *reasonable and prudent parent standard*, the *physical custodian* must consider:
 - (i) The age, maturity, and developmental level of the *child* or *young adult*;
 - (ii) The nature and inherent risks of harm; and
 - (iii) The best interest of the *child* or *young adult* based on information known by the caregiver.

(2) ~~Service Worker. The Service Worker~~The caseworker may exercise the Department's consent authority to any action to which the *physical custodian* may consent. In addition, the ~~child's Service Worker~~caseworker may exercise the Department's authority to give consent for the following:

- (a) ~~Education records, academic or school behavioral records; or any specialized school testing. The Department Service Worker may not assume the role or responsibilities of Educational Surrogate, per OAR 581-015-0099.~~
- (~~b~~a) Psychiatric or psychological evaluation, outpatient psychiatric or psychological treatment, and behavioral rehabilitation services for the *child*; and
- (~~e~~b) Photograph(s) taken for publicity purposes or media promotions that may draw attention to the individual.

(3) ~~Service Delivery Area (SDA) District~~ Manager or Designee. The ~~SDA District~~ Manager or ~~Designee~~designee may exercise the Department's consent authority to any action to which the ~~Physical Custodian~~physical custodian or ~~Services Worker~~caseworker may consent. In addition, the ~~SDA District~~ Manager or ~~Designee~~designee may exercise the Department's authority to consent to all of the following actions with respect to children serviced by the ~~SDA district~~:

- (a) Emergency medical care and/or surgery, to include anesthesia;.
- (b) Major medical and surgical procedures that are not extraordinary or controversial, to include anesthesia;.

- (c) Admission to ~~a state training center for the retarded, or to~~ SAIP (Secure Adolescent Inpatient Program), SCIP (Secure Children's Inpatient Program), or a private hospital for purpose of psychiatric treatment;
- (d) ~~Registration~~Enrollment in ~~special~~specialized schools, including private ~~or,~~ charter, alternative, international study program, GED, or home schools;
- (e) Application for driver's training, permits and license;
- (f) Interstate travel and international travel;
- (g) Examination by law enforcement agency (e.g., polygraphs, interrogations without a warrant, etc.).
- (h) Use of firearms for purpose of recreational hunting, target practice, and/or Hunter Safety Course.

Stat. Auth.: ORS 161.390, 418.005

Stats. Implemented: ORS 109.640, 161.327, 161.336, 161.341, 161, 346, 161.365, 161.370, 418.005, 418.312

413-020-0150

Exercise and Delegation of ~~Legal~~Guardian Authority

(Amended ~~01/09/03~~ 10/01/15)

- (1) ~~Where~~When the Department has *legal custody* of a *child or young adult* through a court order in which the Department has specifically been given guardianship, or a Release and Surrender Agreement, the Department will exercise its authority through ~~agency~~ Department staff as ~~follows:~~described in this rule.
- (~~2~~) ~~Service Delivery Area (SDA)~~District Manager or Designee: may exercise the Department's authority to consent to the following actions with respect to children served by that ~~SDA~~district:
 - (a) Enlistment of a *child* in the Armed Forces or the Job Corps; and
 - (b) Marriage;
- (~~23~~) Department ~~Adoption~~ Child Permanency Program Manager; may exercise the Department's authority under ORS 109.325 to consent to the adoption of a *child* who is in the *permanent custody* of the ~~agency~~ Department. (~~ORS 109.316~~)
- (~~34~~) Department ~~Assistant Director for Community Human Services (CHS)~~ Chief Operating Officer or Department ~~Assistant Director for Children, Adults and Families (CAF) or the Department Director~~ Child Welfare, or in their absence and in the event of an emergency the Deputy ~~Assistant~~ Director for ~~CHS~~ Child Welfare or ~~CAF~~ Field Services may consent to any of the following actions for a *child*:

- (a) Termination of a pregnancy, except when a young woman 15 years of age or older exercises her statutory right to consent to her own termination of a pregnancy;
 - (b) Extraordinary or controversial medical or surgical procedures, such as: Do Not Resuscitate Order (DNR), organ transplants, kidney dialysis, open heart surgery, [transgender medical services](#), or any procedure involving substantial life threat;
 - (c) Any medical or surgical procedure to which a legal parent or *guardian* of the *child* or the *child* is opposed;
 - (d) Sterilization under ORS ~~C~~chapter 436, but only when such procedure is necessary to protect the child's life.
- (45) Department Director, ~~Assistant~~ Director for ~~Children, Adults and Families (CAF), and Assistant Child Welfare, Deputy~~ Director for ~~Community Human~~ Child Welfare, and ~~Deputy Director for Child Welfare or Field Services (CHS)~~ may exercise the Department's authority to consent to any action to which the ~~Physical Custodian, Services Worker, Service Delivery Area (SDA~~ *physical custodian, caseworker, and District* Manager may consent.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS [109.325](#), 109.640, 418.312

413-020-0160

Actions Not Authorized

(Amended ~~01/09/03~~ [10/01/15](#))

- (1) ~~No~~ ~~A~~ Department employee ~~will~~ may not consent to educational planning which is defined as the responsibility of a parent or surrogate parent- (~~see~~ OAR 581-015-~~0099~~[2000](#)).
- (2) ~~No~~ ~~A~~ Department employee, or agent ~~will~~ may not exercise the Department's authority to give consent to the purchase of, or ownership of, a motor vehicle by a *child* in *legal custody* of the ~~agency~~ Department. This prohibition does not prevent a *child* in the *legal custody* of the ~~agency~~ Department from exercising the right to purchase or own a motor vehicle on his or her own account.
- (3) ~~No~~ ~~A~~ Department employee ~~shall~~ may not co-sign or counter-sign any purchase contract for a *child* or young adult in the Department's custody.
- (4) ~~No~~ ~~A~~ Department employee ~~will~~ may not accept responsibility or serve as conservator of a *child's* or young adult's property or estate.

- (5) ~~No~~ A Department employee, or agent ~~shall~~ may not consent to the sterilization of a *child or young adult*, except pursuant to ORS ~~C~~chapter 436, and to save the child's or young adult's life.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640, 418.312

413-020-0170

General Provisions

(Amended 01/09/03)

- (1) The Department acknowledges the right of a minor 15 years of age or older to consent to hospital care, medical and surgical diagnosis, or treatment without the consent of the parent or *guardian*. ~~(see ORS 109.640).~~
- (2) The Department acknowledges the right of a minor 14 years of age or older may to obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder or chemical dependency, excluding methadone maintenance, by a physician. ~~(see ORS 109.675).~~
- (3) Whenever Department staff exercise the agency's authority to authorize actions described as the responsibility of a ~~legal~~ *guardian* under these rules, Department staff ~~shall~~ must:
 - (a) Consider the impact of the proposed action upon the welfare of the *child*, the child's family and the community prior to deciding whether to consent to or authorize the proposed action;
 - (b) Consult with the *physical custodian* of the *child*;
 - (c) When the *child* is not in the *permanent custody* of the Department, make reasonable efforts to consult the child's ~~legal~~ parent(s) or guardian(s) about the action proposed and consider the parent(s) or guardian's' preference concerning the action proposed prior to making a decision to consent to or authorize the proposed action unless there is cause to believe such consultation will be detrimental to the *child*; and
 - (d) Prepare a brief written record of the circumstances of the action consented to whenever the Department provides a written consent for actions defined as the responsibility of a *guardian*. The written record and a copy of any consent made in writing will be filed in the child's case record.
- (4) In any case where Department staff consider it necessary or appropriate, they may notify the juvenile court, and/or seek the court's concurrence, prior to consenting to or authorizing any of the actions described in these rules with respect to children in the Department's custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.640, 109.675

413-020-0210

Definitions

(Amended 12/28/11)

THIS RULE IS REPEALED

The following definitions apply to OAR ~~413-020-0200 to 413-020-0255~~:

- (1) ~~"Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the *pre-adoptive family* or *adoptive family* of an eligible *child* or *young adult*, setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the responsibilities of the *pre-adoptive family* or *adoptive family* and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.~~
- (2) ~~"Adoptive family" means an individual or individuals who have legalized a parental relationship to the *child* through a judgment of the court.~~
- (3) ~~"BRS" means Behavior Rehabilitation Services, a Medicaid funded program that provides behavioral intervention, counseling, or skill building services in a professional, shelter, or residential (including therapeutic foster care formerly referred to as proctor care) placement setting.~~
- (4) ~~"CANS screener" means an individual, who performs CANS screenings under the supervision of the Level of Care Manager, under a contract with the Department, and who annually completes the training in the use of the Oregon CANS Comprehensive Screening Tool with a documented reliability score of 0.70 or greater.~~
- (5) ~~"CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on a *child* or *young adult's* needs and strengths used for one or more of the following purposes:
 - (a) ~~Identifying case planning, service planning, and supervision needs of the *child* or *young adult* in substitute care with a *certified family*;~~
 - (b) ~~Determining the *level of care payment* while in substitute care with a *certified family*; and~~
 - (c) ~~Determining the *level of care payment* included in an *adoption assistance agreement* or *guardianship assistance agreement*.~~~~
- (6) ~~"Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which he or she resides, to a *child* or *young adult* in the care or custody of the Department.~~

- (7) — "~~Certifier~~" means a ~~Child Welfare~~ employee who conducts assessments of applicants interested in providing relative or foster care to a *child* or *young adult* in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with ~~Child Welfare certification rules~~.
- (8) — "~~Child~~" means a person under 18 years of age.
- (9) — "~~Department~~" means ~~Department of Human Services, Child Welfare~~.
- (10) — "~~Enhanced supervision~~" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a *child* or *young adult* when the *child* or *young adult* qualifies for a *level of care payment*.
- (11) — "~~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.
- (12) — "~~Guardian~~" means an individual who has been granted guardianship of the *child* through a judgment of the court.
- (13) — "~~Guardianship assistance~~" means assistance provided on behalf of an eligible *child* or *young adult* to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the *child* or *young adult*. Guardianship assistance may be in the form of payments, medical coverage or reimbursement of nonrecurring guardianship expenses.
- (14) — "~~Guardianship assistance agreement~~" means a written agreement, binding on the parties to the agreement, between the Department and the *guardian* of an eligible *child* or *young adult* setting forth the assistance the Department is to provide on behalf of the *child* or *young adult*, the responsibilities of the *guardian* and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.
- (15) — "~~Level of care payment~~" means the payment provided to an approved or *certified family*, a *guardian*, a *pre-adoptive family* or an *adoptive family* based on the *child* or *young adult's* need for *enhanced supervision* as determined by applying the CANS algorithm to the results of the *CANS screening*.
- (16) — "~~Mechanical restraint~~" means the use of any physical device to involuntarily restrain the movement of all or a portion of a child's body as a means of controlling his or her physical activities in order to protect the *child* or other persons from injury. Mechanical restraint does not apply to movement restrictions stemming from medicinal, dental, diagnostic, or surgical procedures which are based on widely accepted, clinically appropriate methods of treatment by qualified professionals operating within the scope of their licensure.
- (17) — "~~Participating tribe~~" means a federally recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

~~(18) — "Physical restraint" means the act of restricting a *child* or young adult's voluntary movement as an emergency measure to manage and protect the *child* or *young adult* or others from injury when no alternate actions are sufficient to manage the *child* or young adult's behavior. *Physical restraint* does not include temporarily holding a *child* or *young adult* to assist him or her or assure his or her safety, such as preventing a *child* from running onto a busy street.~~

~~(19) — "Potential guardian" means an individual who:~~

~~(a) — Has been approved by the Department or *participating tribe* to be a child's *guardian*; and~~

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

~~(20) — "Pre-adoptive family" means an individual or individuals who:~~

~~(a) — Has been selected to be a child's adoptive family; and~~

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

~~(21) — "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related *child* or *young adult* placed in the home by the Department.~~

~~(22) — "Seclusion" means the involuntary confinement of a *child* alone in a specifically designed room from which the *child* is physically prevented from leaving.~~

~~(23) — "Supervision plan" means a documented set of strategies that is developed to assist a *relative caregiver* or *foster parent* in providing the additional support, observation, direction, and guidance necessary to promote and ensure a *child* or young adult's safety and well-being.~~

~~(24) — "Young adult" means a person aged 18 through 20 years.~~

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335, 418.340

413-020-0610

Definitions

(Adopted 12/29/95)

THIS RULE IS REPEALED

- ~~(1) — "Designated Consultant Neonatologist" means a neonatologist whose services are available to Child Welfare to review medical information and consult with Child Welfare and other experts deemed necessary in cases of suspected medical neglect.~~
- ~~(2) — "Designated Hospital Liaison" means an individual(s), usually the hospital administrator, designated by each respective hospital to assist Child Welfare with coordination, consultation, and prompt notification of suspected cases of medical neglect.~~
- ~~(3) — "Disabled Infant" means a child of less than one year of age having a physical or mental impairment which may substantially limit one or more major life functions such as breathing, seeing, hearing, walking, caring for one's self, performing manual tasks, learning and working.~~
- ~~(4) — "Hospital Review Committee (HRC)" is a committee established by a medical facility or hospital to offer counsel and review in cases involving a disabled infant with life-threatening conditions.~~
- ~~(5) — "Medical Neglect" means the failure to provide adequate medical care, including the withholding of medically indicated treatment from disabled infants with life-threatening conditions.~~
- ~~(6) — "Medical Neglect Investigator" means Child Welfare staff designated and trained to provide consultation and complete investigations of alleged medical neglect reports.~~
- ~~(7) — "Medically Indicated Treatment" means treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's reasonable medical judgment will be most likely to be effective in amelioration or correcting all such life-threatening conditions. It does not include the failure to provide treatment other than nutrition, hydration or medication to an infant when in the treating physician's reasonable medical judgment any of the following circumstances apply:
 - ~~(a) — The infant is chronically irreversibly comatose;~~
 - ~~(b) — The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of survival of the infant;~~
 - ~~(c) — The provisions of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.~~~~
- ~~(8) — "Reasonable Medical Judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.~~
- ~~(9) — "Withholding of Medically Indicated Treatment" means the failure to respond to the infant's life-threatening conditions.~~

Stats. Implemented: ORS 418.005

413-030-0000

Purpose-Definitions

(Amended ~~01/15/13~~ 10/01/15)

THIS RULE IS AMENDED IN ITS ENTIRETY

The purpose of these rules (OAR 413-030-0000 to 413-030-0030) is to describe the responsibilities of the Department in providing family support services, including:

- ~~(1) Eligibility criteria;~~
- ~~(2) Determination of service needs;~~
- ~~(3) Development of the *family support services case plan*;~~
- ~~(4) Development of Service Agreements;~~
- ~~(5) Caseworker contact and monitoring requirements; and~~
- ~~(6) Timelines for reviewing progress.~~

The following definitions apply to OAR chapter 413, division 30:

- (1) "APPLA" means Another Planned Permanent Living Arrangement, a *permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child or young adult's life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interest of a child or young adult.*
 - (a) "Planned" means the arrangement is intended, designed, and deliberate.
 - (b) "Permanent" means enduring and stable.
- (2) "Case plan" means a written, goal-oriented, time-limited individualized plan for the *child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.*
- (3) "Chafee housing" means a payment to assist in covering the costs of room and board made to an eligible individual between 18 and 20 years of age who was discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.
- (4) "Child" means a person under 18 years of age.
- (5) "Department" means the Department of Human Services, Child Welfare.

- (6) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge and when the expert is evaluating a parent or guardian, whether the individual's functioning impacts his or her protective capacity.
- (7) "Family support services case plan" means a goal-oriented, time-limited, individualized plan for a child and the child's family or a former foster child. The Department and the family or former foster child jointly develop a "family support services case plan" that addresses the service goals and the identified needs of the child and the child's family or the former foster child.
- (8) "Former foster child" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.
- (9) "GED" means a General Educational Development certificate issued pursuant to ORS 351.768.
- (10) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.
- (11) "ILP" means the Independent Living Program services provided by the Department to an eligible foster child or former foster child.
- (12) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.
- (13) "Legal custody" means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.
- (14) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.
- (15) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent resources with

the parents, relatives, or other people who may assume responsibility for the *child* or *young adult* during the remaining years of dependency and be accessible and supportive to the *child* in adulthood.

(16) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(17) "Service Agreement" means a written document between the Department and a *parent, guardian, or former foster child* that identifies one or more of the service goals in a *family support services case plan*, and the services and activities that are necessary for the *parent, guardian, or former foster child* to achieve the goal.

(18) "Service goal" means the observable, sustained change in behavior, condition, or circumstance that, when accomplished, achieves the desired effect.

(19) "Short term services" mean actions or activities that are limited in duration to a maximum of 180 days.

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

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

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

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

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

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

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

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 418.005

413-030-0003

Definitions Purpose

(Amended ~~01/15/13~~ 10/01/15)

THIS RULE IS AMENDED IN ITS ENTIRETY

The following definitions apply to OAR ~~413-030-0000~~ to 413-030-0030:

- (1) ~~"Child" means a person under 18 years of age.~~
- (2) ~~"Department" means the Department of Human Services, Child Welfare.~~
- (3) ~~"Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge and when the expert is evaluating a parent or guardian, whether the individual's functioning impacts his or her protective capacity.~~
- (4) ~~"Family support services case plan" means a goal-oriented, time-limited, individualized plan for a child and the child's family or a former foster child. The Department and the family or former foster child jointly develop a "family support services case plan" that addresses the service goals and the identified needs of the child and the child's family or the former foster child.~~
- (5) ~~"Former foster child" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.~~
- (6) ~~"Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.~~
- (7) ~~"ILP" means the Independent Living Program services provided by the Department to an eligible foster child or former foster child.~~
- (8) ~~"Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.~~

- (9) ~~"Service Agreement" means a written document between the Department and a *parent, guardian, or former foster child* that identifies one or more of the service goals in a *family support services case plan*, and the services and activities that are necessary for the *parent, guardian, or former foster child* to achieve the goal.~~
- (10) ~~"Service goal" means the observable, sustained change in behavior, condition, or circumstance that, when accomplished, achieves the desired effect.~~
- (11) ~~"Short term services" mean actions or activities that are limited in duration to a maximum of 180 days.~~
- (12) ~~"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.~~
- (13) ~~"Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a *child or young adult* in the legal or physical custody of the Department.~~
- (14) ~~"Young adult" means a person aged 18 through 20 years.~~

The purpose of OAR 413-030-0003 to 413-030-0030 is to describe the responsibilities of the Department in providing family support services, including:

- (1) Eligibility criteria;
- (2) Determination of service needs;
- (3) Development of the *family support services case plan*;
- (4) Development of Service Agreements;
- (5) Caseworker contact and monitoring requirements; and
- (6) Timelines for reviewing progress.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.312

413-030-0006

Eligibility ~~F~~for Family Support Services

(Amended ~~01/15/13~~ 10/01/15)

- (1) A *parent, guardian, or former foster child* may be eligible for family support services if the requirements of one of the following subsections are met:
 - (a) A *parent or guardian* requests out-of-home placement of a *child* due solely to the emotional, behavioral, or mental disorder or developmental or physical disability of the *child*, as described in [Child Welfare Policy I B.1.3.1, "Voluntary Placement Agreement"](#), OAR [413-020-0060](#) to [413-020-0090](#).
 - (b) A *parent or guardian* requests that the Department take temporary custody of a *child* due to conditions described in [Child Welfare Policy I B.1.3, "Voluntary Custody Agreement"](#), OAR [413-020-0005](#) to [413-020-0050](#).
 - (c) A *former foster child* eligible to receive Independent Living Program (ILP) services requests those services.
 - (d) A *parent or guardian* requests post adoption or post legal guardianship services in connection with an adoption or legal guardianship that occurred through the Department.
 - (e) A *parent or guardian* requests assistance with a *child* in the home, and all of the following paragraphs apply:
 - (A) Other community resources have been utilized and determined to be ineffective.
 - (B) Members of the extended family and other responsible adults who are well known to the *child* have been explored or utilized and determined to be unsafe, unavailable, unwilling, or ineffective as support for the family.
 - (C) The *parent or guardian* is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical or mental health condition.
 - (D) The inability of the *parent or guardian* to fulfill parental responsibilities is temporary and immediate; and will be alleviated with *short term services* or *short term services* will transition the family to community services.
 - (E) A Child Welfare program manager approves the request for voluntary services.
- (2) Service eligibility requires the full and ongoing cooperation of the *parent, guardian, or former foster child* in:

- (a) The determination of need;
 - (b) The preparation of the *family support services case plan*; and
 - (c) The monitoring of the *family support services case plan*.
- (3) If the Department determines that funds for family support services are unavailable, the Department will not provide services for those who are eligible for services under subsection (1)(e) of this rule.
- (4) The Department must provide family support services when a court has ordered the Department to provide services to a pre-adjudicated delinquent.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.312

413-030-0009

Determination of the Service Needs

(Amended ~~01/15/13~~ 10/01/15)

- (1) Within 30 days of receiving the family support services screening information, the caseworker must determine the service needs by completing the following actions:
 - (a) Provide the *parent, guardian, or former foster child* with a Service Application.
 - (b) Initiate the process to determine the child's ICWA status and notify the Indian child's tribe if ICWA applies. To initiate this process, the caseworker must:
 - (A) Complete a form CF 1270, Verification of ICWA Eligibility, to assist in determining ICWA eligibility.
 - (B) Contact the child's tribe when an Indian child's family is requesting placement of the *child* per the requirements of OAR 413-070-0160(1); ~~"Placement of Indian Children."~~
 - (C) Consult with the local Child Welfare ICWA liaison or a supervisor if the caseworker has questions regarding the involvement of a tribe or the ICWA status of the *child*.
 - (c) Within five working days of receipt of the case, confirm there is no current reported safety threat to the *child* by reviewing the screening information and the child welfare case records for all family members living in the household.
 - (d) Within ten working days of receipt of the case, make initial face-to-face contact with the *parent, guardian, or former foster child* to assess current behaviors, conditions, and circumstances in the family and gather specific information on the needs of the *parent, guardian, or former foster child*.
 - (e) Within ten working days of receipt of the case, when the *child* is in the home of the *parent* or *guardian*, make initial face-to-face contact with the *child* to assess the identified needs of the *child*.
 - (f) When the *child* is in *substitute care*, make monthly face-to-face contact as required under OAR 413-080-0054.
 - (g) To determine service needs, the caseworker must, at a minimum, observe:
 - (A) The *parent, guardian, or former foster child* in the home environment;
 - (B) The *child* or *former foster child* in his or her home or *substitute care* placement; and

- (C) The interactions between family members.
- (h) Obtain from the *parent, guardian, or former foster child* the names of persons who can provide additional information on the needs of the *child, former foster child, or the family, when appropriate.*
- (i) Ask the *parent, guardian, or former foster child* to sign an authorization to release information to enable the Department to obtain additional information from physicians, mental health providers, school employees, or other service and treatment providers, when appropriate.
- (j) After obtaining the authorization to release information, contact service and treatment providers, when appropriate, to understand the past and current services and treatment of the family and the *child or former foster child.*
- (k) Obtain expert evaluations when appropriate to determine specific service or treatment needs when a condition or behavior requires additional professional information regarding a person's functioning.
- (l) Analyze the behaviors, conditions, and circumstances of the family to determine service or treatment needs based upon information gathered from the activities in subsections (a) to (k) of this section.
- (m) Document the findings of the activities in subsections (a) to (k) of this section in the Department's electronic information system.
- (2) The caseworker must use the information and determination of service and treatment needs to develop an individualized *family support services case plan* that addresses the specific identified needs:
- (a) The caseworker must also refer to ~~Child Welfare Policy I E.2.1, "Placement of Indian Children"~~, OAR 413-070-0100 to 413-070-0260 if the *child* is an Indian child.
- (b) When a family is eligible for out-of-home placement due to the child's special needs or placement is ordered through the court, the caseworker must also refer to ~~Child Welfare Policies I E.3.1, "Placement Matching"~~, OAR 413-070-0600 to 413-070-0645; ~~I B.1.3.1, "Voluntary Placement Agreement"~~, OAR 413-020-0060 to 413-020-0090; ~~I E.2.1, "Placement of Indian Children"~~, OAR 413-070-0100 to 413-070-0260 if the *child* is an Indian child, and ~~I B.1, "Monitoring Child Safety"~~, OAR 413-080-0040 to 413-080-0067.
- (c) When a *former foster child* requests *ILP* services, the caseworker must also refer to ~~Child Welfare Policies I B.2.3.5, "Youth Transitions"~~, OAR 413-030-0400 to 413-030-0460 and ~~I E.2.1, "Placement of Indian Children"~~, OAR 413-070-0100 to 413-070-0260 if the *child* is an Indian child.

- (d) When a family requests that the Department take voluntary custody of the *child*, the caseworker must also refer to ~~Child Welfare Policies I E.3.1, "Placement Matching", OAR 413-070-0600 to 413-070-0645; I B.1.3, "Voluntary Custody Agreement", OAR 413-020-00005 to 413-020-0050; I E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260~~ if the *child* is an Indian child; ~~and I B.1, "Monitoring Child Safety", OAR and 413-080-0040 to 413-080-0067.~~

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.312

413-030-0200

Purpose

(Amended ~~01/07/03~~ 10/01/15)

- (1) ~~These rules, The purpose of~~ OAR 413-030-0200 ~~through to 413-030-0220, is to~~ emphasize that the child's safety is the paramount concern in determining ~~S~~substitute ~~C~~care eligibility.
- (2) The Department is responsible for determining if a *child* in the *legal custody* of the Department will be placed or continued in *substitute care* placement in accordance with statutes, administrative rules, agency procedures, and placement practice guidelines. ~~These rules, OAR 413-030-0200 through to 413-030-0220, specify the minimum criteria for the substitute care classification and placement under any type of substitute care program licensed or certified by the Department. Additional criteria are outlined in rules for specific substitute care programs. See OAR 413-080-0000 through 0030 Shelter Care (CAF Policy I E.4.1); OAR 413-080-0100 Family Foster Care (CAF Policy I E.4.2); Foster Family Group Homes (CAF Policy I E.4.2.1); OAR 413-080-0200 through 0270 Residential Services (CAF Policy I E.4.3); and OAR 413-030-0400 through 0455 Independent Living Programs (CAF Policy I B.2.3.5).~~

Statutory Authority: ORS 418.005

Stats. Implemented: ~~Title IV-E, PL 95-608~~, ORS 418.005, 418.015 – 418.315, 419B.331- 419B.349, PL 105-89

413-030-0210

Eligibility Criteria for Substitute Care Placement

(Amended ~~01/07/03~~ 10/01/15)

For a *child* to be eligible for initial and continuing *substitute care* ~~placement(s)~~, the Department ~~shall~~ must meet the following criteria:

- (1) Legal Basis. The Department must have a current legal basis for placement:
 - (a) Temporary custody under ORS 419B.165; ~~or~~
 - (b) *Legal custody* of the *child* through a juvenile court order; ~~or~~
 - (c) A voluntary custody agreement in accordance with OAR 413-020-01005 through to 413-020-017005 ~~(CAF Policy I-B.1.4)~~; ~~or~~
 - (d) A voluntary ~~child~~ placement agreement in accordance with OAR 413-020-00060 through 413-020-00590 ~~(CAF I-B.1.3)~~; ~~or~~
 - (e) Permanent custody based on a permanent commitment or release and surrender agreement of a *parent*; or
 - (f) Verification that the *child* is an unaccompanied refugee minor.
- (2) The *child* must be under 18 years of age at the time the *child* is placed in the ~~Department's legal custody~~ of the Department and placement services are first initiated.
- (3) Reasonable Efforts. Except in those cases with a Voluntary Custody Agreement or ~~Child~~ Voluntary Placement Agreement, the Department will make reasonable efforts to prevent or eliminate the need for removal of the *child* and to alleviate the barriers that keep the *child* from returning home. This includes an assessment of appropriate treatment and supportive services and providing such services when available through the Department or by referral to other community resources. To aid the court or Citizen Review Board (CRB) in making the findings required by this section, the Department shall present documentation to the court or CRB showing its reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the *child* and services provided to safely return the *child* to the home. The department shall seek a reasonable efforts judicial determination within 60 days of a child's removal from the home, or a determination that due to aggravated circumstances reasonable efforts were not required to prevent the child's removal from their home. If the court does not make the reasonable efforts determination within 60 days, the *child* ~~shall~~ is not be eligible for Title IV-E foster care maintenance payments program throughout the duration of that child's stay in *substitute care*. Refer to OAR 413-100-0240 ~~Title IV-E-FC and General Assistance~~ (CAF Policy I-E.6.1).

- (4) The *child* requires *substitute care* placement because there is no *parent* or *guardian* available and able to provide safe care for the *child* even with the assistance of available supportive resources, and no relative is willing and appropriate to assume full responsibility for the *child*.
- (5) Placement is needed for one of the following reasons:
- (a) The *parent(s)* or *guardians* ~~are~~is not available to care for the *child* due to death, abandonment, desertion, incarceration, institutionalization, or catastrophic illness;
~~or~~
 - (b) The *child* is at significant risk of abuse or neglect;
~~or~~
 - (c) The *child* is in the permanent custody of the Department for adoption planning;
~~or~~
 - (d) The *child* has a severe disabling condition requiring skilled care that the family cannot provide even with the assistance of community resources but the Department can provide the care the *child* requires in an available *substitute care* resource; or
 - (e) The child's behavior is a serious danger to the *child*, the child's family, or the community but the *child* can, without threat to self or others, be managed in an available and appropriate *substitute care* resource.

Statutory Authority: ORS 418.005

Stats. Implemented: ~~Title IV-E, PL 95-608~~, ORS 418.005, 418.015 – 418.315, 419B.331 – 419B.349, SB 689 (1997).

413-030-0220

Eligibility ~~A~~after Age 18

(Amended ~~01/07/03~~ 10/01/15)

- (1) Eligibility for *substitute care* services ~~shall cease ends~~ at age 18 unless the person continues to meet both the eligibility criteria outlined ~~earlier~~ in OAR 413-030-0210 and ~~in this section of the rules~~. Under the following conditions the Department may continue to provide placement services up to the maximum age of 21 years if the person is:
 - (a) Actively striving to complete the requirements for high school graduation and achieving satisfactorily in a full-time program of high school attendance, GED classes, or a combination of classes and employment; ~~or~~
 - (b) Enrolled in a special education program as called for in an Individual Educational Plan (IEP); ~~or~~
 - (c) An unaccompanied refugee minor; or
 - (d) The person's situation has been reviewed and approved in writing for an exception to these rules by the ~~SDA-District~~ Manager or designee.
- (2) ~~In no instance shall a person receive substitute care services from the~~ The Department ~~may not provide substitute care services~~ after the youth's 21st birthday.

Statutory Authority: ORS 418.005

Stats. Implemented: ~~Title IV E, PL 95-608~~, ORS 418.005, 418.015 – 418.315, 419B.331 – 419B.349

413-030-0300

Purpose

(Amended ~~07/01/01~~ 10/01/15)

~~These rules~~ The purpose of OAR 413-030-0300 to 413-030-0320 is to describe the eligibility criteria for the program classification of adoption. The adoption program classification is used to describe the services provided to a *child* placed in an approved adoptive home for the purpose of adoption. This includes agency adoptive placements and courtesy placement supervision of a *child* placed in Oregon by an out-of-state adoption agency.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305 – 109.310, 418.005, 418.270 – 418.285

413-030-0310

Eligibility for Adoption Program

(Amended ~~07/01/01~~ 10/01/15)

To be eligible for the program classification of adoption, a *child* must be in a living situation that is officially considered an adoptive placement. The following are considered eligible for the program classification:

- (1) Children fully free for adoption and placed in an approved adoptive home ~~shall be~~ are classified as adoption from the time the placement is approved until the adoption is completed or disrupted. ~~(See Child Welfare policies I-G.1 and I-G.4.)~~
- (2) Children receiving courtesy supervision for an adoptive placement initiated in another state through the Interstate Compact.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305 – 109.310, 418.005, 418.270 – 418.285

413-030-0405

Definitions

~~(Temporary 05/22/15–11/17/15)~~

THIS RULE IS REPEALED

The following definitions apply to these rules ~~(OAR 413-030-0400 to 413-030-0460)~~:

- ~~(1) — "APPLA" means Another Planned Permanent Living Arrangement, a *permanency plan* for a stable secure living arrangement for a *child* that includes building relationships with significant people in the child's life that may continue after *substitute care*. APPLA is the least preferred *permanency plan* of the four *permanency plan* options for a *child* and is appropriate only in very limited circumstances.~~
 - ~~(a) — "Planned" means the arrangement is intended, designed, and deliberate.~~
 - ~~(b) — "Permanent" means enduring and stable.~~
- ~~(2) — "Case plan" means a written, goal oriented, time limited individualized plan for the *child* and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well being.~~
- ~~(3) — "Chafee housing" means a payment to assist in covering the costs of room and board made to an eligible individual between 18 and 20 years of age who was discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.~~
- ~~(4) — "Child" means a person under 18 years of age.~~
- ~~(5) — "Department" means the Department of Human Services, Child Welfare.~~
- ~~(6) — "Former foster child" means a person under 21 years of age who was in *substitute care* at or after 16 years of age, including *substitute care* provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.~~
- ~~(7) — "GED" means a General Educational Development certificate issued pursuant to ORS 326.550.~~
- ~~(8) — "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.~~
- ~~(9) — "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.~~

- (10) ~~"Legal custody" means a legal relationship between a person, agency, or institution and a *child* that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.~~
- (11) ~~"Parent" means the biological or adoptive mother or the legal father of the *child*. A legal father is a man who has adopted the *child* or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian *child* under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the *child* by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.~~
- (12) ~~"Permanency plan" means a written course of action for achieving safe and lasting family resources for the *child* through the parents, relatives, or others who may assume legal responsibility for the *child* during the child's remaining years of dependency and be accessible and supportive to the *child* when the *child* is 18 years of age or older.~~
- (13) ~~"Registered domestic partner" means an individual joined in a civil contract entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon.~~
- (14) ~~"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.~~
- (15) ~~"Substitute care" means the out of home placement of a *child* or *young adult* who is in the legal or physical custody of the Department.~~
- (16) ~~"Young adult" means a person aged 18 through 20 years.~~

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475

413-030-0410

Eligibility for Youth Transition Services

(Amended ~~01/15/13~~ 10/01/15)

A *child* or *young adult* must meet the following eligibility criteria for youth transition services, however a *child* or *young adult* enrolled in an Oregon youth transition service prior to September 1, 2009 is eligible to continue to receive that service until the *child* or *young adult* has achieved independence, reaches 21 years of age, or otherwise is no longer eligible for the specific service.

(1) Life skills training.

- (a) A *child* 14 years of age or older who is in *substitute care* through the Department or one of the nine federally recognized Oregon tribes; or
- (b) A *former foster child*.

(2) Independent living housing subsidy.

- (a) The *child* or *young adult* must meet all of the following requirements:
 - (A) Be 16 years of age or older~~;~~
 - (B) Be in the care and custody of the Department~~;~~
 - (C) Be engaged in 40 hours of productive time per week, including a combined total of 25 hours or more of work ~~and or~~ education activities and up to 15 hours of flexible time. Examples include, but are not limited to, volunteer activity, school sports, clubs, or counseling~~;~~
 - (D) Have had at least one prior *substitute care* placement~~;~~ ~~and~~
 - (E) Have the approval of the court to participate in the *independent living housing subsidy* service.
- (b) If a high school diploma has not been achieved, the *child* or *young adult* must be working actively to achieve a high school diploma or GED.
- (c) The *child* or *young adult* must be enrolled concurrently in skill building services.
- (d) The *child* or *young adult* may not live with any of his or her parents.

(3) Chafee housing.

- (a) To be eligible for *Chafee housing* an individual must meet all of the following requirements:

- (A) Be 18 years of age or older but not yet 21 years of age;
 - (B) Have been discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age;
 - (C) Be engaged in 40 hours of productive time per week, including a combined total of 25 hours or more of work and education activities; ~~and~~
 - (D) Have at least four hours of paid employment per week.
- (b) If a high school diploma has not been achieved, the individual must be working actively to achieve a high school diploma or GED.
 - (c) The individual must be enrolled in skill building services.
 - (d) The individual may not live with any of his or her parents.
 - (e) The individual may not be eligible for *Chafee housing* when receiving an education and training grant.
- (4) Education and training grant.
- (a) To be eligible for an education and training grant the *child* or *young adult* must:
 - (A) Be 14 years of age or older and currently in *substitute care* through the Department or one of the federally recognized tribes; or
 - (B) Have been dismissed from *substitute care* after reaching 16 years of age and had 180 or more cumulative days of *substitute care*.
 - (b) The *child* or *young adult* initially must receive the grant prior to reaching 21 years of age.
 - (c) If the *child* or *young adult* is receiving the grant upon reaching 21 years of age, he or she may continue to receive the grant until he or she reaches 23 years of age.
 - (d) The *child* or *young adult* may not be eligible for an education and training grant when receiving *Chafee housing*.
- (5) Youth Transition Discretionary Funds. A *child* or *young adult* must be eligible for and receiving skill building services as a prerequisite to eligibility for discretionary fund resources.

- (6) Services that may be utilized in the transition to independent living, as appropriate and available, when the *child* or *young adult* meets all other eligibility requirements, include, but are not limited to:
- (a) Flex funds as described in Child Welfare Policy I-E.5.4, "Flex Fund";
 - (b) Payments made for special or extraordinary needs as described in ~~Child Welfare Policy I-E.5.4, "Payments for Special and/or Extraordinary Needs"~~ OAR 413-090-0300 to 413-090-0380;
 - (c) Housekeeping services as described in ~~Child Welfare Policy I-C.1, "Housekeeping Services"~~ OAR 413-050-0000 to 413-050-0050;
 - (d) Supportive or remedial day care as described in ~~Child Welfare Policy I-C.3.1, "Supportive and Remedial Day Care"~~ OAR 413-050-0200 to 413-050-0280;
 - (e) Other resources provided through the Department of Human Services such as Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families program benefits, vocational rehabilitation, teen pregnancy prevention, ~~Seniors Aging and People with Disabilities Division, or the Office of Developmental Disability~~ ies sServices; and
 - (f) Other state or community health care programs.
- (7) The ILP Coordinator may approve an exception to the eligibility requirements of sections (2), (3), or (4) of this rule when there is a time-limited plan for meeting requirements for eligibility and written documentation why the exception is necessary for the *child* or *young adult* to achieve his or her comprehensive transition plan.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475

413-030-0445

Development of the Comprehensive Transition Plan

(Amended ~~01/15/13~~ 10/01/15)

- (1) Development of the comprehensive transition plan. The Department must initiate the development of the comprehensive transition plan for a --
 - (a) Child ~~16~~14 years of age or older and in *substitute care* or a *young adult*; or
 - ~~(b) Child 14 years of age or older with an APPLA; or~~
 - (eb) Former foster child who requests services as described in ~~Child Welfare Policy, I-B.2.3.1, "Family Support Services"~~ OAR ~~413-030-00003~~ to 413-030-0030 and would benefit from a comprehensive transition plan.
- (2) The Department must ensure the comprehensive transition plan includes --
 - (a) The completion of a life skills assessment, which includes:
 - (A) Assessment of the skills and readiness of the *child* or *young adult* through interviews with *substitute caregiver, parent* or *guardian*, and any other significant adult; and
 - (B) Completion of a written independent living assessment in the format required by the Department.
 - (b) The written life skills assessment must include a description of:
 - (A) The strengths of the *child* or *young adult*; and
 - (B) His or her need for ongoing skill development in the following ability areas:
 - (i) Interaction with and connection to adults who can assist in the transition to independent living;
 - (ii) Transition successfully to independent living;
 - (iii) Engagement in educational and vocational interests;
 - (iv) Management of his or her physical and mental health; and
 - (v) Achievement of residential stability.
- (3) After completing the activities in section (2) of this rule, the Department must convene a planning meeting to develop the comprehensive transition plan. The Department must:

- (a) Ensure the *child* or *young adult* plays a central role in planning for and participating in the meeting, when developmentally appropriate; ~~and~~
 - (b) Involve the *child* or *young adult* in determining who may participate in the planning meeting which may include a *parent* or *guardian*, *substitute caregiver*, ~~other adult important to the *child* or *young adult*~~, service providers, a court appointed special advocate, representative of a tribe, ~~or~~ the attorney for the *child* or *young adult* or other adults important to the *child* or *young adult*;
 - (c) At the option of the *child* or *young adult*, involve the two additional members of the case planning team chosen by the *child* or *young adult* as described in OAR 413-040-0010(3)(c); and
 - (d) If the *child* or *young adult* makes the request, include any additional members the *child* or *young adult* would like to add to his or her comprehensive youth transition planning meeting when it is determined to be in the best interest of the *child* or *young adult*.
- (4) The comprehensive transition plan must identify goals and services in each of the following domains:
- (a) Education;
 - (b) Employment;
 - (c) Health;
 - (d) Housing;
 - (e) Life skills;
 - (f) Supportive relationships;
 - (g) ~~and e~~Community connections; and
 - (gh) Transportation.
- (5) The *child* age 14 or older, *young adult*, or *former foster child* must agree to the comprehensive transition plan and the plan is signed by each person who participated in the planning meeting.
- (6) A Department supervisor must review and acknowledge the completion of the comprehensive transition plan in the Department's information system.

- (7) When a *child* is placed in another state through the Interstate Compact on the Placement of Children (ICPC), and the Department is unable to complete the comprehensive transition planning process as described in this rule, the Department remains responsible for working with the receiving state and with the *child* in developing a comprehensive transition plan.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476

413-030-0449

Review of the Comprehensive Transition Plan

(Amended ~~01/15/13~~ 10/01/15)

- (1) The caseworker must monitor the implementation of the comprehensive transition plan and make reasonable efforts to ensure timely and appropriate services identified in the comprehensive transition plan are made available.
- (2) The caseworker is responsible for regular review of the goals and services of the comprehensive transition plan during the following contacts:
 - (a) Monthly face-to-face contacts as required under OAR 413-080-0054; and
 - (b) The 90-day *case plan* review required under ~~Child Welfare Policy I.B.3.1, "Developing and Managing the Case Plan"~~ OAR 413-040-0016.
- (3) Subsequent to the review of the comprehensive transition plan under subsection (2)(b) of this rule, the caseworker must document in the Department's information system:
 - (a) The progress in achieving the comprehensive transition plan goals;
 - (b) Any barriers and plans to address the barriers;
 - (c) Any changes in the comprehensive transition plan; and
 - (d) Notification to service providers of changes to the comprehensive transition plan.
- (4) The supervisor must review and approve the documentation of the comprehensive transition plan review as a part of the required *case plan* review.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476

413-030-0454

Benchmark Review of the Comprehensive Transition Plan

(Amended ~~01/15/13~~ 10/01/15)

- (1) For a *child* with a comprehensive transition plan the caseworker must convene a meeting for the purpose of a benchmark review of the comprehensive transition plan six months prior to the *child* reaching 18 years of age.
 - (a) The meeting must include the *child*, unless the *child* developmentally is unable to participate, and may include a *parent* or *guardian* of the *child*, *substitute caregiver*, court appointed special advocate, the attorney for the *child*, service providers, and others the *child* determines are important to the meeting including, at the option of the *child*, the two additional members of the case planning team chosen by the *child* as described in OAR 413-040-0010(3)(c).
 - (b) The *child* plays a central role in the meeting appropriate with his or her developmental ability.
 - (c) At the meeting, the following are determined:
 - (A) Agreement on the person with decision-making authority for education services for the *child* after the *child* reaches 18 years of age;
 - (B) Arrangement of sustainable housing, including periods of time the *child* or *young adult* may be on break from college or other residential academic or vocational program after the *child* reaches 18 years of age;
 - (C) Identification of persons who may provide supportive relationships to the *child* after the *child* reaches 18 years of age;
 - (D) Identification of community resources available for the special or unique needs of the *child* after the *child* reaches 18 years of age;
 - (E) A plan for the employment, continued academic or vocational education, or specialized training of the *child* after the *child* reaches 18 years of age;
 - (F) Agreement on the person with decision-making authority for health and mental health services for the *child* and identification of health, mental health, and dental providers for the *child* after the *child* reaches 18 years of age; and
 - (G) The plan to meet life skill development needs of the *child* by the time the *child* reaches 18 years of age.
 - (d) The caseworker must document the determinations made under subsection ~~(1)~~(c) of this rule-section and the documentation must be signed by the *child*, when

developmentally able to do so, and the caseworker, and may be signed by other persons attending the meeting.

- (2) The caseworker's supervisor must review and acknowledge the completion of the benchmark review of the comprehensive transition plan in the Department's information system.
- (3) The caseworker must provide a copy of the comprehensive transition plan, including the documentation of the determinations made during the benchmark review of the comprehensive transition plan, to the court at the next scheduled permanency hearing.
- (4) Within 90 days prior to the *child's* 18th birthday, the caseworker must review the determinations and plans made during the Benchmark Review with the *child* and, if identified, the two additional members of the case planning team chosen by the *child* as described in OAR 413-040-0010(3)(c). The caseworker reviews the progress made to date and makes any necessary adjustments to the plan.
- (5) The caseworker's supervisor must review and acknowledge the completion of the Benchmark Review of the comprehensive transition plan in the Department's electronic information system.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476

413-030-0456

Health Care Notifications, Credit Reports, and Data Tracking

(Amended ~~01/15/13~~ 10/01/15)

- (1) The Department must notify any *young adult* over 17 years, six months of age in the care or custody of the Department of the following information regarding health care treatment:
 - (a) The importance of designating another individual to make health care treatment decisions on his or her behalf if he or she becomes unable to participate in such decisions and does not have or does not want a relative who is otherwise authorized under state law to make such decision; and
 - (b) The option to execute a health care power of attorney, health care proxy, or other similar document recognized under state law.
- (2) The Department must ensure any *child* 16⁺ years of age or older and in the care or custody of the Department:
 - (a) Annually receives a copy of a consumer credit report when one exists; and
 - (b) Receives some assistance in interpreting the credit report and resolving any inaccuracies in that report.
- (3) National Youth in Transition Database (NYTD) Requirements. Beginning October 2010, the Department must collect and track independent living type services and outcome data as follows:
 - (a) Served population: The Department will report all independent living type services paid for or provided by the Department during the six month reporting periods under the NYTD timelines.
 - (b) Baseline population: The Department will report outcome data by conducting a survey with every *child* 17 years of age in the care or custody of the Department; and
 - (c) Follow up populations: The Department will report outcome data by conducting follow up surveys of the young adults surveyed under subsection (b) of this section at ages 19 and 21.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476

413-030-0460

Requirements at Independence

(Adopted ~~01/15/13~~ 10/01/15)

- (1) At least 60 days prior to the date on which the Department is requesting relief of *legal custody* of a *child* or *young adult* reaching independence, the Department must inform the *child* or *young adult* of:
 - (a) The date, time, and location of the hearing;
 - (b) The right to attend the hearing, and the importance of attending; and
 - (c) The right to request assistance with transportation to and from the hearing.

- (2) When the court relieves the Department of the custody of the *child* or *young adult* reaching independence, the Department must provide the *child* or *young adult* with the following written records:
 - (a) Unless the release is prohibited by law or the law requires the *child* or *young adult* to make a specific request for the records under ORS ~~432.420-250~~, and ORS 109.425 to 109.507, information concerning the case of the *child* or *young adult*, including family and placement history, location and status of each *sibling*, and contact information the *child* or *young adult* may use to seek additional information about his or her case or family history.

 - (b) Health and education records, including:
 - (A) Health and immunization records; ~~and~~
 - (B) Educational summary and records; ~~and~~
 - (C) Information on how to identify a Health Care Representative, complete an Oregon Advance Directive, and complete the Former Foster Care Youth Medical Referral Form.

 - (c) A copy of each of the following, and documentation that each has been provided to the *child* or *young adult* in official form:
 - (A) The birth certificate of the *child* or *young adult*; ~~;~~
 - (B) Official proof of the citizenship or residence status of the *child* or *young adult* in a form acceptable to an employer required to verify immigration status; ~~;~~
 - (C) The social security card, or a copy of the original, of the *child* or *young adult*; ~~;~~

- (D) A driver's license or another form of state identification, or a copy of the original, of the *child* or *young adult*;
- (E) Where applicable, a death certificate of a *parent* of the *child* or *young adult*; ~~and~~.
- (F) Written verification of placement in *substitute care* through the Department or one of the federally recognized tribes of the *child* or *young adult* when 14 years of age or older and 18 years of age and younger.

(G) The *child* or *young adult*'s credit report.

- (3) When the Department is unable to provide the documentation and information described in section (2) of this rule prior to the court order by which the Department is relieved of *legal custody* of the *child* or *young adult*, the Department must prepare the written records and either deliver them to the *child* or *young adult* or, when the whereabouts of the *child* or *young adult* are unknown, retain the records in the case file of the *child* or *young adult* until requested by the *child* or *young adult*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-040-0000

Purpose-Definitions

(Amended 12/29/09)

THIS RULE IS REVISED IN ITS ENTIRETY

These rules, OAR 413-040-0000 to 413-040-0032, describe the activities required to:

- ~~(1) — Complete a *protective capacity* assessment;~~
- ~~(2) — Use the Family Decision-making Meeting;~~
- ~~(3) — Develop a *case plan*;~~
- ~~(4) — Develop an *action agreement*;~~
- ~~(5) — Monitor the *case plan*;~~
- ~~(6) — Review and revise the *case plan*;~~
- ~~(7) — Determine when *conditions for return* have been met; and~~
- ~~(8) — Close the *ongoing safety plan* and close the case.~~

(1) "AAICPC" means the Association of Administrators of the Interstate Compact on the Placement of Children, which is the national professional association of state administrators of the Interstate Compact on the Placement of Children, housed at the American Public Human Services Association (APHSA).

(2) "Action agreement" means a written document between the Department and a *parent* or *guardian* that identifies one or more of the services or activities provided by the Department or other community partners, in which the *parent* or *guardian* will participate to achieve an *expected outcome*.

(3) "Acquired Immune Deficiency Syndrome (AIDS)" is a disorder in which a person's immune system is severely suppressed. It is caused by the human immunodeficiency virus (HIV). In order for a person to be diagnosed as having AIDS the virus, immune system suppression, and an opportunistic infection or other condition stipulated by the U.S. Centers for Disease Control must all be present. A laboratory diagnosis of a CD4 less than 200 also is an AIDS defined illness.

(4) "Age-appropriate or developmentally appropriate activities" means:

- (a) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be

developmentally appropriate for a *child*, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

- (b) In the case of a specific *child*, activities or items that are suitable for the *child* based on the developmental stages attained by the *child* with respect to the cognitive, emotional, physical, and behavioral capacities of the *child*.
- (5) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a *child* or *young adult* for one or more of the following purposes:
 - (a) To identify case planning, service planning, and supervision needs of the *child* or *young adult* in *substitute care* with a certified family.
 - (b) To determine the level of care payment while in *substitute care* with a certified family; and
 - (c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.
- (6) "Case plan" means a written goal oriented, time limited individualized plan for the *child* and the *child's* family, developed by the Department and the parents or guardians, to achieve the *child's* safety, permanency, and well-being.
- (7) "Child" means a person under 18 years of age.
- (8) "Compact administrator" means the person for each party to the Compact responsible for carrying out the provisions of the Compact. In Oregon, it is the Assistant Director, Children, Adults and Families, Department of Human Services.
- (9) "Complete Judicial Review" means a hearing that results in a written order that contains the findings required under ORS 419B.476 or includes substantially the same findings as are required under ORS 419A.116.
- (10) "Concurrent permanent plan" means the alternate *permanency plan* whenever the *child* has been placed in *substitute care* when the goal of the *permanency plan* is to return the *child* to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the *child* to the parents or legal guardians.
- (11) "Conditions for return" mean a written statement of the specific behaviors, conditions, or circumstances that must exist within a *child's* home before a *child* can safely return and remain in the home with an in-home *ongoing safety plan*.
- (12) "Counseling" means group and individual counseling, emotional support groups, on-on-one emotional support, AIDS education, and/or information services.

- (13) "Date Child Entered Substitute Care" means the earlier of the following two dates:
- (a) The date the court found the child within the jurisdiction of the court (under ORS 419B.100); or
 - (b) The date that is 60 days from the date of removal.
- (14) "Department" means the Department of Human Services, Child Welfare.
- (15) "Deputy compact administrator" means the person appointed by a *compact administrator* as the coordinator to assure compliance with the law.
- (16) "Expected outcome" means an observable, sustained change in a *parent* or *guardian's* behavior, condition, or circumstance that, when accomplished, will increase a *parent* or *guardian's protective capacity* and reduce or eliminate an identified impending danger safety threat, and which, when accomplished, will no longer require Child Welfare intervention to manage a child's safety. It is a desired end result and takes effort to achieve.
- (17) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge, and when the expert is evaluating a *parent* or *guardian*, whether the individual's functioning impacts his or her *protective capacity*.
- (18) "Family member" means any person related to the *child* or *young adult* by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, or great-grandparents. *Family member* also includes the *registered domestic partner* of a person related to the *child*, a *child* 12 years of age or older, and when appropriate, a *child* younger than 12 years of age. In a case involving an Indian *child* under the Indian Child Welfare Act (ICWA), a "family member" is defined by the law or custom of the child's tribe.
- (19) "Family plan" means a written document developed at the OFDM that includes family recommendations on planning for the *child* and may include a *permanency plan*, *concurrent permanent plan*, placement recommendations, or service recommendations. The *family plan* also includes expectations of the parents of the *child* and other family members; services the Department will provide; time lines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate. The *family plan* described in ORS 417.375(1) is incorporated into the *case plan* to the extent that it protects the *child*, builds on family strengths, and is focused on achieving permanency for the *child* within a reasonable time.

- (20) "Guardian" means an individual who has been granted guardianship of a *child* through a judgment of the court.
- (21) "High Risk Group" means the following:
- (a) Having shared a needle with an intravenous drug abuser since 1977;
 - (b) For a man, having had sex with another man or men since 1977;
 - (c) Having been sexually active in an area where heterosexual transmission is believed to be high;
 - (d) Persons with hemophilia;
 - (e) Having been the sexual partner of a person in one of the previous categories;
 - (f) Being born to a woman whose history has put her in one of these other categories.
- (22) "HIV" is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.
- (23) "HIV Infection". People who have been tested and found to have the antibody are referred to as having HIV infection. These people are capable of transmitting the virus through risk behaviors, as described below.
- (24) "HIV Positive" means that a blood test has indicated the presence of antibodies to HIV. This means that the person has been infected by the virus and the immune system has responded by producing antibodies. An exception is infants of HIV-infected mothers. They have been exposed to the mother's antibodies and carry these antibodies in their blood for a number of months after birth. A series of tests is necessary to determine if these infants are themselves infected with HIV.
- (25) "ICPC approved family" means a family approved by the ICPC *deputy compact administrator* or designee after reviewing a home study.
- (26) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five *safety threshold* criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family function.
- (25) "Local Citizen Review Board (CRB)" means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home placement (ORS 419A.090-419A.094).
- (26) "OFDM" means the family decision-making meeting as defined in ORS 417.365, and is a family-focused intervention facilitated by professional staff that is designed to build and

strengthen the natural care giving system for the *child*. These meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision-making meeting is to establish a plan that provides for the safety, attachment, and permanency needs of the *child*. The role of the OFDM is described in ORS 417.365 to 417.375.

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

- (27) "Parent" means the biological or adoptive mother or the legal father of the *child*. A legal father is a man who has adopted the *child* or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian *child* under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the *child* by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

- (28) "Permanency Hearing" means the hearing that determines the permanency plan for the child. The Permanency Hearing is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.

- (29) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the *child* or *young adult*. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the *child* or *young adult* during the remaining years of dependency and be accessible and supportive to the *child* or *young adult* in adulthood.

- (30) "Personal care services" means the provision of or assistance with those functional activities described in OAR 413-090-0120 consisting of mobility, transfers, repositioning, basic personal hygiene, toileting, bowel and bladder care, nutrition, medication management, and delegated nursing tasks that a *child* or *young adult* requires for his or her continued well-being.

- (31) "Placement" means the arrangement for the care of a child in a foster home, relative foster home, non-paid relative home, or a child-caring agency or institution. It does not include the arrangement for care in an institute caring for the mentally ill, an institution primarily educational in character, or a hospital or other medical facility.

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

- (33) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by a public authority or a private person or agency, whether for placement with a state or local public authority or with a private agency or person.
- (34) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.
- (35) "Reunification" means placement with a *parent* or *guardian*.
- (x) "Safety threshold" means the point at which family behaviors, conditions, or circumstances are manifested in such a way that they are beyond being risk influences and have become an *impending danger safety threat*. In order to reach the "safety threshold" the behaviors, conditions, or circumstances must meet all of the following criteria: be imminent, be out of control, affect a vulnerable child, be specific and observable, and have potential to cause severe harm to a *child*. The "safety threshold" criteria are used to determine the presence of an *impending danger safety threat*.
- (36) "SAIP" means Secure Adolescent Inpatient Program.
- (37) "SCIP" means Secure Children's Inpatient Program.
- (38) "Sending agency" means a party state or an officer or employee thereof; a subdivision of a party state or an officer or employee thereof; a court of a party state; or a person, corporation, association, charitable agency, or other entity that sends, brings, or causes to be sent or brought a child to another party state.
- (39) "Sending state" means the state from which a proposed placement is made.
- (40) "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.
- (41) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a *child* or *young adult* in the legal or physical custody of the Department.
- (42) "Termination of Parental Rights" means that a court of competent jurisdiction has entered an order terminating the rights of the parent or parents, pursuant to ORS 419B.500 through 419B.530 or the statutes of another state. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419A.200).
- (43) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-040-0005

Definitions Purpose

(Amended 01/15/13)

THIS RULE IS REVISED IN ITS ENTIRETY

The following definitions apply to OAR ~~413-040-0000 to 413-040-0032~~:

- (1) ~~"Action agreement" means a written document between the Department and a *parent* or *guardian* that identifies one or more of the services or activities provided by the Department or other community partners, in which the *parent* or *guardian* will participate to achieve an *expected outcome*.~~
- (2) ~~"CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on a *child* or young adult's needs and strengths used for one or more of the following purposes:~~
 - (a) ~~Identifying case planning, service planning, and supervision needs of the *child* or *young adult* in *substitute care* with a certified family.~~
 - (b) ~~Determining the level of care payment while in *substitute care* with a certified family; and~~
 - (c) ~~Determining the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.~~
- (3) ~~"Case plan" means a written goal oriented, time limited individualized plan for the *child* and the *child's* family, developed by the Department and the parents or guardians, to achieve the *child's* safety, permanency, and well-being.~~
- (4) ~~"Child" means a person under 18 years of age.~~
- (5) ~~"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 guardians.~~
- (6) ~~"Conditions for return" mean a written statement of the specific behaviors, conditions, or circumstances that must exist within a *child's* home before a *child* can safely return and remain in the home with an in-home *ongoing safety plan*.~~
- (7) ~~"Department" means the Department of Human Services, Child Welfare.~~
- (8) ~~"Expected outcome" means an observable, sustained change in a *parent* or *guardian's* behavior, condition, or circumstance that, when accomplished, will increase a *parent* or *guardian's* *protective capacity* and reduce or eliminate an identified safety threat, and~~

~~which, when accomplished, will no longer require Child Welfare intervention to manage a child's safety. It is a desired end result and takes effort to achieve.~~

- (9) ~~"Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge, and when the expert is evaluating a parent or guardian, whether the individual's functioning impacts his or her protective capacity.~~
- (10) ~~"Family member" means any person related to the child by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, or great grandparents. Family member also includes the registered domestic partner of a person related to the child, a child 12 years of age or older, and when appropriate, a child younger than 12 years of age. In a case involving an Indian child under the Indian Child Welfare Act (ICWA), a "family member" is defined by the law or custom of the child's tribe.~~
- (11) ~~"Family plan" means a written document developed at the OFDM that includes family recommendations on planning for the child and may include a permanency plan, concurrent permanent plan, placement recommendations, or service recommendations. The family plan also includes expectations of the parents of the child and other family members; services the Department will provide; time lines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate. The family plan described in ORS 417.375(1) is incorporated into the case plan to the extent that it protects the child, builds on family strengths, and is focused on achieving permanency for the child within a reasonable time.~~
- (12) ~~"Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.~~
- (13) ~~"Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more safety threats to which the child is vulnerable and determined the parent or caregiver is unable or unwilling to protect the child. An ongoing safety plan can be in-home or out-of-home and is adjusted when necessary to provide the least intrusive interventions.~~
- (14) ~~"Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by~~

~~assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.~~

- ~~(15) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the *child*. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the *child* during the remaining years of dependency and be accessible and supportive to the *child* in adulthood.~~
- ~~(16) "Personal care services" means the provision of or assistance with those functional activities described in OAR 413-090-0120 consisting of mobility, transfers, repositioning, basic personal hygiene, toileting, bowel and bladder care, nutrition, medication management, and delegated nursing tasks that a *child* or *young adult* requires for his or her continued well being.~~
- ~~(17) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a *child* safe.~~
- ~~(18) "Registered domestic partner" means an individual joined in a domestic partnership that has been registered by a county clerk in accordance with the Oregon Family Fairness Act.~~
- ~~(19) "Reunification" means placement with a *parent* or *guardian*.~~
- ~~(20) "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.~~
- ~~(21) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a *child* or *young adult* in the legal or physical custody of the Department.~~
- ~~(22) "Young adult" means a person aged 18 through 20 years.~~

The purpose of OAR 413-040-0000 to 413-040-0032 is to describe the activities required to:

- (1) Complete a *protective capacity* assessment;
- (2) Use the Family Decision-making Meeting;
- (3) Develop a *case plan*;
- (4) Develop an *action agreement*;
- (5) Monitor the *case plan*;
- (6) Review and revise the *case plan*;

(7) Determine when *conditions for return* have been met; and

(8) Close the *ongoing safety plan* and close the case.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0006

Requirements for the Conditions for Return and the Protective Capacity Assessment

(Amended 01/15/13)

- (1) The caseworker must determine *conditions for return* during the development of the *ongoing safety plan*.
- (2) The *conditions for return* are documented in the *ongoing safety plan* and the *case plan*, and must describe:
 - (a) The specific behaviors, conditions, or circumstances that must exist before the Department may develop an in-home *ongoing safety plan* that assures a child's safety, as described in OAR 413-015-0450(2)(b)(A)(i) - (iii); and
 - (b) The actions, services, and time requirements of all participants in the in-home *ongoing safety plan*.
- (3) The Department uses the *protective capacity* assessment to engage the ~~child's~~ parents or guardians of the child or young adult in a collaborative process to --
 - (a) Examine and understand the behaviors, conditions, or circumstances that made the *child* unsafe and the ~~parent or guardian's~~ strengths of the parent or guardian that build *protective capacity*;
 - (b) Examine and understand how the behavioral, cognitive and emotional characteristics of the parents or guardians impact their ability to care for and keep the *child* safe;
 - (c) Determine the ~~changes (expected outcomes) in~~ related to the behaviors, conditions, or circumstances of the parents or guardians that will increase *protective capacity* and reduce or eliminate the identified impending danger safety threat; and
 - (d) Identify services or activities that are likely to achieve the expected outcomes.

- (4) Whenever possible, the Department and the parents or guardians should come to agreement on expected outcomes and the actions, services, and activities to achieve the expected outcomes.
- (5) The caseworker must:
 - (a) Complete the following activities within five days of receipt of the case from the CPS worker or after replacing or adding an impending danger safety threat during ongoing case management:
 - (A) Review the Child Welfare case history, case documentation, and the actions and decisions of the most recent CPS assessment;
 - (B) Review and update as necessary the *ongoing safety plan* by contacting all participants in the safety plan to determine whether the *ongoing safety plan* assures the safety of the *child*;
 - (C) Review and update as necessary the *conditions for return*; and
 - (D) Document the review of the *ongoing safety plan* and *conditions for return* in the Department's electronic information system.
 - (b) Complete the following activities:
 - (A) Conduct reasonable inquiries for the purpose of identifying individuals who may contribute to the caseworker's understanding of the *protective capacity* of the parents or guardians and the safety of the *child*. Such individuals may include parents or guardians, grandparents, extended family, an Indian child's tribe, and any other family members, persons with significant attachments to the *child*, other professionals, substitute caregivers, neighbors, and friends of the family. Reasonable inquiries mean, as defined in ORS 417.371(4)(b), efforts that include reviewing the case file for relevant information, contacting the parents or guardians, and contacting additional sources of information for the purpose of ascertaining the whereabouts of family members, if necessary.
 - (B) Gather information from these individuals through individual interviews or meetings for the purpose of identifying and understanding the needs, concerns, strengths, and limitations associated with the *protective capacity* of parents or guardians and assessing the impact on the child's safety.
 - (C) Evaluate the relationship between --
 - (i) The existing protective capacities of parents or guardians that contribute to *child* safety;

- (ii) The diminished protective capacities of parents or guardians that must change for the parents or guardians to care for and keep the *child* safe; and
 - (iii) The parents' or guardians' readiness to change.
- (D) Whenever possible, collaboratively identify with the parents or guardians:
- (i) Other family members, persons with significant attachments to the *child*, community members, and members of an Indian child's tribe who will contribute to meeting the *conditions for return* and actively participate in an *ongoing safety plan* or enhancing the *protective capacity* of the parents or guardians; and
 - (ii) Actions and services that will reduce or eliminate identified safety threats or enhance the *protective capacity* of the parents or guardians.
- (E) Inform the parents or guardians of the Department's actions and decisions regarding identified impending danger safety threats, *conditions for return*, *protective capacity*, and the *ongoing safety plan*.
- (F) Enter the findings of the *protective capacity* assessment, the information obtained by conducting the activities required in paragraphs (A) to (D) of this subsection, and the *conditions for return* in the Department's information system.
- (6) The caseworker must include document the findings of the *protective capacity* assessment and the *conditions for return* in the *case plan*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0008

Requirements for a Family Decision-making Meeting

(Amended 01/15/13)

- (1) ~~"OFDM" as used in this rule means the family decision-making meeting as defined in ORS 417.365, and is a family focused intervention facilitated by professional staff that is designed to build and strengthen the natural care giving system for the *child*. These meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision-making meeting is to establish a plan that provides for the safety,~~

~~attachment, and permanency needs of the *child*. The role of the OFDM is described in ORS 417.365 to 417.375.~~

- (21) When the *child* has been placed in *substitute care* for more than 30 days, the Department must consider scheduling an OFDM. When considered appropriate, the meeting is scheduled, whenever possible, between the 30th and 60th day of the out-of-home care placement.
- (32) When a decision has been made by the Department and the family to use the OFDM, the Department will conduct and document reasonable inquiries to promptly locate and notify the parents, grandparents, an Indian child's tribe, and any other *family member* who has had significant, direct contact with the *child* in the year prior to the *substitute care* placement. Other participants in the meeting ~~may~~ must include the *child*, if the *child* is 12 years of age or older, and for a child 14 years of age and older, at their option, up to two members of the case planning team who are chosen by the *child*. or it is otherwise appropriate to include the *child*. Other participants in the meeting may include a child younger than 12 when appropriate, other professionals, foster parents, neighbors, and family and friends of the family as appropriate.
- (43) Family members or an Indian child's tribe who are located after reasonable inquiries will be notified by the Department of the OFDM in a timely manner to allow them the opportunity to prepare for and attend the meeting.
- (54) Other participants will be jointly identified by the parents, guardians, Indian custodian of the *child*, and the Department, and the Department will notify identified participants in a timely manner to allow them the opportunity to prepare for and attend the meeting.
- (65) To assist the family in developing the family's plan for the *child*, the Department must provide participants with information regarding the federal timeline for determining permanency for the *child* and the Oregon Administrative Rules that govern the sufficiency of a safety plan, *conditions for return*, and *reunification*.
- (76) The located family members may attend the OFDM unless the other participants determine that a *family member* may threaten or place other participants at risk. The Department may exclude family members it determines are violent, unpredictable, or abusive or an alleged perpetrator of sexual abuse, domestic violence, or severe physical assault.
- (87) Family members who are not invited or allowed to participate may submit written information and recommendations to the caseworker prior to the scheduled meeting concerning the subjects of the OFDM, including concerns regarding the placement of the *child*, *permanency plan*, *concurrent permanent plan*, and services.
- (98) During the OFDM, family members will develop a *family plan* for the *child*.

- (109) Any *family member* or tribal representative participating in an OFDM must sign a written acknowledgment of the content of the *family plan* developed at the meeting and of his or her attendance at the meeting.
- (110) The Department will send a copy of the *family plan* developed at the OFDM within 21 days after the date of the meeting to family participants, including those who participated by submitting written information and recommendations.
- (121) The Department will incorporate the *family plan* developed at the OFDM into the Department's *case plan* to the extent that the *family plan* protects the *child*, builds on family strengths, and focuses on achieving permanency for the *child* within a reasonable time. If the family's plan developed at the meeting cannot be incorporated into the Department's *case plan*, the reasons shall be documented in the Department's *case plan*.
- (1312) The Department is responsible for confirming that any *family plan* developed at an OFDM is sufficient to ensure the safety or permanency of the *child* before implementing a *family plan* developed at an OFDM.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0009

Requirements for Conditions for Return

(Amended 01/15/13)

[THIS RULE IS REPEALED](#)

~~This topic is covered in [OAR 413-040-0006](#).~~

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0010

Requirements for the Case Plan

(Amended 01/15/13)

- (1) The caseworker must analyze the information gathered during the *protective capacity* assessment to develop a *case plan*. The *case plan* must include all of the following information:
 - (a) Family composition, which includes the information identifying each *child*, each *young adult*, and each *parent* or *guardian*.

- (b) ~~Safety~~ Original impending danger safety threats identified in the CPS assessment as described in OAR 413-015-0425.
- (c) The *ongoing safety plan* including any additional impending danger safety threats identified since the CPS assessment, as described in OAR 413-015-0450 and recorded in the Department's information system.
- (d) The findings of the *protective capacity* assessment.
- (e) Expected outcomes and actions that each *parent* or *guardian* is taking to achieve them.
- (f) Services (if applicable) to the *child* or *young adult* that include:
 - (A) The identified needs of and services provided to any *child* or *young adult* placed in *substitute care*, including the results of the *CANS screening*, the *personal care services* provided to an eligible *child* or *young adult* ~~per~~ Child Welfare Policy I-E.5.1.2, "Personal Care Services" under OAR 413-090-0100 to 413-090-0210, and other current assessments or evaluations of the *child* or *young adult*, and the reasons the *substitute care* placement is the least restrictive placement to meet the *child* or *young adult's* identified needs;
 - (B) The ~~*child or young adult's*~~ health information of the *child* or *young adult*, which documents the child's routine and specialized medical, dental, and mental health services;
 - (C) The ~~*child or young adult's*~~ education services of the *child* or *young adult*, the school or educational placement history of the *child* or *young adult*, high school credits earned for a *child* over 14 years of age or a *young adult*, and any special educational needs; and
 - (D) Services to transition the *child* or *young adult* to independent living in all cases when the *child* is ~~16-14~~ 14 years of age or older, ~~and if provided to the *child* who is 14 or 15 years old.~~
- (g) Services the Department will provide including:
 - (A) Case oversight and routine contact with the parents or guardians and the *child* or *young adult*;
 - (B) Appropriate and timely referrals to services and service providers suitable to address identified impending danger safety threats or strengthen parental *protective capacity*;

- (C) Appropriate and timely referrals to services and service providers suitable to address the needs of the *child* or *young adult* as identified through the *CANS screening* and other current assessments or evaluations of the *child* or *young adult*; and
- (D) Timely preparation of reports to the court or other service providers.
- (h) The date that the progress of the parents or guardians in achieving expected outcomes will be reviewed. The *case plan* must be reviewed with the parents or guardians every 90 days; however, the caseworker and parents or guardians may agree on a review date at any time within the 90-day period.
- (i) When the *child* or *young adult* is in *substitute care*, the *case plan* must also include:
 - (A) Current placement information including:
 - (i) The location of the *child* or *young adult* and the *substitute caregiver* of the *child* or *young adult*, except when doing so would jeopardize the safety of the *child*, *young adult*, or the *substitute caregiver*, or the *substitute caregiver* will not authorize release of the address; and
 - (ii) Documentation that shows that the *child* or *young adult* is receiving safe and appropriate care in the least restrictive environment able to provide safety and well-being for the *child* or *young adult*.
 - (B) The *child* or *young adult*'s record of visits with his or her parents and siblings.
 - (C) The *permanency plan*.
 - (D) The *conditions for return*.
 - (E) The *concurrent permanent plan* and the progress the Department has made in implementing the *concurrent permanent plan*.
- (j) The *case plan* for any *child* or *young adult* in foster care who has attained 14 years of age must include:
 - (A) A document that describes:
 - (i) The rights of the *child* or *young adult* with respect to education, health, visitation, and court participation;

(ii) The right to be provided with a copy of the young adult's birth certificate, social security card, health insurance information, medical records, and a driver's license or equivalent state-issued identification card when the child leaves foster care having attained age 18 or greater; and

(iii) The right to stay safe and avoid exploitation.

(B) A signed acknowledgment by the *child* or *young adult* that the child or young adult has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(2) As applicable, the caseworker must also include in the *case plan*:

- (a) The goals and activities required for an Indian *child* under ~~the Indian Child Welfare Act (see Child Welfare Policy I.E.2.1, "Placement of Indian Children" OAR 413-010-0100 to 413-010-0260)~~ or for a refugee *child* under ~~the Refugee Act (see Child Welfare Policy I.E.2.2, "Placement of Refugee Children" OAR 413-070-0300 to 413-070-0380 and see ORS 418.925 to 418.945).~~
- (b) Recommendations of expert evaluations requested by the Department whenever the recommendations may impact parental protective capacities or treatment services for the *child* or *young adult*. If the recommendations are not included in the *case plan*, the rationale must be documented in the Department's information system.
- (c) Diligent efforts to place the *child* or *young adult* with relatives and with siblings who are also in *substitute care*, sibling connections, and the Department's efforts to keep siblings together.
- (d) Orders of the court.

(3) The persons involved with the Department in the development of the *case plan* include:

- (a) ~~the~~ The parents or guardians, unless their participation threatens or places other participants at risk;
- (b) The child who has obtained 14 years of age or the *young adult*; and
- (c) At the option of the *child* or *young adult*, up to two members of the case planning team chosen by the *child* or *young adult* who are not:
 - (A) A foster parent;
 - (B) A caseworker for the *child* or *young adult*; or

- (C) An individual the Department has good cause to believe would not act in the best interests of the *child* or *young adult*.
- (d) One of the individuals in subsection (c) of this section may be designated to be the advisor of the *child* or *young adult*, and as needed, advocate for the *child* or *young adult* with respect to the application of the reasonable and prudent parent standard to the *child* or *young adult*.
- (4) Additional persons involved with the Department in the development of the case plan may include the *child* regardless of age, or *young adult*, adoptive parents, an Indian custodian when applicable, other relatives, persons with significant attachments to the *child* or *young adult*, the *substitute caregiver*, and other professionals when appropriate.
- (45) The *case plan* must include the signature of the caseworker and each *parent* or *guardian*, unless subsections (67)(a) or (67)(b) of this rule apply.
- (56) Approval and distribution of the *case plan*.
- (a) The Child Welfare supervisor must approve and sign the *case plan*.
- (b) The caseworker must give a copy of the *case plan* to the parents or guardians of the *child* or *young adult*, and the Indian child's tribe when applicable, as soon as possible but no later than seven working days after the *case plan* is approved by the supervisor, except when doing so would provide information that places another person at risk.
- (67) Exceptions and exemptions to the required *case plan*.
- (a) A court may authorize an exception to the involvement of the parents or guardians when it determines that reasonable efforts to return the *child* home are not required, as described in [Child Welfare Policy I-E.3.6, "Achieving Permanency"](#) OAR [413-070-0515](#).
- (b) When the Department has custody of a *child* or *young adult* in *substitute care* and is unable to obtain the signature of a *parent* or *guardian*, the caseworker must prepare and send a letter of expectations and a copy of the *case plan* to the *parent* or *guardian* within seven working days after the supervisor has approved and signed the *case plan*. A letter of expectations means an individualized written statement for the family of the *child* or *young adult* that identifies family behaviors, conditions, or circumstances that resulted in an unsafe *child*; the expected outcomes; and what the Department expects each *parent* or *guardian* will do to achieve safety, permanency, and well-being of the *child* or *young adult* in the parental home.

- (c) A *case plan* as described in sections (1) to (5) of this rule is not required if a family, *child*, or *young adult* is eligible for Family Support Services as described in Child Welfare Policy I B.2.3.1, "Family Support Services" OAR 413-030-0000 to 413-030-0030.

- (78) Timeline for *case plan* development. The caseworker must develop the *case plan* within 60 days of a child's removal from home or within 60 days of the completion of the CPS assessment, in cases where the *child* remains in the home of a *parent* or *guardian*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0013

Requirements for Monitoring the Case Plan

(Amended 01/15/13)

- (1) The caseworker must --
 - (a) Make reasonable efforts to:
 - (A) Reduce the stay of a *child* or *young adult* in *substitute care*;
 - (B) Reunify the *child* or *young adult* with the parents or guardians whenever possible; and
 - (C) Achieve a *permanency plan* when *reunification* is no longer possible.
 - (b) Monitor the *case plan*; and
 - (c) Terminate Department intervention services in a timely manner.
- (2) The caseworker is responsible for all of the following actions:
 - (a) Contacting and communicating with each *parent* or *guardian* through monthly face-to-face contact about progress toward achieving the *conditions for return* and the expected outcomes.
 - (b) Contacting and communicating with the *child* or *young adult* during the monthly face-to-face contact required under OAR 413-080-0054.
 - (c) Monitoring the interests of the child's or young adult's and his or her opportunities to participate in age-appropriate or developmentally appropriate activities, which include extracurricular, enrichment, cultural, and social activities.

- (ed) Monitoring the services provided through the *case plan* through contact with each service provider a minimum of once every 90 days.
- (de) Monitoring the *ongoing safety plan*.
- (ef) Monitoring action agreements.
- (fg) Monitoring the visitation and contact plan when a *child* or *young adult* is in *substitute care*.
- (gh) Monitoring the *parent* or guardian's progress toward meeting the *conditions for return* when a *child* or *young adult* is in *substitute care*.
- (hi) Monitoring the *parent* or guardian's progress toward meeting the expected outcomes of the *case plan*.
- (ij) Ensuring completion of the actions and activities that are the responsibility of the Department.
- (jk) Reviewing the progress the *parent* or *guardian* has made in reducing or eliminating identified impending danger safety threats and enhancing parental *protective capacity* during each monthly review of the *ongoing safety plan*.
- (kl) Arranging for supervision or other services to address the *child* or young adult's strengths and needs identified through the most recent *CANS screening* as required by Child Welfare Policy I-B.1.6, "Enhanced Supervision" OAR 413-020-0200 to 413-020-0255.
- (lm) Responding immediately to issues that may impact the safety of the *child* or *young adult* which become known to the caseworker.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0014

Replacing or Adding Impending Danger Safety Threats During Ongoing Case Management

THIS IS A NEW RULE

(1) A caseworker may replace an identified *impending danger safety threat* or add a new *impending danger safety threat* to an *ongoing safety plan* during *ongoing case management*.

(a) A caseworker may replace an identified *impending danger safety threat* when:

- (A) The Department determines the incorrect *impending danger safety threat* was identified during the CPS assessment in error; or
- (B) After completing a protective capacity assessment, receiving evaluations, or based on other new information, the Department determines there is an *impending danger safety threat* that more accurately describes the family behaviors, conditions, or circumstances.
- (b) A caseworker may add an *impending danger safety threat* to an ongoing safety plan during ongoing case management when a change occurs in the family behaviors, conditions, or circumstances that is not a new allegation of abuse or neglect, but indicates a new *impending danger safety threat* is present.
- (2) Prior to adding a new *impending danger safety threat*, the caseworker must:
 - (a) Apply the *safety threshold* criteria as outlined in OAR 413-015-0425(2)(a) to (e), assure all five criteria are met and, if so, document in the Department's electronic information system the application of the *safety threshold* criteria and how the *impending danger safety threat* is occurring; and
 - (b) Review and update as necessary the ongoing safety plan, conditions for return, and protective capacities and complete the activities outlined in OAR 413-040-0006.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0016

Requirements for Review of the Case Plan

(Amended 01/15/13)

- (1) The *case plan* is reviewed a minimum of every 90 days. This review must take place in a face-to-face meeting with the parents or guardians, unless excluded under section (3) of this rule. The meeting may include the *child at any age if developmentally appropriate, young adult*, service providers, safety plan participants, substitute caregivers, attorneys, a *child* or young adult's CASA, persons with significant attachments to the *child* or *young adult*, and family members. The meeting must include the child 14 years of age or older or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c).

- (2) During the *case plan* review, the caseworker assesses and determines the progress that has been made in achieving the expected outcomes of the *case plan*, and, when the *child* or *young adult* is in *substitute care*, the progress toward meeting the *conditions of return*.
- (3) Exceptions to the face-to-face *case plan* review. If a *parent* or *guardian* is not available for the review, the caseworker must document the reason the *parent* or *guardian* was unavailable and the efforts that were made to involve the *parent* or *guardian* in the review.
- (4) During a *case plan* review, the caseworker must consider input received from the *child* or *young adult*, the service providers, safety plan participants, substitute caregivers, attorneys, a *child* or young adult's CASA, persons with significant attachments to the *child* or *young adult*, and family members.
- (5) Subsequent to the face-to-face meeting, the caseworker documents all of the following in the Department's information system:
 - (a) The services provided and the progress of the parents or guardians in achieving expected outcomes or, when a *child* is in *substitute care*, meeting the *conditions of return*.
 - (b) Observations of improved *parent* or *guardian protective capacity* based on specific behaviors, conditions, or circumstances that have measurably changed.
 - (c) Input received from service providers, substitute caregivers, attorneys, the *child* or young adult's CASA, persons with significant attachments to the *child* or *young adult*, and family members.
 - (d) The addition, reduction, or elimination of the identified impending danger safety threats.
 - (e) The actions the Department has taken to develop and implement the *concurrent permanent plan* for the *child* or *young adult* in *substitute care* if a *parent* or *guardian* has not demonstrated progress in achieving the *conditions for return* in a timely manner including:
 - (A) A review of the *child* or young adult's education, health, and mental health services to ensure the needs of the *child* or *young adult* are being met;
 - (B) A review of other services provided to address the identified needs of the *child* or *young adult*, including those identified through the *CANS screening*;
 - (C) An assessment of the need of the *child* or *young adult* for a safe and permanent home; and

- (D) An assessment of the capacity of the *substitute caregiver* to meet the identified needs of the *child* or *young adult* as described in OAR 413-070-0640.
 - (E) A review of the interests of, and participation by, the *child* or *young adult* in age-appropriate or developmentally appropriate activities, and any identified barriers to participation in extracurricular, enrichment, social, and cultural activities that are of interest to the child or young adult; and
 - (F) An assessment of the capacity of the *substitute caregiver* to apply the reasonable and prudent parent standard.
- (6) Within 30 days of receiving an *expert evaluation* requested by the Department, the caseworker must consider revising the *case plan* to include recommendations that will improve *parent* or *guardian protective capacity* related to the identified impending danger safety threats. If the recommendations are not included in the *case plan*, the rationale must be documented in the Department's information system.
- (7) The Child Welfare supervisor must review the caseworker's documentation of the *case plan* review, and document completion of the review in the Department's information system every 90 days. The supervisor must review, approve, and sign the six-month *case plan* review submitted for required administrative review.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0017

Requirements for Return and Reunification

(Amended 01/15/13)

- (1) The caseworker recommends returning the *child* or *young adult* to a *parent* or *guardian* after the caseworker has reviewed the impending danger safety threats identified in the CPS assessment that required an out-of-home *ongoing safety plan* and verified that:
- (a) The *conditions for return* in the *case plan* have been met;
 - (b) The identified impending danger safety threats can be managed with an *ongoing safety plan*;
 - (c) The parents or guardians are willing and able to accept responsibility for the care of the *child* or *young adult* with an *ongoing safety plan*;
 - (d) The parents or guardians are willing and able to continue participating in *case plan* services;

- (e) Service providers who are currently working with the *child, young adult*, parents or guardians, and other involved persons including the *child* or young adult's CASA and attorneys have been informed, in writing, of the plan to return the *child* or *young adult* with an in-home *ongoing safety plan*; and
 - (f) No safety concerns for the *child* or *young adult* are raised in the caseworker's review of the criminal history records and child welfare protective service records of all persons currently residing in a *parent* or guardian's home.
- (2) When the *child* or *young adult* is returning to a *parent* living in a residential treatment facility, an alcohol and drug free housing program, or a residential domestic violence program, the Department does not review the criminal history records and child welfare protective service records of persons living in the state funded facilities and programs.
 - (3) If the caseworker cannot confirm that identified [impending danger](#) safety threats can be managed if the *child* or *young adult* is returned to a *parent* or *guardian* with an in-home *ongoing safety plan*, the *child* or *young adult* must remain in *substitute care*.
 - (4) The caseworker's supervisor must review and concur that *conditions for return* have been met, and that any disagreement with the plan to return the *child* or *young adult* has been reviewed and considered in the development of the in-home *ongoing safety plan* prior to the caseworker recommending to the court that a *child* or *young adult* be returned to a *parent* or *guardian*.
 - (5) The in-home *ongoing safety plan* must specifically document the planned caseworker and safety service provider contacts with the *child* or *young adult* and the *parent* or *guardian*, when the *child* or *young adult* is returned to the *parent* or *guardian*.
 - (6) The caseworker must revise, as necessary, and confirm the sufficiency of an in-home *ongoing safety plan* that will manage [impending danger](#) safety threats as they are uniquely occurring within a particular family prior to the *child* or young adult's physical return.

Stat. Auth.: ORS [409.050](#), [418.005](#)

Stats. Implemented: ORS [409.010](#), [418.005](#)

413-040-0024

Requirements for an In-home Ongoing Safety Plan Prior to Return and Next Day Contact

(Amended 01/15/13)

- (1) When the caseworker determines the *conditions for return* have been achieved and identified [impending danger](#) safety threats can be managed when a *child* or *young adult* is returned to a *parent* or *guardian* ~~(see [OAR 413-040-0017](#))~~, the caseworker must develop

| an in-home *ongoing safety plan* ~~as described in OAR 413-015-0450~~. The caseworker's supervisor must:

- (a) Approve the proposed in-home *ongoing safety plan* during the five working days prior to the return of a *child* or *young adult* to the home of a *parent* or *guardian* of the *child* or *young adult*; and
 - (b) Document the approval in the Department's information system.
- (2) After a proposed in-home *ongoing safety plan* returning a *child* or *young adult* to the *parent* or *guardian*'s home is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:
- (a) Visit the *child* or *young adult*, outside the presence of a *parent* or *guardian*, at least once during the five days prior to the return of the *child* or *young adult* to the home to confirm the readiness of and prepare the *child* or *young adult* for the return home.
 - (b) Visit the *parent* or *guardian* in the home of the *parent* or *guardian*, at least once during the five days prior to the return of the *child* or *young adult* to the home, to verify:
 - (A) The behaviors, conditions, and circumstances in the home are safe for the return of the *child* or *young adult*;
 - (B) Confirmation of all persons living in the household;
 - (C) The *parent* or *guardian* is ready for the return of the *child* or *young adult*;
 - (D) The *parent* or *guardian* is willing and able to participate in the *ongoing safety plan*; and
 - (E) The *parent* or *guardian* is willing and able to continue in *case plan* services.
 - (c) If necessary, revise the proposed in-home *ongoing safety plan* to ensure that it is able to manage [impending danger](#) safety threats as they are uniquely occurring within the family prior to the *child* or *young adult*'s physical return.
 - (d) Confirm the in-home *ongoing safety plan* with the *parent* or *guardian*, and obtain the signature of the *parent* or *guardian*.
 - (e) Document the revised in-home *ongoing safety plan* in the Department's information system.
- |

- (3) After a proposed in-home *ongoing safety plan* returning a *child* or *young adult* to the *parent* or guardian's residential treatment facility, an alcohol and drug free housing program, or residential domestic violence program is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:
- (a) Visit the *child* or *young adult*, outside the presence of a *parent* or *guardian*, at least once during the five days prior to the return of the *child* or *young adult* to the home to confirm the readiness of and prepare the *child* or *young adult* for the return.
 - (b) Contact the *parent* or *guardian* at least once during the five days prior to the return of the *child* or *young adult* to the home, to verify:
 - (A) The *parent* or *guardian* is ready for the return of the *child* or *young adult*;
 - (B) The *parent* or *guardian* is willing and able to participate in the *ongoing safety plan*;
 - (C) The *parent* or *guardian* is willing and able to continue to participate in *case plan* services.
 - (c) Verify that the residential treatment facility, an alcohol and drug free housing program, or residential domestic violence program is a safe environment for the *child* or *young adult*.
 - (d) If necessary, revise the proposed in-home *ongoing safety plan* to ensure that it is able to manage the [impending danger](#) safety threats as they are uniquely occurring prior to the *child* or *young adult*'s physical return.
 - (e) Confirm the in-home *ongoing safety plan* with the *parent* or *guardian* and obtain the signature of the *parent* or *guardian*.
 - (f) Document the revised *ongoing safety plan* in the Department's information system.
- (4) In the event a court orders the return of a *child* or *young adult* to a *parent* or *guardian* of the *child* or *young adult* before an in-home *ongoing safety plan* can be developed and approved (in accordance with the criteria in OAR [413-015-0450](#) and this rule):
- (a) The caseworker must complete the activities described in this rule as soon as practicable, but not later than seven working days following the court order; and
 - (b) If the caseworker disagrees with the order of the court, the caseworker must immediately consult with his or her supervisor.

- (5) The caseworker must visit the *child* or *young adult* in the residence of the *parent* or *guardian* the day following the return home of the *child* or *young adult*. The caseworker must:
- (a) Monitor the safety of the *child* or *young adult* by completing the activities required by OAR 413-080-0055(2);
 - (b) Follow the requirements of OAR 413-080-0055(4)-(6), as appropriate; and
 - (c) Document observations and the conditions of the residence in the Department's information system within seven business days of the visit.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0032

Requirements for Closing the In-Home Ongoing Safety Plan and Closing the Case

(Amended 01/15/13)

- (1) When a *child* or *young adult* is in the home of the *parent* or *guardian* and the *parent* or *guardian* can sustain the safety of the *child* or *young adult*, the caseworker must assess when the in-home *ongoing safety plan* should close.
- (2) When assessing whether the in-home *ongoing safety plan* can be closed, the caseworker must determine whether:
 - (a) The *parent* or *guardian* has demonstrated capacity to sustain the safety of the *child* or *young adult* based upon:
 - (A) Observations of the *child* or *young adult* and the *parent* or *guardian* in the home;
 - (B) Expert evaluations and reports from service providers;
 - (C) Reports from participants in the in-home *ongoing safety plan*;
 - (D) The extent to which the achievement of expected outcomes supports the ability of the *parent* or *guardian* to sustain the safety of the *child* or *young adult*; and
 - (E) Consultation with other individuals participating with the *parent* or *guardian* to sustain the safety of the *child* or *young adult*.
 - (b) The *child* or *young adult* is safe in the home based upon:

- (A) The elimination of the identified [impending danger](#) safety threats or the *protective capacity* of the *parent* or *guardian* is sufficient to manage identified [impending danger](#) safety threats;
 - (B) The willingness and ability of the *parent* or *guardian* to protect the *child* or *young adult*; and
 - (C) Caseworker confidence in the ability of the *parent* or *guardian* to sustain the safety of the *child* or *young adult* over time.
- (3) The caseworker must document the determination that the in-home *ongoing safety plan* can be closed and the facts supporting the ability of the *parent* or *guardian* to provide safety for the *child* or *young adult* and to sustain the safety of the *child* or *young adult*.
 - (4) The caseworker's supervisor must review the caseworker's documentation to ensure the criteria in section (2) of this rule are met, and concur that the in-home *ongoing safety plan* can be closed prior to approving the closure of the safety plan.
 - (5) The caseworker closes the in-home *ongoing safety plan* and the case when the court dismisses the commitment of the *child* or *young adult* to the Department or the court's wardship over the *child* terminates.

Stat. Auth.: ORS [409.050](#), [418.005](#)
Stats. Implemented: ORS [409.010](#), [418.005](#)

413-040-0100

Purpose

(Amended ~~05/22/03~~ [10/01/15](#))

An outline of the required review process to maintain a [child or young adult](#) who is in the legal custody of the Department and placed in substitute care. These rules emphasize that child safety, permanency and well-being are the paramount concerns guiding the review process for providing and maintaining services to children in Department custody.

Stat. Auth.: ORS [418.005](#)
Stats. Implemented: ~~Title IV, ORS~~ [419A.090 – 419A.122](#), [419B.440 – 419B.476](#), [419C.623 – 419C.656](#)

413-040-0110

Definitions

(Amended 02/01/06)

[THIS RULE IS REPEALED](#)

The following definitions apply to OARs ~~413-040-0100 to 413-040-0170~~:

- (1) ~~"Date Child Entered Substitute Care" means the earlier of the following two dates:
 - (a) ~~The date the court found the child within the jurisdiction of the court (under ORS 419B.100); or~~
 - (b) ~~The date that is 60 days from the date of removal.~~~~
- (2) ~~"Department" means the Department of Human Services.~~
- (3) ~~"Complete Judicial Review" means a hearing that results in a written order that contains the findings required under ORS 419B.476 or includes substantially the same findings as are required under ORS 419A.116.~~
- (4) ~~"Local Citizen Review Board (CRB)" means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home placement (ORS 419A.090-419A.094).~~
- (5) ~~"Permanency Hearing" means the hearing that determines the permanency plan for the child. The Permanency Hearing is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.~~
- (6) ~~"SAIP" means Secure Adolescent Inpatient Program.~~
- (7) ~~"SCIP" means Secure Children's Inpatient Program.~~
- (8) ~~"Substitute Care" means a child in the legal or physical custody and care of the Department, including those supervised by another agency, and placed in a paid or unpaid out-of-home placement, including, but not limited to foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities, SAIP, and SCIP.~~
- (9) ~~"Termination of Parental Rights" means that a court of competent jurisdiction has entered an order terminating the rights of the parent or parents, pursuant to ORS 419B.500 through 419B.530 or the statutes of another state. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419A.200).~~

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV, ORS 419A.090 – 419A.122, SB408, ORS 419B.440 – 419B.476 & 419C.623 – 419C.656

413-040-0210
Definitions for ICPC Rules
(Amended 01/15/13)

THIS RULE IS REPEALED

~~Unless the context indicates otherwise, these terms are defined for use in OAR 413-040-0200 to 0330:~~

- ~~(1) — "AAICPC" means the Association of Administrators of the Interstate Compact on the Placement of Children, which is the national professional association of state administrators of the Interstate Compact on the Placement of Children, housed at the American Public Human Services Association (APHSA).~~
- ~~(2) — "Compact administrator" means the person for each party to the Compact responsible for carrying out the provisions of the Compact. In Oregon, it is the Assistant Director, Children, Adults and Families, Department of Human Services.~~
- ~~(3) — "Department" means the Department of Human Services, Child Welfare.~~
- ~~(4) — "Deputy compact administrator" means the person appointed by a *compact administrator* as the coordinator to assure compliance with the law.~~
- ~~(5) — "ICPC approved family" means a family approved by the ICPC *deputy compact administrator* or designee after reviewing a home study.~~
- ~~(6) — "Placement" means the arrangement for the care of a child in a foster home, relative foster home, non-paid relative home, or a child-caring agency or institution. It does not include the arrangement for care in an institute caring for the mentally ill, an institution primarily educational in character, or a hospital or other medical facility.~~
- ~~(7) — "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by a public authority or a private person or agency, whether for placement with a state or local public authority or with a private agency or person.~~
- ~~(8) — "Sending agency" means a party state or an officer or employee thereof; a subdivision of a party state or an officer or employee thereof; a court of a party state; or a person, corporation, association, charitable agency, or other entity that sends, brings, or causes to be sent or brought a child to another party state.~~
- ~~(9) — "Sending state" means the state from which a proposed placement is made.~~

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 417.200 – 417.260, 418.005

413-040-0410

Definitions

(Amended 01/07/03)

THIS RULE IS REPEALED

- (1) ~~"Acquired Immune Deficiency Syndrome (AIDS)" is a disorder in which a person's immune system is severely suppressed. It is caused by the human immunodeficiency virus (HIV). In order for a person to be diagnosed as having AIDS the virus, immune system suppression, and an opportunistic infection or other condition stipulated by the U.S. Centers for Disease Control must all be present. A laboratory diagnosis of a CD4 less than 200 also is an AIDS defined illness.~~
- (2) ~~"CAF" means Children, Adults and Families (CAF).~~
- (3) ~~"Department" means the Department of Human Services (DHS).~~
- (4) ~~"Counseling" means group and individual counseling, emotional support groups, on-on-one emotional support, AIDS education, and/or information services.~~
- (5) ~~"High Risk Group" means the following:~~
 - (a) ~~Having shared a needle with an intravenous drug abuser since 1977;~~
 - (b) ~~For a man, having had sex with another man or men since 1977;~~
 - (c) ~~Having been sexually active in an area where heterosexual transmission is believed to be high;~~
 - (d) ~~Persons with hemophilia;~~
 - (e) ~~Having been the sexual partner of a person in one of the previous categories;~~
 - (f) ~~Being born to a woman whose history has put her in one of these other categories.~~
- (6) ~~"HIV" is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.~~
- (7) ~~"HIV Infection". People who have been tested and found to have the antibody are referred to as having HIV infection. These people are capable of transmitting the virus through risk behaviors, as described below.~~
- (8) ~~"HIV Positive" means that a blood test has indicated the presence of antibodies to HIV. This means that the person has been infected by the virus and the immune system has responded by producing antibodies. An exception is infants of HIV infected mothers.~~

~~They have been exposed to the mother's antibodies and carry these antibodies in their blood for a number of months after birth. A series of tests is necessary to determine if these infants are themselves infected with HIV.~~

~~(9) "SDA" means Service Delivery Area (SDA). A geographic region of one or more counties served by the Department and managed by an SDA Manager.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Licensing Foster Care Agencies

413-215-0306

Definitions

(Amended ~~10/17/08~~ 10/01/15)

As used in OAR ~~413-215-0301 to 413-215-0396~~ 413-215-0301 to 413-215-0396:

(1) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adult of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(~~12~~) "Approved provider parent" means an individual who a *foster care agency*, Oregon Youth Authority (OYA), or a governmental agency other than the Department has approved to provide care to children in the home of the individual.

(~~23~~) "Certified provider home" means the home of at least one *approved provider parent* or *foster parent* that a *foster care agency* has approved for this individual to provide care to children placed by the *foster care agency*.

(~~34~~) "Criminal history check" means compliance with the Department's criminal records history rules (OAR ~~407-007-0200 to 407-007-0370~~). To comply with these rules, the *agency* must appoint a Contact Person (CP) who is designated to receive and process criminal history and child abuse check forms. Final fitness determinations will be made by the Department.

(~~45~~) "Department" means the Department of Human Services, Child Welfare.

(~~56~~) "Foster care agency" means a *private child-caring agency* (defined in OAR ~~413-215-0006~~) that offers to place children by taking physical custody of and then placing the children in homes certified by the agency.

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

(8) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

413-215-0311

License Requirements

(Amended ~~10/17/08~~ 10/01/15)

- (1) A *foster care agency* (defined in OAR 413-215-0306) must be licensed by the Department to certify a home as a *certified provider home* (defined in OAR 413-215-0306).
- (2) A *foster care agency* must be licensed by the Department before the *foster care agency* accepts physical custody of a child for placement in the home of a *foster parent* (defined in OAR 413-215-0306) or *approved provider parent* (defined in OAR 413-215-0306).
- (3) To be licensed by the Department, a *foster care agency* must ~~meet all of the following requirements:~~
 - (a) ~~Written program statement. The foster care agency must have~~ Have a current, written program statement that ~~contains all of the following information~~ describes:
 - (A) The type of provider and foster care provided.
 - (B) ~~A description of~~ The children served ~~by the foster care agency.~~
 - (C) The services provided to the children, their families, their foster families, or their approved provider families.
 - (D) The geographical area covered.
 - (b) ~~Foster and approved provider home recruitment and retention plan. The foster care agency must have~~ Have an ongoing recruitment and retention program to

ensure an adequate number of suitable certified provider homes based on the written program statement of the *foster care agency*.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

413-215-0313

Personal Qualifications Required for Approved Provider Parents

(Adopted ~~10/17/08~~ 10/01/15)

~~A foster care agency (defined in OAR 413-215-0306) must comply with all of the following requirements:~~

- (1) ~~A To be approved by a foster care agency may only approve an individual as an approved provider parent (defined in OAR 413-215-0306) if the individual meets all of the following requirements, the applicant must:~~
 - (a) ~~The individual is~~ Be at least 21 years of age.
 - (b) ~~The individual possesses~~ Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior.
 - (c) ~~The individual possesses~~ Possess the ability to manage the applicant's home and personal life.
 - (d) Possess the ability to apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.
 - (~~e~~) ~~The individual maintains~~ Maintain conditions in the home that provide safety and well-being for the child.
 - (~~e~~f) ~~The individual has~~ Have supportive relationships with adults and children living in the household and with others in the community.
 - (~~e~~g) ~~The individual has~~ Have a lifestyle and personal habits free of criminal activity and abuse or misuse of alcohol or other drugs.
 - (~~e~~h) ~~The individual has~~ Have the physical and mental capacity to care for a child or young adult. A *foster care agency* or the Department may, by request, require an applicant to –
 - (A) Provide copies of medical reports from a health care professional.

- (B) Complete an expert evaluation with a report provided to the *foster care agency*.

(2) A foster care agency may only approve an applicant as an approved provider parent if the applicant meets the requirements of section (1) of this rule.

(23) A *foster care agency* may only use a *certified provider home* (defined in OAR 413-215-0306) if each *approved provider parent* or *foster parent* (defined in OAR 413-215-0306) meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

413-215-0316

Orientation for ~~Foster Parents and Approved Provider Parents~~ Certified Provider Home Applicants

(Adopted 10/17/08)

~~A foster care agency (defined in OAR 413-215-0306) must comply with all of the following requirements:~~

- (1) ~~The foster care agency must ensure that each parent who applies to operate a certified provider home (defined in OAR 413-215-0306) receives~~ To be approved by a *foster care agency* (defined in OAR 413-215-0306) to operate a *certified provider home* (defined in OAR 413-215-0306) ~~certified provider home~~, an applicant must complete orientation training.
- (2) The orientation training required by section (1) of this rule must ~~include~~, at a minimum, include all of the following:
- (a) The policies and procedures of the *foster care agency*.
 - (b) The needs and characteristics of children needing placement.
 - (c) Attachment, separation, and loss issues for children and families.
 - (d) The importance of cultural identity to the child and ways to foster this identity.
 - (e) The impact of foster care on the child and family.
 - (f) The rights and responsibilities of the *foster parent* (defined in OAR 413-215-0306) or *approved provider parent* (defined in OAR 413-215-0306) and the *foster care agency*.
 - (g) The resources available to the *foster parent* or *approved provider parent*.

- (h) Legal responsibility to report suspected child abuse.
 - (i) Confidentiality.
 - (j) Rights of families and children.
 - (k) Copies of all of the following documents:
 - (A) The program statement.
 - (B) The requirements for certified provider homes.
 - (C) The policies of the *foster care agency* governing certified provider homes.
 - (D) The training requirements of the *foster care agency* for certified provider homes.
 - (E) The licensing rules for foster care agencies.
 - (F) Expectations for working with the *foster care agency*.
- (3) The *foster care agency* must document in the file of each applicant:
- (a) ~~That the foster parents or approved provider parents have~~ Whether the applicant has received the orientation described in section (2) of this rule;
 - (b) ~~That~~ Whether the *foster care agency* has provided the notification described in OAR 413-215-0321(4); and
 - (c) ~~If~~ Whether the applicant is approved; and a certificate has been issued by the *foster care agency* to ~~approve the operation of~~ operate a certified provider home. ~~The certificate must identify~~ If a certificate is issued, the *foster care agency* must document the number of children and the age range of children the home is certified to serve, and any specific gender or other restrictions and limitations.

Stat. Auth.: ORS ~~409.050~~, 418.005, 418.240
 Stats. Implemented: ORS 418.205 - 418.325

413-215-0326

Training for Parents in Certified Provider Homes

(Amended ~~10/17/08~~ 10/01/15)

~~A *foster care agency* (defined in OAR) must comply with all of the following requirements:~~

- (1) The *foster care agency* ([defined in OAR 413-215-0306](#)) must have and follow a written training plan that:
 - (a) Provides each parent in a *certified provider home* (defined in OAR [413-215-0306](#)) a minimum of 15 hours of training before the *foster care agency* places a child in the home.
 - (b) Provides each parent in a *certified provider home* a minimum of 15 hours of training annually prior to the issuance of the annual approval required by OAR [413-215-0331](#).
 - (c) The training plan must include all of the following topics:
 - (A) Characteristics and needs of children who may be placed with the family.
 - (B) Ways to effectively parent children who are placed by the *foster care agency*, [including application of the reasonable and prudent parent standard](#).
 - (C) Positive behavior management, non-punitive discipline.
 - (D) The importance of the ~~child's~~ family [of the child](#) and working with the ~~child's~~ family [of the child](#).
 - (E) [The importance of age-appropriate or developmentally appropriate extracurricular, enrichment, cultural, and social activities](#).
 - (~~E~~F) Preparation of the child for independence based on the ~~child's~~ age, stage of development, and needs [of the child](#).
 - (~~F~~G) Legal responsibility to report suspected child abuse.
- (2) The *foster care agency* must document in parent records the training received by each parent.

Stat. Auth.: ORS [409.050](#), [418.005](#), [418.240](#)

Stats. Implemented: ORS [418.205](#) - [418.325](#)

413-215-0336

Complaints about Certified Provider Homes

(Adopted ~~10/17/08~~ [10/01/15](#))

~~A *foster care agency* (defined in OAR [413-215-0306](#)) must comply with all of the following requirements:~~

- (1) Employees of the *foster care agency* ([defined in OAR 413-215-0306](#)) are covered by the requirements to report suspected child abuse in ORS [419B.010](#) and, in addition to any other requirements of law, must refer a complaint of suspected child abuse to the local branch of the Department for investigation.
- (2) If the *foster care agency* receives information alleging ~~that a certified provider home~~ (defined in OAR [413-215-0306](#)) ~~approved by the foster care agency~~ is not in compliance with the ~~approval or~~ certification requirements of the *foster care agency*, the *foster care agency* must initiate an on-site assessment of the home as soon as is appropriate, based on the nature of the complaint.
 - (a) As part of the assessment, the *foster care agency* must prepare a detailed written investigation report that includes all of the following information:
 - (A) The name of the foster care agency employee who received the complaint, date the information complaint was received, ~~and by whom~~, name of complainant, and the allegations.
 - (B) Dates and places of contacts, the names of persons interviewed or observed, and the names of the interviewers.
 - (C) Findings, summary, and conclusions regarding compliance or noncompliance and recommendations regarding corrective action.
 - (b) The *foster care agency* must complete the assessment in a timely manner following the receipt of the complaint.
 - (c) The *foster care agency* must provide the *foster parent* (defined in OAR [413-215-0306](#)) or *approved provider parent* (defined in OAR [413-215-0306](#)) with a copy of the report of the assessment once it is complete, and must inform this parent in writing that he or she has a right to have his or her response included in an attachment to the report.

Stat. Auth.: ORS [409.050](#), [418.005](#), [418.240](#)

Stats. Implemented: ORS [418.205](#) - [418.325](#)

413-215-0341

Closures of Certified Provider Homes

(Adopted ~~10/17/08~~ [10/01/15](#))

If a *foster care agency* (defined in OAR [413-215-0306](#)) ~~withdraws its certification of~~ decertifies a *certified provider home* (defined in OAR [413-215-0306](#)) or ~~its withdraws~~ approval of an *approved provider parent* (defined in OAR [413-215-0306](#)), the *foster care agency* must notify provide the parent or parents in writing a written notice of the specific reasons for the ~~withdrawal~~

action and must ~~include the~~ retain a copy of the notification in the record of the *certified provider home*.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

413-215-0349

Notifications Required of Parents

(Adopted ~~10/17/08~~ 10/01/15)

A *foster care agency* (defined in OAR 413-215-0306) must require parents in a *certified provider home* (defined in OAR 413-215-0306) to notify the *foster care agency* of each of the following:

- (1) Any physical or structural changes in the home in which they live.
- (2) Any arrests or court convictions ~~for of~~ any member of the household. ~~This notification must occur~~ A parent of the certified provider home must notify the foster care agency within one working day of learning about the arrest or conviction.
- (3) Any ~~known~~ allegation of child abuse or neglect perpetrated by any member of the household or any individual who regularly visits the home. ~~Such notifications must occur~~ A parent of the certified provider home must notify the foster care agency on the day that the certified family he or she learns of the allegation.
- (4) The suspension of a driver's license of any adult on the Certificate of Approval or any member of the household.
- (5) Any change in the physical or mental health of a member of the household that reasonably could affect the ~~family's~~ ability of the family to meet the safety needs of the child.
- (6) Any time a member of the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider, including the approval of the *foster care agency* to provide such care.
- (7) Any other circumstance that could reasonably affect the safety or well-being of a child.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

413-215-0351

Records of Certified Provider Homes

(Amended 10/17/08)

- (1) ~~For A foster care agency (defined in OAR 413-215-0306) must safely and consistently maintain a record for each certified provider home (defined in OAR 413-215-0306)-a foster care agency (defined in OAR 413-215-0306)-it approves, the foster care agency must maintain a record in a safe and consistent manner. Such records must be separate from the records the foster care agency keeps-maintains~~ on the children and families it serves.
- (2) The record for each *certified provider home* must contain all of the following ~~information and documents~~:
 - (1a) All documents pertaining to approval of the *certified provider home*.
 - (2b) All documents pertaining to formal complaints about the *certified provider home*.
 - (3c) The contract ~~of between~~ the *foster care agency* ~~with and~~ the parents in the *certified provider home*.
 - (4d) A list of all children placed in the *certified provider home* that includes identifying and placement information.
 - (5e) Documentation that the *foster care agency* conducted a minimum of one home visit every 180 days to assure compliance with certification standards.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

413-215-0356

Placement of a Child by a Foster Care Agency

(Adopted ~~10/17/08~~ 10/01/15)

~~All of the following requirements apply when a foster care agency (defined in OAR 413-215-0306) places a child:~~

- (1) ~~The A foster care agency (defined in OAR 413-215-0306) may place a child in a certified provider home (defined in OAR 413-215-0306)-of an approved provider parent (defined in OAR 413-215-0306)-or a foster parent (defined in OAR 413-215-0306).~~
- (2) ~~A child's~~The placement of a child in a *certified provider home* must be consistent with the recommendations for the use of the home as identified in the current home assessment.

- (3) The *foster care agency* may not issue a certification for a *certified provider home* that allows the home to exceed any of the following subsections:
 - (a) A total of four children to one *foster parent* or *approved provider parent* living in the home;
 - (b) A total of seven children to two foster parents or approved provider parents living in the home; or
 - (c) A total of two children under the age of three.
- (4) The *foster care agency* may ~~not~~ only place or supervise a child in a *certified provider home* approved by another *foster care agency*, or with a *foster parent*, or with an *approved provider parent* approved by the Oregon Youth Authority (OYA) or another governmental agency (other than the Department), without prior approval from the parent as well as the *foster care agency* or governmental agency. Before placing the child, the *foster care agency* must obtain copies of pertinent documents from the file of the *foster parent* or *approved provider parent* to determine the safety and appropriateness of the home for the child.
- (5) The *foster care agency* must base each placement on an assessment of the child's individual needs of the child and an assessment of the ability of the home provider's ability to meet those needs. The *foster care agency* must document the basis for the selection in the file of the *foster parent* or *approved provider parent*.
- (6) Before or at the time of placement of a child in a *certified provider home*, or within two working days after placement if the placement is an emergency placement, the *foster care agency* must have a written contract signed by the *foster parent* or *approved provider parent* and by the *foster care agency*. The contract must contain all of the following:
 - (a) The rights and responsibilities of the *foster care agency* and the parents regarding placement and an acknowledgment that the parents agree to follow the policies and procedures of the *foster care agency* for certified provider homes and services.
 - (b) Language that requires the parents to notify the *foster care agency* immediately of any circumstances in their home that reasonably could affect the safety or well-being of a child in care, including injury, illness, an emotional or mental health issue, communicable disease, an accident, or an arrest.
- (7) Sleeping Arrangements.
 - (a) Children and adults must be housed in separate bedrooms, except that a child and the child's parent of the child may be housed in the same room if the parent is the child's caretaker of the child. If a youth is 18 years of age or older and is to share

a bedroom with a child less than 18 years of age, written approval must be obtained from the Department licensing coordinator.

- (b) The *foster care agency* must consider ~~a child's~~ the age, gender, special needs, behavior, and history of abuse or neglect of the child in determining appropriate sleeping arrangements.
 - (c) Unrelated foster children may not share a bed.
- (8) The *foster care agency* must provide to the parent a copy of the signed contract and maintain a copy in the parent file.
- (9) At the time of placement of each child in a *certified provider home*, the *foster care agency* must provide the parents with all of the following information and authorizations:
- (a) The ~~child's~~ name and date of birth of the child, and the reason for placement.
 - (b) The name of the assigned worker and a telephone number to contact the *foster care agency*.
 - (c) Information about the ~~child's~~ health, behavioral characteristics, and needs of the child.
 - (d) Authorization and clear written instructions for obtaining medical, dental, and other professional care, and authorization for emergency medical care.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

413-215-0371

Training of Foster Care Agency Staff

(Amended ~~10/17/08~~ 10/01/15)

In addition to the orientation requirements in OAR 413-215-0061(4), a *foster care agency* (defined in OAR 413-215-0306) must meet all of the following training requirements with respect to its employees:

- (1) Staff of the *foster care agency* must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:
 - (a) Behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping children build positive personal relationships and self-control.

- (b) If restraint and seclusion are utilized by the program, the approved techniques and monitoring procedures. The training must be clear in the policy of the *foster care agency* that restraint or seclusion is used as an intervention of last resort.
- (2) Staff of the *foster care agency* must receive ongoing training at least annually on all of the following:
 - (a) Mandatory child abuse reporting.
 - (b) Procedures for handling environmental emergencies.
 - (c) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.
 - (d) Behavior management.
- (3) Staff of the *foster care agency* must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.
- (4) Staff of the *foster care agency* must receive training related to the reasonable and prudent parent standard, and age-appropriate or developmentally appropriate activities.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325

413-215-0391

Consents, Disclosures, and Authorizations

(Adopted ~~10/17/08~~ 10/01/15)

- (1) Consents. For each child taken into the physical custody of a *foster care agency* (defined in OAR 413-215-0306), the *foster care agency* must ensure that a parent or legal guardian signs a consent that authorizes the *foster care agency* to undertake each of the following, as applicable:
 - (a) To provide routine and emergency medical care. If a *foster care agency* relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the *foster care agency* may not require medical, psychological or rehabilitative procedures. The *foster care agency* must have policies and procedures for this practice, which are reviewed and approved by the child's parent or legal guardian of the child.
 - (b) To use the behavior management system of the *foster care agency*, including the point, level, or other behavior management techniques utilized by the *foster care agency*.

- (c) To use restraint or seclusion in the management of the child. The consent must specify the reasons such interventions are used by the *foster care agency* and how the employees of the *foster care agency*, approved provider parents, or foster parents are trained and supervised in the use of restraint or seclusion.
- (d) To restrict the child's contact with persons outside the *foster care agency* and the *certified provider home* (defined in OAR 413-215-0306), including visits, telephone communication, electronic mail, and postal mail.
- (e) To exclude or limit the child's possession of personal items.
- (f) To impose a dress code.
- ~~(g) To restrict the child's participation in recreational or leisure activities in an appropriate manner, consistent with behavior or safety issues.~~
- (g) To apply the *reasonable and prudent parent standard* to determine whether the child or young adult is allowed to participate in *age-appropriate or developmentally appropriate activities*, including extracurricular, enrichment, cultural, and social activities.

(2) Disclosures. At admission, the *foster care agency* must ensure that each parent or legal guardian of the child receives and acknowledges in writing the receipt of each of the following:

- (a) Mandatory child abuse reporting requirements.
- (b) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the *foster care agency* for any program-initiated room or body search.
- (c) A statement concerning the rights of children and parents or legal guardians served by the *foster care agency*. The statement must be written in a manner that is easy to understand, and the *foster care agency* must ensure that the child and the parent or legal guardian understand the statement. The statement must explain all of the following:
 - (A) The child's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian.
 - (B) The child's right to privacy.
 - (C) The child's right to participate in service planning.

- (D) The child's right to fair and equitable treatment.
 - (E) The child's right to file a grievance if the child or family feels that they are treated unfairly, or, if they are not in agreement with the services provided.
 - (F) The child's right to have personally exclusive clothing.
 - (G) The child's right to personal belongings.
 - (H) The child's right to an appropriate education.
 - (I) The child's right to participate in recreation and leisure activities.
 - (J) The child's right to have timely access to physical and behavioral health care services.
- (d) The grievance policies and procedures of the *foster care agency*.
 - (e) The *foster care agency* will make any written policy or procedure pertaining to program services available for review by the child, parent, or legal guardian, upon request.
- (3) Authorizations.
- (a) Authorization to disclose information from other service providers must be filled out prior to signatures being requested and be specific to one other provider. Information may only be requested on a need-to-know basis.
 - (b) All child-specific visitors must be approved or authorized by the parent or legal guardian, except CASAs-court appointed special advocates (CASA) and attorneys appointed to represent the child.
 - (c) Visitation resources must be pre-approved by the child's parent or legal guardian of the child and the identity of these resources verified by the *foster care agency*.
 - (d) Activity-specific authorizations must be pre-approved by the child's parent or legal guardian of the child to allow children to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

- (e) All other required authorizations must be pre-approved by the ~~child's~~ parent or legal guardian of the child.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 418.205 - 418.325

Licensing Residential Care Agencies

413-215-0506

Definitions

(Amended 10/17/08)

When used in OAR 413-215-0501 to 413-215-0586:

- (1) "Age-appropriate or developmentally appropriate activities" means:
 - (a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a *child* or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
 - (b) In the case of a specific *child*, activities or items that are suitable for the *child* or young adult based on the developmental stages attained by the *child* or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the *child* or young adult.
- (12) "Care" means services provided to meet the needs of a child, such as food, shelter, clothing, medical care, schooling, protection, and supervision.
- (23) "Child" means an unmarried person under 18 years of age.
- (34) "Employee" means an individual holding a paid position with a *residential care agency*.
- (45) "Facility" means the physical setting, buildings, administration, staff, equipment, and program of a *residential care agency*.
- (56) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.
- (67) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.
- (8) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a *child* or young adult while encouraging the emotional and developmental growth of the *child* or young adult, that a substitute care provider shall use when determining whether to allow a *child* or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(79) "Resident" means any *child* residing in a *residential care agency* other than an infant who resides with an adolescent parent.

(810) "Residential" means care or treatment services provided on a 24-hour per day basis to children. For the purpose of these rules, "residential care or treatment" does not include services provided in family foster homes or adoptive homes.

(911) "Residential care agency" means a *private child-caring agency* (defined in OAR 413-215-0006) that provides services to children 24 hours a day.

(1012) "Staff" means employees of the *residential care agency* who are responsible for providing direct care or treatment to residents.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

413-215-0554

Extracurricular, Enrichment, Cultural, and Social Activities

(Adopted 10/01/15)

THIS IS A NEW RULE

The *residential care agency* (defined in OAR 413-215-0506) must:

- (1) Support the *child* or young adult in his or her interests to participate in *age-appropriate or developmentally appropriate activities*, including extracurricular, enrichment, cultural, and social activities.
- (2) Ensure the *child* or young adult has ongoing opportunities to participate in at least one age-appropriate or developmentally appropriate activity.
- (3) Apply the *reasonable and prudent parent standard* when determining whether to allow a *child* or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.
- (4) Designate at least one on-site employee to be the caregiver who is authorized to apply the *reasonable and prudent parent standard* to decisions involving participation in *age-appropriate or developmentally appropriate activities* with respect to any *child* or young adult placed at the residential care agency. When applying the *reasonable and prudent parent standard*, the designated caregiver must consider:
 - (a) The age, maturity, and developmental level of a *child* or young adult.
 - (b) The nature and inherent risks of harm.

- (c) The best interest of the *child* or young adult based on information known by the caregiver.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

413-215-0556

Staff Training

(Adopted 10/17/08 Amended 10/01/15)

In addition to the orientation requirements in OAR 413-215-0061(4), a *residential care agency* (defined in OAR 413-215-0506) must meet all of the following training requirements with respect to its *staff* (defined in OAR 413-215-0506):

- (1) *Staff* of the *residential care agency* must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:
 - (a) Behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping children build positive personal relationships and self-control.
 - (b) If restraint and seclusion are utilized by the *residential care agency*, which techniques are approved by the *residential care agency* and how use of these procedures is monitored. The training must be clear that the policy of the *residential care agency* is that restraint or seclusion is used as an intervention of last resort.
- (2) *Staff* of the *residential care agency* must receive ongoing training at least annually on all of the following:
 - (a) Mandatory child abuse reporting.
 - (b) Procedures for handling environmental emergencies.
 - (c) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.
 - (d) Behavior management.
- (3) *Staff* providing direct care of children of the *residential care agency* must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

- (4) Staff designated as the caregiver authorized to apply the *reasonable and prudent parent standard* must receive training related to the *reasonable and prudent parent standard* and *age-appropriate or developmentally appropriate activities*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327

413-215-0561

Minimum Staffing Requirements

(Amended ~~10/17/08~~ 10/01/15)

A *residential care agency* (defined in OAR 413-215-0506) must meet all of the following requirements:

- (1) Minimum staffing patterns. The *residential care agency* must establish staff-to-child ratios that will provide adequate supervision and protection for children. The ratios must be adequate for the type of program, location of program, the age and type of children served, physical plant design, location and ability of the supervisor to respond, electronic backup systems, and other means available to ensure a high standard of supervision and protection. The minimum staffing ratios are as follows:
 - (a) For *residents* (defined in OAR 413-215-0506) who are under 30 months of age -- one direct care *staff* (defined in OAR 413-215-0506) for each four *residents*.
 - (b) For *residents* who are 30 months of age or older and either less than six years of age or non-ambulatory, one direct care *staff* for each six *residents*.
 - (c) For *residents* who are six years of age or older, one direct care *staff* for each seven *residents*.
- (2) Overnight staffing requirements.
 - (a) A *residential care agency* must have policies and procedures regarding overnight supervision of *residents*. The procedures must describe how *staff* must monitor and ensure the safety of *residents* during sleeping hours. If the *residential care agency* houses more than one *child* (defined in OAR 413-215-0506) to a bedroom or uses dormitory-type sleeping arrangements, the procedure must specifically address those living arrangements.
 - (b) During normal sleeping hours, the minimum staffing requirement is one awake direct care *staff* on duty in the *facility* (defined in OAR 413-215-0506) for each 10 children.
- (3) At least one *staff* member of each shift must have current certification in cardiopulmonary resuscitation and first aid.

- (4) Additional staffing requirements for emergency response.
- (a) When there is only one *employee* (defined in OAR 413-215-0506) of the *residential care agency* on duty in the *facility*, there must be additional *staff* immediately available in the event of an emergency, with a maximum response time of 30 minutes. The names of additional *staff* who are available for immediate response must be listed on the schedule for each time period when only one *staff* person is on duty in the *facility*.
 - (b) One *employee* who is age 18 or over and capable of taking appropriate action in an emergency must be on site at all times when one or more *residents* are present on the residential facility premises.
- (5) Staffing requirements for *reasonable and prudent parent standard*. There must be at least one on-site employee designated to be the caregiver who is authorized to apply the *reasonable and prudent parent standard* to decisions involving participation in age-appropriate or developmentally appropriate activities with respect to any child placed at the residential care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327
Stats. Implemented: ORS 418.205 - 418.327

413-215-0576

Consents, Disclosures, and Authorizations

(Adopted ~~10/17/08~~ 10/01/15)

- (1) Consents. For each child in placement with a *residential care agency* (defined in OAR 413-215-0506), the *residential care agency* must ensure that a parent or legal guardian signs a consent that authorizes the *residential care agency* to undertake each of the following:
- (a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the *residential care agency* is not required to use medical, psychological or rehabilitative procedures, unless the child is old enough to consent to these procedures and does so. The *residential care agency* must have policies and procedures for this practice, which are reviewed and approved by the child's parent or legal guardian.
 - (b) To use the behavior management system of the *residential care agency*, including the point, level, or other behavior management techniques utilized by the *residential care agency*.

- (c) To use restraint or seclusion in the management of the child. The consent must specify the reasons such interventions are used by the *residential care agency* and how the employees of the *residential care agency* are trained and supervised in the use of restraint or seclusion.
- (d) To restrict the child's contact with persons outside the *residential care agency*, including visits, telephone communication, electronic mail, and postal mail.
- (e) To exclude or limit the child's possession of personal items.
- (f) To impose a dress code.
- ~~(g) To restrict the child's participation in recreational or leisure activities in an appropriate manner, consistent with behavior or safety issues.~~
- (g) To apply the *reasonable and prudent parent standard* to determine whether the *child or young adult* is allowed to participate in *age-appropriate or developmentally appropriate activities*, including extracurricular, enrichment, cultural, and social activities.

(2) Disclosures to parent or legal guardian. At the time a *residential care agency* takes a child into placement, the *residential care agency* must ensure that each parent or legal guardian of the child receives and acknowledges in writing the receipt of each of the following:

- (a) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the *residential care agency* for any program-initiated room or body search.
- (b) A statement concerning the rights of children and parents or legal guardians served by the *residential care agency*. The statement must be written in a manner that is easy to understand, and the *residential care agency* must ensure that the child and the parent or legal guardian understand the statement. The statement must explain all of the following:
 - (A) The child's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian.
 - (B) The child's right to privacy.
 - (C) The child's right to participate in service planning.
 - (D) The child's right to fair and equitable treatment.

- (E) The right of the child or guardian to file a grievance if the child or *family* (defined in OAR 413-215-0506) feels that they are treated unfairly, or, if they are not in agreement with the services provided.
 - (F) The child's right to have personally exclusive clothing.
 - (G) The child's right to personal belongings.
 - (H) The child's right to a free and appropriate education.
 - (I) The child's right to participate in recreation and leisure activities.
 - (J) The child's right to have timely access to physical and behavioral health care services
- (c) The *residential care agency* will make any written policy or procedure pertaining to program services available for review by the child, parent, or legal guardian, upon request.

(3) Authorizations.

- (a) Written authorizations to exchange information with others must be filled out prior to signatures being requested.
- (b) All child-specific visitors must be approved or authorized by the parent or legal guardian, except CASAs and attorneys appointed to represent the child.
- (c) Visitation resources must be pre-approved by the child's parent or legal guardian and the identity of these resources verified by the *residential care agency*.
- (d) Activity-specific authorizations must be pre-approved by the child's parent or legal guardian to allow children to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.
- (e) All other required authorizations must be pre-approved by the child's parent or legal guardian.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327

Stats. Implemented: ORS 418.205 - 418.327