

DEPARTMENT OF HUMAN SERVICES
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413
DIVISION 350

INFORMATION MANAGEMENT
EXPUNCTION OF RECORDS

Effective 12/29/95

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Expunction of Records

413-350-0100

Purpose

(Adopted 12/29/95)

- (1) Any juvenile court may order record expunction for any ward or former ward per ORS 419A.260 through 419A.262. This rule describes Department of Human Services, Child Welfare, (Department) processes for handling these orders.
- (2) Department files, manual and electronic, are modified so that an inquiry, subsequent to the expunction order, will result in the reply "No record of contacts." "Contacts" has a specific legal definition for purposes of expunction (see ORS 419A.260(1)).
- (3) The Department complies with expunction orders by sealing or marking "expunged" on the records, not by destroying them. The intent of the expunction is not to erase all traces of the Department's relationship to the individual, but rather to prevent subsequent dissemination of expunged information to third parties.
- (4) ORS 419A.260 defines "records" and "exceptions." Information held at the Department that is not expunged includes: material related to federal financial participation, records related to support obligations, medical records, remand orders, materials on termination of parental right, and Oregon Court of Appeals and Supreme Court records.
- (5) The Department record is not expunged when the reason for the wardship was commission of child abuse, as defined by ORS 419B.005, that would constitute one of the offenses listed in ORS 419A.260 if committed by an adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.260, 419A.262

413-350-0110

Release of Information

(Adopted 12/29/95)

- (1) Anyone who inquires about a person whose record has been expunged shall be told "No record of contacts exists" except when the information is required for state or federal audits, or when ordered by a court of competent jurisdiction to release the information.

- (2) When an expunged record is provided, a copy of the audit identifier or court order will be placed in the record. On the outside of the record, enter the notation: "Expunged records" of (client's name) accessed on (date) in compliance with (court order/audit identifier).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.260, 419A.262

413-350-0120

Responsibilities

(Adopted 12/29/95)

- (1) The Child Welfare director has authorized the deputy administrator or designee to sign and return the Expunction Order Statement to the Court.
- (2) The agency expunction coordinator shall be the central contact person in the Department and shall be responsible for assuring the order is carried out within required timelines.
- (3) The manager of each unit/branch which has responsibility for complying with expunction orders shall appoint an expunction processor to ensure that the expunction is carried out within required timelines.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.260, 419A.262

413-350-0130

Timelines

(Adopted 12/29/95)

- (1) Within 21 calendar days of the Department's receipt of the order, the court issuing the expunction order is to receive a Department Expunction Order Statement certifying the expunction has been completed.
- (2) The local expunction processor for each Department organizational unit/branch must process the order, sign and return the notification to the agency expunction coordinator within three working days of receipt. Even if there is no record, the notification must be signed and returned within the three days.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.260, 419A.262

413-350-0140

Procedures

(Adopted 12/29/95)

- (1) The agency expunction coordinator receives and logs incoming orders and distributes notification forms to the branch(es), contracts unit and the trust unit. The expunction processor at each branch shall:
 - (a) When no record is found, return the signed notification form within three working days of receipt;
 - (b) When the record has been transferred elsewhere notify the agency expunction coordinator by phone within one working day after the notice is received. Process any records remaining at the site as described in section (2) of this rule;
 - (c) The local expunction processor shall notify the agency expunction coordinator by phone on the same day the notice is received, of the other locations where the case was open.

- (2) If a record is found for the person named in the order, the following actions will be taken within three working days:
 - (a) **Single-Person Records.** Place all individual records, cards and other information in a sealed envelope. On the front of the envelope, in red ink, write: person's name, case number, person letter, date of expunction (following the same retention rules as other records), date destruction due, and the word "Expunged." Place envelope in file, not accessible to general staff;
 - (b) **Multi-Person Records.** Mark all master cards in red ink with word "Expunged" by name of person. Clearly label the case file folder with the name of person whose record was expunged and the date of the order;
 - (c) **Foster Home Certification File.** If the person named in the order was ever in foster care, record in red ink in each foster home file the person's name, case number, person letter, the word "Expunged" and date of the order;
 - (d) **Agency Contracts Office Records.** Contract files related to the subject of the expunction order are sealed;
 - (e) **Agency Trust Unit Records.** Trust files related to the subject of the expunction order are sealed;
 - (f) **Electronic Records.** The agency expunction coordinator will seal references to contacts in the electronic file. This is done by changing the security on the case record so access is limited to the expunction coordinator and each branch's

security officer. Subsequent access to contacts must be authorized by the expunction coordinator or the security officer.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.260, 419A.262