

<b>Policy Title:</b>	Substitute Care Eligibility – OAR		
<b>Policy Number:</b>	I-B.2.3.3 413-030-0200 thru 0220		<b>Effective Date:</b> 7-01-01

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

References

Contact

History

### Reference(s):

- ORS 418.015, 418.315
- ORS 419B.165
- ORS 419B.331
- ORS 419B.337
- P.L. 95-608, ICWA
- Public Law 105-89, Adoption and Safe Families Act
- Refugee Act: 1980
- Title IV-E
- SOSCF Policy I-B.1.3 Voluntary Agreements
- SOSCF Policy I-B.1.4 Guardian and Legal Custodian Consent
- SOSCF Policy I-E.6.1 Title IV-E-FC and General Assistance
- SOSCF Policy I-E.6.2 Title XIX and General Assistance Medical Eligibility

### Form(s) that apply:

- None

### Rules:

#### **PURPOSE**

#### **413-030-0200**

- (1) These rules emphasize that the child's safety is the paramount concern in determining Substitute Care eligibility.
- (2) SOSCF is responsible for determining if a child in the legal custody of SOSCF will be placed or continued in substitute care placement in accordance with statutes, SOSCF administrative rules, agency procedures and placement practice guidelines. These rules specify the minimum criteria for the substitute care classification and placement under

any type of substitute care program licensed or certified by SOSCF. Additional criteria are outlined in rules for specific substitute care programs. (See SOSCF Policy I-E.4.1 Shelter Care; I-E.4.2 Family Foster Care; I-E.4.2.1 Family Group Homes; I-E.4.3 Group Care; and I-E.4.4 Independent Living Subsidy Program.)

**Statutory Authority: ORS 418.005**

**Stats. Implemented: Title IV-E, PL 95-608, ORS 418.015,.315, 419B.331-.349, PL 105-89**

## **ELIGIBILITY CRITERIA FOR SUBSTITUTE CARE PLACEMENT**

**413-030-0210** For a child to be eligible for initial and continuing substitute care placement(s), SOSCF shall meet the following criteria:

- (1) Legal Basis. SOSCF must have a current legal basis for placement:
  - (a) Temporary custody under ORS 419.B.165; or
  - (b) Legal custody of the child through a juvenile court order; or
  - (c) A voluntary custody agreement in accordance with SOSCF Policy I-B.1.4; or
  - (d) A voluntary placement agreement in accordance with SOSCF policy I-B.1.3; or
  - (e) Permanent custody based on a permanent commitment or release and surrender agreement of a parent; or
  - (f) Verification that the child is an unaccompanied refugee minor.
- (2) The child must be under 18 years of age at the time the child is placed in SOSCF's legal custody and placement services are first initiated.
- (3) Reasonable Efforts. SOSCF will make reasonable efforts to prevent or eliminate the need for removal of the child and to alleviate the barriers that keep the child from returning home. This includes an assessment of appropriate treatment and supportive services and providing such services when available through SOSCF or by referral to other community resources. To aid the court or Citizen Review Board (CRB) in making the findings required by this section, SOSCF shall present documentation to the court or CRB showing its reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child and services provided to safely return the child to the home. SOSCF shall seek a reasonable efforts judicial determination (unless the child was removed pursuant to a Voluntary Custody Agreement or Voluntary Child Placement Agreement) within 60 days of a child's removal from the home, or a determination that due to aggravated circumstances reasonable efforts were not required to prevent the child's removal from their home. If the court does not make the reasonable efforts determination within 60 days, the child shall not be eligible for Title IV-E foster care maintenance payments program throughout the duration of that child's stay in substitute care (refer to SOSCF Policy I-E.6.1, OAR 413-100-0240 section).

- (4) The child requires substitute care placement because there is no parent or guardian available and able to provide safe care for the child even with the assistance of available supportive resources, and no relative is willing and appropriate to assume full responsibility for the child.
- (5) Placement is needed for one of the following reasons:
- (a) The parent(s) or guardians are not available to care for the child due to death, abandonment, desertion, incarceration, institutionalization, or catastrophic illness; or
  - (b) The child is at significant risk of abuse or neglect; or
  - (c) The child is in the permanent custody of SOSCF for adoption planning; or
  - (d) The child has a severe disabling condition requiring skilled care that the family cannot provide even with the assistance of community resources but SOSCF can provide the care the child requires in an available substitute care resource; or
  - (e) The child's behavior is a serious danger to the child, the child's family or the community but the child can, without threat to self or others, be managed in an available and appropriate substitute care resource.

**Statutory Authority: ORS 418.005**

**Stats. Implemented: Title IV-E, PL 95-608, ORS 418.015,.315, 419B.331-.349, SB 689 (1997).**

## **ELIGIBILITY AFTER AGE 18**

### **413-030-0220**

- (1) Eligibility for substitute care services shall cease at age 18 unless the person continues to meet both the eligibility criteria outlined earlier in OAR 413-030-0210 and in this section of the rules. Under the following conditions SOSCF may continue to provide placement services up to the maximum age of 21 years if the person is:
- (a) Actively striving to complete the requirements for high school graduation and achieving satisfactorily in a full-time program of high school attendance, GED classes or a combination of classes and employment; or
  - (b) Enrolled in a special education program as called for in an Individual Educational Plan (IEP); or
  - (c) An unaccompanied refugee minor; or
  - (d) The person's situation has been reviewed and approved in writing for an exception to these rules by the Branch Manager.
- (2) In no instance shall a person receive substitute care services from SOSCF after the youth's 21st birthday.

**Statutory Authority: ORS 418.005**

Stats. Implemented: Title IV-E, PL 95-608, ORS 418.015-.315,  
419B.331-.349

**Contact(s):**

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**Policy History**

- 12/29/95 (*not available electronically*)
- [10/06/99](#)
- [07/25/00](#)

Prior Version