

	Department of Human Services CHILDREN, ADULTS & FAMILIES	NUMBER: I-E.3.6 OAR: 413-070-0500 thru 0517
	CLIENT SERVICES MANUAL I	SECTION: E. Substitute Care
	ISSUED BY: Office of Safety & Permanency for Children EFFECTIVE DATE: January 1, 2004	SUBSECTION: 3. Placement Expectations
SUBJECT: 6. Achieving Permanency - Oregon Administrative Rules		

Responsible Manager: Manager, Adoption Services

Approval: _____
Administrator, Office of Safety & Permanency for Children

Interpretation: Legal Assistance Specialists, Adoption Services

REFERENCES: Title IV-E
Indian Child Welfare Act
SB 408
PL 105-89, Adoption and Safe Families Act (ASFA)
45 CFR Parts 1355, 1356 and 1357, 1/25/2000
Child Welfare Policy I-A.4.5, Rights of Relatives
Child Welfare Policy I-E.2.1, Placement of Indian Children
CF 0305, Code Sheets

**413-070-0500
Purpose**

The Adoption and Safe Families Act and Oregon statutes require the Department to develop, document, and implement a permanency plan, and an alternate plan for every child placed in the Department's legal custody for substitute care placement. These rules (OAR 413-070-0500 to 413-070-0517) define the minimum agency expectations for achieving permanency for every child in substitute care and clarify the appropriate use of the Department's specialized Legal Assistance Program for children who are likely to be freed for adoptive placement. In the case of an Indian child, the Department follows the Indian Child Welfare Act and the Department's Child Welfare policy I-E.2.1, "Placement of Indian Children," OAR 413-070-0100 to 413-070-0260.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005

**413-070-0505
Definitions**

- (1) "Concurrent plan:" A plan established as an alternate or backup permanency plan when the goal of the permanency plan is placement with the parents. The concurrent plan is developed simultaneously with the plan to return the child to his or her parents. Although the concurrent plan may change as more information becomes available, the goal is to develop a safe and permanent resource with family members or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.
- (2) "Concurrent planning:"
 - (a) Concurrent planning is the active implementation of concrete tasks that are individually formulated for a specific child to achieve the child's primary and alternate permanency plans.
 - (b) Concurrent planning begins by identifying specific timelines, designating specific dates along those timelines for the accomplishment of specific tasks, and identifying specific persons whose collaboration is key to accomplishing the tasks identified for both the primary and alternative permanency plans by or before the designated dates.
 - (c) Concurrent planning is a dynamic process that evolves through early, open, and ongoing dialogue with significant persons in the child's panorama or relationships as well as with the child, according to his or her age and capacity to participate, and their active engagement in identifying, working toward, and continuously re-evaluating and updating timelines and tasks until either the primary or alternate permanency plan is achieved.
 - (d) Concurrent planning has at its heart the child's best interests, the child's sense of time, and a commitment to active, simultaneous work toward the achievement of two different permanency plans. It continues until a legal determination is made that abandoning either the primary or the alternate permanency plan and aggressively completing the work to achieve the remaining plan in the most timely way possible is in the child's best interest.
- (3) "Designated local review body:" An internal local committee, assigned by the SDA Manager or designee responsible for reviewing and approving case planning for substitute care placement, for permanency and concurrent planning and for adoption planning.
- (4) "Permanency plan:" A plan to achieve permanency for a child.
- (5) "Substitute care:" A child is in substitute care when the child is in the legal or

physical custody and care of the Department of Human Services (the Department) and is in an out-of-home placement with someone other than his or her birth parent, legal parent, or legal guardian.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0510

Values

- (1) Substitute care placement is temporary care for a child who requires protective care or specialized treatment.
- (2) Every child needs and deserves a safe, nurturing, and permanent home.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0515

Procedures

- (1) Initial Permanency Planning. DHS will develop a permanency plan and a concurrent plan for each child in the Department's custody within 60 days of the placement of the child into substitute care (see OAR 413-040-0000 to 413-040-0045, "Service Plans"). The health and safety of the child are of paramount concern in the development of the permanency plan. The permanency plan and concurrent plan each contains a permanency goal.
- (2) If the Department does not pursue termination of parental rights for a child in its custody, the Department will document an exception to the requirement to file a petition to terminate parental rights in the following cases:
 - (a) When a child has been in care for 15 of the past 22 months.
 - (b) When a parent has been convicted of certain crimes.
 - (c) When the child has been abandoned.
 - (d) At any time the permanency plan changes from "place with parents" to another plan other than adoption.
- (3) If the goal is placement in another planned permanent living arrangement, the

Department will document a compelling reason why it is not in the best interests of the child to be placed with a parent, to be referred for termination of parental rights and placed for adoption, to be placed with a relative, or to be placed with a legal guardian.

- (4) Goals for Achieving Permanency. For each child in substitute care, the Department will have an appropriate and current permanency goal recorded in one of its information systems and in the child's service plan. The recorded goal reflects the service plan and the legal status of the child.
- (5) Permanency Plan Reviews:
 - (a) The Department will review the permanency plan and concurrent plan for each child in its legal custody after the six-month review conducted in accordance with ORS 419A.106 (or any hearing conducted in lieu of such review) and prior to the permanency hearing required by ORS 419B.470(2) to determine the appropriateness of the permanency plans. But if the permanency hearing is scheduled to occur before the six-month review, the Department will review the permanency plan and the concurrent plan prior to the permanency hearing (see the Department's Child Welfare policy I-F.3.2.1, "Termination of Parental Rights," OAR 413-110-0200 to 413-110-0252). The caseworker must document this review on the form CF 147B.
 - (b) A permanency hearing is required by statute to be conducted for each child in substitute care within 12 months after the date of the jurisdictional hearing or 14 months after the child was first placed in substitute care, whichever is earlier. Subsequent permanency hearings must be conducted not less frequently than every 12 months after the initial permanency hearing. Subsequent permanency hearings are also required for all children placed in a permanent foster home or a preadoptive home. Nothing in these rules precludes the Department from tracking an earlier date to assure compliance or seeking an earlier review.
 - (c) The Department is authorized to ask the court to conduct a permanency hearing at any time. The court is not required to conduct a permanency hearing for a child in circumstances such as those described in this subsection but, based on an assessment of the specific facts of a case, the Department may determine that it is appropriate to request a permanency hearing:
 - (A) When the child was in substitute care but is living with a parent and remains under the jurisdiction of the court with an open case with the Department; or

- (B) When the child did not have a permanency hearing because the child left substitute care and was living with a parent but has returned to substitute care.
- (d) Following a permanency hearing the judge normally approves a permanency plan for the child that includes whether and when—
 - (A) The child will be placed with a parent;
 - (B) The Department will file a petition for termination of parental rights and the Department will pursue adoption for the child;
 - (C) The child will be referred for legal guardianship; and
 - (D) The child will be placed in another planned permanent living arrangement.
- (e) If the Department plans to place the child in another planned permanent living arrangement, the Department will document a compelling reason, including an explanation for how the Department determined that it would not be in the best interest of the child to—
 - (A) Be placed with a parent;
 - (B) Be referred for termination of parental rights and placed for adoption;
 - (C) Be placed with a fit and willing relative; or
 - (D) Be placed with a legal guardian.
- (6) Reasonable Efforts. When making reasonable efforts, or active efforts in the case of an Indian child, the child's health and safety are the paramount concerns. The Department is required to make reasonable efforts, or active efforts, consistent with strengths- and needs-based practices, to preserve and reunify families, to prevent or eliminate the need for removing the child from the child's parents, and to make it possible for the child to safely be placed with a parent. If continuation of reasonable efforts to place the child with a parent is inconsistent with the permanency plan for the child, the Department will make reasonable efforts to place the child in a timely manner in accordance with the concurrent plan and to complete the necessary steps to finalize the child's permanent placement. These efforts normally include a search for and an attempt to place the child with relatives as well as child-specific recruitment efforts to locate an adoptive resource. In the case of an Indian child, the Department will make active efforts to involve the Indian child's tribe in the selection of a permanent plan and a

concurrent plan for the child.

- (7) Reasonable efforts not required.
- (a) If a court determines that a parent has subjected the child to aggravated circumstances, which are defined in ORS 419B.430, the Court may make a finding that the Department is not required to make reasonable efforts to make it possible for the child to return home
 - (b) If the juvenile court makes a finding that the Department is not required to make reasonable efforts to prevent or eliminate the need for removal of the child from the home or to make it possible for the child to safely return home, and the Department determines that it will not make such efforts, the Department will ask the court to conduct a permanency hearing within 30 days of the finding.
 - (c) If the court's finding was based upon a conviction of a crime listed in ORS 419B.340, the Department will file a petition for termination of parental rights no later than 60 days after the court's finding unless—
 - (A) Upon the authorization of the Department the child is being cared for by a relative;
 - (B) The Department has documented in the case plan a compelling reason for determining that filing such a petition would not be in the best interests of the child as provided in ORS 419B.498(2); or
 - (C) DHS has not provided to the family of the child, consistent with the time period in the case plan, services as DHS deems necessary for the safe return of the child to the child's 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.
- (8) Specialized legal assistance services (formerly called "permanent planning services." Specialized legal assistance services are appropriate only if adoption is a realistic alternative to placing the child with a parent. These services are used only if the case meets the requirements of the Department's Child Welfare policy "Termination of Parental Rights," policy I-F.3.2.1, Termination of Parental Rights.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

413-070-0517

Without Reasonable Efforts

In some cases, the Department may file a petition to terminate the parental rights of a parent whose child is in the Department's custody without making reasonable efforts to make it possible for the child to be safely returned home and without seeking or having the juvenile court make a finding that the Department is not required to make such efforts (see OAR 413-110-0250). This decision is based on the best interests of the child.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005