

Policy Title:	Inspection and Copying of Records – OAR <i>(Repealed 8/01/14)</i>		
Policy Number:	III-F.1.6 413-350-0000 thru 0090		Effective Date: 11/01/07

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

Definitions

References

Contact

History

Reference(s):

- ORS 192.310, 192.420, 192.430, 192.440, 192.496, 192.501, 192.502
- ORS 409.010
- ORS 418.005
- ORS 419B.035
- OAR 407-003-0010
- OAR 407-005-0010
- OAR 407-005-0010
- American Disabilities Act

Form(s) that apply:

- None referenced.

Rules:

413-350-0000

Purpose

The purpose of these rules (OAR 413-350-0000 to 413-350-0090) is to prescribe procedures for viewing and copying public records held by the Child Welfare program and describe the process for charging fees when the Department makes the public records available.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

413-350-0010

Definitions

The following definitions apply to OAR 413-350-0000 to 413-350-0090:

- (1) "Custodian" means the Child Welfare program manager or designee of the program manager responsible for the service location at which the record is located.
- (2) "Public record" includes any writing containing information relating to the conduct of the public's business, including but not limited to records prepared, owned, used, or retained by a public body regardless of physical form or characteristics.
- (3) "Writing" means the definition of "writing" in the version of OAR 407-003-0000 that is current when the public record request is made.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

413-350-0020

Access

Any person has a right to inspect any public record held by the Child Welfare Program to the extent provided by these rules (OAR 413-050-0000 to 413-050-0090).

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

413-350-0030

Access to Electronic Public Records

When access is permitted under these rules (OAR 413-350-0000 to 413-350-0090):

- (1) If the public record is maintained in electronic form, Child Welfare shall provide copies of the electronic public record, in the form requested, if available.
- (2) If the public record is not available and maintained in the form requested, Child Welfare shall provide copies of the public record in the form in which it is maintained.
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

413-350-0040

Exemptions From Disclosure

- (1) Per ORS 192.496, the following records are exempt from disclosure:
 - (a) Records less than 75 years old that contain information about the physical or mental health or psychiatric care or treatment of a living individual, if the public disclosure thereof would constitute an unreasonable invasion of privacy. The party seeking disclosure shall have the burden of showing by clear and convincing evidence that the public interest requires disclosure in the particular instance and that public disclosure would not constitute an unreasonable invasion of privacy.
 - (b) Records less than 75 years old that were sealed in compliance with statute or by court order. Such records may be disclosed upon order of a court of competent jurisdiction or as otherwise provided by law.
 - (c) Records of a person who is or has been in the custody or under the lawful supervision of a state agency, a court or a unit of local government, are exempt

from disclosure for a period of 25 years after termination of such custody or supervision to the extent that disclosure thereof would interfere with the rehabilitation of the person if the public interest in confidentiality clearly outweighs the public interest in disclosure. Nothing in this subsection, however, shall be construed as prohibiting disclosure of the fact that a person is in custody.

- (d) Student records required by state or federal law to be exempt from disclosure.
- (2) Per ORS 192.501, the following public records are exempt from disclosure:
- (a) Records of a public body pertaining to litigation to which the public body is a party if the complaint has been filed, or if the complaint has not been filed, if the public body shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation that has been concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery or disposition statutes to a party to litigation or potential litigation.
 - (b) Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:
 - (A) The arrested person's name, age, residence, employment, marital status and similar biographical information;
 - (B) The offense with which the arrested person is charged;
 - (C) The conditions of release pursuant to ORS 135.230 to 135.290;
 - (D) The identity and biographical information concerning both complaining party and victim;
 - (E) The identity of the investigating and arresting agency and the length of the investigation;
 - (F) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and
 - (G) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.
 - (c) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given and if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

- (d) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under ORS 659A.850.
 - (e) Investigatory information relating to any complaint or charge filed under ORS 243.676 and 663.180.
 - (f) A personnel discipline action, or materials or documents supporting that action.
 - (g) Computer programs developed or purchased by or for any public body for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program. "Computer program" does not include:
 - (A) The original data, including but not limited to, numbers, text, voice, graphics, and images;
 - (B) Analyses, compilations, and other manipulated forms of the original data produced by use of the program; or
 - (C) The mathematical and statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.
 - (h) Data and information provided by participants to mediation under ORS 36.256.
 - (i) Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.
- (3) Per ORS 192.502, the following records are exempt from disclosure:
- (a) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.
 - (b) Information of a personal nature such as, but not limited to, that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.
 - (c) Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

- (d) Information or records of the Department of Corrections, including the State Board of Parole and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of a person in custody of the Department of Corrections or substantially prejudice or prevent the carrying out of the functions of the Department of Corrections, if the public interest in confidentiality clearly outweighs the public interest in disclosure.
- (e) Any public records or information the disclosure of which is prohibited by federal law or regulations.
- (f) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law.
- (g) Public records or information described in this rule, furnished by the public body originally compiling, preparing, or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.
- (h) Employee and retiree address, telephone number, and other non-financial membership records and employee financial records maintained by the Public Employees' Retirement System pursuant to ORS chapters 238 and 238A.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.496, 192.501, 192.502, 409.010, 418.005, 419B.035

413-350-0050

Supervisory Review

Prior to any person viewing or copying a public record held by Child Welfare, the supervisor or person designated by the branch must determine which material in the record is exempt from disclosure. If the supervisor or person designated by the branch has any doubt as to whether information contained in the record is exempt from disclosure, the supervisor must consult with designated or Central office staff.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.496, 192.501, 192.502, 409.010, 418.005, 419B.035

413-350-0060

Time Frame

Child Welfare provides an opportunity for the inspection and copying of records when access and copying is otherwise permitted under these rules (OAR 413-350-0000 to 413-350-0090). To protect its records and prevent interference with the regularly scheduled duties of its staff, Child Welfare and the person requesting to inspect the record shall establish a reasonable time at which the records may be inspected. The time frame for inspection shall normally be within ten working days. When this time frame is not possible, the custodian or person designated by the branch will discuss the reasons with the requester and provide an expected date for inspecting the record. If copies are requested, Child Welfare shall make them within a reasonable time period, not to exceed five working days from the date of the request for the specific material, and shall mail the material to the requester.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

413-350-0070

Viewing and Copying Procedures

- (1) When Child Welfare is required or permitted to make records available pursuant to ORS 419B.035, the identities of the abuse reporters and victims will be deleted from the material provided for examination. Prior to allowing viewing and copying of the public record, Child Welfare shall separate any material that is exempt from disclosure from non-exempt material, and make the non-exempt material available for examination.
- (2) Names, addresses, and other identifying information of mandatory abuse reporters, as well as voluntary abuse reporters and persons making complaints who requested confidentiality, must be covered to protect their identity. The names of alleged perpetrators if the perpetrators are juveniles in Child Welfare custody and the names of victims must also be covered.
- (3) Child Welfare shall provide the person requesting examination a place to review the record. A person designated by Child Welfare shall sit with the person reviewing the record in order to assure it is not altered in any way.
- (4) The person viewing the record may designate pages to be copied, or may request copies of specific information contained in the record. Only Child Welfare staff may copy the designated material.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

413-350-0080

Charges

- (1) Child Welfare shall charge for the cost of making the record available to the extent permitted by OAR 407-003-0010.
- (2) Child Welfare shall inform the requester of estimated charges as provided by OAR 407-003-0010(5).
- (3) The requester may ask Child Welfare for a waiver of the charges for the cost of making the record available. Child Welfare may reduce or waive fees as provided by OAR 407-003-0010.
- (4) If Child Welfare denies the initial request for a waiver of all or part of the actual cost of providing the record, the requester may proceed as provided by OAR 407-003-0010(7).

Stat. Auth.: ORS 192.430, 409.050, 418.005

Stats. Implemented: ORS 192.430, 192.440, 409.010, 418.005

413-350-0090

Availability of Alternative Print Format

Upon request of a person with a disability for public records otherwise available to the requester under these rules (OAR 413-350-0000 to 413-350-0090), Child Welfare will consult with that individual about making the requested records available in alternative print format at no additional cost to the requester and follow OAR 407-005-0010(8).

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: 409.010, 418.005

Contact(s):

- **Name:** CAF Reception; **Phone:** 503-945-5600

Policy History

- 12/29/95
- 07/01/01
- 11/01/07

Repealed