

Policy Title:	Placement of Refugee Children – OAR		
Policy Number:	I-E.2.2 413-070-0300 thru 0380		Effective Date: 05-01-2007

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

Definitions

References

Contact

History

Reference(s):

- ORS 418.925 thru 418.945
- 8 U.S.C. 1157, 42 U.S.C. 671
- Refugee Act of 1980
- Multiethnic Placement Act of 1994 (Public Law 103-382) as amended by the Interethnic
- Adoption Provisions of 1996 (Section 1808 of Public Law 104-188)
- Child Welfare Policy I-E.3.1, "Placement Matching", OAR 413-070-0600 to 0645
http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-e31.pdf

Form(s) that apply:

- None referenced.

Rules:

413-070-0300

Purpose

These rules (OAR 413-070-0300 to 413-070-0380) prescribe conditions that must be met for the Department to remove a refugee child from home. These rules also establish the Refugee Child Welfare Advisory Committee and set the criteria for its operations and duties.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 to 418.945

413-070-0310

Definitions

- (1) "Affected family members" means biological and legal parents, extended family members, and any person within the fifth degree of consanguinity to the child.
- (2) "Child" means a person under 18 years of age.

- (3) "Child's home" means the home from which the child is removed under the provisions of ORS 419B.150.
- (4) "Department" means the Department of Human Services, Child Welfare.
- (5) "Extended family member" means a person ordinarily recognized as the refugee child's parent by the custom of the child's culture, or a person 18 years of age or older who is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.
- (6) "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.
- (7) "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.
- (8) "RCWAC" means the Refugee Child Welfare Advisory Committee.
- (9) "Refugee child" means, as defined by ORS 418.925, 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, or membership in a particular group or political opinion.
 - (a) As used in this section, "persecution" means that harm or suffering will be inflicted upon the person in order to punish the person for possessing a particular belief or characteristic. "Persecution" does not include harm and suffering that is inflicted on persons generally by reason of civil or military strife in a country.
 - (b) As used in this section, "fear of persecution" means an apprehension or awareness, based on external objective facts, that the person will suffer persecution upon return to the person's country.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 to 418.945

413-070-0320

Placement of Refugee Children

- (1) When it appears to the Department that a child who may be taken into custody under ORS 419B.150 or ORS 419C.080 by the Department is a refugee child, the Department will make oral inquiry of the child or the parent concerning national origin and ethnic and

cultural information relative to the child's status as a refugee child. For purposes of determining the child's status as a refugee child, the Department may consider a variety of information, including information from the following sources:

- (a) *Any extended family member;*
 - (b) Refugee community resources (any group, association, partnership, corporation, or legal entity whose purpose is to represent the interests of a particular group or groups of refugees who have the same ethnic or minority heritage);
 - (c) The RCWAC;
 - (d) Federal immigration agencies;
 - (e) Refugee agencies; and
 - (f) Department records.
- (2) As required by ORS 418.937, the Department will not remove a refugee child pursuant to ORS 419B.150, 419C.080, or 419C.088 unless:
- (a) The Department has determined there is a safety threat and removal is necessary to prevent imminent serious emotional or physical harm to the child; and
 - (b) The provision of remedial or preventive services cannot manage the child's safety in the home.
- (3) The Department will follow ORS 418.937 in making placement decisions for refugee children:
- (a) The Department will consider the child's culture and tradition.
 - (b) Unless shown to be inappropriate and inconsistent with the best interests of the child, the Department will place the child with one or more of the following persons, listed in order of preference:
 - (A) Biological and legal parents;
 - (B) Extended family members who are 18 years of age or older;
 - (C) Members of the same cultural heritage;
 - (D) Persons with knowledge and appreciation of the cultural heritage of the child.
- (4) The determination that one of the preferred placements is inappropriate and inconsistent with the best interests of the child must be based on one or more of the following reasons:
- (a) The informed request of the child's parent, if the request is consistent with the stability, security and individual needs of the refugee child.

- (b) The safety, medical, physical, or psychological needs of the child.
- (5) When the Department has taken a refugee child into custody under ORS 419B.150, the Department will make diligent efforts to locate the child's affected family members for the purposes of placing the child, if possible, in one of the preferred placements.
Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 to 418.945

413-070-0340
Petition

As required by ORS 418.930 and 418.933:

- (1) Within one working day of the removal of a refugee child from the child's home, the Department must file a petition with the juvenile court.
- (2) In addition to the material required under ORS 419B.809 or 419C.255, the Department must include the following items in its petition:
 - (a) A specific and detailed account of the circumstances which led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;
 - (b) Specific actions the Department is taking or has taken to alleviate the need for removal;
 - (c) Assurance that the Department has complied with the placement preferences of ORS 418.937; and
 - (d) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected family members and to the Refugee Child Welfare Advisory Committee of the pendency of the petition.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 to 418.945

413-070-0345
Notice

- (1) When a refugee child is removed from home, in addition to the notice provided by the court of a hearing, the Department must notify all affected family members and the Refugee Child Welfare Committee of the pendency of the petition described in OAR 413-070-0340.
- (2) The notice will be written in language understandable to the recipient.
- (3) The notice will contain the child's name; the reason a petition was filed; and the time and place that the juvenile court will be considering the petition.

Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 to 418.945

413-070-0350

Judicial Determination

As required by ORS 418.933(1), no refugee child shall remain out of the child's home for longer than five days unless there has been a judicial determination supported by clear and convincing evidence that:

- (1) Preventive or remedial services provided by the Department have failed to alleviate the need for removal; and
- (2) Return to the home will likely result in psychological or physical harm to the child.
Stat. Auth.: ORS 418.005, 418.945
Stats. Implemented: ORS 418.005, 418.925 to 418.945

413-070-0360

Record of Care

The Department must maintain a case record for each refugee child in its care containing:

- (1) The name, age, residence from which the child was removed, legal status, sex, and race of the child, and the accumulated length of time the child has spent in substitute care;
- (2) The child's health and education records;
- (3) The name, former residence, and health history of each parent and other information relating to the parent's ability to care for the child in the parent's home;
- (4) The date of the child's intake and placement in substitute care and the name, race, occupation, and residence of the person with whom the child is placed;
- (5) If applicable, the date of the child's adoption and the name, race, occupation, and residence of each adoptive parent;
- (6) The date of the removal of the child to another home and the reason for removal;
- (7) The date of termination of guardianship, if applicable;
- (8) The history of the child, based on information that is known to the Department, until the child reaches 18 years of age, is legally adopted, or is discharged from the legal custody of the Department according to law;
- (9) Documentation of the reasonable efforts made by the Department to reunite the child with his or her family, to comply with the placement preferences of ORS 418.937, to place the child in the least restrictive setting possible, and to place the child close to the child's own home and the child's school;
- (10) Documentation of the child's status as a refugee child, including the source of information concerning the child's refugee status and the date the information was received by the Department;
- (11) Any required demographic information; and

- (12) Other documentation as required by Child Welfare Policies I-I.1, "Service Reporting" and I-I.2, "Narrative Recording".

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 to 418.945

413-070-0370

Annual Report of Care

- (1) As required by ORS 418.943, the Department will publish annually a report on refugee children in its care. The report will include, statewide and county information on legal status, living arrangement, age, sex, race, accumulated length of time in foster care, and other demographic information deemed appropriate. The report will also state the extent to which the Department has complied with ORS 418.925 to 418.945 and will include descriptions of the methods of compliance.
- (2) The annual report will be sent to all members of the RCWAC no later than March 1 of each year.
- Stat. Auth.: ORS 418.005, 418.945**
- Stats. Implemented: ORS 418.005, 418.925 to 418.945**

413-070-0380

Refugee Child Welfare Advisory Committee

- (1) As required by ORS 418.941, the Department will establish an advisory committee known as the Refugee Child Welfare Advisory Committee (RCWAC). The RCWAC will perform the following tasks:
- (a) Advise the Department on its implementation of ORS 418.925 to 418.945;
 - (b) Advise the Department in the identification, development, and certification of foster parents who meet requirements of ORS 418.925 to 418.945 for placement of refugee children, placing a special emphasis on locating homes maintained by refugees; and
 - (c) Advise the Department in developing training programs to insure the availability of culturally sensitive social work.
- (2) Each person appointed to the RCWAC is subject to all confidentiality requirements and penalties as are employees of the Department.
- (3) In addition to records of the juvenile court under ORS 418.941(3), members of the RCWAC have access to Department records that ---
- (a) Are pertinent to the care of an individual refugee child who is receiving care from the Department under the provisions of OAR 413-070-0300 to 413-070-0380; and
 - (b) The Department is authorized by law to provide to the RCWAC.

- (4) The Department will work jointly with the RCWAC in the development and implementation of written bylaws or procedures that will specify all local procedures, duties, and tasks necessary for the RCWAC to fulfill the purpose described above.
- (5) A maximum of 14 members will be appointed for a two-year renewable term and will serve at the pleasure of the Assistant Director for the Children, Adults and Families Division of the Department.
- (6) The RCWAC will meet at least once every three months. Special meetings may be held to carry out required tasks.
- (7) Members of the RCWAC receive no compensation for their services. Members of the RCWAC other than members in full-time public service may be reimbursed by the Department for their travel and necessary expenses incurred in the performance of their duties according to rates and procedures established by state management service cost reimbursement policy.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 to 418.945

Contact(s):

- **Name:** CAF Reception; **Phone:** 503-945-5600

Policy History

- 12/29/95