

Oregon Secretary of State
Certificate and Order for Filing Temporary Administrative Rules and
Statement of Need and Justification

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

July 1, 2016 by the

Department of Human Services, Office of Child Welfare Programs	413
Agency and Division	Chapter Number
Kris Skaro	503-945-6067
Human Services Building 500 Summer St NE, E-48 Salem, OR 97301	
Rules Coordinator	Address
	Telephone

to become effective July 1, 2016 through December 27, 2016.*

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

Rule Caption: *Implementation of SB 1515 (2016)*

In the Matter of: *Adopting and amending rules in OAR chapter 413*

ADOPT: 413-015-0620, 413-015-0625, 413-015-0630, 413-015-0640, 413-080-0051, 413-080-0070

AMEND: 413-015-0100, 413-015-0115, 413-015-0125, 413-015-0205, 413-015-0210, 413-015-0211, 413-015-0212, 413-015-0215, 413-015-0300, 413-015-0409, 413-015-0415, 413-015-0420, 413-015-0440, 413-015-0445, 413-015-0450, 413-015-0470, 413-015-1000, 413-015-9030, 413-015-9040, 413-080-0050, 413-080-0054, 413-090-0000, 413-090-0055, 413-090-0065, 413-090-0070, 413-090-0075, 413-090-0080, 413-090-0087, 413-090-0090

ORS 418.005, 418.015, 418.027, 418.495, Or Laws 2016, ch 106

Stat. Auth.

None.

Other Auth.

ORS 418.005, 418.015, 418.027, 418.495, 419B.005, 419B.010, 419B.015, 419B.020, Or Laws 2016, ch 106

Stats. Implemented

Rule Summary

The Department of Human Services, Office of Child Welfare Programs, is adopting temporary rules to implement [SB 1515](#) (Oregon Laws 2016, chapter 2016.) The new law creates new requirements for the Department relating to ensuring the safety of children residing in or receiving services from child-caring agencies licensed by the Department.

Child Protective Services

These rules establish requirements for screeners and CPS (Child Protective Services) workers when reports of abuse or neglect are received by the Department. The rules are being amended to state that when a report is received and the information indicates it involves a child-caring agency, screeners will be directed to new rules, OAR 413-015-0620 through 413-015-0640, which will state responsibilities and requirements for responding to these reports. Specifically, reports will be screened under a new definition of abuse in section 36 of SB 1515; the Department will respond to reports on children through age 20; screeners and CPS workers will notify appropriate Department personnel to ensure notifications required by SB 1515 are made; and CPS workers will collaborate with appropriate personnel to share information and determine the appropriate Department response to ensure child safety.

Monthly Contact and Monitoring Child and Young Adult Safety

These rules describe the responsibilities of the Department regarding monthly contact with children and young adults in Department custody, monitoring the safety, permanency, and well-being needs, and monitoring the ongoing safety plan. These rules are being amended to require Department staff to notify appropriate personnel when they have concerns, including when well-being needs are not being met, about a child or young adult residing in or receiving services from a child-caring agency or proctor foster home. Definitions are also amended to align with SB 1515. Additionally, OAR 413-080-0070 is adopted to establish the persons and entities who must be notified whenever the Department receives reports of abuse or licensing or contracting violations about a child-caring agency or when the Department takes certain actions on a child-caring agency license.

Behavior Rehabilitation Services

These rules describe the requirements for BRS (Behavior Rehabilitation Services) contractors who provide BRS services to children. The rules are being amended to require the Department to immediately investigate and take appropriate actions when the Department receives reports of abuse or licensing or contracting violations. The BRS program office will also investigate to determine if any material breach of the terms of the BRS contract have occurred and take appropriate action. Additionally, BRS contractors and providers, including proctor foster homes, will be required to permit immediate access to a child in their care and to the premises as provided in ORS 418.305 as amended by section 20 of SB 1515. BRS contractors will also be required to comply with all law and regulations, including new SB 1515 licensing requirements in OAR chapter 413, division 2015. Definitions in these rules are also amended to align with SB 1515.

The Department is amending additional rules to implement SB 1515, including rules for the Office of Licensing and Regulatory Oversight, the Office of Adult Abuse Prevention and Investigations, and the Background Check Unit. More information is available on the SB 1515 implementation webpage at <https://www.oregon.gov/DHS/CHILDREN/Pages/sb1515.aspx>.

Need for the Rules

These rules need to be adopted and amended because SB 1515 (2016) makes significant changes to Oregon laws relating to the Department's oversight of child-caring agencies and proctor foster homes and responsibility for ensuring the safety and well-being of children and young adults who reside in or receive services from child-caring agencies or proctor foster homes and Department rules must be amended to reflect the new requirements and responsibilities. These changes implement SB 1515.

Documents Relied Upon

Overview of SB 1515 available at <https://olis.leg.state.or.us/liz/2016R1/Measures/Overview/SB1515>.

Justification of Temporary Rules

The Department finds that failure to act promptly by adopting and amending these rules will result in serious prejudice to the public interest, the Department, child-caring agencies, proctor foster homes, and the children and young adults in their care. The Department needs to proceed by temporary rule because the public, the Department, and child-caring agencies, proctor foster homes, and the children and young adults in their care will immediately benefit when the Department's rules are in compliance with state laws intended to improve the oversight of child-caring agencies and proctor foster homes and ensure the safety and well-being of children and young adults in their care.

Introduction to CPS Rules

413-015-0100

Child Protective Service Authority and Responsibility

~~(Amended 05/27/14)~~ ~~(Temporary Effective 07/01/16 - 12/27/16)~~

Reports of alleged *child abuse or neglect* are received by the Department and screened for *Department response*. The processes and time lines for completion are provided in division 015 of this chapter of rules, and also in OAR chapter 407, division 045 for the child-caring agencies or proctor foster homes screened and investigated by the Office of Adult Abuse Prevention and Investigation ~~Children's Care Providers~~. OAR 413-015-0100 to 413-015-0125 provide an overview of division 015, which implements ORS 409.185, 418.015, and 419B.005 to 419B.050.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 to 419B.050, Or Laws 2016, ch 106

413-015-0115

Definitions

~~(Amended 01/01/16)~~ ~~(Temporary Effective 07/01/16 - 12/27/16)~~

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 015:

- (1) "Caregiver" means a *guardian*, legal custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a *child*.
- (2) "Child" means a person who:
 - (a) Is under 18 years of age-; or
 - (b) Is under 21 years of age and residing in or receiving care or services at a *child-caring agency*.
- (3) "Child abuse or neglect" means any form of child abuse, including abuse through neglect and abuse or neglect by a third party, as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36 of a person under age 18.
- ~~(4)~~ "Child-caring agency" is defined in ORS 418.205 and:
 - (a) Means any private school, private agency, or private organization providing:
 - (A) Day treatment for children with emotional disturbances;

- (B) Adoption placement services;
- (C) Residential care, including but not limited to foster care or residential treatment for children;
- (D) Residential care in combination with academic education and therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances;
- (E) Outdoor youth programs; or
- (F) Other similar care or services for children.

(b) Includes the following:

- (A) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645
- (B) An independent residence facility as described in ORS 418.475;
- (C) A private residential boarding school; and
- (D) A child caring facility as defined in ORS 418.950.

(c) Child-caring agency does not include:

- (A) Residential facilities or foster care homes certified or licensed by the Department of Human Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services;
- (B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subsection, ‘respite services’ means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purpose of providing a parent in crisis with relief from the demands of ongoing care of the parent’s child;
- (C) A youth job development organization as defined in ORS 344.415;
- (D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645; or
- (E) A foster home subject to ORS 418.625 to 418.645.

- (45) "Child protective services" (CPS) means a specialized social service program that the Department provides on behalf of children who may be *unsafe* after a *report of child abuse or neglect* is received.
- (56) "Child protective services assessment" (CPS assessment) means an investigation into a *report of child abuse or neglect* pursuant to ORS 419B.020 that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe *child abuse or neglect* occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.
- (67) "Child protective services supervisor" (CPS supervisor) means an employee of the Department trained in *child protective services* and designated as a supervisor.
- (78) "Child protective services worker" (CPS worker) means an employee of the Department who has completed the mandatory Department training for child protective service workers.
- (89) "Child Safety Meeting" means a meeting held at the conclusion of a CPS assessment for the purpose of developing an *ongoing safety plan*.
- ~~(9) "Children's Care Provider" (CCP) means a DHS licensed Residential Care Agency, Day Treatment Program, Foster Care Agency, Therapeutic Boarding School, or Outdoor Youth Program that has assumed responsibility for all or a portion of the care of a child. The term includes the CCP's employees, agents, contractors and their employees, and volunteers.~~
- (10) "Conditions for return" means 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*.
- (11) "Day Care Facility" means each of the following:
- (a) A Registered Family Child Care Home, which is the residence of a provider who has a current Family Child Care Registration at that address and who provides care in the family living quarters.
 - (b) A Certified Family Child Care Home, which is a child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 16 children at any one time.
 - (c) A Certified Child Care Center, which is certified to care for 13 or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.

- (d) A Listed Facility, which is a child care provider that is exempt from Office of Child Care licensing and that receives subsidy payments for child care on behalf of clients of the Department of Human Services.
- (12) "Department" means the Department of Human Services, Child Welfare.
- (13) "Department response" means how the Department intends to respond to information that a *child* is *unsafe* after a *report* of alleged abuse or neglect is received.
- (14) "Designated medical professional" means (as described in ORS 418.747(9)) a physician, physician assistant, or nurse practitioner who has been designated by the local *multi-disciplinary team* and trained to conduct child abuse medical assessments (as defined in ORS 418.782), and who is -- or who may designate another physician, physician assistant, or nurse practitioner who is -- regularly available to conduct these medical assessments.
- (15) "Domestic violence" means a pattern of coercive behavior, which can include physical, sexual, economic, and emotional abuse that an individual uses against a past or current intimate partner to gain power and control in a relationship.
- (16) "Face-to-face" means an in-person interaction between individuals.
- (17) "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.
- (18) "Founded" means there is reasonable cause to believe that child abuse or neglect, as defined in ORS 419B.005, occurred.
- ~~(189)~~ "Guardian" means an individual who has been granted guardianship of a *child* through a judgment of the court.
- ~~(1920)~~ "Harm" means any kind of impairment, damage, detriment, or injury to a child's physical, sexual, psychological, cognitive, or behavioral development or functioning. "Harm" is the result of *child abuse or neglect* and may vary from mild to severe.
- ~~(201)~~ "ICWA" means the Indian Child Welfare Act.
- ~~(212)~~ "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 functioning.
- ~~(223)~~ "Initial contact" means the first *face-to-face* contact between a CPS worker and a family. The initial contact includes *face-to-face* contact with the alleged child victim, his or her

siblings, parent or *caregiver*, and other children and adults living in the home; accessing the home environment; and gathering sufficient information on the family conditions and functioning to determine if present danger safety threats or impending danger safety threats exist.

- (234) "Initial safety plan" means a documented set of actions or interventions sufficient to protect a *child* from an *impending danger safety threat* in order to allow for completion of the CPS assessment.
- (245) "Moderate to high needs" means *observable* family behaviors, conditions, or circumstances that are occurring now; and over the next year without intervention, are likely to have a negative impact on a child's physical, sexual, psychological, cognitive, or behavioral development or functioning. The potential negative impact is not judged to be severe. While intervention is not required for the *child* to be *safe*, it is reasonable to determine that short-term, targeted services could reduce or eliminate the likelihood that the negative impact will occur.
- (256) "Monthly face-to-face contact" means in-person interaction between individuals at least once each and every full calendar month.
- (267) "Multi-disciplinary team" (MDT) means a county child abuse investigative team as defined in ORS 418.747.
- (278) "Observable" means specific, real, can be seen and described. Observable does not include suspicion or gut feeling.
- (289) "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.
- (2930) "Out of control" means family behaviors, conditions, or circumstances that can affect a child's safety are unrestrained, unmanaged, without limits or monitoring, not subject to influence or manipulation within the control of the family, resulting in an unpredictable and chaotic family environment.
- (301) "Personal representative" means a person who is at least 18 years of age and is selected to be present and supportive during the CPS assessment by a *child* who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the crime. The personal representative may not be a person who is a suspect in, party or witness to, the crime.
- (312) "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.

(323) "Present danger safety threat" means an immediate, significant, and clearly *observable* family behavior, condition, or circumstance occurring in the present tense, already endangering or threatening to endanger a *child*. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a *child* in peril.

~~(33) "Private child-caring agency" is defined in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.~~

~~(a) A "child-caring agency" means an agency or organization providing:~~

~~(A) Day treatment for disturbed children;~~

~~(B) Adoption placement services;~~

~~(C) Residential care, including but not limited to foster care or residential treatment for children;~~

~~(D) Outdoor youth programs as defined in OAR 413-215-0911; or~~

~~(E) Other similar services for children.~~

~~(b) A "child-caring agency" does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830, and 443.835 for children receiving developmental disability services.~~

~~(34) "Proctor foster home" means a foster home certified by a *child-caring agency* that is not subject to ORS 418.625 to 418.470.~~

(345) "Protective action plan" means an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect a *child* from a *present danger safety threat*.

(356) "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.

(367) "Protective custody" means custody authorized by ORS 419B.150.

(378) "Reasonable suspicion" means a reasonable belief given all of the circumstances, based upon specific and describable facts, that the *suspicious physical injury* may be the result of abuse. Explanation: The belief must be subjectively and objectively reasonable. In other words, the person subjectively believes that the injury may be the result of abuse,

and the belief is objectively reasonable considering all of the circumstances. The circumstances that may give rise to a reasonable belief may include, but not be limited to, observations, interviews, experience, and training. The fact that there are possible non-abuse explanations for the injury does not negate reasonable suspicion.

- (389) "Referral" means a *report* that has been assigned for the purpose of CPS assessment.
- (394) "Report" means an allegation of *child abuse or neglect* provided to the Department that the *screeener* evaluates to determine if it constitutes a *report of child abuse or neglect* as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36.
- (401) "Reporter" means an individual who makes a *report*.
- (412) "Safe" means there is an absence of present danger safety threats and impending danger safety threats.
- (423) "Safety service provider" means a participant in a *protective action plan, initial safety plan, or ongoing safety plan* whose actions, assistance, or supervision help a family in managing a child's safety.
- (434) "Safety services" mean the actions, assistance, and supervision provided by safety service providers to manage the identified present danger safety threats or impending danger safety threats to a *child*.
- (445) "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*.
- (456) "School administrator" means the principal, vice principal, assistant principal, or any other person performing the duties of a principal, vice principal, or assistant principal at a school, as defined in the Teacher Standards and Practices Commission (TSPC) OAR 584-005-0005.
- (467) "Screeener" means a Department employee with training required to provide *screening* services.
- (478) "Screening" means the process used by a *screeener* to determine the *Department response* when information alleging abuse or neglect is received.
- (489) "Severe harm" means:

- (a) Significant or acute injury to a child's physical, sexual, psychological, cognitive, or behavioral development or functioning;
- (b) Immobilizing impairment; or
- (c) Life threatening damage.

(4950) "Substance" means any controlled substance as defined by ORS 475.005, prescription medications, over-the-counter medications, or alcoholic beverages.

(51) "Substantiated" means there is reasonable cause to believe that child abuse, as defined in ORS 419B.005 or in Oregon Laws 2016, chapter 106, section 36, occurred.

(502) "Suspicious physical injury" (as defined in ORS 419B.023) includes, but is not limited to:

- (a) Burns or scalds;
- (b) Extensive bruising or abrasions on any part of the body;
- (c) Bruising, swelling, or abrasions on the head, neck, or face;
- (d) Fractures of any bone in a *child* under the age of three;
- (e) Multiple fractures in a *child* of any age;
- (f) Dislocations, soft tissue swelling, or moderate to severe cuts;
- (g) Loss of the ability to walk or move normally according to the child's developmental ability;
- (h) Unconsciousness or difficulty maintaining consciousness;
- (i) Multiple injuries of different types;
- (j) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or
- (k) Any other injury that threatens the physical well-being of the *child*.

(513) "Teacher" means (as defined in TSPC OAR 584-005-0005) a licensed or registered employee in a public school or charter school, or employed by an education service district, who has direct responsibility for instruction, coordination of educational programs, or supervision or evaluation of teachers; and who is compensated for services from public funds.

(524) "Third-party abuse" means abuse by a person who is not the child's parent, not the child's *caregiver* or other member of the child's household, and not a person responsible for the child's care, custody, and control. Examples of persons who could be considered as a third-party under this definition include school personnel, day-care providers, coaches, and church personnel.

(535) "Unsafe" means the presence of a *present danger safety threat* or an *impending danger safety threat*.

(546) "Vulnerable child" means a *child* who is unable to protect him or herself. This includes a *child* who is dependent on others for sustenance and protection. A "vulnerable child" is defenseless, exposed to behaviors, conditions, or circumstances that he or she is powerless to manage, and is susceptible and accessible to a threatening parent or *caregiver*. Vulnerability is judged according to physical and emotional development, ability to communicate needs, mobility, size, and dependence.

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

Stat. Auth.: ORS 409.185, 418.005, 418.747, 419B.017, 419B.024, 419B.035, Or Laws 2016, ch 106

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050, Or Laws 2016, ch 106

413-015-0125

Department CPS Responsibility Ends

~~(Amended 05/27/14)(Temporary Effective 07/01/16 - 12/27/16)~~

The Department is not responsible for providing *child protective services* when:

- (1) A *screener* determines that information received during *screening* does not meet the statutory definition of *child abuse or neglect* (see OAR 413-015-0210(2)(a) and (b));
- (2) The CPS assessment has determined the *child is safe*; or
- (3) The CPS assessment does not identify information sufficient to request juvenile court intervention or the CPS assessment has determined the *child is unsafe* and the juvenile court declines to intervene, and the parents or caregivers do not request or agree to ~~voluntarily-cooperatively~~ receive services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Screening

413-015-0205

Screening Activities

(Amended 01/01/16)(Temporary Effective 07/01/16 - 12/27/16)

The *screener* must complete the following activities:

- (1) Gather information. When gathering information, the *screener* must do both of the following:
 - (a) Accept reports of *child abuse and-or neglect* regardless of where the *child* resides or where the alleged *child abuse or neglect* may have occurred. If the *report* is about a *child* that does not reside in the county where the *report* is received, the *screener* must forward the completed *screening* report form to the local child welfare office in the county or state where the *child* resides. The *screener* must forward the *screening* report form on the same day the *report* is received and confirm that it has been successfully forwarded.
 - (b) Accept and handle anonymous reports of *child abuse and-or neglect* in the same manner as other reports, gather the same information from the anonymous *reporter* as the *screener* would from any other *reporter*, and encourage the *reporter* to provide identifying information.
- (2) If appropriate, refer the person to community services and resources.
- (3) Determine the type of information received, Child Protective Services or Family Support Services, and where and when to document the information received.
 - (a) Child Protective Services. This type of information is related to reports of alleged *child abuse or neglect*.
 - (A) Child Protective Services information is documented in the Department's electronic information system.
 - (B) The time line for screeners to complete and document their actions, and document information gathered, unless a CPS supervisor grants the *screener* an extension as provided in OAR 413-015-0220, is:
 - (i) Immediately when a "within 24 hours" response time line is assigned;
 - (ii) Within the same day when a "within five days" response time line is assigned; or

- (iii) No later than the next working day after the *screening* determination is made when the *report* is closed at *screening*.
- (b) Family Support Services. This type of information is not a *report* of alleged *child abuse or neglect*, and it does not include information that indicates a *child* is *unsafe*.
 - (A) This information is documented in the Department's electronic information system using a *screening* report form.
 - (B) The time line for screeners to complete and document their actions, and document information gathered is within two days of receiving the request for services.
 - (C) Family Support Services information falls within one of the categories described below:
 - (i) Request for Placement -- Information falls within this category when:
 - (I) A parent or *guardian* requests out-of-home placement of their *child* due solely to obtain services for the emotional, behavioral, or mental disorder or developmental or physical disability of the *child*;
 - (II) The parent or *guardian* requests the Department take legal custody of their *child*; or
 - (III) The court has ordered a pre-adjudicated delinquent into the care of the Department.
 - (ii) Request for Independent Living Program Services -- Information falls within this category when a *former foster child* qualifies for Independent Living Program (ILP) services, is not a participant on an open case, and requests to enroll in the Department's ILP.
 - (iii) Request for Post Legal Adoption and Post Guardianship Services - - Information falls within this category when a family requests post legal adoption or post guardianship services, if the adoption or guardianship occurred through the Department.
 - (iv) Request for Voluntary Services -- Information falls within this category when it does not meet the criteria in subparagraphs (i), (ii), or (iii) of this paragraph, a parent or *caregiver* requests assistance with a *child* in the home, and all of the following apply:

- (I) Other community resources have been utilized and determined to be ineffective.
 - (II) 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.
 - (III) The parent or *caregiver* is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical condition or a mental health diagnosis.
 - (IV) The parent's or caregiver's inability 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.
 - (V) A Child Welfare program manager approves the request for voluntary services.
- (4) When the *screener* receives Child Protective Services information, the *screener* must complete the *screening* activities described below.
- (a) The *screener* must gather the following information, which is critical to effectively identify if there is a *report of child abuse or neglect* as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36 and if the information alleges that behaviors, conditions, or circumstances could result in *harm to the child*
 - (A) The type of alleged *child abuse or neglect* and the circumstances surrounding the *report*;
 - (B) How the alleged *child abuse or neglect* or the surrounding circumstances are reported to affect the safety of the *child*;
 - (C) Information that identifies how the *child* is vulnerable; and
 - (D) Reported parent or caregiver functioning and behavior.
 - (b) After gathering and documenting the information required in subsection (a) of this section, if the *report* is about a behavior, condition, or circumstance involving a child-caring agency or proctor foster home, the *screener* must immediately comply with "Department Responsibilities When a Report of Abuse Involves a Child-Caring Agency or Proctor Foster Home" in OAR 413-015-0620 to 413-015-0640. ~~that occurred in a Children's Care Provider (CCP) or a behavior of a CCP, the *screener* must complete the requirements in paragraphs (A) through (C) of this subsection. CPS screening activities for CCP referrals are complete after~~

~~the completion of the activities in paragraphs (A) through (C) of this subsection and additional *screening* activities in this rule do not apply:~~

- ~~(A) Immediately pend the *screening* information to the Office of Adult Abuse Prevention and Investigation (OAAPI) screener's workload;~~
- ~~(B) Immediately send an e-mail to the OAAPI screener to let the screener know that a *screening* report has been assigned to the screener's workload; and~~
- ~~(C) When the *report* is new information on an open Department case:
 - ~~(i) Notify the CPS supervisor;~~
 - ~~(ii) Notify each assigned case worker and their respective supervisors of all new information received on the same day the information is received, and document this notification in the Department's electronic information system case notes; and~~
 - ~~(iii) Complete notification on the same day the information is received.~~~~
- (c) Gather information from individuals who can provide firsthand information necessary to determine the appropriate *Department response*. This may include individuals who have regular contact with the *child*, doctors, teachers, or others who have evaluated or maintain records on the *child*, people who are in an established personal or professional relationship with the parent or *caregiver* and who can judge the quality and nature of the parent or caregiver behavior, and those who have records or reason to know things about the parent or *caregiver* as a result of their involvement with or exposure to the parent or *caregiver*.
- (d) Research Department history of every identified *child*, parent, *caregiver*, and household member for information about current or previous Department involvement relevant to the current *child abuse or neglect report*. If the research reveals an "unable to locate" disposition that has not been assessed, the *screener* must reference that assessment, the date the assessment was completed, and those allegations not able to be assessed in the current report summary.
- (e) Inquire regarding possible Indian or Alaskan Native heritage (for further direction see OAR 413-015-0215(5)).
- (f) Request relevant information when available and appropriate from law enforcement agencies (LEA), including domestic disturbance calls, arrests, warrants, convictions, restraining orders, probation status, and parole status.
- (g) Determine the location and corresponding law enforcement jurisdiction of the family's residence and the site where the alleged *child abuse or neglect* may have occurred.

- (h) Immediately comply with "Department Responsibilities During Screening and Assessment of a Child Abuse or Neglect Report Involving the Home of a Department Certified Foster Parent or Relative Caregiver", OAR 413-200-0404 to 413-200-0424, when information is related to a Department approved and certified home that is a foster home, relative caregiver home, or home of a *pre-adoptive family*.
 - (i) Immediately comply with the Child Welfare "Fatality Protocol" when information is related to the death of a *child*.
- (5) Explain to reporters the information in all of the following subsections:
- (a) That the Department will not disclose the identity of the *reporter* unless disclosure is to an LEA for purposes of investigating the *report*, disclosure is required because the *reporter* may need to testify as a witness in court, or the court orders the Department to disclose the identity of the *reporter*.
 - (b) That anyone making a *report of child abuse or neglect* in good faith, who has reasonable grounds to make the *report*, is immune from liability in respect to making the *report* and the contents of the *report*.
 - (c) The Department's decisions about paragraphs (A) through (C) of this subsection. If the decisions have not been made when the *report* is completed, the *screener* must notify the *reporter* that, if contact information is provided, diligent efforts will be made to contact him or her at a later date and inform him or her of the decisions:
 - (A) Whether contact with the *child* was made;
 - (B) Whether the Department determined child abuse occurred; and
 - (C) Whether services will be provided.
 - (d) If applicable, that the information reported does not meet the *screening* criteria to be documented and retained in the Department's electronic information system.
 - (e) That mandatory reporters should consider maintaining a record of their *report* to document compliance with ORS 419B.010 and 419B.015 mandatory reporting laws.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106

Stats. Implemented: ORS 418.005, 419B.020, Or Laws 2016, ch 106

413-015-0210

Determining Department's Response and Required Time Lines for CPS Information

~~(Amended 05/27/14)~~ Temporary Effective 07/01/16 - 12/27/16

- (1) After the *screener* completes *screening* activities required by OAR 413-015-0205, and the *screener* determines the information received is CPS information, the *screener* must determine the *Department response*, either CPS assessment required or close at *screening*. If a CPS assessment is required, the *screener* must then determine the time line for the *Department response*, either within 24 hours or within five calendar days.
- (2) CPS assessment required. A CPS assessment is required if:
 - (a) The *screener* determines that information received constitutes a *report* of child abuse or neglect, as defined in ORS 419B.005, and the information indicates:
 - (A) The alleged perpetrator is a legal parent of the alleged child victim;
 - (B) The alleged perpetrator resides in the alleged child victim's home;
 - (C) The alleged perpetrator may have access to the alleged child victim, and the parent or *caregiver* may not be able or willing to protect the *child*; or
 - (D) The alleged child abuse occurred in a day care facility, or the home of a Department certified foster parent or relative caregiver, ~~or a private child-caring agency that is not a Children's Care Provider (CCP).~~
 - ~~(b)~~ The *screener* determines that information received constitutes a *report* of abuse or neglect as defined in ORS 419B.005 or Oregon Laws 2016, chapter 106, section 36 and the *report* is the responsibility of the Department as outlined in OAR 413-015-0630.
 - ~~(c)~~ A tribe or LEA requests assistance from the Department with an investigation of *child abuse or neglect*, and a CPS supervisor agrees that assistance from the Department is appropriate.
- (3) Response Time Lines. If the *screener* determines that a CPS assessment is required, the *screener* must:
 - (a) Determine the CPS assessment response time line. The time line for the *Department response* refers to the amount of time between when the *report* is received at *screening* and when the CPS worker is required to make an *initial contact*. When determining the response time, the *screener* must take into account the location of the *child*, how long the *child* will be in that location, and access that others have to the *child*.

- (A) Within 24 hours: This response time line is required, unless paragraph (B) of this subsection applies, when the information received constitutes a *report of child abuse or neglect* as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36.
 - (B) Within five calendar days: This response time line must only be used when the *screener* can clearly document how the information indicates the child's safety will not be compromised by not responding within 24 hours and whether an intentional delay to allow for a planned response is less likely to compromise the safety of the *child*.
- (b) Complete a *screening* report form immediately when a "within 24 hour" response time line is assigned or the same day when a "within five calendar days" response time is assigned, unless a CPS supervisor grants an extension as provided in OAR 413-015-0220.
 - (c) Refer the CPS assessment to the appropriate county as described in OAR 413-015-0213.
- (4) Close at Screening: A *report* will be closed at *screening* if one of the following subsections applies:
- (a) The *screener* determines that information received:
 - (A) Does not constitute a *report of child abuse or neglect*, as defined in ORS 419B.005 or, when applicable, Oregon Laws 2016, chapter 106, section 36, and the *screener* determines:
 - (i) That the information describes ~~family~~ behaviors, conditions, or circumstances that pose a risk to a *child*; or
 - (ii) The report includes information involving a *child-caring agency* or *proctor foster home*.
 - (B) Is third party *child abuse or neglect* that does not require a CPS assessment because the alleged perpetrator does not have access to the *child*, and the parent or *caregiver* is willing and able to protect the *child*;
or
 - (C) Is a *report* that there are no children in the home and:
 - (i) An expectant mother is abusing substances during her pregnancy;
 - (ii) An expectant mother or a household member has had his or her parental rights to another *child* terminated; or

- (iii) An expectant mother or a household member is known to have conditions or circumstances that would endanger a newborn child.
 - (b) When a *report* is received, but the *screener*, after extensive efforts, is unable to obtain sufficient information to locate the *child*. Name and exact address are not necessary if a location is obtained.
- (5) If a *report* is closed at *screening*, the *screener* must:
 - (a) Document the current information that supports the decision to close the *report* at *screening*.
 - (b) Decide whether other services are appropriate and make service or resource referrals, as necessary. Document what service or resource referrals are made, if any.
 - (c) Make diligent efforts to contact the *reporter* if contact information was provided and when the *reporter* was not informed of the following information prior to completing the *screening* report form.
 - (A) Whether contact with the *child* was made;
 - (B) Whether the Department determined child abuse occurred; and
 - (C) Whether services will be provided.
 - (d) Complete a *screening* report form no later than the next working day after the *screening* determination is made, unless a CPS supervisor grants an extension, as provided in OAR 413-015-0220.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106

Stats. Implemented: ORS 418.005, Or Laws 2016, ch 106

413-015-0211

Additional Screening Activities

~~(Amended 01/01/16)~~ (Temporary Effective 07/01/16 - 12/27/16)

In the specific circumstances described below, the *screener* must complete additional activities to complete the *screening* process.

- (1) The *screener* receives information on an open CPS assessment.
 - (a) When a *screener* receives duplicate information (same alleged victim, same alleged perpetrator, same allegation of *child abuse or neglect*, and same incident dates) on an open CPS assessment, the *screener* must:

- (A) Inform the *reporter* that a new *screening* report will not be documented because the information has already been received;
 - (B) Provide the *reporter* with the assigned caseworker's name and phone number; and
 - (C) Provide contact information about the *reporter* and any information the *screener* received to the assigned caseworker.
- (b) When a *screener* receives information that constitutes a new *report* of child abuse or neglect as defined in ORS [419B.005](#) or, when applicable, [Oregon Laws 2016, chapter 106, section 36](#) on an open CPS assessment, the *screener* must:
- (A) Document the information in a new *screening* report form; and
 - (B) Notify the assigned CPS worker and their supervisor of all new information received on the same day the information is received, and document this notification in the Department's electronic information system.
- (c) When a *screener* receives information that constitutes a closed at *screening* on an open CPS assessment, the *screener* must:
- (A) Document the information in a new *screening* report form; and
 - (B) Notify the assigned CPS worker and their supervisor of all new information received on the same day the information is received, and document this notification in the Department's electronic information system.
- (2) The *screener* receives new information on an open Department case.
- (a) When a *screener* receives new information on an open Department case, the *screener* must:
 - (A) Consult with a CPS supervisor;
 - (B) Notify each assigned case worker and their respective supervisors of all new information received on the same day the information is received, and document this notification in the Department's electronic information system's case notes; and
 - (C) Complete notification on the same day the information is received.
 - (b) When a *screener* receives a new *report* of child abuse or neglect, as defined in ORS [419B.005](#) or, when applicable, [Oregon Laws 2016, chapter 106, section 36](#),

but there is no open CPS assessment, the *screener* must document the information in a new *screening* report form.

- (c) The information received by a *screener* on an open Department case that will not be documented in a new *screening* report form but must be documented in the Department's electronic information system's case notes includes:
 - (A) Additional information on an open case that does not meet the criteria for a new CPS assessment or closed at *screening*;
 - (B) When an in-home *protective action plan*, *initial safety plan*, or *ongoing safety plan* is violated, but the violation is not a new incident of *child abuse or neglect*;
 - (C) Reports of an ongoing concern in an open case, which the Department is currently addressing;
 - (D) Reports of a missing *child* or *young adult*; and
 - (E) Any requests for case information received by the *screener*.
- (3) When a *screener* receives information related to the home of a Department certified foster parent or relative caregiver, the *screener* must notify and document that the *screener* has notified each assigned case worker, assigned certifier, and their respective supervisors of all information received (see "Department Responsibilities During Screening and Assessment of a Child Abuse or Neglect Report Involving the Home of a Department Certified Foster Parent or Relative Caregiver", OAR 413-200-0404 to 413-200-0424).
- (4) When a *screener* receives information related to a minor parent as an alleged perpetrator:
 - (a) The *screener* must gather information to determine if there is a *report* of abuse or neglect with the minor parent as an alleged victim.
 - (b) If the *screener* determines there is a *report* of abuse or neglect of the *child* of the minor parent with the minor parent as an alleged perpetrator and another *report* with the minor parent as an alleged victim, the *screener* must document the information in the following manner to determine when to use the mother or father's name as the case name:
 - (A) The allegation with the minor parent as an alleged perpetrator must be documented with the mother or father of the alleged victim as the case name (the mother or father being a minor does not preclude them from being the case name); and

- (B) The allegation with the minor parent as an alleged victim must be documented with the mother or father of the minor parent as the case name.
- (5) When a *screeener* receives a *report* of a child fatality alleged to be the result of abuse or neglect or involving a *child* known to the Department, the *screeener* must:
- (a) Consult with a CPS supervisor;
 - (b) Refer to the Child Welfare "Fatality Protocol";
 - (c) Complete a *screening* report form identifying in the Department's electronic information system that the *report* involves a child fatality;
 - (d) Notify the CPS consultant; and
 - (e) Complete subsections (a) through (d) of this section even when there are no siblings to the deceased *child* and no other children in the home where the fatality occurred.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.005, Or Laws 2016, ch 106

413-015-0212

Screeener Consultation with a CPS Supervisor

(Amended 05/27/14)(Temporary Effective 07/01/16 - 12/27/16)

Screeners may consult with a CPS supervisor about any *screening* determination. Screeners must consult with a CPS supervisor or designee in each of the following situations:

- (1) A *report* of *child abuse or neglect* involving a *child*, parent, *caregiver*, or perpetrator who was a *child*, parent, *caregiver*, or perpetrator in a CPS assessment that resulted in a founded disposition in the preceding six months.
- (2) A review of Department records on a family that is the subject of a *child abuse or neglect report* finds multiple consecutive reports were closed at *screening*, and the information received in the current *report*, in combination with the prior reports regarding the same family, may meet the criteria to refer the *report* for a CPS assessment.
- (3) A new *report* involving a family that has an open Department case.
- (4) A *report* involving the home of a Department certified foster parent or relative caregiver.
- (5) A *report* involving a ~~private~~ *child-caring agency* or proctor foster home.
- (6) A *report* involving a day care facility.

- (7) A *report* of a child fatality.
- (8) A decision not to refer for assessment a report of a baby who is born with substances in his or her system.
- (9) A *report of child abuse or neglect* in which a community partner or an employee of any program, office, or division of the Department of Human Services or the Oregon Youth Authority is the alleged perpetrator.
- (10) A *report of child abuse or neglect* that is expected to receive media attention or that already is being reported by the media.
- (11) A decision that an additional *screening* report form is needed because the reported information alleges a threat of *harm* to additional children in other families.
- (12) A review of Department history reveals a prior allegation that has not been assessed because the Department was unable to locate the family.

Stat. Auth.: ORS [418.005](#), [Or Laws 2016, ch 106](#)

Stats. Implemented: ORS [418.005](#), [Or Laws 2016, ch 106](#)

413-015-0215

Notifications and Reports to Specific Agencies or Entities

~~(Temporary Effective 04/11/16 – 10/07/16)~~ ~~(Temporary Effective 07/01/16 - 10/07/16)~~

- (1) Law Enforcement Agency (LEA). The *screeener* must cross report to LEA as required by OAR 413-015-0305(1).
- (2) Office of Child Care, Department of Education, Early Learning Division. The *screeener* must notify the Office of Child Care when a *report* involves a day care facility, as required by ORS [419B.020](#)(1). If the *report* is closed at *screening*, a copy of the completed *screening* report form must be sent to the Compliance Unit of the Office of Child Care after information related to the reporter's identity and other confidential information is removed.
- (3) Office of Adult Abuse Prevention and Investigation (OAAPI). The *screeener* must report to the OAAPI when:

~~(a) — A *report* involves a *Children's Care Provider* as outlined in OAR 413-015-0205(4)(b); or~~

~~(b) — A *report* involves a *child* with intellectual or developmental disabilities in a 24 hour residential setting home-licensed ~~or certified~~ by the Office of Developmental Disabilities Services.~~

- (4) Office of Developmental Disabilities Services (ODDS). The *screener* must notify an ODDS Community Developmental Disabilities Program service coordinator when a report involves a *child* with intellectual or developmental disabilities in a home certified by the ODDS or the Department.
- (45) Indian Tribes. If the *screener* knows or has reason to know that the *child* is an Indian child, the *screener* must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted.
- (56) Teacher Standards and Practices Commission (TSPC). The *screener* must notify the TSPC when a *teacher* or *school administrator*, as defined in OAR 413-015-0115, is identified as an alleged perpetrator in a *report*. A copy of the *report* must be sent to the TSPC after information related to the reporter's identity and other confidential information is removed.
- (67) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The *screener* must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the *screener* has reasonable cause to believe:
- (a) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the *screener* comes into contact while the *screener* is acting in an official capacity, has suffered abuse; or
 - (b) That any person with whom the *screener* comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, developmental disability, or physical disability, or any person 65 years of age or older.

Stat. Auth.: ORS 418.005, 419B.017

Stats. Implemented: ORS 418.005, 419B.015, 419B.017

Cross Reporting

413-015-0300

Cross Reporting Defined

(Amended 03/20/07)

The Department and law enforcement agencies are required by ORS [419B.015](#) to notify each other when a report of child abuse or neglect, as defined in ORS [419B.005](#) or [Oregon Laws 2016, chapter 106, section 36](#), is received. This process is known as cross reporting, and the notification is called a cross report. OAR 413-015-0300 to 413-015-0310 explain when and how a report of child abuse or neglect received by Child Welfare or a law enforcement agency is cross reported. Information is not cross reported until it is received.

Stat. Auth.: ORS [418.005](#), [419B.017](#)

Stats. Implemented: ORS [418.005](#), [419B.015](#), [419B.017](#), [419B.020](#)

CPS Assessment

413-015-0409

Exception to Completing CPS Assessment Activities

(Amended 12/24/14)(Temporary Effective 07/01/16 - 12/27/16)

- (1) The only exception to completing the CPS assessment activities required by these rules (OAR 413-015-0400 to 413-015-0485) on an assigned *referral* is when a CPS worker, in consultation with a CPS supervisor or designee, determines prior to the *initial contact* (see OAR 413-015-0420) that the *referral* does not require a CPS assessment because:
 - (a) The *referral* was opened in error; or
 - (b) There is no longer an allegation of abuse or neglect. The CPS worker received information after being assigned the *referral* and that information in combination with the corresponding *screening* report no longer constitutes a *report* of child abuse or neglect as defined in ORS 419B.005 or, when applicable, Oregon Laws 2015, chapter 106, section 36. This exception may be used only when the CPS worker and the CPS supervisor or designee determine the information:
 - (A) Is not from the alleged perpetrator;
 - (B) Relates directly to and specifically negates all allegations in the *screening* report; and
 - (C) Is considered on the basis of the objectivity of the individual providing the information and the quality of the information.
- (2) The exception in section (1) of this rule is not permitted and a CPS assessment must be completed when the CPS worker has already made contact with the parent, *caregiver*, or alleged victim, unless the parent, *caregiver*, or alleged victim is the original *reporter*.
- (3) The CPS worker must document the determination in the Department's electronic information system and explain the basis for the determination that a CPS assessment is not necessary.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 to 419B.050

413-015-0415

CPS Assessment Activities

~~(Amended 01/01/16)~~ *(Temporary Effective 07/01/16 - 12/27/16)*

The required CPS assessment activities are outlined below. The activities are described in a logical order in these rules, but the order in which they occur is controlled by the specific circumstances in a given case.

- (1) Review Records.
 - (a) The assigned CPS worker must:
 - (A) Thoroughly review the documentation in the *referral*;
 - (B) Thoroughly review the paper and electronic records maintained by the Department for historical information on the family and the *child* that may be useful in completing the CPS assessment;
 - (C) Thoroughly review available Self-Sufficiency records; and
 - (D) Make diligent efforts to contact another state's child welfare agency to obtain records, if any, when the CPS worker has information that the family has lived in another state.
 - (b) The CPS worker must review the documents to identify information related to:
 - (A) Present danger safety threats or impending danger safety threats;
 - (B) History or a pattern of abuse or neglect;
 - (C) Child and family support systems and *protective capacity*; and
 - (D) Worker safety.
- (2) Addressing Prior Allegations That Have Not Been Assessed Because the Department was Unable to Locate the Family. The assigned CPS worker must address in the current assessment any allegations not previously assessed because the Department was unable to locate the family as follows:
 - (a) Discuss the prior unassessed allegations during interviews;
 - (b) Consider all information about prior unassessed allegations when determining child safety; and
 - (c) Document the consideration of prior unassessed allegations in interviews, observations, and dispositional findings.

(3) Contact Collateral Sources.

- (a) The CPS worker must contact collateral sources who can clarify or supplement the information in the *referral* and in records already reviewed.
 - (A) The CPS worker must contact the assigned Self-Sufficiency worker, if any.
 - (B) The CPS worker may contact other collateral sources including, but not limited to:
 - (i) Individuals who have regular contact with the *child*;
 - (ii) Doctors or others who have evaluated or maintain records on the *child*;
 - (iii) People who are in an established personal or professional relationship with the parent or *caregiver* and who can judge the quality and nature of the parent or *caregiver* behavior and functioning; and
 - (iv) People who have records or information about the parent or *caregiver* as a result of their involvement with, or exposure to, the parent or *caregiver*.
- (b) The CPS worker must gather information from collateral sources throughout the CPS assessment.
- (c) The CPS worker must:
 - (A) Protect the identity of collateral sources to the extent possible.
 - (B) Consult with the district attorney or the assistant attorney general to obtain a court order for records from a collateral source, if the source is unable or unwilling to share information with the Department.

(4) Consult with CPS Supervisor.

- (a) The CPS worker must consult with a CPS supervisor or designee:
 - (A) When the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department of Human Services or Oregon Youth Authority (OYA);

- (B) When a *referral* involves the home of a Department certified foster parent or relative caregiver;
 - (C) When a *referral* involves allegations that *child abuse or neglect* occurred in a ~~*private-child-caring agency*~~ *or proctor foster home*;
 - (D) When a CPS worker receives notification from a *screening* that a closed at *screening* or new *referral* was created on an open CPS assessment;
 - (E) Prior to a decision to place a *child* in *protective custody*, or after placement if consultation before placement will delay the safety intervention;
 - (F) Prior to initiating court action, or after initiating court action if consultation before will delay the safety intervention;
 - (G) Prior to developing an *initial safety plan* with a Department certified foster parent or relative caregiver;
 - (H) When the *referral* involves a child fatality;
 - (I) When making a disposition in a complicated or sensitive situation or case;
or
 - (J) When closing an assessment with the disposition of "unable to locate".
- (b) Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at additional key points during the assessment, such as:
- (A) Before making *initial contact* with the family; or
 - (B) When a *referral* indicates potential danger to the worker.
- (5) Contact and Work with Other Entities.

The CPS worker may need to work with representatives of other entities to gather and analyze safety-related information, develop a sufficient *protective action plan*, *initial safety plan*, or *ongoing safety plan*, and to complete the CPS assessment.

- (a) The CPS worker may, as appropriate, notify or consult with other Department of Human Services programs or other agencies, including but not limited to the Office of Vocational Rehabilitation Services and Animal Control.
- (b) The CPS worker must report to or contact and work with other entities as follows:

- (A) Office of Child Care. The CPS worker must notify and coordinate with the Compliance Unit of the Office of Child Care when a *report* involves a registered day-care home or a licensed day-care center, as required by ORS 419B.020(1).
- (B) Oregon Youth Authority (OYA). The CPS worker must notify OYA when the allegation involves an OYA certified foster home.
- (C) Office of Adult Abuse Prevention and Investigation (OAAPI). The CPS worker must notify the OAAPI when an allegation involves a *child* with intellectual or developmental disabilities in a residential group home 24 hour residential setting licensed by the Office of Developmental Disabilities Services.
- ~~(D) Office of Developmental Disabilities Services (ODDS). The CPS worker must notify an ODDS Community Developmental Disabilities Program service coordinator when a report involves a child with intellectual or developmental disabilities in a home certified by the ODDS or the Department.~~
- ~~(D) Office of Licensing and Regulatory Oversight. The CPS worker must notify the Office of Licensing and Regulatory Oversight Children's Care Licensing Unit when the allegation involves a licensed private child-caring agency which is not a Children's Care Provider (CCP).~~
- (E) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The CPS worker must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the CPS worker has reasonable cause to believe:
 - (i) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the CPS worker comes into contact while acting in an official capacity, has suffered abuse.
 - (ii) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older.
- (F) Indian Tribes. If the CPS worker knows or has reason to know that the *child* is an Indian child, the CPS worker must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted unless the *screener* documented completion of this notification in the *referral*.

- (G) Probation and Parole. The CPS worker must contact probation and parole when the allegation involves a parent or *caregiver*, or alleged perpetrator who is supervised by probation or parole.
- (H) Law Enforcement. If the *screener* did not cross report, the CPS worker must contact one or more law enforcement agencies (LEA) in accordance with the protocols of the local MDT agreement and in accordance with cross reporting rules, OAR 413-015-0300 to OAR 413-015-0310. When there is a joint response involving a CPS worker and LEA staff, the CPS worker is still responsible for all of the activities necessary to complete a CPS assessment which are summarized in OAR 413-015-0400. The CPS worker must, in consultation with a CPS supervisor, determine whether to coordinate assessment activities with LEA in the following situations:
 - (i) Presence of danger. When the CPS worker has information that indicates that the *child* is *unsafe* right now.
 - (ii) Family cooperation. When the CPS worker has information that the family may not allow the CPS worker to observe the alleged victim or other children in the home.
 - (iii) Protective custody. When the CPS worker has information that a *child* may need to be placed in *protective custody* for the child's safety.
 - (iv) Child interview. When the CPS worker and the LEA officer must each interview a *child*, it is preferable to coordinate the interviews to reduce the number of interactions with the *child*.
 - (v) Worker safety. When the CPS worker has information that indicates the family behaviors, conditions, or circumstances could pose a danger to the CPS worker.
 - (vi) Crime committed. When the CPS worker suspects or receives a *report* that a crime may have been committed.
- (I) Public or Private Schools. The CPS worker may interview a *child* at school when the worker believes it will be the best environment in which to assure a child's safety when making contact with the *child*. ORS 419B.045 provides requirements for CPS investigations that are conducted on school premises. The CPS worker must do following:
 - (i) Notify the *school administrator* that a CPS assessment must be conducted. If the *school administrator* is a subject of the CPS assessment, then notification is not required.

- (ii) Report to the school office, provide identification, inform school personnel of the CPS assessment, and provide the name of the *child* to be interviewed.
 - (iii) Request information from school personnel regarding the disabilities of the *child*, if any, prior to an interview with the affected *child*.
 - (iv) Interview the *child* out of the presence of other persons, unless the CPS worker believes the presence of a school employee or other person would facilitate the interview. If the CPS worker believes that a school employee does not need to be present, but the school employee insists on being present during the interview, the worker may confer with the CPS supervisor for assistance in handling the situation.
 - (v) Discuss further actions with the *child* at the conclusion of the interview.
 - (vi) Inform school personnel when the interview has been completed.
 - (vii) Inform school personnel if the *child* is taken into *protective custody*.
 - (viii) Inform school personnel that the CPS worker will notify parents of the interview.
 - (ix) Contact the CPS supervisor if school officials refuse to allow the assessment to take place on school property.
- (J) Multi-Disciplinary Teams (MDTs). Department district managers must develop interagency agreements regarding assessment of child abuse and neglect, as necessary, with local MDTs. Requirements for MDT protocols are set out in ORS 418.747.

(6) Obtain Interpreters and Translation.

The CPS worker must obtain the services of a competent interpreter and competent written translation service for families, including hearing-impaired family members, who have limited or no means of communicating in or reading English.

(7) Determine Indian Child Welfare Act (ICWA) Status and Comply with ICWA, if Applicable.

The CPS worker must 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 CPS worker must:

- (a) Assure completion of a form CF 1270, "Verification of ICWA Eligibility", to assist in determining ICWA eligibility.
- (b) Contact the child's tribe when an Indian child is the subject of a CPS assessment. Federally recognized tribes must be notified within 24 hours after information alleging abuse or neglect is received by the Department.
- (c) If the Indian child is enrolled or eligible for enrollment in a federally recognized tribe, notify the child's tribe if the *child* may be placed in *protective custody*.
- (d) Consult with the local Department ICWA liaison, a supervisor, or the ICWA manager if the worker has questions regarding the involvement of a tribe or the ICWA status of a *child*.
- (e) Make a diligent attempt to address the following when determining the placement resource:
 - (A) Contact the tribe's social services department;
 - (B) Search for relative resources;
 - (C) Search for available Indian homes; and
 - (D) Contact other Indian tribes and other Indian organizations with available placement resources.
- (f) Unless the Indian child's tribe has established a different order of preference, comply with the ICWA placement preference, which is:
 - (A) Placement with a member of Indian child's extended family.
 - (B) Placement with a foster family that is licensed, approved or specified by the Indian child's tribe.
 - (C) Placement with an Indian foster home licensed or approved by an authorized non-Indian licensing authority.
 - (D) Placement with an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
- (8) Determine Refugee Status and Comply with the Refugee Children Act, if applicable.

During a CPS assessment, the CPS worker must consider whether the *child* is a refugee child. Under ORS 418.925, a "refugee child" is a "person under 18 years of age who has

entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion."

- (a) If it appears that a *child* is a refugee child, the CPS worker must ask about the *child* or parents' country of origin, length of time the *child* or parents have been in the United States, reasons why the *child* or parents came to the United States, and ethnic and cultural information relevant to the child's status as a refugee. The CPS worker does not have to make a legal determination that the *child* and parent are refugees, but if the *child* or the parents indicate they are refugees, then the CPS worker must proceed as if they are, until or unless it is known that they are not refugees.
- (b) The CPS worker may not take a refugee child into *protective custody* unless, in addition to the other requirements for taking a *child* into custody, the CPS worker determines that:
 - (A) Removal is necessary to prevent imminent serious emotional or physical *harm* to the *child*; and
 - (B) Reasonable efforts to alleviate the *harm* through remedial or preventive services do not alleviate the *harm*, have failed, or are not practical in an emergency situation.
- (c) Unless it is a voluntary placement, no refugee child may remain in placement more than five days unless there has been a judicial determination, supported by clear and convincing evidence that:
 - (A) Preventative or remedial services provided by the Department have failed to alleviate the need for removal; and
 - (B) Return to the home will likely result in psychological or physical damage to the *child*.
- (d) When a refugee child is placed in care, the juvenile court petition must include, in addition to the information required by ORS 419B.809, the following information:
 - (A) A specific and detailed account of the circumstances that led the Department to conclude that the *child* was in imminent danger of serious emotional or physical *harm*;

- (B) Specific actions the Department has taken or is taking to alleviate the need for removal;
 - (C) Assurance that the Department has complied with placement preferences listed in ORS 418.937 and listed in subsection (e) of this section; and
 - (D) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected refugee family members and to the Refugee Child Welfare Advisory Committee that the petition has been filed.
- (e) The CPS worker must consider the refugee child's culture and tradition when making any placement decision for a refugee child and, unless shown to be inappropriate and inconsistent with the best interests of the *child*, place the *child* with the following in order of preference:
- (A) Natural parents.
 - (B) Extended family member.
 - (C) Members from the same cultural heritage.
 - (D) Persons with knowledge and appreciation of the child's cultural heritage.
- (f) The CPS worker may determine that placement under subsection (e) of this section is inappropriate and inconsistent with the best interests of the *child* if:
- (A) The preferred placement presents a threat to the child's safety;
 - (B) The extreme medical, physical, or psychological needs of the *child* cannot be met in the placement; or
 - (C) There is an informed request from either of the child's biological parents not to use a placement, if the request is consistent with stability, security, and the individual needs of the *child*.
- (g) When a juvenile court petition is filed and a refugee child is placed in care, the CPS worker must staff the case with the Refugee Child Welfare Advisory Committee (RCWAC). The CPS worker must contact the International Case Consultant for the Department to arrange a time for the staffing. In preparation for the staffing, the CPS worker must:
- (A) Invite the CPS supervisor to the staffing; and
 - (B) Be prepared to discuss the reasons for the CPS *referral*, the information indicating that family members are refugees, and their country of origin.

(9) Take Photographs.

The CPS worker must, during the CPS assessment, take photographs and document, as necessary, child abuse or neglect and the *observable* nature of any *present danger safety threat* or *impending danger safety threat*.

- (a) As provided in ORS 419B.028, a law enforcement officer or the CPS worker may take photographs for the purpose of documenting the child's condition at the time of the CPS assessment.
- (b) As provided in ORS 419B.028, if the CPS worker conducting a CPS assessment observes a *child* who has suffered *suspicious physical injury* and the CPS worker is certain or has a *reasonable suspicion* that the injury is or may be the result of abuse, the CPS worker, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, will immediately photograph or cause to have photographed the suspicious physical injuries. Regardless of whether the *child* has previously been photographed or assessed during a CPS assessment, the CPS worker will photograph or cause to be photographed any suspicious injuries if the CPS worker is certain or has a *reasonable suspicion* the suspicious injuries are the result of abuse:
 - (A) During the assessment of a new allegation of abuse; and
 - (B) Each time, during the assessment, an injury is observed that was not previously observed by the assigned CPS worker.
- (c) When a *child* is photographed pursuant to subsection (b) of this section:
 - (A) The person taking the photographs or causing to have the photographs taken must, within 48 hours or by the end of the next regular business day, whichever occurs later:
 - (i) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the *designated medical professional*; and
 - (ii) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in the Department record labeled with the case name, case number, child's name, and date taken.
 - (B) If a county multidisciplinary team staffing of the case is held, photographs of the injury will be made available to each team member involved in the case staffing at the first meeting regarding the child's case.

- (d) The CPS worker must document injuries, hazardous environments, and the *observable* nature of any *present danger safety threat* or *impending danger safety threat* in the assessment narrative by use of photographs, written description, or illustrations.
- (e) Photographs of the anal or genital region may be taken only by medical personnel.

(10) Obtain Medical Assessment.

The CPS worker must, during the CPS assessment as required in this section, facilitate a medical assessment of the *child* and obtain the child's medical history when necessary to assure child safety, determine treatment needs, reassure the *child* and family, or assist in analyzing safety-related information.

- (a) When the CPS worker determines that the *child* is in need of a medical assessment as part of a CPS assessment, the CPS worker must consult with a CPS supervisor as soon as possible, but not at the expense of delaying medical treatment.
- (b) If a person conducting an assessment under ORS 419B.020 observes a *child* who has suffered *suspicious physical injury* as defined in ORS 419B.023 and the person is certain or has a *reasonable suspicion* that the injury is or may be the result of abuse, the person must, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, ensure that --
 - (A) A *designated medical professional* conducts a medical assessment within 48 hours of the observation of the *suspicious physical injury*, or sooner if dictated by the child's medical needs; or
 - (B) An available physician, physician assistant, or nurse practitioner conducts a medical assessment if, after reasonable efforts to locate a *designated medical professional*, a *designated medical professional* is not available to conduct a medical assessment within 48 hours. The CPS worker is required to document in the Department's electronic information system efforts to locate the *designated medical professional* when an available physician, physician assistant, or nurse practitioner is used.
- (c) The CPS worker must facilitate an assessment by a medical professional if the alleged *child abuse or neglect* involves injury to the anal or genital region.
- (d) When there are indications of severe physical trauma to the *child*, the CPS worker must make arrangements to immediately transport the *child* to a medical facility, which may include calling 911. The CPS worker must also make arrangements for medical examination of a *child* for mild or moderate physical trauma.

- (e) To make arrangements for the medical examination of a *child*, the CPS worker must do the following, unless completing the action would delay medical treatment for the *child*:
 - (A) Discuss with the parent or *caregiver* the need for medical examination or treatment.
 - (B) Ask the parent or *caregiver* to take the *child* to a medical facility for a medical examination or treatment.
 - (C) Request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Information".
 - (D) Contact an LEA immediately and seek a juvenile court order to obtain *protective custody* of the *child* for the purpose of obtaining a medical examination or treatment when:
 - (i) The parent or *caregiver* refuses to obtain needed medical examination or treatment;
 - (ii) The parent or *caregiver* may flee with the *child*; or
 - (iii) Delaying medical examination or treatment could result in *severe harm* to the *child*.
 - (E) Immediately seek medical care and consultation when the *child* may have a life-threatening condition, or a deteriorating condition that may become life-threatening.
 - (F) As soon as possible and not later than 24 hours after learning of the exposure, make arrangements to have the *child* tested for chemical exposure to harmful substances when there is reason to believe a *child* has been exposed to dangerous chemicals such as those found in a chemical drug lab.
- (f) When a *report* of suspected medical neglect of an infant with a disability and with life-threatening conditions is referred for CPS assessment, the assigned CPS worker must comply with "Investigation of Suspected Medical Neglect-Infants", OAR 413-030-0600 to 413-030-0650.
- (g) When it is medically indicated to subject a *child* in the custody of the Department to HIV testing, the CPS worker must comply with "HIV Testing of Children in Custody and HIV Confidentiality", OAR 413-040-0400 to 413-040-0450.
- (h) As provided in ORS 147.425, a *child* who is the victim of a person crime and is at least 15 years of age at the time of the abuse may have a *personal representative*

present during a medical examination. If a CPS worker believes that a *personal representative* would compromise the CPS assessment, a CPS worker may prohibit a *personal representative* from being present during the medical examination.

- (i) When the CPS worker is assessing a CPS allegation of medical neglect, the CPS worker must consult with a health care professional as part of the assessment.

(11) Obtain Psychological and Psychiatric Evaluations.

- (a) The CPS worker must make a referral for a psychological or psychiatric evaluation of the parent, *caregiver*, or *child* by a mental health professional to assure child safety, determine treatment needs, or assist in analyzing safety-related information when during the CPS assessment the CPS worker identifies a specific condition or behavior that requires additional professional evaluation. This includes but is not limited to:

- (A) Unusual or bizarre forms of punishment;
- (B) Mental illness;
- (C) Suicidal ideation;
- (D) Homicidal ideation; or
- (E) Unusual or bizarre child or parental behavior that is indicative of emotional problems.

- (b) The CPS worker must obtain consent of the parent or *caregiver* prior to making a referral for a psychological or psychiatric evaluation of the parent, *caregiver*, or *child*, unless the evaluation is court ordered.

(12) Make Monthly Face-to-Face Contact. The CPS worker must make a minimum of monthly *face-to-face* contact as described in OAR 413-080-0054.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 418.747, 418.785, 419B.005 to 419B.050

413-015-0420

Make Initial Contact

(Amended 12/24/14)(Temporary Effective 07/01/16 - 12/27/16)

- (1) The CPS worker must make an *initial contact* within the assigned response time line.

- (2) The following outlines contacts the CPS worker is required to attempt and, when possible, complete at *initial contact*. The CPS worker must:
- (a) Have face-to-face contact with and interview the alleged victim, his or her siblings, and other children living in the home except as provided in OAR 413-015-0640. The purpose of the *face-to-face* contact and interview with the alleged victim, his or her siblings, and other children living in the home is to gather information regarding possible child abuse and neglect, gather information about the children's functioning and vulnerability, and assess the children's immediate safety.
- (A) Interview and observe children as follows:
- (i) The CPS worker must notify parents of the intent to interview a *child*, unless notification could compromise the child's safety.
- (ii) The CPS worker must make diligent efforts to contact the *child* at home, school, day care, or any other place where the worker believes the *child* may be found. If the CPS worker is unsuccessful, the CPS worker must document in the Department's electronic information system all attempts made to contact the *child* and the dates of those attempted contacts.
- (iii) When the CPS worker contacts the *child* at home and the parent or *caregiver* is not present:
- (I) The CPS worker must consult with a CPS supervisor and seek assistance from LEA if the *referral* indicates there is reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling; or the *child* is inadequately supervised and there is an immediate need to evaluate the child's health and safety.
- (II) The CPS worker must wait until the parent is present in the home to complete a child interview in the home if there is not reasonable cause to believe the child's health or safety is endangered by the conditions of the dwelling or that the *child* is inadequately supervised.
- (iv) When the CPS worker is denied access to the *child* or to the child's residence, the CPS worker must, if the *referral* indicates that the *child* may be *unsafe*, request assistance from LEA in assessing the situation and in taking the *child* into *protective custody* if needed. If the *referral* indicates that the *child* is presently *safe*, the CPS worker must consider the following:

- (I) Attempting to contact other persons who may have relevant information regarding the *referral*;
 - (II) Persisting in attempts to gain cooperation from the family or caregivers, depending on the known child safety information;
 - (III) Seeking LEA assistance;
 - (IV) Consulting with the CPS supervisor, the district attorney, assistant attorney general, or the county juvenile department to discuss possible juvenile court action; or
 - (V) Seeking a *protective custody* order from the juvenile court.
- (v) The CPS worker must conduct interviews in a manner that assures privacy for the *child*.
 - (vi) If the parent or *caregiver* is the alleged perpetrator or if the presence of the parent or *caregiver* might impede the interview, the CPS worker must attempt to interview children outside the presence of their parents or caregivers.
 - (vii) A CPS worker must allow a *child* who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the abuse to have a *personal representative* be present during an interview. If a CPS worker believes that the *personal representative* would compromise the CPS assessment, the CPS worker may prohibit a *personal representative* from being present during the interview.
 - (viii) The CPS worker must observe the child's injuries or signs of neglect. The CPS worker may need to remove a child's clothing to make adequate observations. In that event, the CPS worker must:
 - (I) Use discretion and make the *child* as comfortable as possible.
 - (II) Seek parental consent and assistance, when possible and appropriate.
 - (III) Consider requesting a worker or other support person, who is the same gender as the *child*, be present to serve as a witness and provide comfort for the *child*.

- (ix) The CPS worker may observe injuries to a child's anal or genital region if the *child* is not school aged and if the injury can be observed without the CPS worker touching the child's anal or genital region.
- (B) The CPS worker must notify the parents or caregivers the same day a *child* is interviewed. If the same day notification could make a *child* or adult *unsafe*, a CPS supervisor may authorize an extension for one day to allow a planned notification that is less likely to compromise safety. The CPS worker must document in the Department's electronic information system the supervisory approval and an explanation describing the basis for the approval.
- (b) Have face-to-face contact with and interview the non-offending parent or caregiver and all adults living in the home except as provided in OAR 413-015-0640. The purpose of this *face-to-face* contact and interview is to find out what the non-offending parent or *caregiver* and other adults living in the home know about the alleged *child abuse or neglect*, gather information related to the safety of the *child*, including parent and *caregiver* functioning, and gather information to determine if the parent or *caregiver* can or cannot and will or will not protect the *child*.
 - (A) Whenever practicable, the CPS worker must interview both parents and caregivers in person, as follows:
 - (i) Interview each person in a manner that considers each person's privacy and safety and assures effective communication. This may require interviewing parents or caregivers individually and also together depending on the information being gathered;
 - (ii) Ask questions about *domestic violence* in separate interviews only; and
 - (iii) Provide all adults living in the home with a written notice that a criminal records check may be conducted on them.
 - (B) The CPS worker must provide each parent or *caregiver* with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and *caregiver*.
 - (C) The CPS worker must interview the non-custodial legal parent during the CPS assessment. This is not required during the *initial contact*, but must be completed as part of the assessment process because the non-custodial parent may have essential information or be a placement resource. If the interview of the non-custodial legal parent may make a *child* or adult

unsafe, a CPS supervisor may authorize an exception to this requirement based on written documentation that supports the conclusion that an interview with a non-custodial legal parent should not be conducted.

- (c) Have face-to-face contact with and interview the alleged perpetrator. Except as provided in this subsection, the CPS worker must make *face-to-face* contact with and interview the alleged perpetrator during the *initial contact* when he or she is the child's custodial parent, *caregiver*, any person living in the home, or is present in the home when the CPS worker makes contact. The purpose of this interview is to evaluate the alleged perpetrator's reaction to allegations of abuse or neglect as well as to the *child* and his or her condition, and to gather further information about the alleged perpetrator and the family in relation to the safety of the *child*. When the alleged perpetrator is a minor parent, the purpose is also to determine if the minor parent is an alleged victim of abuse (under paragraph (D) of this subsection).
- (A) The CPS worker is not required to make *face-to-face* contact with or interview the alleged perpetrator during the *initial contact* if:
- (i) The alleged perpetrator is not a custodial parent, *caregiver*, anyone living in the home, or is not present in the home when the CPS worker makes contact and delaying contact will not compromise child safety. The CPS worker still must interview the alleged perpetrator, but may complete the interview during the course of the CPS assessment; or
 - (ii) There is a criminal investigation and the interview cannot be coordinated with an LEA within the time lines for *initial contact*.
- (B) The decision to delay interview of an alleged perpetrator as provided in subparagraphs (A)(i) or (ii) of this subsection must be approved by a CPS supervisor, and the CPS worker must document in the Department's electronic information system both the approval and the reason for delaying the interview.
- (C) When interviewing the alleged perpetrator, the CPS worker must:
- (i) Coordinate the interviews of the alleged perpetrator with LEA when law enforcement is conducting an investigation;
 - (ii) Consult with a CPS supervisor if an interview with the alleged perpetrator could make a *child* or adult *unsafe*;
 - (iii) Provide the alleged perpetrator with a written notice that a criminal records check may be conducted on them; and

- (iv) Make inquiries about the employment status of the alleged perpetrator. If the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department of Human Services (DHS) or OYA, the CPS worker must notify a CPS supervisor. The CPS supervisor must confirm the person's employee status by contacting a Central Office Field Services representative. If the CPS supervisor determines the alleged perpetrator is an employee of the DHS or OYA, the CPS supervisor must notify the DHS Office of Human Resources at the time of the assessment and at the time the assessment is reviewed as required in OAR 413-015-0475. The CPS supervisor must document the notifications in the Department's electronic information system.
- (D) When interviewing the alleged perpetrator who is a minor and the parent of the alleged victim, the CPS worker must ask questions to determine if there is an allegation of abuse or neglect with the minor parent as an alleged victim. If it is determined that there is an allegation of abuse or neglect with the minor parent as an alleged victim, the information must be reported to a *screeener*.
- (E) When interviewing an alleged perpetrator who is the parent or *caregiver*, the CPS worker must provide the parent or *caregiver* with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and *caregiver*.
- (3) Gather safety-related information through interviews and observation. The CPS worker must begin to gather safety-related information through interviews and observation as outlined in OAR 413-015-0422, "Gather Safety Related Information through Interview and Observation".
- (4) Determine if there is a present danger safety threat or impending danger safety threat. During the *initial contact*, the CPS worker must determine, based on the information obtained at that time, if there is a *present danger safety threat* or *impending danger safety threat* to the *child* as outlined in OAR 413-015-0425, "Determine if there is a Present Danger Safety Threat or Impending Danger Safety Threat".

- (5) Documentation of the Initial Contact. The CPS worker must document the dates of attempted and successful contacts in the Department's electronic information system. If it was not possible during the *initial contact* for the CPS worker to successfully complete a required contact, the CPS worker must document why contact was not made and must complete the *face-to-face* contact and interview as soon as possible.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 418.785, 419B.005 to 419B.050

413-015-0440

Determine Disposition of the CPS Assessment

(Amended 05/27/14)(Temporary Effective 07/01/16 - 12/27/16)

- (1) After gathering all the information necessary to complete the CPS assessment, the CPS worker must determine the disposition.
- (2) Requirement to Determine Disposition of the CPS Assessment. The CPS worker must determine if there is reasonable cause to believe that *child abuse or neglect* occurred and explain the basis for that determination.
 - (a) The requirements for determining dispositions on a report of abuse or neglect as defined in ORS 419B.005 are described in OAR 413-015-1000, "The CPS Assessment Dispositions".
 - (b) The requirements for determining dispositions on a report of abuse or neglect involving a child-caring agency or proctor foster home as defined in Oregon Laws 2016, chapter 106, section 36 are described in OAR 413-015-0620 to 413-015-0640.
- (3) When a disposition is founded for *child abuse or neglect*, the CPS worker must refer all victims three years old and under to Early Intervention. In completing the referral, the CPS worker must use the "CPS to Early Intervention Referral Form" (DHS 323) when a release of information is not signed.
- (4) Documentation. The CPS worker must document that determination and explain the basis for the determination in the disposition narrative section of the Department's electronic information system prior to completing the CPS assessment.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 to 419B.050

413-015-0445

Make Child Safety Decision and Determine Whether to Open a Case

(Amended 05/27/14)(Temporary Effective 07/01/16 - 12/27/16)

- (1) After all the necessary information is gathered for the CPS assessment and the disposition has been determined, the CPS worker must determine if the *child* is *safe* or *unsafe* at the conclusion of the CPS assessment. To make a child safety decision at the conclusion of a CPS assessment, the CPS worker must again determine if an *impending danger safety threat* is present as outlined in OAR 413-015-0425, “Determine if there is a Present Danger Safety Threat or Impending Danger Safety Threat”.
- (2) When at the conclusion of the CPS assessment the CPS worker determines one or more impending danger safety threats are present, including a previously identified threat that has not been eliminated, the CPS worker must conclude the *child* is *unsafe*. When the CPS worker concludes the *child* is *unsafe* at the conclusion of the CPS assessment, the CPS worker must:
 - (a) Determine how the *impending danger safety threat* is occurring to support the development of an *ongoing safety plan* as outlined in OAR 413-015-0428, “Identify How the Impending Danger Safety Threat is Occurring”;
 - (b) Develop an *ongoing safety plan* as outlined in OAR 413-015-0450, “Develop Safety Plans”;
 - (c) Complete the CPS assessment; and
 - (d) Open a case.
- (3) When at the conclusion of the CPS assessment the CPS worker determines no impending danger safety threats are present and any threat identified previously has been eliminated, the CPS worker must conclude the *child* is *safe*. When the CPS worker concludes the *child* is *safe* at the conclusion of the CPS assessment, the CPS worker must comply with all of the following subsections:
 - (a) Dismiss the *protective action plan* or *initial safety plan* if one is in place.
 - (b) Determine if the family has *moderate to high needs* unless completing a CPS assessment involving the home of a Department certified foster parent or relative caregiver, a child-caring agency, or a proctor foster home.
 - (A) If the family does not have *moderate to high needs* the CPS worker must complete and close the CPS assessment.
 - (B) If the family does have *moderate to high needs* the CPS worker must:

- (i) Offer the family referrals to relevant non-contracted community services as available; and
 - (ii) If the family accepts the offer for referrals to non-contracted community services, the CPS worker must refer the family to relevant non-contracted community services as available.
- (c) Complete the CPS assessment.
- (d) Close the CPS assessment without opening a case.
- (4) Documentation of the Child Safety Decision. The CPS worker must document in the Department's electronic information system the child safety decision including all of the following subsections as applicable:
 - (a) If the *child* is *safe* and the assessment will be closed or the *child* is *unsafe* and the case will be opened.
 - (b) If the *child* is *safe*:
 - (A) Whether the family was identified as having *moderate to high needs*; and
 - (B) If applicable, whether the family accepted the offer for non-contracted community service referrals.
 - (c) The basis for the determination in subsection (a) of this section.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005

413-015-0450

Develop an Ongoing Safety Plan

(Amended 12/24/14)(Temporary Effective 07/01/16 - 12/27/16)

- (1) At the completion of the CPS assessment when the CPS worker determines, through an analysis of the safety-related information, that a *child* is *unsafe*, the CPS worker must develop and document an *ongoing safety plan* unless completing a CPS assessment involving the home of a Department certified foster parent or relative caregiver, *a child-caring agency, or a proctor foster home*. The purpose of the *ongoing safety plan* is to control the impending danger safety threats as they are uniquely occurring within a particular family.
- (2) Requirements for an Ongoing Safety Plan. When developing an *ongoing safety plan* the CPS worker must assure all requirements in OAR 413-015-0432, "Develop Safety Plans", are met and:

- (a) Use a *Child Safety Meeting* unless a supervisor approved an exception;
- (b) Include *conditions for return* when an out-of-home *ongoing safety plan* is developed; and
- (c) Re-evaluate the *initial safety plan*, if one is in place, to determine if it is appropriate and sufficient as an *ongoing safety plan* and re-confirm all commitments with all safety service providers identified in the *initial safety plan* if it is to become an *ongoing safety plan*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 to 419B.050

413-015-0470

Notifications

~~(Amended 01/01/16)~~ (Temporary Effective 07/01/16 - 12/27/16)

- (1) Requirements for Providing Notifications. The CPS worker must:
 - (a) Unless the Department determines that disclosure is not permitted under ORS 419B.035, notify the *reporter*, if the *reporter* provided the Department with contact information, whether contact was made, whether the Department determined that *child abuse or neglect* occurred, and whether services will be provided.
 - (b) Provide the child's parents, including a non-custodial legal parent, and caregivers verbal notification of all CPS assessment dispositions (unfounded, unable to determine, or founded) and whether the Department will provide services as a result of the CPS assessment. When the child's parent is the perpetrator, the notice under subsection (c) of this section also must be provided. If notification may make a *child* or adult *unsafe*, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation supporting that conclusion.
 - (c) Provide perpetrators written notification of founded or substantiated dispositions. This written notification must include information about the founded or substantiated disposition review process as outlined in "Notice and Review of CPS Founded Dispositions", OAR 413-010-0700 to 413-010-0750. If the notification could make a *child* or adult *unsafe*, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.
 - (d) Provide the Teacher Standards and Practices Commission (TSPC) notification of a completed assessment by providing TSPC with a copy of the completed CPS

assessment when a *teacher* or *school administrator*, as defined in OAR 413-015-0115, is identified as an alleged perpetrator in a *report*. Regardless of a disposition, a copy of the report must be sent to TSPC after information related to the reporter's identity and other confidential information is removed.

- (2) Documentation of Notifications. The CPS worker must document the notifications as described in this rule in the Department's electronic information system and the documentation must include:
 - (a) Who made the notification.
 - (b) To whom the notification was made.
 - (c) The date the notification was made.
 - (d) That the notifications have been attempted or made within the following time lines:
 - (A) Prior to completing the CPS assessment for a notification provided under subsection (1)(a) of this rule.
 - (B) Within five business days of supervisory approval of the CPS assessment for a notification provided under subsection (1)(b) through (1)(d) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 to 419B.050

Department Responsibilities When a Report Involves a Child-Caring Agency or a Proctor Foster Home

413-015-0620

Purpose

THIS IS A NEW RULE

The purpose of OAR 413-015-0000 to 413-015-0000 is to describe Department responsibilities during screening and assessment when a report involves a child-caring agency or proctor foster home.

Stat. Auth.: Or Laws 2016, ch 106

Stats. Implemented: Or Laws 2016, ch 106

413-015-0625

Definitions

THIS IS A NEW RULE

The following definitions apply to OAR 413-015-0620 to 413-015-0640:

- (1) "Abuse" has the meaning given in ORS 419B.005 and also means one or more of the following (as described in Oregon Laws 2016, chapter 106, section 36):
 - (a) Any physical injury to a child in care cause by other than accidental means, or which appears to be at variance with the explanation given of the injury.
 - (b) Neglect of a child in care.
 - (c) Abandonment, including desertion or willful forsaking of a child in care or the withdrawal or neglect of duties and obligations owed a child in care by a child-caring agency, caretaker or other person.
 - (d) Willful infliction of physical pain or injury upon a child in care.
 - (e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.467 or 163.525.
 - (f) Verbal abuse.
 - (g) Financial Exploitation.

- (h) Sexual abuse.
- (i) Involuntary seclusion of a *child in care* for the convenience or a *child-caring agency* or caretaker or to discipline the *child in care*.
- (j) A wrongful use of a physical or chemical restraint of a *child in care*, excluding an act of restraint prescribed by a physical licensed under ORS Chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.
- (2) "Child in care" means a person under 21 years of age who is residing in or receiving care or services from a *child-caring agency* or *proctor foster home* subject to ORS 418.205 to 418.327, 418.475 or 418.950 to 418.970.
- (3) "Financial exploitation" means:

 - (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of a *child in care*.
 - (b) Alarming a *child in care* by conveying a threat to wrongfully take or appropriate moneys or property of the *child in care* if the child would reasonably believe that the threat conveyed would be carried out.
 - (c) Misappropriating, misusing or transferring without authorization any moneys from any account held jointly or singly by a *child in care*.
 - (d) Failing to use the income or assets of a *child in care* effectively for the support and maintenance of the *child in care*.
 - (e) "Financial exploitation" does not include age-appropriate discipline that may involve the threat to withhold, or the withholding of, privileges.
- (4) "Intimidation" means compelling or deterring conduct by threat. "Intimidation" does not include age-appropriate discipline that may involve the threat to withhold privileges.
- (5) "Neglect" means:

 - (a) Failure to provide the care, supervision, or services necessary to maintain the physical and mental health of a *child in care*; or
 - (b) The failure of a *child-caring agency*, *proctor foster home*, *caretaker*, or other person to make a reasonable effort to protect a *child in care* from abuse.
- (6) "Sexual abuse" means:

- (a) Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language;
 - (b) Any sexual contact between a *child in care* and an employee of a *child-caring agency* or *proctor foster home*, *caretaker*, or other person responsible for the provision of care or services to a *child in care*;
 - (c) Any sexual contact between a person and a *child in care* that is unlawful under ORS chapter 163 and not subject to a defense under that chapter; or
 - (d) Any sexual contact that is achieved through force, trickery, threat, or coercion.
- (7) "Sexual contact" has the meaning given that term in ORS 163.305 (1)(a)(E).
- (8) "Sexual exploitation" as described in ORS 419B.005(1)(a)(E).
- (9) "Verbal abuse" means to threaten significant physical or emotional harm to a *child in care* through the use of:
- (a) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule;
or
 - (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

Stat. Auth.: Or Laws 2016, ch 106
Stats. Implemented: Or Laws 2016, ch 106

413-015-0630

Screening

- (1) After gathering and documenting information required in OAR 413-015-0205(4)(a) the screener must determine whether the Department, the Office of Adult Abuse Prevention and Investigation (OAAPI) or both are required to respond to the report. Who responds to the report depends on the alleged victim, the alleged perpetrator and the type of abuse alleged.
- (a) The Department determines the response to information alleging:
 - (A) Sexual abuse of a *child in care*, when the alleged perpetrator of the sexual abuse is a *child* or a *child in care*;
 - (B) Abuse of a *child* or *young adult* who resides in a *child-caring agency* or *proctor foster home* when the *child* or *young adult* does not receive services from the *child-caring agency*; or

(C) Abuse of a child in care when the alleged perpetrator is one of the following child-caring agencies or an employee of one of the following child-caring agencies:

(i) Academic Boarding School;

(ii) Adoption Agency; or

(iii) Homeless, Runaway and Transitional Living Shelters.

(b) The OAAPI determines the response to information alleging abuse of a child in care and the perpetrator is a proctor foster parent, or one of the following child-caring agencies or an employee of one of the following child-caring agencies:

(A) Residential Care Agency;

(B) Day Treatment Agency;

(C) Foster Care Agency;

(D) Therapeutic Boarding School; or

(E) Outdoor Youth Program.

(2) Forward the report. When subsection (1)(b) of this rule applies, the screener must:

(a) Immediately pend the screening information to the OAAPI screener's workload.

(b) Immediately send an e-mail to the OAAPI screener to let the OAAPI screener know that a screening report has been assigned to the OAAPI screener's workload.

(c) When (1)(a) or (b) of this rule applies, document the information received in a second screening report form and then complete screening activities outlined in section (3) of this rule. When only subsection (1)(b) of this rule applies, screening activities are complete.

(3) Complete Screening Activities. When a screener determines the report is the responsibility of the Department as outlined in section (2)(a) of this rule, the screener must:

(a) Comply with 413-015-0205 to 0225; and

(b) When a report is closed at screening or referred for assessment, immediately notify the Department personnel assigned to ensure notifications outlined in

Oregon Laws 2016, chapter 106 and OAR 413-080-0070 and document this notification in the Department's electronic information system case notes.

Stat. Auth.: Or Laws 2016, ch 106

Stats. Implemented: Or Laws 2016, ch 106

413-015-0640

Assessment

(1) When a report involving a child-caring agency or a proctor foster home is referred for a CPS assessment, the CPS worker must convene a staffing before making initial contact unless the timing of the staffing will compromise the safety of the child in care.

(a) The purpose of the staffing is:

(A) To determine and coordinate the response to the referral;

(B) To share information known by the Department regarding the children or young adults placed in the child-caring agency or proctor foster home; and

(C) To share information known by the Department regarding the child-caring agency or proctor foster home.

(b) The CPS worker must assure that the following people are invited to the staffing:

(A) The assigned caseworker of each child in care in the home or each caseworker's supervisor;

(B) A Department licensing coordinator;

(C) A manager, compliance specialist, or residential resource consultant from the Department's Well Being program; and

(D) An OAAPI investigator, if assigned.

(c) The CPS supervisor or designee must:

(A) Assure that the staffing discussed in subsection (a) of this section occurs prior to the initial contact unless the timing of the staffing will compromise the safety of the child in care;

(B) Determine whether the Child Welfare Program Manager and CPS Consultant should be invited to the staffing; and

- (C) If the staffing does not occur prior to the *initial contact*, assure the staffing occurs the next business day and that all persons identified in subsection (b) of this section share information known by the Department regarding children or young adults placed in the *child-caring agency* or *proctor foster home*, the *child-caring agency*, employees of the *child-caring agency*, the *proctor foster home*, and any individuals living in the *proctor foster home*.
- (2) The *CPS worker* must comply with OAR 413-015-0403 through 413-015-0485 and complete the following additional activities during the *CPS assessment*:
- (a) Face-to-face contact and interview requirements.
- (A) Prior to conducting an interview with a *child in care* the *CPS worker* must inform the *child in care*:
- (i) When the *child in care* is not in the custody of the Oregon Youth Authority or the Department, that the *child in care* may have their parent or *caregiver*, or attorney present.
- (ii) When the *child in care* is in the custody of the Oregon Youth Authority or the Department, that the *child in care* may have their attorney present.
- (B) Notify and interview the owner, manager, operator, or appropriate authority responsible for the *child-caring agency* or *proctor home*. When this individual is also an alleged perpetrator, provide additional notification to an additional person responsible for the *child-caring agency* or *proctor home*. The *CPS worker* must meet with the owner, manager, operator, or appropriate authority responsible for the *child-caring agency* or *proctor home* at the beginning of the assessment to provide in person notification of the allegations, arrange for access to the facility, plan interviews that will take place at the facility, and gain access to names of other children, young adults, employees or other individuals who may have been a witness or could be a collateral contact.
- (C) When completing a *CPS assessment* involving a *child-caring agency* the *CPS worker* must interview current and past employees of the *child-caring agency* that may have information regarding the alleged *abuse* or the alleged perpetrator.
- (D) When completing a *CPS assessment* involving a *child-caring agency* the *CPS worker* must interview children and young adults, other than the alleged victim, including other children or young adults who reside in or have resided in the *child-caring agency* who:

- (i) Witnessed the alleged *abuse*;
 - (ii) Have information pertinent to the CPS assessment; or
 - (iii) Have information pertinent to establishing the credibility of information gathered.
- (E) Notify and interview the parent or *caregiver* of any *child in care* residing in or receiving services from the *child-caring agency* or *proctor foster home* who is selected to be interviewed during the assessment that is not in the legal custody of the Oregon Youth Authority or the Department and gain permission to interview the *child in care*. If the CPS worker is denied permission to interview, but such interviews are needed to complete the assessment, the CPS worker should consult with a supervisor and seek the assistance of a district attorney or assistant attorney general.
- (b) When the CPS worker suspects a crime has been committed involving a *child in care* or at a *child-caring agency* or *proctor foster home* the CPS worker must report the suspected crime to law enforcement.
- (c) Determine and Document Disposition of the CPS Assessment.
 - (A) As part of completing the CPS assessment, the CPS worker must determine and document that basis for the determination of whether there is reasonable cause to believe that *abuse* of a *child in care* occurred.
 - (B) When the determination of whether there is reasonable cause to believe that *abuse* of a *child in care* residing in or receiving services from a *child-caring agency* or *proctor foster home* occurred relates to *reports* of abuse as defined in ORS 419B.005 the possible determinations are outlined in 413-015-1000.
 - (C) When the determination of whether there is reasonable cause to believe that *abuse* of a *child in care* occurred relates to *reports* of abuse as defined in 413-015-0625 (1) through (8) the possible determinations are:
 - (i) "Substantiated" which means there is reasonable cause to believe that the abuse as defined in ORS 419B.005 or Oregon Laws 2016, chapter 106, section 36 of a *child in care* occurred.
 - (ii) "Unsubstantiated" which means there is no evidence that the *abuse* as defined in ORS 419B.005 or Oregon Laws 2016, chapter 106, section 36 of a *child in care* occurred.
 - (iii) "Inconclusive" which means there is some indication that the *abuse* as defined in ORS 419B.005 or Oregon Laws 2016, chapter

106, section 36 occurred, but there is insufficient evidence to conclude that there is reasonable cause to believe that the *abuse* occurred.

- (D) When determining whether there is reasonable cause to believe *abuse* occurred, the CPS worker must consider the behavior, conditions, and circumstances in the definition of abuse described in OAR 413-015-0625 and OAR 413-015-1000.
- (d) Notification of the CPS Assessment Disposition. The CPS worker must comply with the notifications in 413-015-0470 and the following additional notifications of the CPS Assessment Disposition:

 - (A) The *CPS worker* must notify the Department personnel assigned to ensure notifications outlined in Oregon Laws 2016, chapter 106 and OAR 413-080-0070.
 - (B) When the *CPS assessment* disposition is *substantiated* or founded for *abuse of a child in care* the *CPS supervisor* or designee must comply with the Reporting Sensitive Child Welfare Issues policy and complete a DHS150 Sensitive Issue Report.

Stat. Auth.: Or Laws 2016, ch 106

Stats. Implemented: Or Laws 2016, ch 106

The CPS Assessment Dispositions

413-015-1000

The CPS Assessment Dispositions

(Amended 06/28/08)(Temporary Effective 07/01/16 - 12/27/16)

- (1) This rule describes child abuse and neglect for the purpose of making CPS assessment dispositions related to a report of abuse as defined in ORS 419B.005.
- (2) As part of completing the CPS assessment, the CPS worker must determine whether there is reasonable cause to believe child abuse or neglect occurred. The possible determinations are:
 - (a) "Founded," which means there is reasonable cause to believe that child abuse or neglect occurred.
 - (b) "Unfounded," which means no evidence of child abuse or neglect was identified or disclosed.
 - (c) "Unable to determine," which means there are some indications of child abuse or neglect, but there is insufficient data to conclude that there is reasonable cause to believe that child abuse or neglect occurred. The "unable to determine" disposition may be used only in the following circumstances:
 - (A) After extensive efforts have been made, the CPS worker is unable to locate the family; or
 - (B) After completing an assessment that complies with the Department's rules:
 - (i) The child is unable or unwilling to provide consistent information and there is insufficient information to support a founded or unfounded determination; or
 - (ii) There is conflicting or inconsistent information from collateral contacts or family, and there is insufficient information to support a founded or unfounded determination.
 - (d) When a CPS worker is assigned a CPS assessment the CPS supervisor may determine that no face-to-face contact is necessary with the alleged child victim and the alleged perpetrator of abuse only in the following circumstances:
 - (A) The assessment was opened in error. This is a determination that the referral is mistakenly opened.

- (B) The reported information is addressed in another open CPS assessment. This is a determination that the report content is being included in another, currently open CPS assessment, under the same case number.
 - (C) The allegation was cleared through collateral contact. This is a determination that the CPS worker has, through collateral contacts, received information that indicates there is no longer a report of child abuse or neglect, as defined in 419B.005.
- (3) When determining whether there is reasonable cause to believe child abuse or neglect occurred, the CPS worker shall consider, among others, the following parent or caregiver behavior, conditions, and circumstances:
- (a) Abandonment, including parental behavior showing an intent to permanently give up all rights and claims to the child.
 - (b) Child selling, including the selling of a child that consists of buying, selling, bartering, trading, or offering to buy or sell the legal or physical custody of a child.
 - (c) Mental injury (psychological maltreatment), including cruel or unconscionable acts or statements made, threatened to be made, or permitted to be made by the parent or caregiver that has a direct effect on the child. The parent or caregiver's behavior, intentional or unintentional, must be related to the observable and substantial impairment of the child's psychological, cognitive, emotional, or social well-being and functioning.
 - (d) Neglect, including failure, through action or omission, to provide and maintain adequate food, clothing, shelter, medical care, supervision, protection, or nurturing. Chronic neglect is a persistent pattern of family functioning in which the parent or caregiver does not sustain or meet the basic needs of a child resulting in an accumulation of harm that can have long term effect on the child's overall physical, mental, or emotional development. Neglect includes each of the following:
 - (A) Physical neglect, which includes each of the following:
 - (i) Failing to provide for the child's basic physical needs including adequate shelter, food, and clothing.
 - (ii) Permitting a child to enter or remain in or upon premises where methamphetamines are being manufactured.
 - (iii) Unlawful exposure of a child to a substance that subjects a child to severe harm to the child's health or safety. When the CPS worker is making a determination of physical neglect based on severe harm

to the child's health due to unlawful exposure to a substance, this determination must be consistent with medical findings.

- (B) Medical neglect is a refusal or failure to seek, obtain, or maintain necessary medical, dental, or mental health care. Medical neglect includes withholding medically indicated treatment from infants who have disabilities and life-threatening conditions. However, failure to provide the child with immunizations or routine well-child care alone does not constitute medical neglect. When the CPS worker is making a determination of medical neglect, this determination must be consistent with medical findings.
 - (C) Lack of supervision and protection, including failure to provide supervision and protection appropriate to the child's age, mental ability, and physical condition.
 - (D) Desertion, which includes the parent or caregiver leaving the child with another person and failing to reclaim the child, or parent or caregiver failure to provide information about their whereabouts, providing false information about their whereabouts, or failing to establish a legal guardian or custodian for the child.
 - (E) Psychological neglect, which includes serious inattention to the child's need for affection, support, nurturing, or emotional development. The parent or caregiver behavior must be related to the observable and severe harm of the child's psychological, cognitive, emotional, or social well-being and functioning.
- (e) Physical abuse, including an injury to a child that is inflicted or allowed to be inflicted by non-accidental means that results in harm. Physical abuse may include injury that could not reasonably be the result of the explanation given. Physical abuse may also include injury that is a result of discipline or punishment. Examples of injuries that may result from physical abuse include:
- (A) Head injuries
 - (B) Bruises, cuts, lacerations
 - (C) Internal injuries
 - (D) Burns or scalds
 - (E) Injuries to bone, muscle, cartilage, and ligaments
 - (F) Poisoning

- (G) Electrical shock
- (H) Death
- (f) Sexual abuse, which includes a person's use or attempted use of a child for the person's own sexual gratification, the sexual gratification of another person, or the sexual gratification of the child. Sexual abuse includes incest, rape, sodomy, sexual penetration, fondling, and voyeurism.
- (g) Sexual exploitation, including the use of a child in a sexually explicit way for personal gain, for example, to make money, in exchange for food stamps or drugs, or to gain status. Sexual exploitation also includes using children in prostitution or using children to create pornography.
- (h) Threat of harm, including all activities, conditions, and circumstances that place the child at threat of severe harm of physical abuse, sexual abuse, neglect, mental injury, or other child abuse or neglect.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.185, 418.015, 419B.005 to 419B.050

Differential Response

413-015-9030

Screening CPS Information - Determining Department's Response, Type of CPS Assessment, and Response Time Lines

(Amended 12/24/14)(Temporary Effective 07/01/16 - 12/27/16)

Except as provided below, screeners in DR implementation counties must comply with OAR 413-015-0200 through 413-015-0225. OAR 413-015-0210(1) through (3) are replaced by the following:

- (1) After the *screener* completes activities required by OAR 413-015-0205, and determines the information received is CPS information, the *screener* must determine the *Department response*, either CPS assessment required or close at *screening*. If a CPS assessment is required, the *screener* must determine the type of CPS assessment and the time line for the *Department response*.
- (2) CPS assessment required. A CPS assessment is required if:
 - (a) The *screener* determines that information received constitutes a *report* of child abuse or neglect, as defined in ORS 419B.005, and the information indicates:
 - (A) The alleged perpetrator is a legal parent of the alleged child victim;
 - (B) The alleged perpetrator resides in the alleged child victim's home;
 - (C) The alleged perpetrator may have access to the alleged child victim, and the parent or *caregiver* may not be able or willing to protect the *child*; or
 - (D) The alleged child abuse occurred in a *day care facility*, or the home of a Department certified foster parent or relative caregiver, ~~or a private child-caring agency that is not a Children's Care Provider (CCP)~~.
 - (b) The *screener* determines that information received constitutes a *report* of abuse as defined in ORS 419B.005 or Oregon Laws 2016, chapter 106, section 36 and the *report* is the responsibility of the *Department* as outlined in OAR 413-015-0630.
 - (c) A tribe or law enforcement agency (LEA) requests assistance from the Department with an investigation of *child abuse or neglect*, and a CPS supervisor agrees that assistance from the Department is appropriate.
- (3) Type of CPS Assessment. If the *screener* determines that a CPS assessment is required, the *screener* must:

- (a) Determine the type of CPS assessment required. The *screener* must determine if the *report* is assigned for a *traditional response assessment* or an *alternative response assessment*.
- (A) Traditional Response Assessment. This type of CPS assessment is required when the *report* alleges or the information gathered indicates:
- (i) The *child* has suffered or could likely suffer *severe harm*;
 - (ii) The abuse occurred in a *day care facility*, the home of a Department certified foster parent or relative caregiver, ~~or an Oregon Youth Authority (OYA) certified foster home, a private child-caring agency that is not a Children's Care Provider (CCP)~~an OYA certified foster parent, a child-caring agency employee, a proctor foster parent, a Department contracted service provider, an OYA employee, or a proctor foster home;
 - (iii) The perpetrator is a day care employee, certified foster parent or relative caregiver, an OYA certified foster parent, a child-caring agency employee, a proctor foster parent, a Department contracted service provider, an OYA employee, or a Department of Human Services employee;
 - (iv) There are multiple allegations in the same *report* and any of the allegations meet one of the criteria outlined in (i) through (iii) of this paragraph for a *traditional response assessment*;
 - (v) There is a prior *report* of *child abuse or neglect* that has not been assessed because the Department was unable to locate the family and the prior allegation or the current allegation meets the criteria for a *traditional response assessment*;
 - (vi) There is an open *traditional response assessment* and the date the open *traditional response assessment* was assigned is within 60 days of the date the new *report* will be assigned; or
 - (vii) There is an open Department case with an identified *impending danger safety threat*.
- (B) Alternative Response Assessment. This type of CPS assessment is required when the *report* alleges or the information gathered indicates the *child* has suffered or could likely suffer *harm*, but the *harm* is not *severe harm* and none of the conditions outlined in (A)(i) through (vii) of this rule apply.
- (b) Consult with a CPS supervisor. The *screener* must consult with the CPS supervisor or designee when the *screener* determines the type of CPS assessment

required is a *traditional response assessment* and there is an open *alternative response assessment*.

- (c) Document the type of CPS assessment required. The *screener* must document the type of CPS assessment required and document the justification for the determination.
- (4) Response Time Lines. If the *screener* determines that a CPS assessment is required, the *screener* must:
- (a) Determine the CPS assessment response time line. The time line for the *Department response* refers to the amount of time between when the *report* is received at *screening* and when the CPS worker is required to make an *initial contact*. When determining the response time, the *screener* must take into account the location of the *child*, how long the *child* will be in that location, and access that others have to the *child*.
 - (A) Traditional Response Assessment. The *screener* is required to assign the following response time lines for a *traditional response assessment*:
 - (i) A "within 24 hours" response time line unless (ii) below applies.
 - (ii) A "within five calendar days" response time line is only permitted for a *traditional response assessment* when the *screener* can clearly document how the information indicates child safety will not be compromised or an intentional delay to allow for a planned response is less likely to compromise the safety of the *child*.
 - (B) Alternative Response Assessment. The *screener* is required to assign the following response time lines for an *alternative response assessment*:
 - (i) A "within five calendar days" response time line is required unless (ii) below applies.
 - (ii) A "within 24 hours" response time line is only required for an *alternative response assessment* when the information indicates:
 - (I) A *child* is in danger right now; or
 - (II) A *child* has a current injury as a result of the alleged abuse or neglect.
 - (b) Complete a screening report form immediately when a "within 24 hour" response time line is assigned or the same day when a "within five calendar days" response time is assigned. A CPS supervisor may grant an extension for the completion of a screening report form as provided in OAR 413-015-0220.

- (c) Refer the CPS assessment to the appropriate county as described in OAR 413-015-0213.

Stat. Auth.: ORS 409.027, 409.050, 418.005, 418.598

Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020

413-015-9040

Assessment

~~(Amended 12/24/14)~~*(Temporary Effective 07/01/16 - 12/27/16)*

- (1) Except as provided in this rule, CPS workers in DR implementation counties must comply with OAR 413-015-0400 through 413-015-0485.
- (2) Overview. The following outlines the primary components of all CPS assessments and the components unique to *traditional response assessment* and *alternative response assessment*.
- (a) Completing a CPS assessment, whether *traditional response assessment* or *alternative response assessment*, involves all of the following:
- (A) Making efforts to schedule the *initial contact* when a response timeline of "within five calendar" days is assigned.
 - (B) Making *face-to-face* contact with the alleged victim, his or her siblings, his or her parent or *caregiver*, other children and adults living in the home, and the alleged perpetrator.
 - (C) Accessing and viewing the home environment.
 - (D) Gathering safety-related information through interviews and observation.
 - (E) Determining if there is a *present danger safety threat*.
 - (F) Determining if there is an *impending danger safety threat* by applying the *safety threshold* criteria:
 - (i) Imminent;
 - (ii) *Observable*;
 - (iii) *Vulnerable child*;
 - (iv) *Out of control*; and
 - (v) Severity.

- (G) Developing a *protective action plan* when a *child* is determined to be *unsafe* due to a *present danger safety threat*.
 - (H) Developing an *initial safety plan* when a *child* is determined to be *unsafe* due to an *impending danger safety threat*.
 - (I) Developing an *ongoing safety plan* when a *child* is determined to be *unsafe* from an *impending danger safety threat* at the conclusion of a CPS assessment.
 - (J) Determining whether the *initial safety plan* or *ongoing safety plan* is the least intrusive plan sufficient to manage child safety by identifying how the *impending danger safety threat* is occurring and applying the in-home safety plan criteria.
 - (K) Developing *conditions for return* when an out-of-home *ongoing safety plan* is established.
 - (L) Determining whether a family has *moderate to high needs* when a *child* is determined to be *safe*.
 - (M) Referring a family for a *strengths and needs assessment* and subsequently for community services when a family is determined to have *moderate to high needs* and accepts the referrals.
- (b) In addition to the components of a CPS assessment outlined in paragraphs (a)(A) through (M) of this section, completing a *traditional response assessment* includes determining if there is reasonable cause to believe that *child abuse or neglect* occurred.
 - (c) In addition to the components of a CPS assessment outlined in paragraphs (a)(A) through (M) of this section, completing an *alternative response assessment* includes offering the family the option of having a community partner or support person accompany the worker when a response timeline of "within five calendar" days is assigned.
- (3) Make Initial Contact. When completing a *traditional response assessment* or an *alternative response assessment* the CPS worker must comply with OAR 413-015-0420, "Make Initial Contact", and the additional requirements outlined in this section when a response timeline of "within five calendar days" is assigned:
- (a) The CPS worker must make efforts to schedule the *initial contact*; and
 - (b) The CPS worker must, when completing an *alternative response assessment*:
 - (A) Offer the family the option of having a community partner or support person accompany the worker on *initial contact*;

- (B) Obtain a release of information signed by the parent or *caregiver* specific to the identified community partner or support person; and
 - (C) Document, if applicable, whether the CPS worker completed the *initial contact* with a community partner or support person. When a community partner or support person was not present at *initial contact*, the CPS worker must document why not. When a community partner or support person was present, the CPS worker must document who was present.
- (4) Change from Alternative Response Assessment to Traditional Response Assessment. When changing the type of CPS assessment from *alternative response assessment* to *traditional response assessment* the CPS worker must:
- (a) Assure one of the following applies:
 - (A) Any of the criteria outlined in 413-015-9030(3)(a)(A)(i) through (vi);
 - (B) A *referral* is received on an open *alternative response assessment* within 60 days of the date the open assessment was assigned and the new *referral* meets the screening criteria to assign as a *traditional response assessment*;
 - (C) The CPS worker filed a petition alleging the *child* is within the jurisdiction of the juvenile court pursuant to ORS 419B.100; or
 - (D) The CPS worker determined the *child* is *unsafe* at the conclusion of the CPS assessment and an *ongoing safety plan* will be established and the case will be opened for services.
 - (b) Assure the decision is approved by a Department supervisor; and
 - (c) Document in the Department's electronic information system the decision to change from *alternative response assessment* to *traditional response assessment* and explain the basis for the decision.
- (5) Make Child Safety Decision and Determine Whether to Open a Case. The CPS worker must comply with the requirements outlined in this section which replaces OAR 413-015-0445, "Child Safety Decision".
- (a) After all the necessary information is gathered for the CPS assessment and the disposition has been determined, the CPS worker must determine if the *child* is *safe* or *unsafe* at the conclusion of the CPS assessment. To make a child safety decision at the conclusion of a CPS assessment, the CPS worker must again determine if an *impending danger safety threat* is present as outlined in OAR 413-015-0425, "Determine if there is a Present Danger Safety Threat or an Impending Danger Safety Threat".
 - (b) When at the conclusion of the CPS assessment the CPS worker determines one or more impending danger safety threats are present, including a previously

identified *impending danger safety threat* that has not been eliminated, the CPS worker must conclude the *child is unsafe*. When the CPS worker concludes the *child is unsafe* at the conclusion of the CPS assessment, the CPS worker must:

- (A) Determine how the *impending danger safety threat* is occurring to support the development of an *ongoing safety plan* as outlined in OAR 413-015-0428, "Identify How the Impending Danger Safety Threat is Occurring";
 - (B) Develop an *ongoing safety plan* as outlined in OAR 413-015-0450, "Develop an Ongoing Safety Plan";
 - (C) Complete the CPS assessment; and
 - (D) Open a case.
- (c) When at the conclusion of the CPS assessment the CPS worker determines no present danger safety threats or impending danger safety threats are present and any identified previously have been eliminated, the CPS worker must conclude the *child is safe*. When the CPS worker concludes the *child is safe* at the conclusion of the CPS assessment, the CPS worker must:
- (A) Dismiss the *protective action plan* or *initial safety plan* if one is in place; and
 - (B) Determine if the family has *moderate to high needs* unless completing a CPS assessment involving the home of a Department certified foster parent or relative caregiver, a child-caring agency, or a proctor foster home.
- (d) When the CPS worker determines the family does not have *moderate to high needs* the CPS worker must complete and close the CPS assessment.
- (e) When the CPS worker determines the family does have *moderate to high needs*, the CPS worker must offer the family the option to have a *strengths and needs assessment* completed by a *strengths and needs assessment provider*:
- (A) If the family declines the offer to have a *strengths and needs assessment* completed the CPS worker must:
 - (i) Offer the family referrals to relevant non-contracted community services as available;
 - (ii) If the family accepts the offer, the CPS worker must refer the family to relevant non-contracted community services as available; and
 - (iii) Complete and close the CPS assessment.

- (B) If the family accepts the offer to have a *strengths and needs assessment* completed the CPS worker must:
 - (i) Refer the family to a *strengths and needs assessment provider*;
 - (ii) Meet with the family and the *strengths and needs assessment provider* after the completion of the *strengths and needs assessment*, discuss contracted and non-contracted community service referral options, offer relevant community service referrals as available, and identify the family's preferences;
 - (iii) If the family accepts the offer for community service referrals, refer the family to relevant contracted or non-contracted community services as available.
- (C) Complete and close the CPS assessment.
- (f) The CPS worker must document in the Department's electronic information system the child safety decision including all of the following:
 - (A) If the *child* is *safe* and the assessment will be closed, or if the *child* is *unsafe* and the case will be opened.
 - (B) If the *child* is *safe*:
 - (i) Whether the family was determined to have *moderate to high needs* and the basis for the determination;
 - (ii) Whether the family accepted or declined to participate in a *strengths and needs assessment* and if they declined whether the family accepted the offer for relevant non-contracted community service referrals;
 - (iii) Whether the family accepted or declined to participate in services recommended as the result of the *strengths and needs assessment*; and
 - (iv) If applicable, what contracted or non-contracted community services were declined or accepted.
- (6) CPS Assessment Documentation, Supervisory Review Requirements, and Extensions.
 - (a) The CPS worker must comply with OAR 413-015-0475, "CPS Assessment Documentation and Supervisory Review Requirements", with the exception of section (2) which this subsection replaces. The CPS worker must complete the CPS assessment and electronically submit the CPS assessment for review by a CPS supervisor, within 45 days of the day that the information alleging *child*

abuse or neglect is received by the *screener*, except as provided in subsection (b) of this section.

- (b) This subsection replaces OAR 413-015-0480, "CPS Assessment Extensions". The CPS supervisor may approve a one-time extension of an additional 15 days for completion of the CPS assessment if the supervisor has confirmed critical information (information necessary to determine child safety or a child abuse or neglect disposition) is outstanding or, if applicable, the *strengths and needs assessment* is not complete. Additional extension of time may be approved by the Child Welfare program manager if the ability to obtain critical information is beyond the reasonable control of the CPS worker.

Stat. Auth.: ORS 409.027, 409.050, 418.005, 418.598

Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020

Monthly Contact and Monitoring Child and Young Adult Safety

413-080-0050

Definitions

(Amended 01/01/16)

The following definitions apply to OAR 413-080-0040 to 413-080-0067:

- (1) "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 they reside, to a *child* or *young adult* in the care or custody of the Department.
- (2) "Child" means a person under 18 years of age.
- (3) "Child in care" means a person under 21 years of age who is residing in or receiving care or services from a child-caring agency or proctor foster home subject to ORS 418.205 to 418.328, 418.470, 418.470 or 418.950 to 418.970.
- (4) "Child-caring agency" is defined in ORS 418.205 and:
 - (a) Means any private school, private agency, or private organization providing:
 - (A) Day treatment for children with emotional disturbances;
 - (B) Adoption placement services;
 - (C) Residential care, including but not limited to foster care or residential treatment for children;
 - (D) Residential care in combination with academic education and therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances;
 - (E) Outdoor youth programs; or
 - (F) Other similar care or services for children.
 - (b) Includes the following:
 - (A) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645
 - (B) An independent residence facility as described in ORS 418.475;
 - (C) A private residential boarding school; and

(D) A child caring facility as defined in ORS 418.950.

(c) Child-caring agency does not include:

(A) Residential facilities or foster care homes certified or licensed by the Department of Human Services under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services;

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this subsection, 'respite services' means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purpose of providing a parent in crisis with relief from the demands of ongoing care of the parent's child;

(C) A youth job development organization as defined in ORS 344.415;

(D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645; or

(E) A foster home subject to ORS 418.625 to 418.645.

~~(35)~~ "Conditions for return" means 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 *initial safety plan* or in-home *ongoing safety plan*.

~~(46)~~ "Contact" means any communication between Child Welfare staff and a *child, parent or guardian, foster parent or relative caregiver, provider*, or other individual involved in a Child Welfare safety plan or case. "Contact" includes, but is not limited to, communication in person, by telephone, by video-conferencing, or in writing. "Contact" may occur, for instance, during a *face-to-face* visit; a treatment review meeting for a *child, young adult, parent, or guardian*; a court or Citizen Review Board hearing; or a family meeting.

~~(57)~~ "Department" means the Department of Human Services, Child Welfare.

(8) "DHS" means the Department of Human Services.

~~(68)~~ "Face-to-face" means an in-person interaction between individuals.

~~(79)~~ "Foster parent" means a person 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.

- (810) "Guardian" means an individual who has been granted guardianship of a *child* through a judgment of the court.
- (911) "ICPC" means the Interstate Compact for the Placement of Children (see ORS 417.200).
- (102) "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 functioning.
- (143) "Initial safety plan" means a documented set of actions or interventions sufficient to protect a *child* from an *impending danger safety threat* in order to allow for completion of the CPS assessment.
- (124) "Monthly face-to-face contact" means in-person interaction between individuals at least once each and every full calendar month.
- (135) "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.
- (146) "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.
- (157) "Present danger safety threat" means an immediate, significant, and clearly observable family behavior, condition or circumstance occurring in the present tense, already endangering or threatening to endanger a *child*. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a *child* in peril.
- (18) "Proctor foster home" means a foster home certified by a *child-caring agency* that is not subject to ORS 418.625 to 418.645.
- (169) "Protective action plan" means an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect a *child* from a *present danger safety threat*.

- (1720) "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.
- (1821) "Provider" means ~~a person approved by a licensed private child-caring agency to provide care for a child or young adult, or~~ an employee of a ~~licensed private child-caring agency~~ approved to provide care for a ~~child or young adult~~ child in care or a proctor foster parent.
- (1922) "Relative caregiver" means a person 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.
- (203) "Safety service provider" means a participant in a *protective action plan*, *initial safety plan*, or *ongoing safety plan* whose actions, assistance, or supervision help a family in managing a child's safety.
- (214) "Safety services" means the actions, assistance, and supervision provided by safety service providers to manage the identified present danger safety threats or impending danger safety threats to a *child*.
- (225) "Screener" means a Department employee with training required to provide screening services.
- (236) "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person under the age of 18 for the purpose of a commercial sex act or the recruitment, harboring, transportation, provision, or obtaining of a person over the age of 18 using force, fraud, or coercion for the purpose of a commercial sex act.
- (247) "Social service assistant" means a Department employee with training required to provide services to assist a caseworker on an open case.
- (258) "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.
- (269) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-080-0051

Addressing a Present Danger Safety Threat or New Impending Danger Safety Threat on an Open Case

- (1) If Department staff determine a *child* or *child in care* is unsafe due to a *present danger safety threat* as described in OAR 413-015-0425(1) on a case opened under OAR 413-

015-0445(2)(d), staff must immediately consult with a supervisor and establish a protective action plan as described in OAR 413-015-0435. The ongoing safety plan remains in place to address the existing impending danger safety threats.

- (2) If Department staff determine a *child* or *child in care* is unsafe due to a new impending danger safety threat as described in OAR 413-015-0425 (2) on a case opened under OAR 413-015-0445(2)(d), staff must immediately consult with a supervisor and modify the ongoing safety plan; and
- (3) Department staff must document the behaviors, conditions, or circumstances observed and any protective action plan taken, or modification made to the ongoing safety plan, in the Department's electronic information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-080-0052

Addressing a Present Danger Safety Threat or New Impending Danger Safety Threat on an Open Case Addressing a Concern in a Child-Caring Agency or Proctor Foster home

(Amended 05/27/14)

THIS RULE IS AMENDED IN ITS ENTIRETY

- ~~(1) If Department staff determine a *child* is unsafe due to a present danger safety threat as described in OAR 413-015-0425(1) on a case opened under OAR 413-015-0445(2)(d), staff must immediately consult with a supervisor and establish a protective action plan as described in OAR 413-015-0435. The ongoing safety plan remains in place to address the existing impending danger safety threats.~~
- ~~(2) If Department staff determine a *child* is unsafe due to a new impending danger safety threat as described in OAR 413-015-0425 (2) on a case opened under OAR 413-015-0445(2)(d), staff must immediately consult with a supervisor and modify the ongoing safety plan; and~~
- ~~(3) Department staff must document the behaviors, conditions, or circumstances observed and any protective action plan taken, or modification made to the ongoing safety plan, in the Department's electronic information system.~~
- (1) When Department staff through information gathering or observation have a concern, including when well-being needs are not being met, involving a *child in care* staff must immediately:
 - (a) Notify Department personnel assigned to ensure notifications outlined in OAR 413-080-0070. This does not include allegations of abuse or neglect as defined in

ORS 419B.005 or Oregon Laws 2016, chapter 106, section 36, which are reported to a Department screener;

(b) Document the notification in OR-Kids case notes; and

(c) Make efforts to address the concern for the *child in care*.

(2) When Department staff suspect a crime has been committed involving a *child in care* or at a *child-caring agency* or *proctor foster home* staff must report the suspected crime to law enforcement.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106

Stats. Implemented: ORS 418.005, Or Laws 2016, ch 106

413-080-0054

Monthly Face-to-Face Contact Requirements

(Amended 01/01/16)

(1) A child or young adult in a child welfare case.

(a) Except as provided in section (2) of this rule, *monthly face-to-face contact* with a *child* or *young adult* in a child welfare case must be made by one of the following Department staff to ensure the safety, permanency, and well-being of the *child* or *young adult*:

(A) The primary caseworker;

(B) The caseworker's supervisor; or

(C) When designated by the caseworker's supervisor as described in OAR 413-080-0067 --

(i) Another caseworker or supervisor; or

(ii) A *social service assistant*.

(b) During the *face-to-face contact* required in section (1) of this rule, Department staff must:

(A) Ensure the safety, permanency, and well-being of the *child* or *young adult*;

(B) Address issues pertinent to case planning and service delivery during the *contact*;

- (C) Notify a supervisor when he or she determines that the *ongoing safety plan* or the living environment is insufficient to ensure the safety of the *child* or *young adult* to determine if a *protective action plan* is necessary to ensure safety; and
 - (D) Notify a certifier when the well-being needs of a *child* or *young adult* are not being met by a *certified family*; ~~or notify the Well Being Program when the well-being needs of a *child* or *young adult* are not being met by a *provider*.~~
 - (E) Comply with OAR 413-080-0051 and 413-080-0052 if there is any concern about the safety or well-being of a *child in care*.
- (c) Department staff making *face-to-face contact* must document in the Department's electronic information system:
 - (A) The date, type, and location of each *contact* with the *child*, *young adult*, *parent*, or *guardian*; and
 - (B) The issues addressed during the *contact* and notifications made as a result of the contact.
 - (d) A *face-to-face contact* with a *child* or *young adult* made by a social service assistant --
 - (A) May be reported as the required *face-to-face contact* no more than one time in any three-month period and no more than a four times within a year; and
 - (B) May not be reported as the required *face-to-face contact* for consecutive months.
 - (e) *Face-to-face contact* with a *child* or *young adult* in *substitute care* must occur in the *substitute care* placement every other month.
 - (f) When *face-to face contact* with a *child* or *young adult* in *substitute care* is not possible because the *child* or *young adult* is missing, the caseworker must comply with OAR 413-080-0053.
- (2) A parent or guardian on a child welfare case.
 - (a) When there is an in-home *ongoing safety plan*, Department staff must have *monthly face-to-face contact* in the home with the parents or guardians living in the home with the *child*.

- (b) A caseworker must have *face-to-face contact* with the *child* and the child's parent or guardians within five working days of learning any of the following:
 - (A) A condition of the *ongoing safety plan* has been violated.
 - (B) A change in the *protective capacity*, the family circumstances, or the composition of the household of a *parent* or *guardian* may negatively impact the *ongoing safety plan*.
 - (C) The caseworker is assigned a case that had been assigned to another caseworker (case transfer).
- (c) Department staff must have *monthly face-to-face contact* with the parents or guardians, unless a supervisor approves an exception to *contact* with the non-custodial *parent* who has an in-home *ongoing safety plan* or, when there is an out-of-home *ongoing safety plan*, the *parent* or *guardian* is unavailable or the *contact* could compromise the caseworker's safety. The supervisor's exception must be documented in the Department's electronic information system and must document:
 - (A) The reason for the exception; and
 - (B) The length of time the exception is in effect, which is not longer than 90 days unless a longer period is approved by a Child Welfare Program Manager.
- (3) The substitute caregiver.
 - (a) Department staff described in subsection (1)(a) of this rule must have monthly *contact* with the *certified family* or *provider*.
 - (b) The *face-to-face contact* with the *child* or *young adult* required in subsection (1)(e) of this rule must include at least one of the certified adults or providers who provide direct care for the *child* or *young adult*.
- (4) A child or young adult placed through ICPC or placed internationally.
 - (a) When a *child* or *young adult* is placed in another state through the *ICPC* or placed internationally, the caseworker must request that officials from the receiving state or country have monthly *face-to-face contact* to monitor child safety, permanency, and well-being.
 - (b) When the receiving state or country's child welfare office is unwilling or unable to have monthly *face-to-face contact* with the *child* or *young adult*, a plan must be developed to meet this requirement.

- (c) The caseworker must document in the case file the type and level of *contact* the receiving state or country will provide and how the *contact* is sufficient to confirm the safety and well-being of the *child* or *young adult*.
- (d) The documentation received from the receiving state or country must be filed in the Department's electronic information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-080-0059

Monitoring the Out-of-Home Ongoing Safety Plan

(Amended 05/27/14)

- (1) To manage an out-of-home *ongoing safety plan*, the caseworker must have monthly *contact* with the following individuals:
 - (a) *Face-to-face contact* with the *child* or *child in care*, or review the documentation of the contact made by Department staff under OAR 413-080-0054(1);
 - (b) *Face-to-face contact* with the child's parents or guardians, except as provided in OAR 413-080-0054(2); and
 - (c) *Contact* with each *safety service provider*.
- (2) The caseworker must determine whether the *child* or *child in care* is safe.
- (3) The caseworker must determine whether:
 - (a) Behaviors, conditions, or circumstances within the family require an increase in the level of safety intervention;
 - (b) *Conditions for return* have been achieved and an in-home *ongoing safety plan* can assure the safety of the *child*; and if so, must develop an in-home *ongoing safety plan* under the criteria set forth in OAR 413-015-0450; or
 - (c) The *ongoing safety plan* is keeping the *child* or *child in care* ~~or *young adult*~~ safe and provides the appropriate level of safety intervention.
- (4) If the caseworker determines the out-of-home *ongoing safety plan* must still be in place but level of intervention of the out-of-home *ongoing safety plan* must be revised, the caseworker must:
 - (a) Reduce the level of intervention whenever --

- (A) The improved *protective capacity* of the *parent* or *guardian* is sufficient to impact his or her ability to control the impending danger safety threats as they are occurring within the family; and
 - (B) An *impending danger safety threat* can be managed with less intrusive actions or services.
- (b) Increase the level of intervention whenever an identified *impending danger safety threat* cannot be managed with the current *ongoing safety plan*.
- (5) The revised *ongoing safety plan* must:
- (a) Comply with the criteria of OAR 413-015-0450; and
 - (b) Be approved by the caseworker's supervisor.
- (6) Department staff must document in the Department's information system:
- (a) How the *ongoing safety plan* continues to manage the impending danger safety threats as they are occurring within the family, or any revised *ongoing safety plan* and the facts supporting that revision; and
 - (b) Any *protective action plan* if required to assure the safety of the *child* or child in care.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-080-0070

Notifications When Reports Are Made Regarding Child Safety or Compliance in a Child-Caring Agency or Proctor Foster Home

- (1) When DHS becomes aware that any suspected or founded abuses, deficiencies, violations, or failures to comply with the full compliance requirements described in ORS 418.240 or OAR chapter 413, division 215, whether through a report to the Department from the public or from DHS staff under ORS 418.260, are occurring in a *child-caring agency* or *proctor foster home*, the Department must immediately report the alleged abuses, deficiencies, violations, or failures to comply to:
- (a) The state or governmental agency or unit, governing board, trustees, owners, managers or operators or other appropriate authorities responsible for the *child-caring agency*.
 - (b) Any governmental agency or unit that has a contract with the *child-caring agency* to provide care or services to a *child*.

- (c) Appropriate personnel within DHS including, but not limited to:
 - (A) The Office of Licensing and Regulatory Oversight;
 - (B) The Department's Well Being Program when the *child-caring agency or proctor foster home* has a contract to provide Behavior Rehabilitation Services (BRS); and
 - (C) The Office of Developmental Disabilities Services when the *child-caring agency or proctor foster home* is also licensed to provide intellectual or developmental disabilities services to children.

- (d) When the report is an allegation of abuse against a *child in care*, including a report that has been closed at screening, notify:
 - (A) The caseworker for the *child in care*;
 - (B) The attorney for the *child in care*;
 - (C) The child in care's court appointed special advocate;
 - (D) The parents or guardians of the *child in care*; and
 - (E) Attorney representing a parent or guardian of the *child in care*.

- (2) When a report of abuse of a *child in care* is substantiated or founded DHS must notify all of the following persons and entities of the disposition:
 - (A) The Director of DHS.
 - (B) The Office of Licensing and Regulatory Oversight.
 - (C) The Director of Child Welfare.
 - (D) Case managers for the *child in care*;
 - (E) The court appointed special advocate, if any, for the *child in care*; and
 - (F) The attorney for the *child in care*, if any.
 - (G) The parents or guardians of the *child in care* who is the subject of the abuse report and investigation if the child in care has not been committed to the custody of DHS or the Oregon Youth Authority. Notification under this paragraph may not include any details or information other than that a report of abuse has been substantiated.

- (H) The parents or guardians of each *child in care* that is residing, or receiving care or services, at the *child-caring agency* or *proctor foster home* that is the subject of the report and investigation, if the child in care has not been committed to the custody of DHS or the Oregon Youth Authority. Notification under this paragraph may not include any details or information other than that a report of abuse has been substantiated.
- (I) Any governmental agency or unit that has a contract with the *child-caring agency* to provide care or services to a *child in care*.

(3) Licensing actions.

- (a) When DHS places conditions on any license or suspends or revokes a license under OAR 413-215-0121, DHS must immediately notify any governmental agency or unit that has a contract with the *child-caring agency* to provide care or services to a *child*.
- (b) If DHS determines that the *child-caring agency* has deficiencies, violations, or failures to comply with a license or contract and DHS imposes a plan of correction that the *child-caring agency* does not comply with in the time allotted for correction, DHS must immediately notify all of the following of the failure of the *child-caring agency* to comply with the plan of correction:
 - (A) The Legislative Assembly or the interim committees of the Legislative Assembly relating to child welfare.
 - (B) The state or governmental agency or unit, governing board, trustees, owners, managers or operators or other appropriate authorities responsible for the *child-caring agency*.
 - (C) Any governmental agency or unit that has a contract with the *child-caring agency* to provide care or services to a *child*.
- (4) DHS is required to immediately investigate these reports and take appropriate actions. Investigation of reports is governed by rules in OAR chapter 407, division 045 and OAR chapter 413, divisions 15, 90, and 215.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106

Stats. Implemented: ORS 418.005, Or Laws 2016, ch 106

Behavior Rehabilitation Services Program

413-090-0000

Definitions

~~(Amended 08/04/15)~~ *(Temporary Effective 07/01/16 - 12/27/16)*

The following definitions apply to OAR 413-090-0000 to 413-090-0550:

- (1) "Absent day" means a calendar day that:
 - (a) The *BRS client* (see OAR 410-170-0020) is enrolled in but not physically present in the program of the *BRS provider* (see OAR 410-170-0020);
 - (b) Does not meet the definition of a *billable care day* (see OAR 410-170-0020);
 - (c) The Department's placement plan is to return the *BRS client* to the *BRS provider*; and
 - (d) The *BRS contractor* (see OAR 410-170-0020) or *BRS provider* obtains authorization from the *BRS client's caseworker* (see OAR 410-170-0020) and the *contract administrator* to bill the calendar day as an "absent day".
- (2) "Abuse check" means obtaining and reviewing abuse allegations and abuse investigation reports and associated exhibits and documents for the purpose of determining whether a *subject individual* has a history as a perpetrator of potentially disqualifying abuse (a potentially disqualifying condition) as described in OAR 407-007-0290(11).
- (3) "Adoption assistance payment" means a monthly payment made by the Department to the *pre-adoptive family* or adoptive family on behalf of an eligible *child* or *young adult*.
- (4) "Babysitting" means the provision of temporary, occasional care for a *child* or *young adult* that is:
 - (a) Ten consecutive hours or less; and
 - (b) Not overnight care.
- (5) "Background Check Unit (BCU)" means the Department of Human Services Background Check Unit.
- (6) "Base rate payment" means a payment to the *foster parent* or relative caregiver for the costs of providing the *child* or *young adult* with the following:
 - (a) Food, including the special or unique nutritional needs of the *child* or *young adult*;

- (b) Clothing, including purchase and replacement;
 - (c) Housing, including maintenance of household utilities, furnishings, and equipment;
 - (d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the chronological age of the *child* or *young adult*;
 - (e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and
 - (f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.
- (7) "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*; and
 - (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*.
- (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 the individual or individuals reside, to a *child* or *young adult* in the care or custody of the Department.
- (9) "Chafee housing payment" 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.
- (10) "Child" means a person under 18 years of age.
- (11) "Child in care" means a person who is under 21 years of age who is residing in or receiving care or services from a *child caring agency* or *proctor foster home*.
- (12) "Child-caring agency" is defined in ORS 418.205 and means a "child-caring agency" that is not owned, operated, or administered by a governmental agency or unit.

- (113) "Clothing replacement allowance" means an allowance included in the substitute care maintenance payments to a provider to cover the cost of maintaining adequate clothing for each *child* or *young adult* in the substitute care maintenance payments to the provider.
- (124) "Contract administrator" means the employee or other individual designated in writing by the Department, by name or position description, to conduct the contract administration of a contract or class of contracts.
- (135) "Contract registered nurse" means a licensed registered nurse under a contract with the Department who provides nursing assessment, consultation, teaching, delegation, or on-going nursing services to a *child* or *young adult* in the care or custody of the Department.
- (146) "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 in which criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). An Oregon criminal records check may also include a review of *other criminal records information* obtained from other sources.
 - (b) A national criminal records check in which records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. A 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* resources located in, or regarding, a state or jurisdiction outside Oregon.
- (157) "Delegated nursing task" means a task, normally requiring the education and license of a *registered nurse* (RN) and within the RN scope of practice to perform, that an RN authorizes an unlicensed person to perform.
- (168) "Department" means the Department of Human Services, Child Welfare.
- (179) "Dependent parent" means a *child* or *young adult* in the legal custody of the Department who is the parent of a *child*.
- (1820) "Enhanced shelter care payment" means a limited term payment provided to a *certified family* when a *child* or *young adult* in the care or custody of the Department moves to a certified family's home from a placement with a BRS provider and there is no current level of care determination applicable to the *child* or *young adult*.
- (1921) "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*.

- (202) "Foster care payments" means one or more of the following payments to a *certified family*, authorized at rates established by the Department, for the board and care of a *child* or *young adult* for whom the Department has placement and care responsibility:
- (a) The *base rate payment*;
 - (b) The *level of care payment*, if any;
 - (c) *Shelter care payment* or *enhanced shelter care payment*;
 - (d) Mileage reimbursement, paid at the current Department mileage reimbursement rate to child welfare staff, for transportation of a *child* or *young adult* remaining in the same school he or she was attending prior to placement in substitute care; and
 - (e) The board and care of the *child* of a *dependent parent*, unless the *dependent parent* receives cash benefits under a program administered by the Department of Human Services under chapter 461 of the Oregon Administrative Rules.
- (213) "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.
- (224) "Guardian" means an individual who has been granted guardianship of the *child* through a judgment of the court.
- (235) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the *potential guardian* or *guardian* 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.
- (246) "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.
- (257) "Legally responsible relative" means the parent or stepparent of a *child* or *young adult* or a person related to the *child* or *young adult* by blood or marriage who has legal custody or legal guardianship of the *child* or *young adult*.
- (268) "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 need for *enhanced supervision* of the *child* or *young adult* as determined by applying the CANS algorithm to the results of the CANS screening.
- (279) "Level of personal care payment" means the payment to a *qualified provider* for performing the *personal care services* for an eligible *child* or *young adult* based on the

child's or young adult's need for *personal care services* as determined by applying the *personal care services* algorithm to the results of the *personal care services* rating scale.

(~~2830~~) "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 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.

(~~2931~~) "Personal Care Nurse Coordinator" means a *registered nurse* (RN) who is a licensed *registered nurse* employed by the Department to provide oversight of contract registered nurses and *personal care services* authorized through the Department.

(~~302~~) "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.

(~~313~~) "Personal care services assessment" means an evaluation by a *registered nurse* of a *child* or young adult's ability to perform the functional activities required to meet the *child* or young adult's daily needs.

(~~324~~) "Personal care services plan" means a written plan to provide *personal care services* for the *child* or *young adult* documenting:

- (a) The determination that the individual is a *qualified provider*;
- (b) The frequency or intensity of each personal care service to be provided; and
- (c) The date *personal care services* begin.

(~~335~~) "Potential guardian" means an individual who:

- (a) Has been approved by the Department or participating tribe to be the *guardian* of a *child* or *young adult*; and
- (b) Is in the process of legalizing the relationship to the *child* through the judgment of the court.

(346) "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.

(37) "Proctor foster home" means a foster home certified by a *child-caring agency* that is not subject to ORS 418.625 to 418.645.

(358) "Qualified provider" means an individual who:

- (a) Is authorized by the Department through the *contract registered nurse* or *Personal Care Nurse Coordinator*;
- (b) Demonstrates by background, skills, and abilities the capability to safely and adequately provide the authorized *personal care services*;
- (c) Maintains a drug-free household;
- (d) Has been approved through the background check process described in OAR 413-120-0400 to 413-120-0475 or under OAR 407-007-0200 to 407-007-0370; and
- (e) Is not the parent, step-parent, or *legally responsible relative* of the *child* or *young adult* eligible for *personal care services*.

(369) "Registered nurse" means an individual licensed and registered to practice nursing.

(3740) "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.

(3841) "SAIP" means Secure Adolescent Inpatient Program.

(3942) "SCIP" means Secure Adolescent Inpatient Program.

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

(414) "Shelter care payment" means a payment provided to a *certified family* during the first 20 days of substitute care for a *child* or *young adult* in the care or custody of the Department.

(425) "Subject individual" means an individual described in OAR 407-007-0030(30)(a).

- (a) For the purposes of these rules, a "subject individual" also includes:

- (A) An individual who provides *respite care* (see OAR 410-170-0020) for an *approved provider parent* (see OAR 410-170-0020);
 - (B) An individual who volunteers with or is employed by an approved provider parent to assist with the care of a *BRS client*, other than an individual who provides *babysitting* unless paragraph (D) of this subsection applies;
 - (C) An individual 18 years of age or older who is living in the home of an *approved provider parent*;
 - (D) An individual under 18 years of age who is living in the home of an *approved provider parent* if there is reason to believe the individual may pose a risk to a *BRS client*;
 - (E) An individual who provides *babysitting* or an individual who frequents the home of an *approved provider parent* if there is reason to believe the individual may pose a risk to a *BRS client*; and
 - (F) An individual who has access to a *BRS client* in the home of an *approved provider parent* if the *contract administrator* has requested a *criminal records check* on the individual.
- (b) The following individuals are not subject individuals:
- (A) A *child* or *young adult* in the care or custody of the Department who lives in the home of the *approved provider parent*; and
 - (B) A *BRS client*.

(437) "Transitional visit" means an overnight visit by the *BRS client* to another placement for the purpose of facilitating the *BRS client's* transition.

(448) "Vendor Attorneys" means qualified attorneys, including Legal Aide Programs who have signed a legal fees agreement with the Department to accept the Department's currently established standard payment, plus reimbursement of any personal costs incurred, for court fees and the filing of mandatory court papers, or for obtaining birth certificates when establishing guardianships for children in the care and custody of the Department, or to process adoptions.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-090-0055

Effective Date and Administration of the BRS Program

~~(Adopted 01/01/14)(Temporary Effective 07/01/16 - 12/27/16)~~

~~(1) OAR 413-090-0055 through 413-090-0090 are effective on January 1, 2014.~~

~~(21)~~ *BRS contractors* (see OAR 410-170-0020) and *BRS providers* (see OAR 410-170-0020) that provide *services* (see OAR 410-170-0020) to a *child* (see OAR 410-170-0020) or *young adult* (see OAR 410-170-0020) in the care or custody of the Department of Human Services or one of the federally recognized tribes in Oregon must comply with the requirements in the *BRS program* general rules (OAR 410-170-0000 through 410-170-0120) and these rules (OAR 413-090-0055 through 413-090-0090).

~~(32)~~ All references to federal and state laws and regulations referenced in these rules are those in place on ~~July 1, 2016~~~~November 13, 2013~~, and the Agency-specific BRS program rules that are effective on ~~July 1, 2016~~~~January 1, 2014~~.

Stat. Auth.: ORS 183.355, 409.050, 418.005, 411.060, 411.070, 411.116

Stats. Implemented: ORS 418.005, 418.015, 418.027, 411.070, 411.116, 411.141, 418.285, 418.312, 418.315, 418.490, 418.495

413-090-0065

Definitions

~~(Amended 08/04/15)(Temporary Effective 07/01/16 - 12/27/16)~~

Definitions for OAR 413-090-0055 to 413-090-0090 are in OAR 413-090-0000 and OAR 410-170-0020.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.025, 409.027, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.016, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

413-090-0070

BRS Provider Requirements

~~(Amended 08/04/15)(Temporary Effective 07/01/16 - 12/27/16)~~

In addition to the requirements in OAR 410-170-0030, the *BRS contractor* (see OAR 410-170-0020) and the *BRS provider* (see OAR 410-170-0020) providing *services* (see OAR 410-170-0020) and *placement-related activities* (see OAR 410-170-0020) to a *BRS client* (see OAR 410-170-0020) in the care or custody of the Department or one of the federally-recognized tribes in Oregon must comply with all of the following requirements:

- (1) Ensure completion of a background check, including a *criminal records check* and an *abuse check*, on each *subject individual* in compliance with OAR 407-007-0210 to 407-007-0380, ~~any applicable background check requirements that apply to public child-caring agencies or private child-caring agencies, and this section.~~
 - ~~(a) Each time a *criminal records check* is required by OAR 407-007-0220, OAR 413-215-0321(3)(c) (d), OAR 413-215-0331(2)(b) (d), or OAR 413-215-0061(1) for personnel of public child-caring agencies or private child-caring agencies, a national criminal records check, described in OAR 407-007-0210(13)(b), must be completed, unless one of the following exceptions applies:
 - (A) The *subject individual* has previously had a national criminal records check, has not lived outside the state of Oregon for more than 60 consecutive days after the subject individual's most recent *criminal records check*, and has not been arrested since the subject individual's most recent *criminal records check*;
 - (B) The *subject individual* is a *respite care* (see OAR 410-170-0020) provider and has not lived outside the state of Oregon for more than 60 consecutive days in the last five years, does not disclose any history of arrests or convictions, and does not have a history of arrests or convictions, based on an Oregon criminal records check under OAR 407-007-0220(1) or information received from any other source;
 - (C) The *subject individual* is living in the home of an proctor foster homeapproved provider parent (see OAR 410-170-0020) and is under the age of 18, a *babysitter* (see OAR 410-170-0020), or an individual who frequents the home of an proctor foster homeapproved provider parent but is not an employee or volunteer who assists with the care of a *BRS client*;
or
 - (D) The *subject individual* is unable to submit fingerprints due to a physical or mental condition that makes compliance impossible or presents an undue safety risk to the *subject individual* or Department staff and the *contract administrator* provides written approval to forego a fingerprint-based check.~~
 - ~~(b) Even if one of the circumstances in paragraphs (1)(a)(A) to (1)(a)(D) of this rule applies, the *contract administrator* may require a national criminal records check on a *subject individual* if deemed necessary by the Department.~~
 - ~~(c) Notwithstanding OAR 407-007-0280, 407-007-0300 and 407-007-0320(1), a *subject individual* may not be approved to be an proctor foster approved provider parent or an individual described in OAR 413-090-0000(42)(a) if the *subject individual* has a conviction described in OAR 413-120-0450(3) or (4). The~~

Department's *Background Check Unit* must provide written notice of the denial, as required by OAR ~~407-007-0320(2)-(3)~~.

~~(d) Notwithstanding OAR 407-007-0280, when a *subject individual* is seeking to be approved as an *approved provider parent* or an individual described in OAR 413-090-0000(9)(a), any conviction described in OAR 413-120-0450(5), (6) and (7) or any arrest described in OAR 413-120-0455(1) is a potentially disqualifying condition that requires a weighing test under OAR 407-007-0300.~~

~~(A) The Department's *Background Check Unit* shall make a final fitness determination in accordance with OAR 407-007-0320(1)(a) or (c).~~

~~(B) A *subject individual* subject to a weighing test may not be approved with restrictions under OAR 407-007-0320(1)(b).~~

~~(e) OAR 407-007-0330 applies to any decisions to deny a *subject individual* based on subsection (1)(b) or (1)(c) of this rule.~~

~~(f) A *subject individual* may be approved on a preliminary basis, consistent with OAR 413-120-0440(7), if the *subject individual*:~~

~~(A) Does not have a conviction described in subsection (1)(c) of this rule or OAR 413-120-0450(3) or (4);~~

~~(B) Preliminary approval of the *subject individual* is not prohibited by OAR 407-007-0315(7);~~

~~(C) The Department's *Background Check Unit* conducts a preliminary fitness determination with a weighing test if the *subject individual* has any convictions or arrests described in subsection (1)(d) of this rule or potentially disqualifying abuse; and~~

~~(D) The Department's *Background Check Unit* determines that, more likely than not, the *subject individual* poses no potential threat to *BRS clients*.~~

(2) Ensure the following documents are contained in the individual, confidential file of each *BRS client*:

(a) A face sheet with frequently referenced information;

(b) The BRS client's medical insurance information;

(c) The BRS client's school enrollment, attendance, progress, and discipline information during the BRS client's stay in the program;

(d) Signed consent for the *BRS client* to participate in the BRS program;

- (e) Documentation regarding the individuals authorized to consent to medical or mental health services for the *BRS client*;
 - (f) Documentation regarding home or other family visits;
 - (g) Documentation of recreational, social, and cultural activities;
 - (h) Documentation of legal custody or voluntary placement status;
 - (i) Referral information;
 - (j) All *services* documentation including, but not limited to the ISP, AER, MSP, MSP updates, Discharge Summary, and Aftercare Summary as required by BRS service planning in OAR 410-170-0070;
 - (k) Any restrictions on or special permissions for the BRS client's participation in activities or outings and the duration of any restrictions or special permissions; and
 - (l) All other case related information specific to the *BRS client*.
- (3) The *BRS contractor* and the *BRS provider* must maintain in their program records:
- (a) Staff schedules for BRS programs utilizing a *residential care model* (see OAR 410-170-0020);
 - (b) Certification status for ~~*proctor foster home approved provider parents*~~ for BRS programs utilizing a *therapeutic foster care model* (see OAR 410-170-0020); and
 - (c) Authorization for each *absent day* billed for a *BRS client*.
- (4) The *BRS contractor* and *BRS provider* including a *proctor foster home* must permit immediate access to a *child in care* and to any area of the premises upon which the *child in care* receives care or services to all individuals and for all purposes described in ORS 418.305.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 411.060, 411.070, 411.116, 418.005

Stat. Implemented: ORS 181.534, 181.537, 409.010, 409.025, 409.027, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.016, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

413-090-0075

Prior Authorization for the BRS program; Appeal Rights

(Adopted 01/01/14)(Temporary Effective 07/01/16 - 12/27/16)

(1) BRS Program Eligibility.

- (a) The Department may provide prior authorization for the *BRS program* to a *child in care*~~(see OAR 410-170-0020)~~ or *young adult*~~(see OAR 410-170-0020)~~ who:
 - (A) Meets the requirements in OAR 410-170-0040(2)(a)(A) through (C); and
 - (B) Is in the care or custody of the Department or one of the federally recognized tribes in Oregon.
- (b) Notwithstanding subsection (1)(a) of this rule, the Department may provide prior authorization for the *BRS program* to a *child in care*~~or young adult~~ who:
 - (A) Meets the requirements in OAR 410-170-0040(2)(a)(B) through (E);
 - (B) Is eligible for state-funded medical assistance under Title XIX and General Assistance Medical Eligibility, OAR 413-100-0400 through 413-100-0610; and
 - (C) Is in the care or custody of the Department or one of the federally recognized tribes in Oregon.

(2) Appeal Rights.

- (a) When a *child in care*~~or young adult~~ in the care or custody of the Department or a federally recognized tribe in Oregon is denied prior authorization for the *BRS program* under subsection (1)(a) of this rule, he or she is entitled to notice and contested case hearing rights under OAR 410-120-1860 to 410-120-1865. The contested case hearing will be held by the Authority (see OAR 410-170-0020).
- (b) When a *child in care*~~or young adult~~ in the care or custody of the Department and who is enrolled in the Oregon Health Plan is denied prior authorization for the *BRS program* under subsection (1)(b) of this rule, he or she is entitled to notice and contested case hearing rights under OAR 413-010-0500 to 413-010-0535. The contested case hearing will be held by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stat. Implemented: ORS 409.010, 411.060, 411.070, 411.095, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

413-090-0080

BRS Placement Related Activities for a Department BRS Contractor and BRS Provider

~~(Amended 08/04/15)~~ Temporary Effective 07/01/16 - 12/27/16

- (1) A *BRS contractor* (see OAR 410-170-0020) and *BRS provider* (see OAR 410-170-0020) must coordinate all *placement-related activities* (see OAR 410-170-0020) for the *BRS client* (see OAR 410-170-0020) with the BRS client's Department or tribal *caseworker* (see OAR 410-170-0020) to ensure these activities support the child welfare case plan and the child specific case plan.
- (2) A *BRS contractor* and *BRS provider* must provide facilities, personnel, materials, equipment, supplies and services, and transportation related to *placement-related activities*.
 - (a) Clothing: The Department will place the *BRS client* with a *BRS contractor* and *BRS provider* with sufficient clothing at the time of placement. It is the responsibility of the *BRS contractor* and *BRS provider* to maintain the BRS client's clothing at an adequate and appropriate level. A *caseworker* may request approval from a child welfare supervisor or program manager for payment for additional clothing when necessary.
 - (b) Transportation: A *BRS contractor* and *BRS provider* are responsible to arrange or provide transportation for the *BRS client* for the following: school, to the extent not provided by the school district; medical, dental, and therapeutic appointments; recreational and community activities; employment; and shopping for incidental items. Notwithstanding this responsibility, the cost of transportation for the *BRS client* for the purposes of home visits or visits to foster homes or relatives will be equally shared by the Department, the *BRS contractor* and *BRS provider* and, in as much as they are able as determined by the Department, the BRS client's parents. The *BRS contractor*, *BRS provider*, and the *caseworker* must jointly plan the transportation method and payment procedures as much in advance as possible.
- (3) Non BRS-Related Medical and Mental Health Care.
 - (a) If there is no record that the *BRS client* has received a physical examination within the six months immediately prior to the BRS client's placement with the *BRS contractor* and *BRS provider*, the *BRS contractor* and *BRS provider* must schedule a medical exam with the BRS client's *caseworker*, consistent with health insurance allowances, within 30 days of the BRS client's placement. The *BRS contractor* and *BRS provider* must keep documentation of the medical exam in the BRS client's file, and must send a copy to the BRS client's caseworker.
 - (b) The *BRS contractor* and *BRS provider* must coordinate with each BRS client's *caseworker* to ensure the BRS client's mental health, physical health (including

alcohol and drug treatment services), dental, and vision needs are met. This does not include paying the cost of services or medications which are covered by the Oregon Health Plan (OHP) or by the BRS client's third party private insurance coverage. The *BRS contractor* and *BRS provider* must work with the BRS client's Department or Tribal *caseworker* to secure payment for services or medications not covered by OHP or the BRS client's third party private insurance coverage.

- (c) The *BRS contractor* and *BRS provider* must administer and monitor medications consistent with all applicable Department rules in OAR 413-070-0400 through 413-070-0490, and the *BRS provider's* medication management policy must comply with Department rules.
 - (d) The *BRS contractor* and *BRS provider* must facilitate the BRS client's access to other medical and mental health providers whenever identified needs cannot be met within the scope of services offered by the *BRS provider*.
- (4) Educational and vocational activities: A *BRS contractor* and *BRS provider* must have a system in place for a *BRS client* to attend school in order to meet the educational needs of a *BRS client* in its program either on-site or at an off-site location that complies with OAR 413-100-0900 through 413-100-0940.
- (5) Language and culture: The *BRS contractor* and *BRS provider* must allow a *BRS client* to speak his or her primary language and must honor his or her culture.
- (6) Other *placement-related activities* (see OAR 410-170-0020):
- (a) Recreational, social, and cultural activities:
 - (A) A *BRS contractor* and *BRS provider* must provide recreation time for the *BRS client* on a daily basis. A *BRS contractor* and *BRS provider* must offer activities that are varied in type to allow the *BRS client* to obtain new experiences.
 - (B) A *BRS contractor* and *BRS provider* must provide each *BRS client* a minimum of one opportunity per week to participate in recreational activities in the community, unless the *BRS client* is clearly unable to participate in offsite activities due to safety issues.
 - (C) The *BRS contractor* and *BRS provider* must provide access to or make available social and cultural activities for the *BRS client*. These activities are to promote the BRS client's normal development and help broaden the BRS client's understanding and appreciation of the community, arts, environment, and other cultural groups.
 - (D) The *BRS contractor* and *BRS provider* must not permit a *BRS client* to participate in recreational activities that present a higher level of risk to a

BRS client without the approval of the Department. This applies to activities that require a moderate to high level of technical expertise to perform safely, present environmental hazards, or where special certification or training is recommended or required such as: whitewater rafting, rock climbing, ropes courses, activities on or in any body of water where a certified lifeguard is not present and on duty, camping, backpacking, mountain climbing, using motorized yard equipment, and horseback riding.

- (b) Academic Assistance: If needed, the *BRS contractor* and *BRS provider* must provide adequate opportunities for the *BRS client* to complete homework assignments with assistance from staff, or ~~an approved provider parent~~ (see OAR ~~410-170-0020~~) a proctor foster home, if applicable.

- (7) The *BRS contractor* and *BRS provider* must comply with OAR 413-010-0170 through 413-010-0185.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

413-090-0087

When a Child or Young Adult Placed with a BRS Program is Missing

~~(Adopted 01/01/16)~~ (Temporary Effective 07/01/16 - 12/27/16)

- (1) When a *child* ~~in care~~ ~~or young adult~~ placed with a *BRS program* (see OAR 410-170-0020) is missing, the *BRS contractor* (see OAR 410-170-0020) must ensure its BRS providers immediately report information about the missing *child* ~~in care~~ ~~or young adult~~ to the Department.
- (2) Documentation of the report required in section (1) of this rule is required as outlined in OAR 410-170-0030(12)(b)(B).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.490, 418.495

413-090-0090

Compliance Reviews and Remedies

~~(Adopted 01/01/14)~~ (Temporary Effective 07/01/16 - 12/27/16)

- (1) The *BRS contractor* must comply with all federal and state laws and regulations required to be licensed as an approved foster care agency under OAR 413-215-0001 to 413-215-

0001 to 413-215-0131 and 413-215-0501 to 413-215-0586.

- (+2) The *BRS contractor* (see OAR 410-170-0020) must cooperate, and ensure its BRS providers cooperate, with program compliance reviews or audits conducted by any federal, state or local governmental agency or entity related to the *BRS program*, including but not limited to the Department's provider rules OAR 407-120-0170, OAR 407-120-0180, OAR 407-120-0310, and OAR 407-120-1505.
- (23) The Department or its designee will conduct compliance reviews periodically, including but not limited to review of documentation and onsite inspections.
- (4) If the Department of Human Services becomes aware of any suspected, founded or substantiated abuse, deficiency, violation or failure to comply with the full compliance requirements of a contract, the Department of Human Services shall immediately investigate and take appropriate action, with primary concern given to the health, safety, and welfare of the children in care for whom the *child-caring agency* is responsible.
- (5) Upon receiving any notices or reports related to compliance with a BRS contract, the BRS program office will investigate the report to determine whether there is any material breach of the terms of the contract and take appropriate contract action.
- (36) The Department may pursue any combination of contract remedies, including but not limited to recovery of overpayments; ~~licensing actions~~; and other remedies authorized under the contract, at law or in equity against a *BRS Contractor*, a *BRS Provider* (see OAR 410-170-0020), or both, for non-compliance with applicable laws, regulations or contract provisions,. In addition to or in lieu of any of the above, the Department may proceed under the applicable provisions of OAR 410-170-0120.

Stat. Auth.: 409.050, 411.060, 411.070, 411.116, 418.005

Stat. Implemented: 409.010, 411.060, 411.070, 411.116, 418.005, 418.027, 418.495