

Secretary of State  
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**PERMANENT ADMINISTRATIVE RULES**

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

June 1, 2016 by the

Department of Human Services, Office of Child Welfare Programs			413
<b>Agency and Division</b>			<b>Chapter Number</b>
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To become effective June 1, 2016. Rulemaking Notice was published in the May 2016 Oregon Bulletin.

**Rule Caption:** *Amending child welfare rules*

**AMEND:** 413-040-0000, 413-040-0145, 413-040-0150, 413-120-0000, 413-120-0025, 413-120-0730, 413-120-0925

**REPEAL:** 413-040-0000(T), 413-040-0145(T), 413-040-0150(T), 413-090-0500, 413-090-0510, 413-090-0520, 413-090-0530, 413-090-0540, 413-090-0550, 413-120-0730(T), 413-120-0925(T)

ORS 409.050, 417.262, 418.005

**Stat. Auth.**

None.

**Other Auth.**

ORS 409.050, 417.262, 417.265, 418.005, 419B.192, 419B.373, 419B.376, 419B.440 – 419B.476, 419B.875

**Stats. Implemented**

## Rule Summary

The Department of Human Services, Office of Child Welfare Programs, is making the following rule changes:

OAR 413-040-0000 about definitions for rules in division 413-040 is being amended to define "grandparent" for purposes of notification, visitation, contact, or communication ordered by the court under ORS [419B.876](#) as the legal parent of the child or young adult's legal parent, regardless of whether the parental rights of the child or young adult's legal parent have been terminated. This makes permanent a temporary rule adopted on December 31, 2015 to comply with ORS [419B.875](#) as amended by [HB 3014](#) (2015).

OAR 413-040-0145 about court notification of placement changes is being amended to require the Department to file a report with the juvenile court when the Department has removed or plans to remove a child or young adult for the purpose of placing the child or young adult in a different substitute care placement in certain circumstances and to attend a court review hearing scheduled by the court. This makes permanent a temporary rule adopted on December 31, 2015 to comply with ORS [419B.440](#) as amended by sections 7 and 10 of [SB 741](#) (2015).

OAR 413-040-0150 about notification of administrative reviews, permanency hearings, and review hearings is amended to require the Department to notify grandparents of any court hearing concerning the child. This makes permanent a temporary rule adopted on December 31, 2015 to comply with ORS [419B.875](#) as amended by [HB 3014](#) (2015).

OAR 413-090-0500 through 413-090-0550 are being repealed. These rules establish the conditions under which the Department will pay the cost of providing legal services to clients who are establishing a court-appointed guardianship of children in the care and custody of the Department. These rules are obsolete and are no longer needed.

OAR 413-120-0025 about the composition of adoption committees is being amended to clarify that adoption committee members and the Adoption Decision Specialist (ADS) should be knowledgeable of the importance of attachment and emotional ties to caregivers consistent with the intent of [SB 741](#) (2015) which gives equal status to relatives and non-relative caregivers.

OAR 413-120-0730 about the order of preference for identification of potential adoptive resources is being amended 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. This makes permanent a temporary rule adopted on February 24, 2016.

OAR 413-120-0925 is being amended to clarify who is considered a "relative" for purposes of outgoing intercountry adoptions subject to The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention) and the Intercountry Adoption Act of 2000, 42 USC 14901 to 14954 (IAA). This makes permanent a temporary rule adopted on January 1, 2016.

In addition, non-substantive edits were made to update definitions; ensure consistent terminology throughout child welfare program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

Rule text showing edits for the rules described above is available at [http://www.dhs.state.or.us/policy/childwelfare/policy\\_releases.htm](http://www.dhs.state.or.us/policy/childwelfare/policy_releases.htm).

# Definitions

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## 413-040-0000

### Definitions

*(Temporary Effective 01/01/16 – 6/28/16)(Amended 06/01/16)*

- (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 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* 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*.
- (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, one-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; timelines 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) "Grandparent" for purposes of notification, visitation, contact, or communication ordered by the court under ORS 419.B876 means the legal parent of the child or young adult's legal parent, regardless of whether the parental rights of the child or young adult's legal parent have been terminated under ORS 419B.500 to 419B.524.
- (20) "Guardian" means an individual who has been granted guardianship of a *child* through a judgment of the court.
- (21) "High risk behaviors" 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.

(233) "HIV" is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.

(234) "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.

(245) "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.

(256) "ICPC approved family" means a family approved by the Interstate Compact on the Placement of Children (ICPC) *deputy compact administrator* or designee after reviewing a home study.

(267) "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.

(278) "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).

(289) "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.

- (~~29~~30) "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.
- (~~30~~1) "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.
- (~~31~~2) "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.
- (~~32~~3) "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.
- (~~33~~4) "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.
- (~~34~~5) "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.
- (~~35~~6) "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.
- (~~36~~7) "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.

- (378) "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.
- (389) "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.
- (3940) "Reunification" means *placement* with a *parent* or *guardian*.
- (401) "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*.
- (412) "SAIP" means Secure Adolescent Inpatient Program.
- (423) "SCIP" means Secure Children's Inpatient Program.
- (434) "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.
- (445) "Sending state" means the state from which a proposed *placement* is made.
- (456) "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.
- (467) "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.
- (478) "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).

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## Substitute Care Placement Reviews

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### 413-040-0145

#### ~~Additional Requirement for Children Disrupted from Permanent Foster Care Court Notification of Placement Changes~~

~~(Temporary Effective 01/01/16 – 6/28/16)(Amended 06/01/16)~~

- ~~(1) The Department ~~will~~must notify the court when a permanent foster care *placement* disrupts so the court can take appropriate action, including scheduling a *permanency hearing*. See ~~OAR 413-070-0730~~.~~
- ~~(2) Unless section (3) of this rule applies, the Department ~~is required to~~must file a report with the juvenile court when the Department has removed or plans to remove a child or young adult from a foster home as defined in ORS 418.625 that is certified under ORS 418.635 and the removal is for the purpose of placing the child or young adult in a different substitute care placement if:~~
  - ~~(a) The child or young adult has resided for 12 consecutive months or more in the foster home; or~~
  - ~~(b) The child or young adult resides or resided in the foster home pursuant to a permanent foster care agreement.~~
- ~~(3) The Department is not required to file a report under section ~~(1)~~(2) of this rule when:~~
  - ~~(a) The removal of the child or young adult was made following a founded allegation of abuse or neglect by the foster care provider of the child or young adult;~~
  - ~~(b) The removal was made to address an imminent threat to the health or safety of the child or young adult pending completion of an investigation of reported abuse or neglect by the foster care provider of the child or young adult;~~
  - ~~(c) The Department has placed the child with a person who has been selected by the Department to be the adoptive parent, when the selection has become final after the expiration of any administrative or judicial review procedures under ORS chapter 183; or~~
  - ~~(d) The removal was made at the request of the foster care provider.~~

(4) The Department must attend a court review hearing scheduled by the court.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS ~~419A.090 – 419A.122; 419B.373, 419B.376, 419B.440 – 419B.476;~~  
419C.623 – 419C.656

#### **413-040-0150**

### **Participant Notification of Administrative Reviews, ~~and~~ Permanency Hearings, and Review Hearings**

*(Temporary Effective 01/01/16 – 6/28/16)(Amended 06/01/16)*

- (1) The local Department office shall provide correspondence information to the local *CRB* to assure that written notice of the review is provided to the Department, any other agency directly responsible for the care or *placement* of the *child*, the parents or their attorneys, foster parents, surrogate parents, persons granted intervener status, mature children or their attorneys, court-appointed attorney or court appointed special advocate for any *child*, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that persons receiving a notice may participate in the hearing and be accompanied by a representative.
- (2) The local Department office shall provide foster parent, pre-adoptive parent, *grandparent*, or relative who is actively providing care for a *child*, notice of any court hearing concerning the *child*.

Stat. Auth.: ORS 418.005

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

# Payments for Providing Direct Client Legal Services

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## **413-090-0500**

### **Purpose**

(Amended 09/14/98)

#### THIS RULE IS REPEALED

~~The purpose of OAR 413-090-0500 to 413-090-0550 is to establish the conditions under which the Department may issue a standard legal fees payment for the cost of providing direct client services in the establishment of court appointed guardianship of children in the care and custody of the Department.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-090-0520**

### **Eligibility for Payment of Direct Client Legal Services**

(Amended 04/01/02)

#### THIS RULE IS REPEALED

- ~~(1) — DHS may consider making payments for direct client legal services for the establishment of uncontested guardianships for children in DHS's care and custody when it is documented that:~~
- ~~(a) — The family is unable to pay for the services of a private attorney;~~
  - ~~(b) — No free legal resource is available to the client.~~
  - ~~(c) — When thoughtful and thorough decision-making has established guardianship as a permanency plan and it has been determined that the plan:
    - ~~(A) — Is in the best interests of the *child*;~~
    - ~~(B) — Offers a long term commitment by the prospective *guardian* for stable and continuous care of the *child* until adulthood;~~
    - ~~(C) — Meets the prospective *guardian* and the child's wishes;~~
    - ~~(D) — Meets the child's need for stability and continuity of relationships;~~~~

- ~~(E) — Assures the mental and physical health of all involved;~~
- ~~(F) — Assures the guardian's ability to protect and support the *child* without the agency's help;~~
- ~~(G) — Has the parent's consent, or the agency can show good cause such as the parent's incarceration, incapacity, or abandonment of the *child*;~~
- ~~(H) — Assures the prospective *guardian* can appropriately manage the parent's involvement with the *child*.~~

~~(2) — Payment may be considered even though the court's establishment of guardianship does not result in termination of all branch services.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

### **413-090-0530**

#### **Selecting an Attorney**

*(Amended 09/14/98)*

#### THIS RULE IS REPEALED

~~Prospective guardians eligible for client legal services may choose a Department *vendor attorney* from the branch list or hire a private attorney.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

### **413-090-0540**

#### **Rate of Payment for Legal Services**

*(Amended 04/01/02)*

#### THIS RULE IS REPEALED

- ~~(1) — The Department will pay the costs of establishing uncontested guardianships at the Department's currently established standard payment rate, plus reimbursement of personal costs incurred for court fees and the filing of mandatory court papers. Payments are made from the foster care prevention budget.~~
- ~~(2) — Payment will be made after the guardianship is legally established and the branch receives a copy of the court order. Payment will be made after the guardianship is established to either the:~~

- ~~(a) — Vendor attorney; or~~
- ~~(b) — Family for reimbursement of the services of a private attorney. Payment to the family is limited to the amount of the contracted vendor payment standard plus reimbursement of mandatory court fees and filing costs.~~
- ~~(3) — The family is responsible for all charges billed in excess of the Department's established standard payment rate when they choose to hire a private attorney.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-090-0550**

### **Court Order Content**

*(Adopted 09/14/98)*

#### THIS RULE IS REPEALED

~~Ideally, court orders resulting from these legal actions should:~~

- ~~(1) — Specifically set forth the permanency plan;~~
- ~~(2) — Terminate Department's involvement/responsibility;~~
- ~~(3) — Designate the responsibility of the parent(s) and the guardian. For example, court orders may state that the *guardian* has the duty to protect, feed, educate, shelter, and care for the *child*, as well as make decisions about the child's legal residence, the responsibility to enroll the *child* in school and get the *child* medical treatment, as well as having authority over the child's estate and assets.~~

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

# Definitions

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## 413-120-0000

### Definitions

*(Amended 10/01/15)*

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

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

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

- (6) "Adoption placement selection" means a decision made by the Department that an individual or individuals have been identified as the *adoptive resource* for the *child*.
- (7) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed *adoption agency* as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.
- (8) "Adoption transition" means activities related to the placement of a *child* or *sibling* group under consideration in the home of the family selected as the *adoptive resource*.
- (9) "ADS" means an Adoption Decision Specialist, who is a Department employee appointed by the Adoption Program Manager to attend an *adoption committee* and make an *adoption placement selection* for a *child*.
- (10) "Authorized designee" means a Department employee who is designated and authorized by the Department to receive and process *criminal records check* request forms from subject individuals, receive criminal records information from the Background Check Unit, and make fitness determinations as described in these rules.
- (11) "Battery" means the use of physical force to injure, damage, or abuse or to cause offensive physical contact.
- (12) "Birth Relatives" means birth parents, grandparents, siblings and other members of the child's birth family, pursuant to ORS 109.305.
- (13) "Central authority" means the entity designated as such by a *Convention country* that is authorized to discharge the duties imposed on *Convention* countries.
- (14) "Central authority functions" means any duty required to be carried out by a *central authority* or *foreign authorized entity* under the *Convention*.
- (15) "Certified family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a *child* or *young adult* in the care or custody of the Department.
- (16) "Child" means a person under 18 years of age.
- (17) "Child welfare mediator" means a neutral third party who meets or exceeds Department qualifications to provide *mediation* services for *mediation participants* in the *cooperative adoption mediation* process, and has a legal assistance mediation contract with the Department.

- (18) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a *permanency committee* or *adoption committee* meeting.
- (19) "Concurrent permanent plan" means the alternate *permanency plan* whenever the *child* has been placed in *substitute care* when the goal of the *permanency plan* is to return the *child* to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the *child* to the parents or legal guardians.
- (20) "Consent to the Adoption": The "Consent to the Adoption" documents that the adoptive parents have been investigated and approved by the Department and gives permission for the *adoption*.
- (21) "Contested case hearing" means a hearing conducted under ORS chapter 183 and applicable administrative rules.
- (22) "Convention" means the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions, concluded at The Hague, the Netherlands, on May 29, 1993, which went into effect in the United States on April 1, 2008.
- (23) "Convention adoption" means an *adoption* of a *child* who is a habitual resident in a *Convention country* by an individual in another *Convention country* when the *child* has been, is being, or will be moved between the two *Convention* countries for the purpose of *adoption*.
- (24) "Convention country" means a country that is a party to the *Convention*.
- (25) "Cooperative adoption mediation" or "Mediation" means a process in which a trained neutral third party assists parties in voluntarily reaching mutually acceptable resolution of issues, as well as assisting the parties in establishing relationships built on mutual trust and respect. Throughout these rules, "cooperative adoption mediation" will be referred to as "mediation".
- (26) "Current caretaker" means a *foster parent* who:
- (a) Is currently caring for a *child* in the care and custody of the Department and has a *permanency plan* or *concurrent permanent plan of adoption*; and
  - (b) Has cared for the *child* or at least one *sibling* of the *child* for at least the past 12 consecutive months or for one-half of the child's or sibling's life if the *child* or *sibling* is younger than two years of age.
- (27) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

- (a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of *other criminal records information* obtained from other sources.
  - (b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of *other criminal records information*.
  - (c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or *other criminal records information* sources located in, or regarding, a state or jurisdiction outside Oregon.
- (28) "Department" means the Department of Human Services, Child Welfare.
- (29) "Disruption" means an approval by the Child Permanency Program Manager to end an *adoption* process after *adoption placement selection* but before the *adoption* is legally finalized.
- (30) "Fitness determination" means the decision made by an *authorized designee*, with regard to information obtained through a *criminal records check*, to either approve or deny a *subject individual* under these rules. A *subject individual* who is approved following a criminal records based "fitness determination" may still be denied approval to be a *relative caregiver, foster parent, adoptive resource* or an *other person in the household* if the *subject individual* does not meet other requirements contained in Department rules governing relative care, foster care, and *adoption*.
- (31) "Foreign authorized entity" means a foreign *central authority* or an accredited entity authorized by the foreign country to perform *central authority functions* in *Convention adoption* cases.
- (32) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated *child* or *young adult* placed in the home by the Department.
- (33) "General applicant" means an individual who:
- (a) Is neither a *relative* or *current caretaker*; and
  - (b) Has submitted a completed application to adopt a *child*.
- ~~(34) "Home Study" means a written evaluation of the prospective adoptive parent's suitability to adopt and parent a *child* who may be placed for *adoption*. The "home study" is completed prior to the filing of a petition to adopt, in accordance with the Department's reporting format and standards, and states whether or not the prospective adoptive parents~~

~~meet the minimum standards for adoptive homes as set forth in OAR 413-0120-0190 to 413-120-0246.~~

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

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

- (44) "Legalization" means the process of giving an adoptive placement legal validity.
- (45) "Mediation communications" means, as defined in ORS 36.110(8):
- (a) All communications that are made, in the course of or in connection with a *mediation*, to a mediator, a *mediation* program or a party to, or any other person present at, the *mediation* proceedings; and
  - (b) All memoranda, work products, documents and other materials, including any draft *mediation* agreement, that are prepared for or submitted in the course of or in connection with a *mediation* or by a mediator, a *mediation* program or a party to, or any other person present at, *mediation* proceedings.
- (46) "Mediation participants" means persons who will be working directly with the mediator in the *cooperative adoption mediation* process and who will be responsible for the creation and implementation of any PACA that results.
- (47) "OSP" means the Oregon State Police.
- (48) "Other criminal records information" means information obtained and used in the *criminal records check* process that is not criminal offender information from OSP. "Other criminal records information" includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a *subject individual*, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a *fitness determination*.
- (49) "Other person in the household" means any individual described in one or more of the following subsections:
- (a) An individual 18 years of age or older, who is not in the care and custody of the Department pursuant to ORS 418.015, who is living in the home of --
    - (A) An applicant to adopt a *child* in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246; or
    - (B) An applicant to be a *foster parent, relative caregiver, or adoptive resource* as described in OAR 413-200-0301 to 413-200-0396.

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

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

- (C) An individual defined as a relative of a *refugee child* or young adult under OAR 413-070-0300 to 413-070-0380.
  - (D) A stepparent or former stepparent if the *child* or *young adult* had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.
  - (E) A *registered domestic partner* of the *parent* of the *child* or *young adult* or a former *registered domestic partner* of the *parent* of the *child* or *young adult* if the *child* or *young adult* had a relationship with the former domestic partner prior to the most recent episode of Department custody.
  - (F) The adoptive parent or an individual who has been designated as the *adoptive resource* of a *sibling* of the *child* or *young adult*.
  - (G) An unrelated legal or biological father or mother of a half-sibling of the *child* or *young adult* when the half-sibling of the *child* or *young adult* is living with the unrelated legal or biological father or mother.
- (c) An individual identified by the *child* or *young adult* or the family of the *child* or *young adult*, or an individual who self-identifies, as being related to the *child* or *young adult* through the *parent* of the *child* or *young adult* by blood, *adoption*, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by *adoption* of the *child*, *young adult*, or *parent*.
  - (d) An individual meeting the requirements of at least one of the following:
    - (A) An individual not related to the *child*, *young adult*, or *parent* by blood, *adoption*, or marriage:
      - (i) Who is identified as a member of the family by the *child* or *young adult* or by the family of the *child* or *young adult*; and
      - (ii) Who had an emotionally significant relationship with the *child* or *young adult* or the family of the *child* or *young adult* prior to the most recent episode of Department custody.
    - (B) An individual who has a blood relationship to the *child* or *young adult* as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the *child* or *young adult*, but the prior legal relationship has been dissolved by *adoption* of the *child*, *young adult*, or birth parent, and who is identified as a member of the family by the *child* or *young adult* or who self-identifies as a member of the family.
  - (e) For eligibility for the guardianship assistance program:

- (A) A stepparent is considered a *parent* and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the *child* has been terminated by divorce or death.
  - (B) A *foster parent* may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:
    - (i) There is a compelling reason why *adoption* is not an achievable *permanency plan*;
    - (ii) The *foster parent* is currently caring for a *child*, in the care or custody of the Department or a participating tribe, who has a *permanency plan* or *concurrent permanent plan* of guardianship;
    - (iii) The *foster parent* has cared for the *child* for at least 12 of the past 24 months; and
    - (iv) The Department or tribe has approved the *foster parent* for consideration as a guardian.
- (64) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related *child* or *young adult* who is placed in the home by the Department.
- (65) "Respite care" means a formal planned arrangement to relieve a certified family's responsibilities by an individual temporarily assuming responsibility for the care and supervision of a *child* or *young adult* in the home of the respite provider or *certified family*. "Respite care" must be less than 14 consecutive days.
- (66) "Secretary of State" means the Secretary of the United States Department of State, the *central authority* for the United States.
- (67) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:
- (a) By blood or *adoption* through a common *parent*;
  - (b) Through the marriage of the legal or biological parents of the children or young adults; or
  - (c) Through a legal or biological parent who is the *registered domestic partner* of the legal or biological parent of the children or young adults.

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

Stat. Auth.: ORS 409.050, 418.005

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

# Adoption Placement Selection

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## 413-120-0025

### Composition of an Adoption Committee

*(Amended 10/01/15)*

- (1) An *adoption committee* must be composed of the following individuals:
  - (a) The caseworker of each *child* for whom *adoption placement selection* is being made;
  - (b) Three individuals appointed by the Child Welfare Program Manager or designee for a local *adoption committee*, and by the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for a central office *adoption committee*:
    - (A) The *committee facilitator*, who must be a Department staff person; and
    - (B) Two other individuals, who may be a community partner or a Department staff person.
- (2) In addition to the committee members identified in section (1), the following individuals for each *child* for whom *adoption placement selection* is being made must be notified of the *adoption committee* and may be adoption committee members, if they so choose, under OAR 413-120-0053(1):
  - (a) The CASA;
  - (b) The child's attorney;
  - (c) A tribal representative if the *child* is an *Indian child*; and
  - (d) A member of the RCWAC, if the *child* is a *refugee child*.
- (3) The adoption worker for each identified potential *adoptive resource* must attend the full *adoption committee*.
- (4) With the approval of the *committee facilitator*, the following individuals may attend the *adoption committee*:
  - (a) The supervisor for an individual identified in section (1), (2), or (3) of this rule;

- (b) Department staff who may have information about the *child* or *sibling* group under consideration for adoption or the potential *adoptive resources* being considered; and
  - (c) Department staff, for training or observation purposes.
- (5) Committee members appointed under subsection (1)(b) of this rule must meet the following requirements:
- (a) Be knowledgeable of *adoption* and permanency issues;
  - (b) Be knowledgeable of the importance of lifelong family and cultural connections; ~~and~~
  - (c) Be knowledgeable of the importance of attachment and emotional ties to caregivers; and
  - (ed) Have no personal or current professional relationship to any of the children for whom *adoption placement selection* is being made or to the potential adoptive resources being considered.
- (6) The *committee facilitator* appointed under paragraph (1)(b)(A) of this rule must comply with all of the following subsections:
- (a) Hold the meeting in accordance with the requirements of Chapter 413 of the Oregon Administrative Rules;
  - (b) Inform each individual who is present of the responsibilities of the committee;
  - (c) Have each individual who is present sign a confidentiality agreement for the proceedings of the *adoption committee* meeting;
  - (d) Ensure the individuals who are invited to attend and present information to the committee as described in OAR 413-120-0035(5) are --
    - (A) Allowed to present information appropriate for consideration for each *child* for whom *adoption placement selection* is being made; and
    - (B) Excused in a timely manner.
  - (e) Give the committee recommendations to the ADS at the end of the *adoption committee* meeting.
- (7) The ADS --
- (a) Is appointed by the Child Permanency Program Manager or designee and must --

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

Stat. Auth.: ORS 418.005

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

# Identification and Consideration of Potential Adoptive Resources

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## 413-120-0730

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

*(Amended 10/01/15)*

- (1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a *child* or *sibling* group, 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 ~~Child Permanency Program Manager-DHS Director or designee~~ 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

# Intercountry Adoption Pursuant to The Hague Convention and Intercountry Adoption Act

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## 413-120-0925

### Adoption of a Child Emigrating from the United States (Outgoing Convention Adoption)

*(Amended 05/01/14)*

- (1) The Department may pursue an *outgoing Convention adoption* provided that:
  - (a) It is in the best interest of the *child*;
  - (b) The *child* has not been abducted, sold, or trafficked in connection with the *adoption*; and
  - (c) The prospective adoptive parent meets all of the following requirements:
    - (A) Is one of the following:
      - (i) a ~~A~~ relative as described in OAR 413-120-0000(63)(a)(A), (B), or (C);
      - (ii) A relative as described in OAR 413-120-0000(63)(b)(A) or (G); or
      - (iii) An individual with a relationship to the child or young adult's half-sibling through the half-sibling's legal or biological father or mother as described in subparagraph (i) or (ii) of this paragraph for the purpose of placing the half-siblings together.
    - (B) Has been assessed, approved, and trained; and
    - (C) Has been determined able and willing to permanently provide for the safety, well-being, and special needs of the *child*.
- (2) An *outgoing Convention adoption* may involve a *child* who meets the requirements of one of the following subsections:
  - (a) The *child* is, or is eligible to become, a --
    - (A) United States citizen;
    - (B) Legal United States resident; or
    - (C) Dual United States and foreign citizen.

- (b) The *child* is undocumented, but the *foreign authorized entity* of the child's birth country has determined that the *Convention* applies to the *adoption*.
- (3) *Adoption* planning for a *child* that may be the subject of an *outgoing Convention adoption* must comply with other Department rules, including Child Welfare polices: I-AB.4 "CPS Assessment", OAR 413-015-0400 to 413-015-0485; I-F.2 "Determining the Appropriateness of Adoption as a Permanency Plan for a Child", OAR 413-110-0300 to 413-110-0360; I-E.1.1 "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0087; I-F.6 "Sibling Adoption Placement Planning", OAR 413-110-0100 to 413-110-0150; I-G.1.2 Identification and Consideration of Potential Adoptive Resources", OAR 413-120-0700 to 413-120-0760; I-G.1.5 "Adoption Placement Selection", OAR 413-120-0000 to 413-120-0060; and I-G.1.10 "Supervision and Support of an Adoptive Placement", OAR 413-120-0800 to 413-120-0880.
- (4) Before a *child* may be placed in a prospective adoptive home in another *Convention country* the Department must meet the requirements of each of the following subsections:
- (a) Make a written determination that the *child* is eligible for *adoption*, that an *outgoing Convention adoption* is in the child's best interests, and that placement with the *prospective adoptive parents* is in the best interests of the *child*.
  - (b) Complete or obtain a written *child* background study that includes information about the child's identity; upbringing; adoptability; ethnic, religious, and cultural background; social environment; family history; personal medical history; family medical history; and special needs.
  - (c) Determine that the *prospective adoptive parents* meet the ~~definition of relative requirements of paragraph (1)(c)(A) of this rule~~ and document that determination.
  - (d) Work with the *foreign authorized entity* in the *receiving Convention country* to determine whether the *prospective adoptive parents* are suitable, qualified, and eligible to adopt the *child*. To do so the Department must meet the requirements in each of following paragraphs:
    - (A) Provide a copy of the child's background study to the *foreign authorized entity* in the *receiving Convention country*.
    - (B) Obtain from the *foreign authorized entity* a comprehensive *home study* on the *prospective adoptive parents* that is prepared in accordance with the laws of the receiving country; meets the standards established by the Department using the Department's Hague Home Study template; addresses the capacity of the *prospective adoptive parents* to meet the child's safety, permanency and well-being needs; and includes all of the following:

- (i) Information on the *prospective adoptive parents*, including: identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for *adoption*, ability to undertake an inter-country *adoption*, and the characteristics of a *child* for whom they would be qualified to care;
  - (ii) Confirmation that a *foreign authorized entity* has determined that the *prospective adoptive parents* are eligible and suitable to adopt and has ensured that the *prospective adoptive parents* have been counseled as necessary;
  - (iii) The results of a criminal background check; and
  - (iv) Information from competent references for the *prospective adoptive parents*.
- (C) Obtain written confirmation from the *foreign authorized entity* that the *prospective adoptive parents* have completed a minimum of 10 hours of Department-approved training that includes training on all of the following:
- (i) The effects of physical, emotional, and sexual abuse and neglect on a *child*;
  - (ii) The effects of drugs and alcohol on a *child*;
  - (iii) The effects of relocating a *child* and transition issues;
  - (iv) The significance of the birth family, include grief and loss issues;
  - (v) Openness in *adoption*;
  - (vi) Attachment process and attachment difficulties;
  - (vii) Positive behavior management; and
  - (viii) The specific needs of the *child* to be adopted by the *prospective adoptive parents*.
- (D) Provide notice to the *foreign authorized entity* studying the prospective adoptive family and providing required training to the *prospective adoptive parents* that the Department does not condone the use of corporal punishment.
- (E) Obtain from the *foreign authorized entity* a written, signed Supervision Agreement using the approved Department form that describes the

responsibilities of the Department and *foreign authorized entity* with regard to the child's placement with the *prospective adoptive parents* and includes each of the following:

- (i) Requirements for face-to-face visits with the *child* and the *prospective adoptive parents* at least every 30 days. These meetings must occur in the prospective adoptive home at least once every 60 days.
  - (ii) Requirements for face-to-face visits in the prospective adoptive home with other individuals living in the home who can provide information about the child's safety and well-being, as well as any concerns with the placement.
  - (iii) Requirements for contact at least once every 30 days with professional persons who have established a relationship to the *child* who can provide collateral observations regarding the child's functioning and the adoptive placement.
  - (iv) Minimum standards for written reports to be provided every 90 days on contacts with the *child*, prospective adoptive family, other family members, and collateral contacts.
  - (v) Confirmation that the *child* will be authorized to enter and reside in the receiving country permanently or on the same basis as the *prospective adoptive parents*.
  - (vi) Confirmation that the *foreign authorized entity* consents to the *adoption* of the *child* by the prospective adoptive family.
  - (vii) Confirmation that the *foreign authorized entity* agrees that the child's *adoption* by the prospective adoptive family may proceed.
- (e) After the *child* is fully free for *adoption*, establish proof of citizenship for the *child* and apply for applicable passports.
  - (f) Submit to the *foreign authorized entity* written confirmation of the reasons the Department determined that the proposed adoptive placement is in the best interests of the *child*.
  - (g) Establish a direct means for the child's collateral contacts in the *receiving Convention country* to communicate any health or safety concerns about the *child* to the Department.
  - (h) Counsel and inform the *child*, as appropriate in light of the child's age and maturity, of the effects of the *adoption*, consider the child's views regarding the

*adoption*, and document the discussion and how the child's views were considered.

- (i) If the child's consent to the *adoption* is required, counsel and inform the *child* about the effects of granting consent, obtain written consent from the *child* in a manner that assures the consent is given freely and without any inducement by compensation of any kind, and document the discussion.
  - (j) Determine whether the *receiving Convention country* requires a *Hague custody declaration* prior to placement of the *child* in the home of the *prospective adoptive parents*, and, if required, apply for and obtain a *Hague custody declaration* from the U.S. State Department, as provided in OAR 413-120-0970.
  - (k) Assure that the child's move to the *receiving Convention country* will be made under secure and appropriate circumstances and in the company of the child's *prospective adoptive parents*, caseworker, or with another adult.
- (5) Following completion of all of requirements in section (4) of this rule and prior to the *child* traveling to the *receiving Convention country* for placement with the *prospective adoptive parents*, the Department must obtain an order from the court that makes findings --
- (a) In support of an application for a *Hague adoption certificate*;
  - (b) That the prospective adoptive placement is in the best interests of the *child*;
  - (c) Authorizing the *child* to travel to the foreign country for placement with the *prospective adoptive parents*; and
  - (d) Authorizing release of the court order for purposes of affecting the child's placement.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005