

	Department of Human Services CHILDREN, ADULTS & FAMILIES	NUMBER: I-A.4.3
	CLIENT SERVICES MANUAL I	SECTION: A. Client Rights
	ISSUED BY: Program Operations EFFECTIVE DATE: October 1, 1999	SUBSECTION: 4. Rights When Children are in the Department's Legal Custody
SUBJECT: 3. Identifying Legally Recognized Parental Relationships - Child Welfare Policy		

Responsible Manager: Manager, Permanency and Adoptions Approval: _____
Assistant Administrator,
Program Operations

Interpretation: Manager,
Permanency and Adoptions

REFERENCES: ORS 109.010
ORS 109.119
OAR 461-195-0280
PL 105-89 (ASFA)
Section 453 of the Social Security Act
45 CFR 303.70
45 CFR 303.21
Child Welfare/SED Paternity Agreement
AFS FLS 112, Paternity Affidavit
CF 418, Father(s) Questionnaire

DEFINITIONS

(1) AFS FLS112: The paternity affidavit, completed by the natural mother, has information about the child's paternity and is used by the Division of Child Support in order to establish paternity.

(2) Authorized Requester: A person or entity authorized by ASFA to use the Federal Parent Locator Service. ASFA authorizes the Department as a IV-E agency, to use the service through the Division of Child Support.

(3) Division of Child Support: The division in the Department of Justice, formerly called the Support Enforcement Division, responsible for enforcing and maintaining financial records for the child support obligation of parents whose children

are receiving public assistance.

(4) Federal Parent Locator Service (FPLS): A service, accessible through the Division of Child Support, to discover the location of parents for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support and for making or enforcing child custody or visitation orders.

(5) "Pagan-Type Putative Father": A father who has established no legal, custodial, personal or financial relationship with the child (Pagan vs. SCF, Oregon Court of Appeals).

(6) "Stanley-Type Putative Father": A biological father of a child who has never established legal paternity, but who has assumed the responsibilities normally associated with a parent (Stanley vs Illinois, U.S. Supreme Court).

PURPOSE

The purpose of these procedures is to ensure that all parents, guardians, and other persons with legal rights to a child are considered in planning for the child.

PROCEDURE

(1) All persons who have a legally recognized parental or guardianship relationship to a child in substitute care shall be identified at the time the Department files a petition. They shall be given notice of the child's placement and offered services to determine if they are resources for placement. If the child is subsequently freed for adoption, the rights of these persons must be terminated by voluntary relinquishment or judicial order.

(a) If the legally recognized parent of the child cannot be located, the branch shall conduct a reasonable and prudent search to locate the legally recognized parent. The branch is responsible for determining when the search is concluded;

(b) The Department shall include in a written court report information on the progress and results of the search:

(A) If verifiable information is not already available through the Division of Child Support, the Department may access the Federal Parent Locator Service through the Division of Child Support to assist in locating

and identifying individuals who have or may have parental rights to a child, for determination of placement. To access the Federal Parent Locator Service, the Department shall send a letter requesting to locate the parent, signed by the authorized requestor, to the following address: Division of Child Support, Locate Branch Manager, 3200 Lancaster Drive NE, Salem, Oregon 97305. Forward a copy of the letter to the Child Welfare Child Support Coordinator, 500 Summer Street NE, Salem, Oregon 97310-1017;

(i) Information about the parent that may be made available includes: social security number, address or location, employer's name, employer's address and employment wages, benefits, or other income;

(ii) When available, the Department shall include in the request the social security number of the parent, name of the parent, name of the child in care and the Child Welfare case number;

(iii) The Department shall not request the Division of Child Support to search for a parent for the purpose of notifying the parent that their child is in state care.

(B) The Federal Parent Locator Service may not be used to locate any other relative of the child.

(c) In addition to the Federal Parent Locator Service, the Department should use other legal search methods.

(2) Persons legally recognized as having parental or guardianship rights:

(a) The legal mother is the woman who gave birth to the child or a woman who has legally adopted the child;

(b) The legal father is the man who has established his parental rights in one of the following ways:

(A) The man who was married to and cohabiting with the child's mother at the time of the child's conception is conclusively presumed to be

the child's legal father unless he was sterile or impotent at the time of conception;

(B) The child's biological father who established legal paternity by marrying the child's mother either before or after the child's birth;

(C) The biological father, who with the child's mother, has filed a joint declaration of paternity with the Oregon Health Division Bureau of Vital Statistics;

(D) A biological father whose legal paternity has been established by filiation proceedings;

(E) A father whose legal paternity has been established by some other judicial order, including adoption of the child;

(F) If the child was born in a state other than Oregon, legal paternity may have been established by other means according to the laws of that state (e.g., common-law marriage);

(c) A presumed legal father is a man who was married to the child's mother at the time of conception or birth of the child, but with whom she was not cohabiting at the time of conception. In such situations, the law presumes that the man is the child's legal father even though he is not the child's biological father, but this is a disputable presumption;

(d) A biological father of a child who has never legally established paternity as outlined above but who has assumed the responsibilities normally associated with parenthood (e.g., has lived with the child, financially supported the child, established significant psychological ties to the child) has rights to notice and services equal to those of a legal father. Such fathers are often referred to as a "Stanley-type" putative father (Stanley vs. Illinois, U.S. Supreme Court);

(e) Any person holding a legal order of guardianship to the child.

(3) A putative father who has established no legal, custodial, personal or financial relationship with the child does not need to be considered in planning for the child as he is not entitled to notice nor services regarding the child. Such fathers are often called

"Pagan-type" putative father (Pagan vs. SCF, Oregon Court of Appeals).

(4) In seeking to identify all persons having a legally recognized right to the child, the case worker shall complete the following steps within 30 days:

(a) Copy or send for a certified copy of the child's birth certificate;

(b) Obtain or send for statements from the child's mother and father (if whereabouts are known) as to the child's paternity and a history of the mother's marriages and divorces;

(c) If the child's mother identifies a biological (putative) but not legal father for the child, complete a Father(s) Questionnaire (CF418) with the mother;

(d) If the child's parents are unavailable, obtain from other relatives of the child information as to the child's paternity and history of the mother's marriages and divorces;

(e) Contact the Division of Child Support of the Department of Justice to determine if that agency has information about the child's paternity;

(f) Verify any alleged order of legal guardianship with the appropriate court of jurisdiction.

(5) To facilitate the establishment of paternity, the worker may send a completed AFS-FLS 112 to the local branch of the Division of Child Support with a request to establish paternity and a child support order. In some cases this may shorten the establishment process by 90 days.

(6) When the case worker is unable to accurately determine the identity of all persons having a legally recognized right to the child, prompt consultation should be sought from a Legal Assistance Specialist and/or the Legal Assistance Program attorney assigned to the branch. This is especially critical when the worker is uncertain as to a putative father's rights, when paternity is disputed, when there appears to be some combination of presumed legal and putative fathers, or when the child was born in a state other than Oregon.