# I-B.3.2.1
# Substitute Care Placement Reviews
*Permanent Effective 02/01/06 - 01/14/13*

Prior Version

## 413-040-0100
## Purpose
*(Amended 05/22/03)*

An outline of the required review process to maintain a child who is in the legal custody of the Department and placed in substitute care. These rules emphasize that child safety, permanency and well-being are the paramount concerns guiding the review process for providing and maintaining services to children in Department custody.

Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV, ORS 419A.090-122, 419B.440-476, 419C.623-656

## 413-040-0110
## Definitions
*(Amended 02/01/06)*

The following definitions apply to OARs 413-040-0100 to 413-040-0170:

(1) "Date Child Entered Substitute Care" means the earlier of the following two dates:

(a) The date the court found the child within the jurisdiction of the court (under ORS 419B.100); or

(b) The date that is 60 days from the date of removal.

(2) "Department" means the Department of Human Services.

(3) "Complete Judicial Review" means a hearing that results in a written order that contains the findings required under ORS 419B.476 or includes substantially the same findings as are required under ORS 419A.116.

(4) "Local Citizen Review Board (CRB)" means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home placement (ORS 419A.090-419A.094).

(5) "Permanency Hearing" means the hearing that determines the permanency plan for the child. The Permanency Hearing is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.

(6) "SAIP" means Secure Adolescent Inpatient Program.

(7) "SCIP" means Secure Children's Inpatient Program.

(8) "Substitute Care" means a child in the legal or physical custody and care of the Department, including those supervised by another agency, and placed in a paid or unpaid out-of-home placement, including, but not limited to foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities, SAIP, and SCIP.

(9) "Termination of Parental Rights" means that a court of competent jurisdiction has entered an order terminating the rights of the parent or parents, pursuant to ORS 419B.500 through 419B.530 or the statutes of another state. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419A.200).

Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV, ORS 419A.090-122, SB408, ORS 419B.440-476 & 419C.623-656

## 413-040-0130
## Administrative Reviews for Title IV and ORS 419A.090 et seq
*(Adopted 05/22/03)*

(1) Administrative reviews will be held on:

(a) All children in the legal or physical custody of the Department and placed in paid or unpaid substitute care, including court sanctioned permanent foster care, a non-finalized adoptive placement; subsidized independent living; or returned to a parental home on the basis of a trial home visit;

(b) All children placed in substitute care with a Voluntary Custody Agreement or Child Placement Agreement.

(2) Exceptions to the administrative review requirements are:

(a) Children placed directly from the hospital into a nursing home without a prior substitute care placement;

(b) Children hospitalized on a long-term acute basis; or

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(c) Youth in detention.

(3) An administrative review shall be held within six months following the first day of placement in care and every six months thereafter from the date of the last review. The administrative review requirement may be met by:

(a) A local CRB review conducted in accordance with OR 419A.090 through 419A.128;

(b) A Permanency Hearing or other court hearing meeting the definition of a complete judicial review, held no earlier than five months after placement when the court relieves the CRB of its responsibility to review the case pursuant to ORS 419A.106 (1)(b); or

(c) An Internal Review Committee. In exceptional and rare circumstances, in the absence of a review by a local CRB or court, an internal review committee may be convened to conduct an internal administrative review. An internal review will not relieve the Department of the requirements for CRB reviews in those counties where the local CRB boards operate, therefore, a review must be scheduled with the CRB or court within 30 days of the internal review. At least one member of the internal review committee must not be involved with day-to-day planning on the case. After concluding the internal review, the committee must complete and distribute a findings document to the participants and the CRB (contents should be similar to the findings issued by the CRB).

Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV; ORS 419A.090-122; 419B.440-476; 419C.623-656

## 413-040-0135
## Responsibility for Administrative Reviews
*(Amended 02/01/06)*

(1) Responsibility for CRB Reviews when more than one Department office, cluster or state is involved with the case. Offices will meet the administrative review requirements for children in placements as follows:

(a) For Oregon children in substitute care placements inside and outside of Oregon, the local Department office in the county holding legal jurisdiction is responsible for the administrative review.

(A) Information about a child placed out-of state will be requested through Interstate Compact on the Placement of Children (ICPC) from the supervising state; and

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(B) The Oregon caseworker will compile information for the review on family members residing in Oregon and receiving Department services.

(b) For non-finalized adoptive placements on fully free children, the supervising Department office is responsible for the administrative review.

(c) For children in the legal custody of the Department whose placement is being co-managed by the Department and mental health or developmental disability case managers:

(A) The Department office in the county holding legal jurisdiction is responsible for the administrative review. The mental health or development disability case managers will be invited and encouraged to participate in the review;

(B) The Department caseworker will gather information for the review from the Mental Health or Developmental Disabilities case manager; and

(C) The Department caseworker will compile information for the review on family members receiving Department services.

(2) Review Requirements for Hospitalized Children and Children on Runaway Status. Administrative Reviews must be held for the following children:

(a) Children returned to care from SAIP or SCIP. The review must be held within 30 days of the child's return to care if the review would have been due during the child's hospitalization, with the exception of children placed directly from the hospital into a nursing home, without a prior substitute care placement.

(b) Children placed in an accredited psychiatric facility or hospital shall continue to have regularly scheduled CRB reviews.

(c) Children on the run shall continue to have regularly scheduled CRB reviews.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 419A.090-122, 419B.440-476, 419C.623-656

## 413-040-0140
## Permanency Hearings by the Court
*(Amended 02/01/06)*

A Permanency Hearing must be held no later than 12 months after a child was found within the jurisdiction of the court under ORS 419B.100 or 14 months after the child was placed in substitute care, whichever is the earlier, and thereafter no less frequently than 12 months for as long as the child remains in substitute care. The Permanency Hearing will:

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(1) Be held for all children in the legal or physical custody of the Department and placed in paid or unpaid substitute care including, but not limited to, children in foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities, SAIP, and SCIP. Children's permanency hearings continue regardless of whether the placement is licensed or certified or, the child is on runaway status, or the child is returned to a parental home on the basis of a trial home visit.

(2) Be conducted by a juvenile court, another court of competent jurisdiction, or by an authorized tribal court; and

(3) Determine the permanency plan for the child that includes whether, and if applicable, when the child will:

(a) Be returned to the parent;

(b) Be placed for adoption and the Department shall file a petition to terminate the parental rights of the parent(s) to a child in Department custody;

(c) Be referred to legal guardianship; or

(d) Be placed in another planned permanent living arrangement. If the Department has determined that is not in the best interest of the child to file a petition for termination of parental rights, the case plan must also contain documentation for review by the court that:

(A) The child is being cared for by a relative and that placement is intended to be permanent; or

(B) There is a compelling reason that filing such a petition would not be in the best interests of the child. Such compelling reasons include, but are not limited to:

(i) The parent is successfully participating in services that will make it possible for the child to safely return home within a reasonable time;

(ii) Another permanent plan is better suited to meet the health and safety needs of the child;

(iii) The court or local CRB in a prior hearing or review determined that while the case plan was to reunify the family the Department did not make reasonable efforts or, if the Indian Child Welfare Act applies, active effort to make it possible for the child to safely return home; or

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(iv) The Department has not provided to the family of the child, consistent with the time period in the case plan, such services as the Department deems necessary for the child to safely return home, if reasonable efforts to make it possible for the child to safely return home are required to be made with respect to the child.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 419A.090-419A.122, 419B.440-419B.476, 419C.623-419C.656

## 413-040-0145
## Additional Requirement for Children Disrupted from Permanent Foster Care

*(Amended 05/22/03)*

The Department will notify the court when a permanent foster care placement disrupts so the court can take appropriate action, including scheduling a permanency hearing. See OAR 413-070-0730).

Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV; ORS 419A.090-419A.122; SB 408; ORS 419B.440-419B.476; 419C.623-419C.656

## 413-040-0150
## Participant Notification of Administrative Reviews and Permanency Hearings

*(Amended 05/22/03)*

(1) The local Department office shall provide correspondence information to the local CRB to assure that written notice of the review is provided to the Department, any other agency directly responsible for the care or placement of the child, the parents or their attorneys, foster parents, surrogate parents, persons granted intervener status, mature children or their attorneys, court-appointed attorney or court appointed special advocate for any child, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that persons receiving a notice may participate in the hearing and be accompanied by a representative.

(2) The local Department office shall provide foster parent, pre-adoptive parent, or relative who is actively providing care for a child, notice of any court hearing concerning the child.

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Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV, ORS 419A.090-419A.122, 419B.440 -419B,.476 & ORS 419C.623-419C.656

## 413-040-0155
## Participants in Administrative Reviews and Permanency Hearings
*(Adopted 05/22/03)*

(1) All legal custodians and parents must be invited and encouraged to participate in Administrative Reviews and Permanency Hearings.

(2) Other individuals to invite are:

(a) Substitute care providers;

(b) Children, when it is determined that the child's attendance would be appropriate and the child wishes to attend;

(c) Attorneys and Court Appointed Special Advocates (CASA);
(d) Native American Tribe (if applicable).

Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV; SB 419; ORS 419A.090-419A.122, 419B.440 -419B.476; ORS 419C.623-419C.656

## 413-040-0157
## Documentation Requirements for Administrative Reviews and Permanency Hearings
*(Adopted 05/22/03)*

(1) Required documentation supporting the administrative review includes:

(a) The current Substitute Care Case Plan narrative (CF 147B) of case information; and

(b) A signed recommendation of the findings of the CRB or internal review committee (to be attached to the file copy of the CF 147B in the "Narrative" section of the case record); or

(c) A court order with language to the effect that a complete judicial review was held in place of an administrative review, and the court relieves the CRB of its responsibility to review the case pursuant to OR 419A.

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(2) Written evidence of a Permanency Hearing having taken place will include:

(a) A written report filed by the worker in accordance with OR 419B.440 through 419B.452, and any additional information required by the court; (with court's approval, the CF 147B may be used to meet reporting requirements of OR 419B.400 through 419B.452); and

(b) A written court order.

(3) Citizen Review Board Recommendations. The Department will implement recommendations of a local CRB as the Department deems appropriate. The Department will give written notification to the local CRB of any recommendations which the Department does not intend to implement This notification will be given within 17 days of receipt of the CRB recommendations.

Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV; SB 419; ORS 419A.090-419A.122, 419B.440- 419B.476; ORS 419C.623-419C.656

## 413-040-0159
## Notification and Distribution Requirements for Administrative Reviews and Permanency Hearings

*(Amended 05/22/03)*

(1) Case records must contain documentation that written advance notice was provided to the persons cited in OAR 413-040-0150 inviting them to attend the Administrative Review or Permanency Hearing.

(2) The Department will provide copies of the Substitute Care Case Plan narrative (CF 147B) to:

(a) Legal custodial and non-custodial parents;

(b) Parents out-of-state;

(c) Parents who have not had their parental rights terminated or have not signed a release and surrender agreement for adoption;

(d) Native American tribes ( if applicable);

(e) Parents' and child's attorneys; and

(f) Court Appointed Special Advocates (CASA).

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Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV; ORS 419A.090-122; 419B.440-476; 419C.623 -656

## 413-040-0170
## Judicial Requirements for Voluntary Custody Agreement or Child Placement Agreement

*(Amended 05/22/03)*

(1) Children in out-of-home placement on the basis of a signed Voluntary Custody Agreement or Child Placement Agreement, and Title IV-E-FC eligible must, within 180 days of placement, have a judicial determination by court order to the effect that such placement is in the best interests of the child. A finding of reasonable efforts is not required. The judicial determination requirement may be met without a court hearing, e.g. letter to the court which results in an exparte court order. However, if a court hearing does not occur, a CRB review must be held and Permanency Hearings must occur as scheduled.

(2) Children placed on the basis of a Voluntary Custody Agreement or Child Placement Agreement are subject to the same Administrative Review and Permanency Hearing requirements as children placed on the basis of a court order.

Stat. Auth.: ORS 418.005
Stats. Implemented: Title IV, ORS 419A.090-122, 419B.440-476, 419C.623-656

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