

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES

A Statement of Need and Justification must accompany this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on

February 24, 2016 by the

Department of Human Services, Office of Child Welfare Programs	413
Agency and Division Number	Chapter

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Rules Coordinator	Address	Telephone	Email
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to become effective February 24, 2016 through August 21, 2016.*

**Temporary rules are effective for a maximum of 180 days including the effective date.*

Rule Caption: *Identification and Consideration of Potential Adoptive Resources*

AMEND: OAR 413-120-0730

ORS 109.309, 418.005

Stat. Auth.

None.

Other Auth.

ORS 109.309, 418.005, 419B.192

Stats. Implemented

Rule Summary

The Department of Human Services, Office of Child Welfare Programs, is adopting temporary rules to authorize the DHS Director to make exceptions to the order of preference for identification of potential adoptive resources when it is determined in the best interest of the child.

Secretary of State

STATEMENT OF NEED AND JUSTIFICATION

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Department of Human Service, Office of Child Welfare Programs	413
Agency and Division Number	Chapter

In the Matter of: *Temporary amendment of OAR 413-120-0730*

Rule Caption: *Identification and Consideration of Potential Adoptive Resources*

Need for the Rules

OAR 413-120-0730 needs to be amended to comply with legislative intent of [SB 741](#) (2015), and current statutory language. The Department is doing this by amending OAR 413-120-0730 to authorize the DHS Director to make exceptions to the order of preference for identification of potential adoptive resources when it is determined in the best interest of the child.

Documents Relied Upon

[SB 741](#) (2015) available from DHS Hearings and Rules Unit, 500 Summer Street NE E48, Salem, Oregon 97301.

Justification of Temporary Rules

Failure to act promptly and immediately to amend 413-120-0730 will result in serious prejudice to the public interest, the Department, and potential adoptive resources. These rules need to be adopted promptly so that the Department can comply with the enacted legislation. Failure to do so would put the Department at risk of possible legal challenges and litigation.

413-120-0730

Order of Preference for Identification of Potential Adoptive Resources

(Amended 10/01/15)(Temporary Effective 02/24/2016 to 08/21/2016)

- (1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a *child* or *sibling* group, the caseworker must consider the needs and the best interest of each *child*, and assess the knowledge, skills, and abilities of each potential *adoptive resource* in the following order of preference:
 - (a) Except when (c) of this section applies, a *relative* as defined in OAR 413-120-0000(63)(a)-(c).
 - (b) Except when (c) of this section applies, a *relative* as defined in OAR 413-120-0000(63)(d).
 - (c) When a *child* or *sibling* group has a *current caretaker* as defined in OAR 413-120-0000(26), the *current caretaker* and a *relative* as defined in OAR 413-120-0000(63)(a)-(d).
 - (d) A *general applicant*.
 - (e) When an individual would otherwise meet the definition of *current caretaker*, except for being a *relative* as defined in OAR 413-120-0000(d), the individual is considered a *current caretaker* for purposes of this section.
- (2) For an *Indian child*, the caseworker must comply with ICWA and OAR 413-070-0100 to 413-070-0260.
- (3) For a *refugee child*, the caseworker must comply with OAR 413-070-0300 to 413-070-0380.
- (4) ~~When *no current caretaker* is being considered as a potential *adoptive resource*, and when it an exception to the order of preference in section (1) of this rule is determined in the best interest of the child, the Child Welfare Program Manager must submit a written request to the Child Permanency Program Manager, upon receipt of a written request from the Child Welfare Program Manager, may grant an exception to the order of preference to a *relative* as defined in OAR 413-120-0000(63)(d).~~
- (5) ~~When a request for exception is received, the Child Permanency Program Manager will submit it to the DHS Director or designee for review and consideration. Within 30 days of receipt of the written request, the DHS Director or designee Child Permanency Program Manager must review the request and~~ determine whether to grant the exception.

Stat. Auth.: ORS 109.309, 418.005

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