Prior Version

Policy Title:	Identification and Consideration of Potential Adoptive Resources – OAR				
Policy Number:	I-G.1.2 413-120-0700 thru 0760			Effective Date:	9/19/11

Approved By: *on file* Date Approved: 9/15/11

Reference(s):

- Title IV-E Indian Child Welfare Act
- Refugee Act of 1980
- PL 105-89, Adoption and Safe Families Act (ASFA)
- Fostering Connections to Success and Increasing Adoptions Acts of 2008
- 45 CFR Parts 1355, 1356 and 1357, 1/25/2000
- 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-F.2, Determining the Appropriateness of Adoption as a Permanency Plan
- Child Welfare Policy I-G.1.1, Foster Parent Request for Consideration as a Current Caretaker
- Child Welfare Policy I-G.1-5, The Adoption Placement Selection

Form(s) that apply:

- None referenced.

Rules:

413-120-0700
Purpose

These rules (OAR 413-120-0700 to 413-120-0760) describe the responsibilities of the Department to ---

(1) Identify the potential adoptive resources for a *child* or *sibling* group under consideration to best meet the current and lifelong needs of each *child* for safety, permanency, and well-being; and

(2) Establish an order of preference for assessment and consideration of potential adoptive resources.

Stat. Auth.: ORS 109.309, 409.050, 418.005
Stats. Implemented: ORS 109.309, 409.010, 418.005, 418.280, 418.285, 418.937, 419B.090, 419B.100, 419B.192

Prior Version

413-120-0710
Definitions

The following definitions apply to OAR 413-120-0700 to 413-120-0760:

(1) "Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a *child* or children.

(2) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency 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 was sustained by that review and the review is complete.

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

(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 an unrelated *child* or young adult placed in the home by the Department.

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

(a) Is neither *relative* or *current caretaker*; and

(b) Has submitted a complete 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 permanent resource when the *child* or young adult likely is not returning to his or her parent.

(10) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(11) "Refugee child" has the meaning given that term per ORS 418.925.

(12) "Relative" means:

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

(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 *child* or young adult entering substitute care.

(F) For the purposes of an international adoption, relative means an individual described in paragraphs (A) to (D) of this subsection.

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

(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

Prior Version

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 described in OAR 413-100-0020(27)(c) or former stepparent if the *child* or young adult had a relationship with the former stepparent prior to the *child* or young adult entering substitute care; 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 entering substitute care.

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

(F) The unrelated legal or biological father or mother of a half-sibling of a *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, 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.

(d) An individual, although not related by blood, adoption, or marriage identified as:

(A) A member of the family by the *child* or young adult or the family of the *child* or young adult; and

(B) An individual who had an emotionally significant relationship with the *child* or young adult or the family of the *child* or young adult prior to the time the Department placed the *child* in substitute care.

(e) For eligibility for the Guardianship Assistance program:

(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 child's adoptive or biological parent 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 and only when the requirements of all of the following subparagraphs are met:

(i) There is a compelling reason why adoption is not an achievable

Prior Version

permanency plan;

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

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

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

Prior Version

(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 caregiver" means a relative caregiver, *foster parent*, or provider who is authorized to provide care to a *child* or young adult who is in the legal or physical custody of the Department.

Stat. Auth.: ORS 109.309, 418.005
Stats. Implemented: ORS 109.309, 418.005, 418.285, 418.937, 419B.090, 419B.100, 419B.192

413-120-0720
Department's Efforts to Place with Relatives and to Place Siblings Together

(1) The Department's preference for placement of a *child* for the purpose of adoption is placement with relatives and placing siblings together.

(2) Prior to pursuing a non-related potential *adoptive resource*, the caseworker and the caseworker's supervisor must comply with the requirements of both of the following subsections:

(a) Review the Department's diligent efforts to identify, contact, and place a *child* or young adult with relatives and to place siblings together as required under 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

(b) Confirm there are no current Department actions to identify or assess a child's *relative* who has either expressed an interest in and needs to be or currently is being assessed as a potential *adoptive resource*, unless OAR 413-120-0730(1)(b)

applies.

Stat. Auth.: ORS 109.309, 418.005
Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.090, 419B.192

Prior Version

413-120-0730
Order of Preference for Identification of Potential Adoptive Resources

(1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a *child* or *sibling* group under consideration, the caseworker must consider the needs and the best interest of each *child*, and assess the knowledge, skills, and abilities of each potential *adoptive resource* in the following order of preference:

(a) A relative as defined in OAR 413-120-0710(12)(a)-(c).

(b) A relative as defined in OAR 413-120-0710(12)(d), or a *current caretaker* (except when OAR 413-120-0580(2)(b)(B) applies), or both.

(c) A *current caretaker* and a *general applicant*, when a determination has been made under OAR 413-120-0580(2)(b)(B).

(d) Except as provided in subsection (c) of this section, a *general applicant*.

(2) When the *child* is identified as an *Indian child*, the caseworker must comply with Child Welfare Policy I-E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260.

(3) When the *child* is identified as a *refugee child*, the caseworker must comply with Child Welfare Policy I-E.2.2, "Placement of Refugee Children", OAR 413-070-0300 to 413-070-0380.

Stat. Auth.: ORS 109.309, 418.005
Stats. Implemented: ORS 109.309, 418.005, 419B.192

413-120-0750
Recruitment Efforts

(1) Except as provided in section (2) of this rule, the Department's recruitment efforts may not consider the race, color, or national origin of a potential *adoptive resource* or a *child*.

(2) When recruiting potential adoptive resources for an *Indian child*, the Department may consider the cultural heritage of a potential *adoptive resource* or the *child* under Child Welfare Policy I-E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260.

(3) The Department must begin recruitment for the *child* or *sibling* group under consideration in a timely manner that is appropriate to each child's permanency and concurrent permanent plans.

(4) When a *child* is not fully free for adoption, the legal assistance specialist must:

(a) Determine when recruitment may begin;

(b) Determine whether recruitment may begin for a *child* with extraordinary needs before the Department initiates the process to free the *child* for adoption; and

(c) Notify the caseworker to begin recruitment efforts.

(5) As part of the identification of general applicants who will be considered in the adoption placement selection process, the child's caseworker must conduct recruitment activities including, at a minimum, ensuring a Waiting Child Bulletin has been posted, for at least 30 days, unless one or more of the following subsections applies:

(a) An exception to this timeline has been approved by the Assistant Adoption Program Manager or designee.

(b) The Department has determined, under Child Welfare Policy I-E.3.6, "Legal Permanency, Concurrent Planning and Use of Permanency Committee", OAR 413-070-0516, that an individual known to the *child* or *sibling* group under consideration, should be assessed for consideration as the potential *adoptive resource*, based upon the following:

(A) The best interest of each *child* under consideration;

(B) The strength of the relationship between each *child* under consideration and the individual;

(C) The likelihood that the individual will have a positive *adoption home study* and be able to meet the Department standards under Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption, OAR 413-120-0246(1); and

(D) The individual has demonstrated the knowledge, skills, abilities, and commitment to raise each *child* under consideration for adoption; and

(E) The individual has the capacity to meet the current and lifelong safety, permanency, and well-being needs of the *child* under Child Welfare Policy I-E.3.1, "Placement Matching", OAR 413-070-0640.

(c) An exception to the order of preference was granted by the Adoption Program Manager under OAR 413-120-0760.

(6) Recruitment activities under section (5) of this rule are not required when the Department has planned for:

Prior Version

(a) The *child* or *sibling* group under consideration to be adopted by a *relative* of at least one of the siblings under consideration; or

(b) The *child* or *sibling* group under consideration to be adopted by a *current caretaker*.

(7) The Department's recruitment efforts for a *child* or *sibling* group under consideration must be documented in the Department's information system.

Stat. Auth.: ORS 109.309, 418.005
Stats. Implemented: ORS 109.309, 418.005, 419B.192

Prior Version

413-120-0760
Identification of a Child's Potential Adoptive Resources

(1) When identifying potential adoptive resources for a *child*, the child's caseworker may --

(a) After discussion with his or her supervisor and on a case-by-case basis, consult with a birth parent to identify one to three potential adoptive resources; and

(b) Provide a birth parent with non-identifying information from the *adoption home study* of a potential *adoptive resource* who is a *general applicant* not known to the parent or *child*.

(2) When more than one *relative* is interested in being an *adoptive resource*, the Department must consult with those interested to facilitate agreement on the most appropriate potential *adoptive resource*.

(a) When agreement cannot be reached, the Department considers relatives among both maternal and paternal family members who have expressed an interest, and chooses up to a total of three families for adoption home studies, to be conducted by either the Department or another public or private agency.

(b) When an *adoption home study* has been initiated and the potential *adoptive resource* is not approved or withdraws, the Child Welfare Program Manager or designee decides whether the Department will initiate adoption home studies with additional relatives based upon:

(A) The best interest of the child; and

(B) The impact on achieving permanency when pursuing additional studies.

(3) The child's caseworker must comply with the requirements of all of the following subsections:

(a) Make reasonable efforts to identify and place the *child* with an *adoptive resource* in a timely manner.

(b) Request input about the knowledge, skills, abilities, and commitment a potential *adoptive resource* needs to best be able to meet the current and lifelong needs of the *child* from --

(A) Professionals who have worked closely with the *child*, when applicable; and

(B) The child's attorney, CASA, tribal representative, RCWAC representative, and *substitute caregiver*, when applicable.

(c) Receive and review adoption home studies in a timely manner.

(d) Following consultation with his or her supervisor, identify up to three potential adoptive resources following the order of preference in OAR 413-120-0730 to be considered for adoption placement selection who:

(A) Meet the standards of an adoptive home in Child Welfare Policy I-G.2.1, "Adoption Applications, Adoption Home Studies, and Standards for Adoption", OAR 413-120-0246;

(B) Have the knowledge, skills, abilities, and commitment to raise each *child* under consideration for adoption; and

(C) Have the capacity to meet the current and lifelong safety, permanency, and well-being needs of the *child* under Child Welfare Policy I-E.3.1, "Placement Matching", OAR 413-070-0640.

(4) If the caseworker is unable to identify any potential adoptive resources for adoption placement selection in the first order of preference set forth in OAR 413-120-0730(1) who are relatives as defined in OAR 413-120-0710(12)(a)-(c) and meet the criteria in paragraphs (3)(d)(A)-(C) of this rule, the caseworker may identify one to three potential adoptive resources who meet the criterion in paragraphs (3)(d)(A)-(C) of this rule who may include a *relative* or relatives as defined in OAR 413-120-0710(12)(d) or a *current caretaker*.

(5) If the caseworker is unable to identify any potential adoptive resources for adoption placement selection in the first or second order of preference set forth in OAR 413-120-0730(1) -- who are relatives as defined in OAR 413-120-0710(12)(a)-(d) or a *current caretaker* and meet the criteria in paragraphs (3)(d)(A)-(C) of this rule -- or a Child Welfare Program Manager has made the decision to consider a *current caretaker* along with *general applicant* under OAR 413-120-0580(2), the caseworker must identify one to three general applicants as potential adoption resources.

(6) The caseworker may, in consultation with his or her supervisor, submit a written recommendation to the Child Welfare Program Manager that an exception to the order of preference set forth in OAR 413-120-0730(1) be requested to allow consideration of additional potential adoptive resources for adoption placement selection when the caseworker believes that an exception is in the best interest of each *child*.

Prior Version

(a) Upon the recommendation of a caseworker and supervisor, the Child Welfare Program Manager may submit a written request for an exception to the order of preference set forth in OAR 413-120-0730(1) from the Adoption Program Manager if the Child Welfare Program Manager determines that an exception is in the best interest of each *child*.

(b) The Child Welfare Program Manager's written request must include the following documentation:

(A) The potential adoptive resources already identified for the adoption placement selection process;

(B) The *relative*, *current caretaker*, or specific *general applicant* the caseworker is requesting for inclusion in the adoption placement selection process;

(C) How the *relative*, *current caretaker*, or specific *general applicant* meets the criteria in subsection (3)(d) of this rule;

(D) Why inclusion of the *relative*, *current caretaker*, or specific *general applicant* in the adoption placement selection process is in the best interest of each *child*;

(E) The special needs of each *child*; and

(F) Whether and how the *relative*, *current caretaker*, or specific *general applicant* support the child's ability to continue emotionally significant relationships with relatives.

(c) Within 30 calendar days of receipt of the request for exception, the Adoption Program Manager must review the materials submitted and determine whether or not to grant the exception to the order of preference and include the *relative*, *current caretaker*, or specific *general applicant* in the adoption selection process.

(d) In reviewing the request and determining whether or not to grant the exception, the Adoption Program Manager shall consider the following factors:

(A) How the *relative*, *current caretaker*, or specific *general applicant* meets the criteria in subsection (3)(d) of this rule;

(B) Why inclusion of the *relative*, *current caretaker*, or specific *general applicant* in the adoption placement selection process is in the best interest of each *child*;

(C) The special needs of each *child*; and

(D) Whether and how the *relative*, *current caretaker*, or specific *general applicant* supports the child's ability to continue emotionally significant

Prior Version

relationships with relatives.

(E) The length of a child's placement with an individual may not be considered as the sole basis for granting an exception.

(e) Within ten business days of making a determination whether or not to grant the exception, the Adoption Program Manager must specify in writing to the Child Welfare Program Manager:

(A) Whether or not the exception was granted;

(B) How the determination supports the best interest of each child; and

(C) The *relative*, *current caretaker*, or specific *general applicant* to be included in the adoption placement selection process along with the one to three potential adoptive resources already identified by the caseworker.

(7) In consultation with the supervisor, the caseworker must determine the appropriate adoption selection process pursuant to Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0020.

(8) The caseworker must consult with the adoption worker for each of the identified potential adoptive resources pursuant to Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0021(2).

(9) The caseworker must document the actions taken under this rule in the Department's information system.

Stat. Auth.: ORS 109.309, 418.005
Stats. Implemented: ORS 109.309, 418.005, 419B.192

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Prior Version