

<b>Policy Title:</b>	Foster Parent Request for Consideration as a Current Caretaker - <b>Temporary</b>		
<b>Policy Number:</b>	I-G.1.1 413-120-0500 thru 0595	<b>Effective Date:</b>	7/01/10 thru 12/28/10

Approved By: *on file*

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Policy

Forms, etc.

Definitions

References

Contact

History

### Reference(s):

- ORS 419B.192
- 2008 Fostering Connections to Success and Increasing Adoptions Act of 2008
- Child Welfare Policy I-A.4.1, Rights of Children
- Child Welfare Policy I-A.4.5, Rights of Relatives
- Child Welfare Policy I-E.1.1, Search for and Engagement of Relatives
- Child Welfare Policy I-E.2.1 Placement of Indian Children
- Child Welfare Policy I-E.2.2 Placement of Refugee Children
- Child Welfare Policy I-G.1.5, Adoption Placement Selection

### Form(s) that apply:

- None referenced.

### Rules:

#### **413-120-0500**

##### **Purpose**

These rules, OAR 413-120-0500 to 413-120-0595, establish the process by which a foster parent may be recommended as a current caretaker for the purpose of consideration as a potential adoptive resource as a part of case planning for a child or identified sibling group who has a permanency plan of adoption.

Stat. Auth.: ORS 418.005, 418.285

Stats. Implemented: ORS 418.005, 418.285

#### **413-120-0510**

##### **Definitions**

The following definitions apply to OAR 413-120-0500 to 413-120-0595:

- (1) "Adoptive Resource" means an individual or individuals selected as the adoptive family for a child and the selection has not been subject to an administrative review, or if subject to a review, has been sustained by that review.
- (2) "CASA" means a court appointed special advocate, a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419A.170.
- (3) "Child" means a person under 18 years of age.
- (4) "Committee facilitator" means a Department staff member appointed to facilitate a permanency or adoption committee meeting. The facilitator is a member of the committee and is responsible for ensuring:
  - (a) The meeting is held according to the requirements of Oregon Administrative Rules;
  - (b) Individuals who are not committee members and are invited to and attend the meeting are:
    - (A) Informed of the responsibilities of the committee and the confidentiality of information presented during the meeting;
    - (B) Allowed to present information appropriate for consideration in the permanency or adoption recommendation for the child and his or her siblings; and
    - (C) Excused in a timely manner.
  - (c) Thorough and accurate documentation of the committee recommendations.
- (5) "Current caretaker" means a foster parent who:
  - (a) Is currently caring for a child in the legal custody of the Department who has a permanency plan or concurrent permanency plan of adoption;
  - (b) Has cared for the child for at least the past 12 consecutive months; and
  - (c) Has been identified by the Department as a potential adoptive resource for the child and when appropriate, his or her siblings who are also in substitute care but have not lived with the foster parent for 12 consecutive months.
- (6) "Department" means the Department of Human Services, Child Welfare.
- (7) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for unrelated children or young adults who are placed in the home by the Department.

- (8) "General applicant" means an individual:
- (a) Who is not a relative, current caretaker, or a sibling's current guardian, relative, current caretaker, or adoptive resource with whom the sibling is current living; and
  - (b) Has submitted a completed application to adopt a child.
- (9) "Indian child" means any unmarried person under 18 years of age who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
- (10) "Permanency committee" means a group of at least three individuals, who are responsible for making a recommendation regarding a child's permanency plan when the child likely is not returning to his or her parent.
- (a) A permanency committee must include three individuals, approved by the child welfare program manager or designee, none of whom has a current personal or professional relationship to the child or potential placement resource. These approved committee members ---
    - (A) Must include at least one individual who is a Department staff member;
    - (B) Must include a Department staff member appointed as the Committee Facilitator; and
    - (C) May include one or two individuals who are community partners.
  - (b) Each of the three permanency committee members approved under subsection (a) of this section must meet the requirements of all of the following paragraphs:
    - (A) Be knowledgeable about adoption and permanency issues;
    - (B) Be knowledgeable of the importance of lifelong family attachment and cultural connections; and
    - (C) Must represent more than one local child welfare office when there are two or more Department staff members on the permanency committee.
- (11) "RCWAC" means the Refugee Child Welfare Advisory Committee.
- (12) "Refugee child" means, as defined by ORS 418.925, a person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, sex, sexual orientation, nationality, membership in a particular group, or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, sex, sexual orientation, nationality, membership in a particular group, or political opinion.

- (a) As used in this section, "persecution" means that harm or suffering will be inflicted upon the person in order to punish the person for possessing a particular belief or characteristic. "Persecution" does not include harm and suffering that is inflicted on persons generally by reason of civil or military strife in a country.
  - (b) As used in this section, "fear of persecution" means an apprehension or awareness, based on external objective facts, that the person will suffer persecution upon return to the person's country.
- (13) "Relative" has the meaning given that term in OAR 413-070-0063.
- (14) "Sibling" means one of two or more children or young adults related:
- (a) By blood or adoption through a common legal parent;
  - (b) Through the marriage of the children's or young adults' legal or biological parents; or
  - (c) Through a legal or biological parent who is the registered domestic partner of the child's legal or biological parent.
- (15) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.945

#### **413-120-0521**

##### **Substitute Care is a Temporary Resource**

- (1) At initial placement, the caseworker must inform the foster parent that substitute care is intended as a temporary placement resource.
- (2) In limited circumstances, as described in these rules, a foster parent may become an adoptive resource for a child.
- (3) The child's caseworker must keep the foster parent informed of both the child's primary permanency and concurrent permanency plan.

Stat. Auth.: ORS 418.005, 419B.192

Stats. Implemented: ORS 418.005, 419B.192

## **413-120-0541**

### **When a Foster Parent Can Request Consideration as a Potential Adoptive Resource**

A foster parent may request consideration as a current caretaker for a child in the legal custody of the Department when the requirements of all of the following sections are met:

- (1) Adoption is the child's identified permanency or concurrent permanency plan and the Department determines it is in the best interest of the child to proceed with identifying potential adoptive resources;
- (2) The child has been in the physical custody of the foster parent for the most recent 12 consecutive months;
- (3) The foster parent is willing to be considered as the adoptive resource for the child's siblings currently in substitute care who also have adoption as an identified permanency or concurrent permanency plan; and
- (4) The caseworker and the caseworker's supervisor have complied with the requirements of both of the following subsections:
  - (a) Reviewed the Department's diligent efforts to identify, contact, and place a child with relatives and to place siblings together as required under both Child Welfare Policy I-E.1.1, "Search for and Engagement of a Child's Relatives" OAR 413-070-0060 to 413-070-0087 and Child Welfare Policy I-G.1.2, "Identification and Consideration of Potential Adoption Resources" OAR 413-120-0700 to 413-120-0760; and
  - (b) Have confirmed there are no pending Department actions to ---
    - (A) Identify a child's relatives or a sibling's current guardian, relative, current caretaker, or adoptive resource with whom the sibling is currently living; and
    - (B) Assess a relative who has either expressed an interest in and needs to be or currently is being assessed as a permanency resource.

Stat. Auth.: ORS 418.005, 419B.192

Stats. Implemented: ORS 418.005, 419B.192

## **413-120-0551**

### **Caseworker Assessment of Foster Parents as Current Caretaker**

When considering a foster parent's request for consideration as an adoptive resource under OAR 413-120-0541, within 60 calendar days, and in consultation with the child's team, the supervisor, and the foster parent's certifier, the caseworker must assess all of the following:

- (1) The existence of significant emotional ties between the child and the foster parent;

- (2) Whether any conditions or circumstances exist that may impact the foster parent's ability to meet the standards of an adoptive home described in OAR 413-120-0200; and
- (3) The foster parent's ability to meet the placement needs of the child and his or her siblings under each of the categories described in OAR 413-070-0630 by reviewing the foster parent's knowledge, skills, and abilities in meeting the child's current and lifelong needs for all of the following:
  - (a) Physical and emotional safety;
  - (b) Ability to develop and maintain connections to the child's family;
  - (c) Continuity and familiarity;
  - (d) Appropriate educational, developmental, emotional, and physical support;
  - (e) Integrate the child into the family;
  - (f) Stability and permanency; and
  - (g) Maintaining his or her identity and cultural and religious heritage.

Stat. Auth.: ORS 418.005, 418.937, 418.945, 419B.192

Stats. Implemented: ORS 418.005, 418.937, 418.945, 419B.192

#### **413-120-0560**

##### **Caseworker Decision of Foster Parents as Current Caretaker**

- (1) When the assessment activities under OAR 413-120-0551 have been completed, the caseworker makes a decision under one of the following subsections:
  - (a) The foster parent may be further reviewed for consideration as a potential adoptive resource and schedules a permanency committee; or
  - (b) The foster parent may not have further consideration as a potential adoptive resource.
- (2) The caseworker must notify the foster parent of the decision made under section (1) of this rule within one business day following the decision and document the decision in the Department's information system.
- (3) Following a decision made under subsection (1)(b) of this rule, the foster parent may request a review of the caseworker's decision by meeting the requirements of all of the following subsections:
  - (a) Submit a written request for a review of the decision made under subsection (1)(b) within seven calendar days of the notice of the decision.

- (b) The foster parent must submit the written request to the District Manager.
  - (c) The written request must include the reasons why the foster parent is requesting a review.
- (4) Within 14 calendar days of receiving a written request submitted under section (3) of this rule, the District Manager must do all of the following:
- (a) Review the written request of the foster parent, and any information requested and received from the caseworker;
  - (b) Determine whether the foster parent will be considered a potential adoptive resource as a current caretaker; and
  - (c) Notify the foster parent and the caseworker of the decision within one business day following the decision.

Stat. Auth.: ORS 418.005, 419B.192

Stats. Implemented: ORS 418.005, 419B.192

#### **413-120-0570**

##### **Permanency Committee Consideration of Current Caretaker**

- (1) When a permanency committee has been scheduled to consider whether a foster parent is a potential adoptive resource, the Department must notify and invite all of the following individuals to provide information to the permanency committee.
- (a) The caseworker for the child and for each sibling;
  - (b) The supervisor of the caseworker for the child and for each sibling;
  - (c) The foster parent's certifier;
  - (d) The attorney for the child and for each sibling;
  - (e) The CASA for the child and for each sibling;
  - (f) A tribal representative when a child is an Indian child; and
  - (g) A member of the RCWAC when a child is a refugee child.
- (2) The individuals invited to attend the permanency committee under section (1) of this rule may provide the Department with the names of other individuals who have significant information related to the child's needs and request that the Department invite the individuals to present information to the permanency committee.
- (3) Any individual invited to provide information related to the child's needs may present that information to the permanency committee in person, by telephone, through electronic communication, or in writing.

- (4) The permanency committee members may seek additional or clarifying information during the presentations.
- (5) When the presentations are completed, the child's attorney, CASA, tribal representative, member of the RCWAC, and any other individuals invited to provide information are excused from the permanency committee. The each caseworker for the child and each of his or her siblings, each supervisor of a caseworker, and the foster parent's certifier remain for the completion of the permanency committee but do not participate in making the committee recommendation.
- (6) The permanency committee must review all of the information presented to the committee and consider the extent to which the foster parent meets the factors assessed under OAR 413-120-0551.
- (7) The permanency committee, after review and consideration of all the information presented during the committee meeting, may request further information as needed prior to making a recommendation. When the committee requests additional information prior to making a recommendation, the committee must document all of the following:
  - (a) What additional information is needed;
  - (b) A timeline for gathering the additional information; and
  - (c) The date and time when the permanency committee will reconvene to consider the additional information.
- (8) When the permanency committee has considered all the information, the permanency committee makes one of the following recommendations:
  - (a) The foster parent demonstrates the characteristics needed to meet the current and lifelong safety, permanency, and well being needs of the child and his or her siblings; is considered a current caretaker; and whether the current caretaker will be considered alone or with general applicants in the adoption selection; or
  - (b) The foster parent is not recommended as a current caretaker because it has been determined the foster parent does not demonstrate the characteristics needed to meet the current and lifelong safety, permanency, and well being needs of the child and his or her siblings.
- (9) The committee facilitator must provide written documentation of the recommendation of the permanency committee to the child welfare program manager or designee within three business days of the permanency committee recommendation.
  - (a) When the permanency committee recommends the foster parent is able to meet the permanency needs of the child and his or her siblings, if any, and may be considered a current caretaker, the committee must document the reasons for the recommendation.

- (b) When the permanency committee does not recommend the foster parent as a current caretaker because it determined the foster parent does not demonstrate the characteristics needed to meet the current and lifelong safety, permanency, and well being needs of the child and his or her siblings, the permanency committee must document each reason an affirmative recommendation was not made.
- (10) The child welfare program manager or designee responsible for making the decision on behalf of the Department may attend the permanency committee meeting, listen and ask for clarifying or additional information, but may not have been a participating member of the committee.
- (11) The child welfare program manager or designee must consider the recommendations of the permanency committee and make a decision within three business days of receiving the permanency committee recommendation.
- (a) When the child welfare program manager or designee determines the foster parent is considered a current caretaker, the child welfare program manager or designee must do all of the following:
    - (A) Provide notice of the decision to the caseworker for the child and any siblings involved in the decision and supervisor of the caseworkers;
    - (B) Direct whether the current caretaker will be considered alone or with general applicants in the adoption selection process; and
    - (C) Direct the certifier or an adoption worker to complete a home study update within 90 calendar days of the permanency committee recommendation.
  - (b) When the child welfare program manager or designee determines the foster parent is not considered a current caretaker, the child welfare program manager or designee provides notice of the decision to the caseworker and supervisor.
- (12) Upon receipt of the child welfare program manager or designee's decision, within one business day, the child's caseworker notifies each of the following:
- (a) The child's foster parent.
  - (b) The CASA for the child and for each sibling, if any.
  - (c) The attorney for the child and for each sibling, if any.
  - (d) The tribal representative, when the child is an Indian child.
  - (e) The member of the RCWAC when the child is a refugee child.

Stat. Auth.: ORS 418.005, 418.937, 418.945, 419B.192  
Stats. Implemented: ORS 418.005, 418.937, 418.945, 419B.192

#### **413-120-0580**

#### **Review of the Child Welfare Program Manager's Decision**

- (1) Any of the following individuals may request a review of the child welfare program manager or designee's decision not to consider the foster parent as a current caretaker for the child and his or her siblings. A request for a review must be submitted in writing to the District Manager within seven calendar days of the notification required under OAR 413-120-0570(11):
  - (a) The caseworker for the child and for each sibling, if any;
  - (b) The supervisor of the caseworker for the child and for each sibling, if any;
  - (c) The attorney for the child and for each sibling, if any;
  - (d) The CASA for the child and for each sibling, if any;
  - (e) When the child is an Indian child, the tribal representative;
  - (f) When the child is a refugee child, the member of the RCWAC; and
  - (g) The child's foster parent.
- (2) Within 14 calendar days of the notification required under OAR 413-120-0570(11), the District Manager must review the written request, and all written materials submitted to the child welfare program manager or designee. The District Manager may request additional relevant information for consideration during the review.
- (3) Upon completing the review, the District Manager must provide written notice to the individuals identified in section (1) of this rule and the notice must state one of the following:
  - (a) The child welfare program manager or designee's decision not to recommend the foster parent for consideration as a current caretaker is affirmed, and there will be no further consideration of the foster parent as a current caretaker; or
  - (b) The child welfare program manager or designee's decision not to recommend the foster parent for consideration as a current caretaker is reversed, and the caseworker is directed to consider the foster parent as a current caretaker. The District Manager also determines whether or not the adoption selection process will include general applicants.
- (4) The District Manager must document the decision and how the decision is based on the best interests of the child.

(5) The decision of the District Manager is final.

Stat. Auth.: ORS 418.005, 418.937, 418.945, 419B.192

Stats. Implemented: ORS 418.005, 418.937, 418.945, 419B.192

#### **413-120-0590**

##### **Relative Identification Post Current Caretaker Consideration**

When a child's relative is identified and expresses interest in but has not yet been assessed prior to a decision that a foster parent will be considered a current caretaker, the child welfare program manager decides whether to proceed with a foster parent's request for consideration.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

#### **413-120-0595**

##### **Foster Parent Determined as Current Caretaker before July 1, 2010**

- (1) A foster parent may be considered a current caretaker under these rules, OAR 413-120-0500 to 413-120-0595, and may be considered as a potential adoptive resource when all of the following requirements have been met:
  - (a) The foster parent has had physical custody of a child in the legal custody of the Department during the six consecutive months prior to July 1, 2010;
  - (b) The foster parent has expressed interest in becoming a potential adoptive resource;
  - (c) The Department has determined the diligent search for relatives had been completed; and
  - (d) Prior to July 1, 2010, a preliminary current caretaker or permanency committee has been scheduled to review the foster parent as a potential adoptive resource.
- (2) When a foster parent had been recommended for consideration as a potential adoptive resource through a preliminary current caretaker committee held prior to July 1, 2010, the decisions made by the Department remain in effect.
- (3) When a permanency committee recommends the current caretaker for consideration as a potential adoptive placement resource for a child, the current caretaker may be considered as described in Child Welfare Policy I-G.1.5, "Adoption Placement Selection" OAR 413-120-0000 to 413-120-0060.

Stat. Auth.: ORS 418.005, 419B.192

Stats. Implemented: ORS 418.005, 419B.192

#### **Contact(s):**

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## Policy History

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