

	<p>Department of Human Services CHILDREN, ADULTS & FAMILIES</p>	<p>NUMBER: I-AB.6 OAR: 413-015-1100 thru 1125</p>
	<p>CLIENT SERVICES INDEX</p>	<p>SECTION: AB. Child Protective Services</p>
	<p>ISSUED BY: Office of Safety and Permanency for Children FINAL: 10-03-08</p>	<p>SUBSECTION:</p>
<p>SUBJECT: 6. Access to Law Enforcement Data System (LEDS) in Local Child Welfare Offices – OAR</p>		

REFERENCES:

- ORS 181.557
- ORS 181.537
- ORS 418.747
- ORS 419B.005 through .020
- APSAC: American Professional Society on the Abuse of Children
- Annie E. Casey Foundation
- I-AB.1 Introduction to CPS Rules, OAR 413-015-0100 thru 0125
- I-AB.2 Screening, OAR 413-015-0200 thru 0225
- I-AB.3 Cross Reporting, OAR 413-015-0300 thru 0310
- I-AB.4 CPS Assessment, OAR 413-015-0400 thru 0485
- I-AB.4.1 Day Care Facility Investigation, OAR 413-015-0520 thru 0565
- I-AB.5 CPS Assessment Dispositions, OAR 413-015-1000

413-015-1100

Authority and Responsibility

- (1) ORS 418.005 provides that, in order to establish, extend, and strengthen welfare services for the protection and care of dependent or neglected children, the Department of Human Services may make all necessary rules and regulations for administering child welfare services. Among other duties outlined by ORS 409.010, the Department is responsible for the delivery and administration of programs and services relating to children and families, including child protective services and foster care. ORS 419B.020 provides that, upon receipt of a report of child abuse, the Department or a law enforcement agency is required to immediately cause an investigation to be made to determine the nature and cause of the abuse. In addition, ORS 418.640 requires the Department to adopt rules it deems necessary or advisable to protect the best interests of children in foster homes. Finally, ORS 181.537 authorizes the Department to conduct criminal records checks on subject individuals, as defined by the Department, if deemed necessary by the Department.
- (2) The Department of Human Services Child Welfare Program has determined that, in order to protect children from abuse or neglect and to protect the best interests of

children in foster homes, it is necessary for the Department to permit local Child Welfare offices to perform criminal records checks on subject individuals when the Department is conducting a child protective services assessment, has an open child welfare case, or determines that emergency foster home certification decisions must be made.

Stat. Auth.: ORS 181.537, 409.050, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020

413-015-1105

Purpose

- (1) The primary purposes of LEDS access in local Child Welfare offices are to assist staff in making decisions about child safety, specifically related to child protective services and emergency certification as outlined in these rules (OAR 413-015-1100 to 413-015-1125). Criminal history information obtained from LEDS will be considered, along with other safety-related information, to ---
 - (a) Identify safety threats; or
 - (b) Determine if behavior that is revealed by criminal history is inconsistent with providing care to children or having access to children.
- (2) These rules do not address criminal records checks for non-emergency certification or adoption approval. Criminal records checks for non-emergency certification or adoption approval are governed by OAR 413-120-0400 to 413-120-0470.

Stat. Auth.: ORS 181.537, 409.050, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020

413-015-1110

Definitions

The following definitions apply to OAR 413-015-1100 to 413-015-1125:

- (1) "LEDS" means Law Enforcement Data System, the computerized criminal history information system maintained by the Oregon State Police.
- (2) "LEDS representative" means the staff person in the local Department office who has been designated under OAR 257-015-0050(5) by the Assistant DHS Director for the Children, Adults and Families Division and who has completed the training required by the Oregon State Police in order to train other employees to be LEDS users.

- (3) "LEDS user" means a staff person in the local Department office who has been trained by a LEDS representative and has been certified by the Oregon State Police to access LEDS information.
- (4) "Notice" means a written statement hand delivered to the subject individual or sent via U.S. mail to his or her last known address informing the subject individual of subsections (a) through (c) below. Notice does not imply consent or permission on the part of the subject individual.
- (a) The Department may conduct, or has already conducted, criminal records checks.
- (b) The subject individual has the right to obtain a copy of his or her LEDS record and challenge information in the record by contacting the Oregon State Police.
- (c) The subject individual may have rights under Title VII of the Civil Rights Act of 1964 and may obtain information about these rights by contacting the Oregon Bureau of Labor and Industries or the U.S. Equal Employment Opportunity Commission.

Stat. Auth.: ORS 181.537, 181.557, 409.050, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 181.557, 409.010, 418.005, 419B.020

413-015-1115 Requirements

- (1) LEDS representatives must train and certify designated LEDS users as outlined in OAR 257-015-0050.
- (2) The Department will complete background checks on all LEDS representatives and LEDS users as provided in OAR 257-015-0050(6).
- (3) The Department will implement information security measures as provided in OAR 257-015-0000 to 257-015-0100.

Stat. Auth.: ORS 181.537, 409.010, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020

413-015-1120 LEDS Use for Child Protective Service Purposes

- (1) The local Child Welfare office may conduct criminal records checks on a subject individual using the LEDS system available in the local office and use LEDS

information pertaining to a subject individual for the purpose of making decisions about child safety specifically related to Child Protective Services when a ---

- (a) Child abuse allegation is being assessed; or
 - (b) Child Welfare case is open.
- (2) When conducting criminal records checks for a Child Protective Services purpose under this rule, a subject individual is defined as a person:
- (a) Alleged to be the perpetrator of child abuse or neglect when the allegation is being assessed by Child Protective Services;
 - (b) Residing in or frequenting a household where the alleged victim of child abuse resides on a full- or part-time basis; or
 - (c) In the household to which a child is being returned.
- (3) Timelines for providing written notice to a subject individual when a criminal records check is conducted for a Child Protective Services purpose ---
- (a) Prior to the conclusion of an assessment of a child abuse allegation: Notice as defined at OAR 413-015-1110(4) must be provided to the subject individual no later than seven working days after the date the check was conducted.
 - (b) After the conclusion of an assessment of a child abuse allegation and while a Child Welfare case is still open: Notice as defined at OAR 413-015-1110(4) must be provided to the subject individual before the check is conducted.

Stat. Auth.: ORS 181.537, 181.557, 409.050, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 181.557, 409.010, 418.005, 419B.020

413-015-1125

LEDS Use for Certification Purposes in Emergency Situations

- (1) The local Child Welfare office may perform criminal records checks using the LEDS system available in the local office and use LEDS information pertaining to a subject individual for the purpose of making decisions about child safety, specifically related to emergency certification when ---
- (a) The subject individual has consented to the Department conducting a criminal records check by signing form DHS 1011F, "Consent For Criminal Records & Fingerprint Check";

- (b) There is an emergent need to place a child or maintain a placement of a child, and the Criminal Records Unit is unable to complete the check in time;
 - (c) Staff refer to and comply with OAR 413-120-0400 to 413-120-0470; and
 - (d) A child abuse allegation is being assessed or there is an open child welfare case.
- (2) When conducting criminal records checks for emergency certification purposes under this rule, a subject individual is defined as—
- (a) An adult who resides in or plans to reside in a household that is being certified for placement of a child;
 - (b) An adult who resides in or plans to reside in a household that is being re-certified to place or maintain a child in the household;
 - (c) A person assisting in the household to enrich the care provided to children placed in the household by tutoring or providing recreation, relief care, or other services such as household chores, whether paid or unpaid; or
 - (d) A member of the household under 18 years of age if there is reason to believe that member may pose a risk to children placed in the household.
- (3) Staff in local Child Welfare offices who access LEDS information for emergency certification purposes as outlined in these rules must:
- (a) Refer to and comply with OAR 413-120-0400 to 413-120-0470; and
 - (b) Forward fingerprints and consent forms to the Department's Criminal Records Unit for processing if ---
 - (A) LEDS information reveals an arrest or conviction of any kind;
 - (B) The subject individual discloses an arrest or conviction of any kind; or
 - (C) It is known that the subject individual has lived outside of Oregon within the last five years.

Stat. Auth.: ORS 181.537, 409.050, 418.005, 419B.020

Stats. Implemented: ORS 181.537, 409.010, 418.005, 419B.020