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| Policy Title: | Voluntary Placement Agreement – OAR | | | |
| Policy Number: | I-B.1.3.1 413-020-0060 thru 0090 | | Effective Date: | 03-20-2007 |

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

Definitions

References

Contact

Reference(s):

- ORS 418.032, Child Support Application for children with disabilities
- ORS 418.312 When transfer of custody not required; voluntary placement agreement; review of children placed in certain institutions
- ORS 419B.476 Permanency Hearing Required, court determinations
- PL 95-608, Indian Child Welfare Act of 1978
- PL 105-89, Adoption and Safe Families Act

Form(s) that apply:

- CF 304, "Service Application"
- CF 333e, "Family Support Services Case Plan – Substitute Care (Available in FACIS)"
- CF 496 DCS Referral for Non-Adversarial Support Agreement
http://dhsresources.hr.state.or.us/WORD_DOCS/CE0496.doc
- CF 499 Voluntary Placement Agreement
http://dhsresources.hr.state.or.us/WORD_DOCS/CE0499.doc
- DHS 415H Medical Resource Report Form
<http://dhsforms.hr.state.or.us/Forms/Served/DE0415H.pdf>

Rules:

413-020-0060

Purpose

These rules, OAR 413-020-0060 to 413-020-0090, describe:

- (1) The circumstances in which parents or legal guardians and the Department may enter into a Voluntary Placement Agreement to place a child, who is in the legal custody of the parents or legal guardians, for care or services from the Department; and
- (2) The responsibilities of the parents or legal guardians and the Department in connection

with these agreements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

413-020-0065

Definitions

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

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

- (7) "Voluntary Placement Agreement" means a binding, written agreement between the Department and the parent or legal guardian of a child that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department while the child is in placement.
- Stat. Auth.: ORS 418.005**
Stats. Implemented: ORS 418.015, 418.312

413-020-0070

Voluntary Placement Agreement Limitations

- (1) Under a Voluntary Placement Agreement, the parent or legal guardian retains legal authority over the child and is obligated to continue to exercise and perform all parental authority and legal responsibilities, except those that the parent or legal guardian specifically delegates to the Department by a binding agreement. The agreement specifies, while the child is in placement, the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department.
- (2) The Department must use a Voluntary Placement Agreement (CF 499) under ORS 418.312 in all cases in which the sole reason for placing the child in a foster home, group home, or institutional child care setting is the need to obtain services for the child's emotional, behavioral, or mental disorder or developmental or physical disability.
- (3) Under a Voluntary Placement Agreement, the Department has responsibility for the child's placement and care.
- (4) The parent or legal guardian who requests substitute care for the child through a Voluntary Placement Agreement may enter into a child support agreement with the Division of Child Support (DCS) or receive a child support order.
- (a) The caseworker must inform the parent or legal guardian that he or she may enter into a non-adversarial support agreement with DCS to discharge support obligations. Other, existing child obligations of the parent or legal guardian are not superseded by support agreements with DCS.
- (b) The caseworker must provide the parent or legal guardian who signs the Voluntary Placement Agreement with the "DCS Referral for Non-Adversarial Support Agreement" (CF 496). The parent or legal guardian completes the form and returns it to the caseworker. If the form is not returned to the caseworker within 30 days, a support order may be entered.
- (c) The caseworker must forward the completed form (CF 496) and a signed copy of the Voluntary Placement Agreement to the Children's Benefits Unit of the Department.
- (5) The parent or legal guardian must provide information to the Department about insurance and other financial resources to meet the medical, dental, and mental health needs of the child by completing a Medical Resource Report Form (DHS 415H).
- (6) A Child Welfare Program Manager must approve entering into a Voluntary Placement Agreement.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312

413-020-0075
Legal Consent

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

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312

413-020-0080
Developing the Family Support Services Case Plan and a Voluntary Placement Agreement with the Department

- (1) The caseworker must prepare the Voluntary Placement Agreement (CF 499), which must specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the Department.
- (2) The caseworker must develop a family support services case plan (see OAR 413-030-0016) with the parent or legal guardian who signs a Voluntary Placement Agreement.
- (3) The caseworker must develop a visit and contact plan as described in OAR 413-070-0800 to 413-070-0880.
- (4) The parent or legal guardian must agree to:
 - (a) Full and ongoing cooperation in the family support services case plan described in OAR 413-030-0006(2)(a)-(c) and in making decisions for the child based on the child's identified needs;
 - (b) Visit and financially support the child to the fullest extent possible; and
 - (c) Work cooperatively with the Department.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312

413-020-0085

Required Reviews

Federal and state law, including the Adoptions and Safe Families Act (Pub. L. 105-89), require review of the cases of all children in substitute care. The child placed by the Department with a Voluntary Placement Agreement will be scheduled for Citizen Review Board and court reviews pursuant to OAR 413-040-0100 to 413-040-0170. Under state law:

- (1) When the child remains in voluntary placement for more than 180 days, the juvenile court must make a determination within the first 180 days of the placement that the placement is in the best interests of the child.
- (2) The juvenile court must hold a permanency hearing as provided in ORS 419B.476 to determine the future status of the child no later than 14 months after the child's original voluntary placement and not less frequently than once every 12 months thereafter during the continuation of the child's original voluntary placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

413-020-0090

Termination of Voluntary Agreement

- (1) Either the Department or a parent or legal guardian who signed the Voluntary Placement Agreement may terminate the agreement by providing 48 hours written notice. The child support agreement may be terminated at the same time by sending a copy of the written termination notice to the Children's Benefits Unit of the Department.
- (2) If the parent or legal guardian requests the termination of the Voluntary Placement Agreement and there is reason to believe the child is unsafe, the caseworker must report the information to a CPS screener.
- (3) OAR 413-070-0240(5) governs the withdrawal by a parent or Indian custodian of consent concerning an Indian child who is in substitute care and the subject of a Voluntary Placement Agreement with the Department. OAR 413-070-0240(5) prescribes:
 - (a) That the parent or Indian custodian may withdraw consent orally or in writing at any time;
 - (b) That an Indian child shall immediately be released to the parent or Indian custodian upon withdrawal of a voluntary consent; and
 - (c) Notification to the court and other actions required when return of an Indian child to the parent or Indian custodian would place the child in imminent danger or harm.
- (4) A Voluntary Placement Agreement ends when the child reaches 18 years of age.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312, 419C.080

Contact(s):

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