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 Office of Safety & Permanency for Children

Authorized Signature
Number: CW-PT-10-008

Issue Date: 07/01/2010

Topic: Adoptions

Transmitting (check the box that best applies):

- New Policy
 Policy Change
 Policy Clarification
 Executive Letter
 Administrative Rule
 Manual Update
 Other: _____

Applies to (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input checked="" type="checkbox"/> Children, Adults and Families | <input type="checkbox"/> Seniors and People with Disabilities |
| <input type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Other (please specify): |

Policy/Rule Title:	International Adoption and Special Immigrant Juvenile Status		
Policy/Rule Number(s):	I-G.1.14 OAR 413-120-09 to 413-120-0980	Release No:	
Effective Date:	07/01/2010	Expiration:	12/28/10
References:			
Web Address:	http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-g114.pdf		

Discussion/Interpretation:

These new rules, OAR 413-120-0900 to 413-120-0980, need to be adopted by July 1, 2010 in response to Senate Bill 10 (2009) codified as ORS 417.262 and House Bill 3471 (2009) codified as ORS 417.265 in order to achieve State of Oregon compliance with the requirements of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (Convention) and the Intercountry Adoption Act of 2000, 42 USC 14901 to 14954 (IAA).

These rules concern adoption cases subject to the Convention and IAA and when the Department will consider and pursue special immigrant juvenile status for a child, define key terms used in these rules, state the guidelines for incoming

and outgoing Convention adoptions, explain the Department's post-placement supervision responsibilities, state the Department's finalization and post-finalization duties, state when a child subject to a Convention adoption is eligible for Adoption Assistance program benefits, explain the information the Department must share with the prospective adoptive parents in an outgoing Convention adoption, state when the Department must obtain Hague custody declaration and when that declaration must accompany the child, explain when and how the Department may apply for special immigrant juvenile status, and comply with the recent changes in the Convention and federal and state law.

Specifically, the new rules address the following general policy requirements:

- Provides definitions for key terms used throughout these rules, including Adoption, Central authority, Central authority functions, Convention, Convention adoption, Convention country, Department, Foreign authorized entity, Hague adoption certificate, Hague custody declaration, IAA, Incoming Convention adoption, Outgoing Convention adoption, Prospective adoptive parents, Receiving Convention country, Relative, Special immigrant juvenile status, Secretary of State, and U.S. State Department;
- Direct reporting requirements to the U. S. State Department including, but not limited to information on incoming and outgoing Convention adoptions, whether pending or finalized by the Department;
- Require that the Department maintain a database of all Oregon, licensed, private agency adoption placements, disruptions, finalizations, and dissolutions and report this information to the U.S. Department of Health and Human Services Administration for Children, Youth, and Families Children's Bureau;
- Direct which children can be considered for an incoming Convention adoption (the adoption of a child immigrating to the United States) and that the Department will cooperate with each applicable foreign authorized entity and comply with the requirements of the Convention and IAA with respect to each incoming Convention adoption;
- Direct when the Department may pursue an outgoing Convention adoption, which children are eligible to be considered for an outgoing Convention adoption, the adoption planning administrative rules that must be complied with when a child is considered for an outgoing Convention adoption, the requirements the Department must meet before a child may be placed in a prospective adoptive home in another Convention, that the Department must obtain a court order in support of an application for a Hague adoption certificate prior to the child traveling to the receiving Convention country for placement with the prospective adoptive parents, and what that court order must contain;
- Direct Department's responsibilities for transition, travel, placement, and registration when a child is placed in an outgoing Convention adoption;

- Direct when the Department may consent to an outgoing Convention adoption and the Department's responsibilities for post-placement supervision during an outgoing Convention adoption;
- Direct that the Department finalizes adoptions subject to these rules;
- Direct Department post-finalization responsibilities during an outgoing Convention adoption, include submitting proof of the Department's consent to the child's adoption to the foreign authorized entity;
- Directs that outgoing Convention adoptions shall be finalized pursuant to ORS 419B.529, requesting a court order that makes all of the necessary findings required by the Convention and IAA to support an application for a Hague adoption certificate, applying for a Hague adoption certificate, and requesting Hague adoption certificates to provide one original to the adoptive parents and enters one original into the sealed adoption record;
- Directs that in order for a child to be eligible for Title IV-E Adoption Assistance program benefits a child subject to a Convention adoption must be a United States citizen and meet all other eligibility requirements;
- States the information the Department must provide to the prospective adoptive parents in an outgoing Convention adoption and that the information must be provided in both the original format and translated into the primary language of the prospective adoptive parents;
- Directs that the Department must apply for and obtain a Hague custody declaration in those cases when the receiving Convention country requires a Hague custody declaration for placement of a child for adoption in the receiving Convention country and that the Hague custody declaration must accompany the child when the child leaves the United States and travels to the other Convention country; and
- Directs when the Department may apply for special immigrant juvenile status for children subject to incoming adoption (the legal process to obtain lawful permanent resident status for a child who does not have lawful permanent resident status because he or she entered the United States without inspection) after they are in the legal and physical custody of the Department, who may approve the determination to apply for special immigration status, and what the Department must do when applying for special immigrant juvenile status for a child.

Implementation/Transition Instructions:

These new Temporary Rules provide significant policy direction and clarification for how adoption selection, placement and finalization will occur for foster children subject to incoming (domestic) and outgoing transnational adoptions. The Central Office staff will work with local branch management and staff, with the Child Welfare Partnership and, with community partners in implementing these changes, providing training, and lending support to making this transition. **Local child welfare staff should expect to work very closely with Central Adoption Program staff and receive assistance from staff in the Central Diversity and International Affairs Program for the**

foreseeable future, due to the complexities of the Convention and immigration laws and the fact that the Adoption Program is conducting the Central Authority activities delegated to the Department by the U.S. Department of State.

Child Welfare Program Managers and staff should read and review these administrative rule changes. The expectation is that Department staff will comply with these revised rules.

The Adoption Program will issue a revision of the Informational Memorandum distributed to the field in the fall of 2009 that provided interim guidance regarding implementation of the Hague Convention and IAA in Oregon. Although the Department has had international adoption placement procedures in the Child Welfare Procedure Manual, they have not been fully compliant with the Convention and the IAA. The Adoption Program expects to issue revised procedures for international adoptions concomitant to release of these rules.

There will be several opportunities for staff comment regarding the temporary rule changes, and to provide input into the development of the final rules. The Adoption Program is setting up a specific email address for questions and is developing a plan to communicate answers to frequently asked questions. Surveys will also be developed to solicit feedback regarding the changes. A Rule Advisory Committee will be scheduled and these rules will be reviewed at Policy Council this fall.

Training/Communication Plan:

The Adoption Program is working with the CAF Training Unit to develop a web-based training format for these rules and will be providing training through supervisor quarterlies, CWPM and DM monthly meetings and Permanency and Adoption quarterlies.

The Adoption Program will also provide ongoing practice discussions with Child Welfare Program Managers and Supervisors throughout the Temporary Rule period and as requested by the CWPMs. The Adoption program will be communicating changes at the Supervisor Quarterlies scheduled this summer.

Local/Branch Action Required:

Review and comply with the Temporary Rules. Refer to these Temporary Rules for direction in adoption planning and decision-making, and use the revised Procedure Manual language once it is posted. Staff will receive notification of posting of revised Procedures through an Informational Memorandum.

Central Office Action Required:

Adoption Program staff will answer email and phone inquiries on policy interpretation as needed. The Diversity and International Affairs program will be assisting with communication with consulates and embassies, local child welfare program offices in other countries and other translation needs.

Adoption Program staff will revise the Procedure Manual.

Adoption Program staff will work with the CAF Training Unit to develop advanced training on Department responsibilities as they relate to permanency decisions and the adoption selection process.

Field/Stakeholder review: Yes No

If yes, reviewed by:

Filing Instructions:

If you have any questions about this policy, contact:

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