DHS Policy
Oregon Department of Human Services

Office of Child Welfare Programs

Prior Version

Policy Title:	Foster Parent Request for Consideration as a Current Caretaker – Temporary OAR				
Policy Number:	I-G.1.1 413-120-0500 thru 0595			Effective Date:	8/04/14 thru 1/31/15

Approved By: *on file* Date Approved:

Policy | Forms, etc. | Definitions | References | Contact | History

Reference(s):

- ORS 419B.192
- PL 110-351 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 request consideration as a *current caretaker* for the purpose of consideration as a potential *adoptive resource* as a part of permanency planning for a *child* or *sibling* group under consideration.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.285

413-120-0510
Definitions

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

(1) "Adoptive resource" means an individual or individuals selected by the Department as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the Department review is complete.

(2) "Child" means a person under 18 years of age.

(3) "Concurrent permanent plan" means the alternate *permanency plan* whenever the *child* has been placed in *substitute care* when the goal of the *permanency plan* is to return the *child* to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the *child* to the parents or legal guardians.

(4) "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 permanent plan* of adoption;

(b) Has cared for the *child* or at least one *sibling* in a sibling group under consideration 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, the siblings in a sibling group under consideration for adoption in the same adoptive family.

(5) "Department" means the Department of Human Services, Child Welfare.

(6) "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.

(7) "General applicant" means an individual who:

(a) Is neither a *relative* nor *current caretaker*; and

(b) Has submitted a completed application to adopt a *child*.

(8) "Indian child" means any unmarried person who is under 18 years of age and is either:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

(9) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a *permanency plan* or potential permanency resource when the *child* or *young adult* likely is not returning to his or her parent.

(10) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the *child*. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other individuals who will assume legal responsibility for the *child* during the remaining years of dependency and be accessible and supportive to the *child* in adulthood.

(11) "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.

(12) "Relative" means (each of the following individuals is a "relative"):

(a) An individual with one of the following relationships to the *child* or *young adult* through the parent of the *child* or *young adult* unless the relationship has been dissolved by adoption of the *child*, *young adult*, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological parent are half-blood relatives).

(C) A *sibling*, also to include an individual with a sibling relationship to the *child* or *young adult* through a putative father.

(D) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(E) A spouse of anyone listed in paragraphs (A) to (D) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the *child* or *young adult* must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the *child* or *young adult*:

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(A) An individual defined as a relative by the law or custom of the tribe of the *child* or *young adult* if the *child* or *young adult* is an *Indian child* under the Indian Child Welfare Act or in the legal custody of a tribe.

(B) An individual defined as a relative of a refugee child or young adult under Child Welfare Policy I-E.2.2, "Placement of Refugee Children", OAR 413-070-0300 to 413-070-0380.

(C) A stepparent or former stepparent if the *child* or *young adult* had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(D) The registered domestic partner of the parent of the *child* or *young adult* or a former registered domestic partner of the parent of the *child* or *young adult* if the *child* or *young adult* had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(E) The adoptive parent of a *sibling* of the *child* or *young adult*.

(F) The unrelated legal or biological father or mother of a half-sibling of the *child* or *young adult* when the half-sibling of the *child* or *young adult* is living with the unrelated legal or biological father or mother.

(c) An individual identified by the *child* or *young adult* or the family of the *child* or *young adult*, or an individual who self-identifies, as being related to the *child* or *young adult* through the parent of the *child* or *young adult* by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (D) of subsection (a) of this section unless the relationship has been dissolved by adoption of the *child*, *young adult*, or parent.

(d) An individual meeting the requirements of at least one of the following paragraphs:

(A) An individual not related to the *child*, *young adult*, or *parent* by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the *child* or *young adult* or by the family of the *child* or *young adult*; and

(ii) Who had an emotionally significant relationship with the *child* or *young adult* or the family of the *child* or *young adult* prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the *child* or *young adult* as described in paragraphs (a)(A) to (D) of this section through the birth parent of the *child* or *young adult*, but the prior legal relationship has been dissolved by adoption of the *child*, *young adult*, or birth parent, and who is identified as a member of the family by the *child* or *young adult* or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

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(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the *child* has been terminated by divorce or death.

(B) A *foster parent* may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable *permanency plan*;

(ii) The *foster parent* is currently caring for a *child*, in the care or custody of the Department or a participating tribe, who has a *permanency plan* or *concurrent permanent plan* of guardianship;

(iii) The *foster parent* has cared for the *child* for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the *foster parent* for consideration as a guardian.

(13) "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 legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(14) "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.

(15) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

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, a *foster parent* may become an *adoptive resource* for a *child*.

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(3) The child's caseworker must keep the *foster parent* informed of the child's *permanency plan* and *concurrent permanent plan*.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.648, 419B.192

Prior Version

413-120-0541
When a Foster Parent Can Request Consideration as a Potential Adoptive Resource

(1) A *foster parent* may request consideration as a *current caretaker* for a *child* or a *sibling* group under consideration in the legal custody of the Department when the requirements of all of the following subsections are met:

(a) Adoption is each child's identified *permanency plan* or *concurrent permanent plan*, and the Department determines it is in the best interest of the *child* or a *sibling* group under consideration to proceed with identifying potential adoptive resources.

(b) The *child* or at least one *sibling* in a *sibling* group under consideration has been in the physical custody of the *foster parent* for the most recent 12 consecutive months.

(c) The *foster parent* is willing to be considered as a potential *adoptive resource* for the child's siblings currently in *substitute care* and under consideration for adoption in the same adoptive family.

(d) The caseworker and the caseworker's supervisor have complied with the requirements of both of the following paragraphs:

(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) Confirmed there are no current Department actions to ---

(i) Identify a child's relative as defined in OAR 413-120-0510(12)(a)-(c); or

(ii) Assess an identified relative as defined in OAR 413-120-0510(12)(a)-(c) who has either expressed an interest in and needs to be or currently is being assessed as a potential *adoptive resource*.

(2) When a *child* has one or more siblings, and two or more foster parents meet the requirements of subsections (1)(a) to (1)(c) of this rule, each may request consideration as a *current caretaker*, and if a request is received, the Department must review each request as described in these rules (OAR 413-120-0500 to 413-120-0595).

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

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413-120-0570
Permanency Committee Consideration of Current Caretaker

(1) When a *foster parent* is requesting consideration as *current caretaker*, the Department schedules a *permanency committee* pursuant to Child Welfare Policy, I-E.3.6, "Legal Permanency, Concurrent Planning, and Use of Permanency Committee", OAR 413-070-0500 to 413-070-0519.

(2) The *permanency committee* must review all of the information presented to the committee and consider the extent to which the *foster parent* meets the following:

(a) The standards for an adoptive home under OAR 413-120-0246;

(b) The extent to which the *foster parent* has the knowledge, skills, abilities and commitment to raise the *child* and each *sibling* if there are siblings under consideration for adoption in the same adoptive family; and

(c) The extent to which the ongoing needs for safety, permanency, and well-being of each *child* and each *sibling*, if there are siblings under consideration for adoption in the same adoptive family, will be met under OAR 413-070-0640.

(3) After completing the review under section (2) of this rule, the *permanency committee* considers all of the information, deliberates, and, when committee members agree, makes a recommendation to the Child Welfare Program Manager or designee.

(4) When the *permanency committee* cannot reach agreement, each *permanency committee* member makes his or her respective recommendations known to the committee facilitator.

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

413-120-0580
Decision and Department Actions

(1) The Child Welfare Program Manager or designee who makes the decision on behalf of the Department regarding a request of *foster parent* for consideration as a *current caretaker* must consider all of the following when making the decision:

(a) The considerations in OAR 413-120-0570(2);

(b) The information presented to the *permanency committee*; and

(c) The recommendations of the *permanency committee*.

(2) The Child Welfare Program Manager's or designee's decision regarding the request of a *foster parent* for consideration as a *current caretaker* must be documented on a form approved by the Department and must specify:

(a) Whether the *foster parent* will be considered; and

(b) When the *foster parent* will be considered as a *current caretaker*, whether the adoption selection process will also include consideration of a potential *adoptive resource* who either is a --

(A) Child's relative as defined in OAR 413-120-0510(12)(d); or

(B) *General applicant*.

(3) When the *foster parent* will be considered as a *current caretaker*, the certifier or an adoption worker must complete a home study update within 90 calendar days of the decision.

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

413-120-0590
When a Relative is Identified

When a child's *relative* is identified and expresses interest in being considered as a potential *adoptive resource* after a *foster parent* has requested consideration or a *permanency committee* has been scheduled, the Child Welfare Program Manager or designee must:

(1) Review the diligent efforts to identify and place a *child* with a *relative* and to place siblings together as required under Child Welfare Policy I-E.1.1., "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0063;

(2) Determine whether it is in the child's best interest for the *relative* to be considered; and

(3) Determine whether the *permanency committee* to consider the request of the *foster parent* will be held, cancelled, or postponed.

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

413-120-0595
Foster Parent Determined as Current Caretaker before July 1, 2010

(1) When a *foster parent* had been recommended for consideration as a potential *adoptive resource* through a current caretaker committee or current caretaker committee held prior to July 1, 2010, the decisions made by the Department remain in effect until an adoption selection has been made.

(2) When a *permanency committee* recommends the *current caretaker* for consideration as a potential *adoptive resource* for a *child*, the *current caretaker* is considered pursuant to

Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0000 to 413-120-0060.

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

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