

	Department of Human Services CHILDREN, Adults and FAMILIES CLIENT SERVICES MANUAL I ISSUED BY: Office of Permanency for Children EFFECTIVE DATE: 4/1/02	NUMBER: I-B.1.3 OAR: 413-020-0000 / 0050
		SECTION: B. Case Management
		SUBSECTION: 1. Legal
SUBJECT: Voluntary Custody Agreement/Child Placement Agreement		

Responsible Manager: Manager,
Foster Care/Family Based Services

Approval: _____
Administrator, Office of
Permanency for

Children
Interpretation: Manager,
Foster Care/Family Based Services

REFERENCES: ORS 418.015, Custody and Care of needy children by office;
placement
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
PL 95-608, Indian Child Welfare Act of 1978
CAF Policy# I-B.1.4, Guardian and Legal Custodian Consents
CAF Policy# I-E.2.1, Placement of Indian Children
CAF Policy# I-B.3.2.1 Substitute Care Placement Reviews
Public Law 105-89, Adoption and Safe Families Act
CF 496, "Referral for Child Placement Agreement"
CF 497, "Request for Judicial Determination"
CF 498, "Parental Request for Continuation of Voluntary Agreement"
CF 499, "Child Placement Agreement"
CF 1005, "Voluntary Custody Agreement"

PURPOSE

413-020-0000 These rules establish the conditions under which a parent(s)/
legal guardian(s) may enter into a "Child Placement Agreement" or a "Voluntary
Custody Agreement" to have a child in their legal custody receive substitute care/
treatment from DHS.

Statutory Authority: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312

DEFINITIONS

413-020-0005 (1) “Legal Guardian” means a person or agency having the powers and responsibilities of a parent to make binding decisions for a child, including the authority to:

- (a) Authorize surgery for the child;
- (b) Authorize enlistment in the armed forces;
- (c) Consent to child’s adoption when the child is in the permanent custody of the agency;
- (d) Make other decisions of substantial legal significance concerning the child; but
- (e) A guardian is not a conservator of the child’s property or estate;

(2) “Legal Custody” means that a person or agency has legal authority:

- (a) To have physical custody and control of a child;
- (b) To supply the child with food, clothing, shelter and other necessities;
- (c) To provide the child with care, education and discipline;
- (d) To authorize medical, dental, psychiatric, psychological, hygienic or other remedial care or treatment for the child, and in any emergency where the child’s safety appears urgently to require it, to authorize surgery or other extraordinary care; and
- (e) Legal custody includes temporary custody of a child under an order pursuant to ORS 419B.331.

TYPES OF AGREEMENTS

413-020-0010 (1) Parent(s) with legal custody or legal guardian(s) may receive substitute care/ treatment for their child from DHS by signing a Child Placement Agreement or Voluntary Custody Agreement. The parent(s)/ legal guardian agrees to participate actively in making strengths-based plans and decisions for the child, based on the child’s identified needs, to visit and financially support the child to the fullest

extent possible, and to work cooperatively with DHS.

(a) "Child Placement Agreement" (CF 499). Under this type of agreement, the parent(s)/ legal guardian(s) does not give DHS legal custody of the child. They retain legal authority, and are obligated to continue to exercise and perform all parental duties and legal responsibilities except those delegated to DHS by the signed agreement. Under ORS 418.312, it is appropriate to use a Child Placement Agreement if all three of the following conditions exist:

(A) The sole reason for placement is the need to obtain services for the child's emotional, behavioral or mental disorder or developmental or physical disability; and

(B) The parent(s)/legal guardian(s) is unable to provide for the level of skilled care or treatment that the child requires, but is able and willing to maintain a parental relationship and involvement with the child and assist in the care and treatment of the child; and

(C) The parent(s)/ legal guardian(s) does not have a history of founded referral(s) of abuse or neglect , and their child is not a pre-adjudicated or adjudicated delinquent.

(b) "Voluntary Custody Agreement" (CF 1005). Under a "Voluntary Custody Agreement," the parent(s)/ legal guardian(s) gives DHS the legal custody of the child and DHS assumes designated parental duties and responsibilities in certain circumstances and conditions as permitted under ORS 418.015, and as stipulated in the signed agreement. Under ORS 418.015, if the child is not a pre-adjudicated or adjudicated delinquent, it is appropriate to place a child in substitute care/treatment after a parent(s)/legal guardian(s) signs a "Voluntary Custody Agreement" if one of the following conditions exists:

(A) The child cannot remain at home due to a temporary crisis in the family and cannot safely stay with a member of the extended family or another responsible adult who is well known to the child; or

(B) The child needs to be placed outside the home due to problems in the family that could compromise the safety of a family member and a placement of limited duration in conjunction with intensive services, is likely to reunite the family and reduce safety concerns; or

(C) The parent(s)/legal guardian(s) is temporarily unable to fulfill

parental responsibilities, maintain a supportive relationship with the child, and be a significant positive influence in the treatment and maintenance services provided to the child, as required by (a) (B) of this rule; or

(D) The and the parent(s)/guardian(s) acknowledges that the child has been abused or neglected and is acting in the best interest of their child by requesting a placement through signing a "Voluntary Custody Agreement.

(2) Any of the following situations is inappropriate for placement by either a "Child Placement Agreement" or a "Voluntary Custody Agreement", and require other DHS or community intervention:

(a) There has been a founded incident of abuse or neglect, and the age of the child, the family history, or severity of the current abuse indicates that a court ordered transfer of custody is necessary to provide adequate protection for the child; or

(b) It is known or suspected that the parent(s)/legal guardian(s) of the child lives out-of-state or intends to move out-of-state after placement of the child; or

(c) A child refuses to remain at home solely due to parent(s)- child conflict;
or

(d) The parent(s)/legal guardian(s) requests placement of the child because of inability to manage the child's behavior, and the child and family members are unwilling to participate in intensive services focused on reunification of the family; or

(e) The parent(s)/legal guardian(s) has a demonstrated history of failure to work cooperatively with the Department of Human Services and/or the persons or private agency providing care and treatment to meet the child's needs; or

(f) The child has been committed to the Oregon Youth Authority.

(3) Parents who place their child through a Child Placement Agreement have the option of entering into a child support agreement with the Division of Child Support (DCS) rather than receiving a child support order. The process is as follows:

(a) The worker informs the parent(s) that they may enter into a non-adversarial support agreement (rather than court-ordered support) with DCS to discharge their support obligations. Existing child support orders may not be superseded by support agreements with DCS;

(b) The worker will supply the parent(s) who signs the "Child Placement Agreement" with the "DCS Referral for Non-Adversarial Support Agreement" (CF496). The parent(s) may complete the form and return it to the worker. If the form is not returned to the worker within 30 days, a support order may be entered.

(c) Each parent(s) with legal custody of the child may complete the form and return it to the worker. The worker forwards the form, along with a signed copy of the "Child Placement Agreement," form (CF 499), to:

Child Support Coordinator
Children's Benefits Unit
500 Summer St. NE
Salem, OR 97301

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

LEGAL CONSENT

413-020-0020 (1) Only a parent(s)/guardian(s) who has legal custody of the child may enter into a "Voluntary Custody Agreement," (CF 1005), or a "Child Placement Agreement," (CF 499). If more than one person has legal custody of the child, each must sign the agreement. DHS must make reasonable efforts to notify the non-custodial legal parent(s) of the child's placement.

(2) If the child is an Indian child who is an enrolled member or may be eligible for membership in an Indian tribe, all parent(s)/guardian(s) who have legal custody must sign the "Voluntary Custody Agreement" or "Child Placement Agreement" before a judge who has appropriate jurisdiction for the hearing. The child must be more than 10 days old. Refer to Policy# I-E.2.1, Placement of Indian Children, OAR 413-070-0240 for detailed requirements.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

REQUIRED REVIEWS

413-020-0040 (1) The federal regulations under the Adoptions and Safe Families Act (PL 105-89) and the state requirements for review of cases by Local Citizen Review Boards (419A.090-122) apply to all children placed in substitute care. All children who are placed under a "Child Placement Agreement" or a "Voluntary Custody Agreement" will be scheduled for the same Citizen Review Board and Court reviews as a child who is placed pursuant to court order. Please refer to Policy I-B.3.2.1, Substitute Care Placement Reviews for specific details of the requirements for these reviews.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.015, 418.312

TERMINATION OF VOLUNTARY AGREEMENT

413-020-0050 (1) Either DHS or the parent(s)/guardian(s) who signed the agreement may terminate it 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 DHS/CHS Child Support Coordinator.

(2) If a parent(s)/legal guardian(s) requests the termination of the voluntary agreement and the child is in imminent danger, or there is reason to believe the child's welfare is in jeopardy, the child shall be taken into protective custody and the court petitioned for legal custody.

(3) Eligible children under the Indian Child Welfare Act, who have a "Child Placement Agreement" or "Voluntary Custody Agreement" with DHS, are subject to OAR 413-070-0240. Paragraph (5) specifically states that an Indian child shall immediately be released to a parent(s)/Indian custodian upon withdrawal of a voluntary consent. It also states what notification to the court and other actions are required when return to the parent(s)/Indian custodian would place the child in imminent danger or harm.

Statutory Authority: ORS 418.005

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