DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 345

EMPLOYMENT AND ALTERNATIVES TO EMPLOYMENT SERVICES FOR ADULTS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

411-345-0010 Statement of Purpose
(Amended 1/6/2012)

The rules in OAR chapter 411, division 345 prescribe standards for providing employment and alternatives to employment services for individuals with developmental disabilities receiving residential services. These rules also prescribe the standards and procedures by which the Department endorses service providers to provide employment and alternatives to employment services.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0020 Definitions
(Temporary Effective 7/1/2013 - 12/28/2013)

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 345:

(1) "Abuse" means abuse of an adult as defined in OAR 407-045-0260.

(2) "Abuse Investigation and Protective Services" means reporting and investigation activities as required by OAR 407-045-0300 and any subsequent services or supports necessary to prevent further abuse as required in OAR 407-045-0310.

(3) "Administration of Medication" means the act of placing a medication in or on an individual's body by a staff member who is responsible for the individual's care.

(4) "Adult" means an individual 18 years or older with an intellectual or developmental disability.

(5) "Advocate" means a person other than paid staff who has been selected by an individual or by the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(6) "Aid to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the individual's physical functioning.

(7) "Alternatives to Employment Services" mean any services conducted away from an individual's residence that addresses the academic, recreational, social, or therapeutic needs of the individual for whom it serves.

(8) "Annual Individual Support Plan (ISP) Meeting" means an annual meeting, facilitated by an individual's services coordinator and attended by an individual's ISP team. The purpose of the meeting is to determine an individual's needs, coordinate services and training, and develop the individual's ISP.

(9) "Case Management" means an organized service to assist individuals to select, obtain, and utilize resources and services.

(10) "CDDP" means "Community Developmental Disability Program" as defined in this rule.

(11) "Certificate" means the document issued by the Department to a service provider that certifies the service provider is eligible under the rules in OAR chapter 411, division 323 to receive state funds for the provision of endorsed employment and alternatives to employment services.

(12) "Choice" means an individual's expression of preference, opportunity for, and active role in decision-making related to services received and from whom, including but not limited to case management, service providers, and service settings. Personal outcomes, goals, and activities

are supported in the context of balancing an individual's rights, risks, and personal choices. Individuals are supported in opportunities to make changes when so expressed. Choice may be communicated verbally, through sign language, or by other communication methods.

(13) "Community Based Service" means any service or program providing opportunities for the majority of an individual's time to be spent in community participation or integration.

(14) "Community Developmental Disability Program (CDDP)" means the entity that is responsible for the planning and delivery of services for individuals with intellectual or developmental disabilities according to OAR chapter 411, division 320. A CDDP operates in a specific geographic service area of the state under a contract with the Department, local mental health authority, or other entity as contracted by the Department.

(15) "Community First Choice State Plan" means Oregon's state plan amendment authorized under section 1915(k) of the Social Security Act.

(16) "Complaint Investigation" means the investigation of any complaint that has been made to a proper authority that is not covered by an abuse investigation.

(17) "Controlled Substance" means any drug classified as Schedules 1 to 5 under the Federal Controlled Substance Act.

(18) "Department" means the Department of Human Services (DHS). The term "Department" is synonymous with "Seniors and People with Disabilities Division (SPD)".

(19) "Developmental Disability" means a neurological condition that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080.

(20) "Director" means the Director of the Department's Office of Developmental Disability Services, or the Director's designee.

(21) "Discovery" is a focused time-limited service engaging a participant in identifying their strengths, needs, and interests to prepare for integrated employment.

(22) "Employment Services" means any service that has as its primary goal the employment of individuals, including job assessment, job development, training, and ongoing supports.

(23) "Endorsement" means the authorization to provide employment and alternatives to employment services issued by the Department to a certified service provider that has met the qualification criteria outlined in these rules and the rules in OAR chapter 411, division 323.

(24) "Entry" means admission to a Department-funded developmental disability service.

(25) "Executive Director" means the person designated by a board of directors or corporate owner that is responsible for the administration of employment and alternatives to employment services.

(26) "Exit" means termination or discontinuance of --

(a) Services from a service provider; or

(b) Department-funded developmental disability services.

(27) "Facility Based Service" means any service or program operated by a service provider that occurs in a location supporting more than eight individuals as a group.

(28) "Founded Reports" means the Department's or Law Enforcement Authority's (LEA) determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(29) "Functional Needs Assessment (FNAT)" means an assessment that documents the level of need, accommodates a child's participation in service planning, and includes --

(a) Completing a comprehensive and holistic assessment;

(b) Surveying physical, mental, and social functioning; and

(c) Identifying risk factors, choices and preferences, and service needs.

(30) "Home and Community-Based Waivered Services" mean the services approved by the Centers for Medicare and Medicaid Services in accordance with Section 1915(c) and 1115 of the Social Security Act.

(31) "Important for an Individual" means the areas of life that relate to being healthy, safe, and a valued member of the community.

(32) "Important to an Individual" means an individual's perspective on the people, places, and things they like, personal values, spirituality, and a sense of self. This is learned by listening to what is being said by words or actions. When there is a conflict between words and actions, actions are considered first.

(33) "Incident Report" means the written report of any injury, accident, acts of physical aggression, or unusual incident involving an individual.

(34) "Independence" means the extent to which individuals exert control and choice over their own lives.

(35) "Individual" means an adult with an intellectual or developmental disability applying for or determined eligible for developmental disability services.

(36) "Individual Support Plan (ISP)" means the written details of the supports, activities, and resources required for an individual to achieve personal outcomes. Individual support needs are identified through a Functional Needs Assessment. The manner in which services are delivered, service providers, and the frequency of services are reflected in an ISP. The ISP is developed at minimum annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The ISP includes an individual's Plan of Care for Medicaid purposes and reflects whether services are purchased through a waiver, state plan, or provided through an individual's natural supports.

(37) "Individual Support Plan (ISP) Action Plan" means the written documentation of the ISP team's commitment in supporting an individual to resolve or improve particular aspects of the individual's life. An ISP Action Plan identifies the necessary measurable steps to be taken, who is accountable for assuring implementation, and timelines for completion.

(38) "Individual Support Plan (ISP) Team" means a team composed of an individual receiving services and the individual's legal representative, services coordinator or personal agent, and others chosen by the individual. Others chosen by the individual may include service providers, family members, or other persons requested by the individual.

(39) "Integration" as defined in ORS 427.005 means:

(a) The use by individuals with intellectual or developmental disabilities of the same community resources used by and available to other persons;

(b) Participation by individuals with intellectual or developmental disabilities in the same community activities in which persons without an intellectual or developmental disability participate, together with regular contact with persons without an intellectual or developmental disability; and

(c) Individuals with intellectual or developmental disabilities reside in homes or home-like settings that are in proximity to community resources and foster contact with persons in the community.

(40) "Intellectual Disability" has the meaning set forth in OAR 411-320-0020 and described in OAR 411-320-0080.

(41) "Involuntary Transfer" means a service provider has made the decision to transfer an individual and the individual or the individual's legal representative has not given prior approval.

(42) "ISP" means "Individual Support Plan" as defined in this rule.

(43) "Job Development" means assistance and support for individuals to pursue employment and obtain job placement.

(44) "Legal Representative" means for an adult, an attorney at law who has been retained by or for an individual or a person or agency authorized by a court to make decisions about services for the individual.

(45) "Level of Care" means an assessment completed by a services coordinator has determined an individual meets institutional level of care. An individual meets institutional level of care for an intermediate care facility for individuals with intellectual or developmental disabilities if --

> (a) The individual has a condition of an intellectual disability or a developmental disability as defined in OAR 411-320-0020 and meets the eligibility criteria for developmental disability services as described in OAR 411-320-0080; and
>
> (b) The individual has a significant impairment in one or more areas of adaptive functioning. Areas of adaptive functioning include self direction, self care, home living, community use, social, communication, mobility, or health and safety.

(46) "Mandatory Reporter" means any public or private official as defined in OAR 407-045-0260 who, is a staff or volunteer working with an adult who, while acting in an official capacity, comes in contact with and has reasonable cause to believe an adult with an intellectual or developmental disability has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused an adult with an intellectual or developmental disability. Nothing contained in ORS 40.225 to 40.295 affects the duty to report imposed by this section of this rule, except that a psychiatrist, psychologist, clergy, or attorney is not required to report if the communication is privileged under ORS 40.225 to 40.295.

(47) "Medicaid Agency Identification Number" means the numeric identifier assigned by the Department to a service provider following the service provider's enrollment as described in OAR chapter 411, division 370.

(48) "Medicaid Performing Provider Number" means the numeric identifier assigned to an entity or person by the Department, following enrollment to deliver Medicaid funded services as described in OAR chapter 411, division 370. The Medicaid Performing Provider Number is used by the rendering

service provider for identification and billing purposes associated with service authorizations and payments.

(49) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(50) "Natural Supports" or "Natural Support System" means the resources available to an individual from the individual's relatives, friends, significant others, neighbors, roommates, and the community. Services provided by natural supports are resources that are not paid for by the Department.

(51) "Oregon Intervention System (OIS)" means the system of providing training to people who work with designated individuals to provide elements of positive behavior support and non-aversive behavior intervention. OIS uses principles of pro-active support and describes approved protective physical intervention techniques that are used to maintain an individual's health and safety.

(52) "OSIP-M" means Oregon Supplemental Income Program-Medical as defined in OAR 461-101-0010. OSIP-M is Oregon Medicaid insurance coverage for an individual who meets eligibility criteria as described in OAR chapter 461.

(53) "Path to Employment" means a concept that identifies an individual’s preferences in moving toward employment using principles of self-determination and a set of questions and strategies that assist the Individual Support Plan team when planning.

(54) "Person-Centered Planning" means:

(a) A process, either formal or informal, for gathering and organizing information that helps an individual:

(A) Determine and describe choices about employment or personal goals, activities, and lifestyle preferences; and

(B) Identify, use, and strengthen naturally occurring opportunities for support in the community.

(b) The methods for gathering information vary, but all are consistent with individual needs and preferences.

(55) "Person-Centered Process" means a practice of identifying what is important to and for an individual, and the supports necessary to address issues of health, safety, behavior, and financial support.

(56) "Productivity" as defined in ORS 427.005 means:

(a) Engagement in income producing work by an individual that is measured through improvements in income level, employment status, or job advancement; or

(b) Engagement by an individual in work contributing to a household or community.

(57) "Protection" means the necessary actions taken as soon as possible to prevent subsequent abuse or exploitation of an individual, to prevent self-destructive acts, or to safeguard an individual's person, property, and funds.

(58) "Protective Physical Intervention (PPI)" means any manual physical holding of, or contact with, an individual that restricts the individual's freedom of movement. The term "protective physical intervention" is synonymous with "physical restraint".

(59) "Psychotropic Medication" means medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including but not limited to anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(60) "Self-Administration of Medication" means an individual manages and takes his or her own medication, identifies his or her own medication and the times and methods of administration, places the medication internally in or externally on his or her own body without staff assistance upon the written order of a physician, and safely maintains the medication without supervision.

(61) "Self-Determination" means a philosophy and process by an individual is empowered to gain control over the selection of services that meet the individual's needs. The basic principles of self-determination are:

(a) Freedom. The ability for an individual, together with freely chosen family, friends, and professionals, to plan for employment beyond the parameters of a predefined program;

(b) Authority. The ability for an individual, together with the Individual Support Plan team, to declare a chosen employment path and to plan supports accordingly.

(c) Autonomy. Planning for and accessing resources that support an individual to seek employment; and

(d) Responsibility. The acceptance of a valued role in an individual's community through employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for individuals.

(62) "Service Provider" or "Service" means a public or private community agency or organization that provides recognized developmental disability services and is certified and endorsed by the Department to provide these services under these rules and the rules in OAR chapter 411, division 323. The use of the terms "agency", "provider", or "program" are synonymous with "service provider".

(63) "Services Coordinator" means an employee of a community developmental disability program or other agency that contracts with the county or Department, who is selected to plan, procure, coordinate, and monitor Individual Support Plan services and to act as a proponent for individuals.

(64) "Staff" means paid employees responsible for providing services to individuals whose wages are paid in part or in full with funds contracted with the community developmental disability program or contracted directly through the Department.

(65) "Substantiated" means an abuse investigation has been completed by the Department or the Department's designee and the preponderance of the evidence establishes the abuse occurred.

(66) "Support" means the assistance that an individual requires, solely because of the affects of an intellectual or developmental disability, to maintain or increase independence, achieve community presence and participation, and improve productivity. Support is subject to change with time and circumstances.

(67) "Supported Employment" means the provision of situational assessment, job development, job training, and ongoing support necessary to place, maintain, or change the employment of an individual in an integrated work setting. The individual is compensated in accordance with the Fair Labor Standards Act.

(68) "These Rules" mean the rules in OAR chapter 411, division 345.

(69) "Transfer" means movement of an individual from one site to another site administered or operated by the same service provider.

(70) "Transition Plan" means the written plan of services and supports for the period of time between an individual's entry into a particular service and the development of the individual's Individual Support Plan (ISP). The Transition Plan is approved by the individual's services coordinator and includes a summary of the services necessary to facilitate adjustment to the services offered, the supports necessary to ensure health and safety, and the assessments and consultations necessary for ISP development.

(71) "Unit of Service" means the equivalent of an individual receiving services 25 hours per week, 52 weeks per year minus the following:

(a) Personal, vacation, or sick leave allowed by a service provider or employer;

(b) Holidays as recognized by the state of Oregon; and

(c) Up to four days for all-staff in-service training.

(72) "Unusual Incident" means any incident involving an individual that includes serious illness or an accident, death, injury or illness requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.

(73) "Variance" means the temporary exception from a regulation or provision of these rules that may be granted by the Department upon written application by a service provider.

(74) “Volunteer” means any person assisting a service provider without pay to support the services provided to an individual.

Stat. Auth.: ORS 409.050 and 410.070
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-345-0025 Services Provided
(Adopted 7/1/2011)

(1) Employment and alternatives to employment services must be designed to increase an individual’s independence, integration, and productivity and offered to eligible adult individuals in accordance with OAR 411-345-0140.

(2) Employment is the preferred activity for individuals receiving services. Individuals must be provided opportunity to move forward on a path to employment.

(3) All services, with the exception of individual employment supports, must be provided in a non-residential setting. Employment and alternatives to employment businesses operating as a service provider from a facility base must provide training and skill-building for all individuals served.

(4) Service providers operating under these rules must provide one or more of the following services:

(a) Individual employment supports provided to assist an individual to:

(A) Maintain employment in the community; or

(B) Pursue self-employment.

(b) Support and supervision of two to eight individuals working in the community as a crew, enclave, or small business unit;

(c) Job development, when not available under the Rehabilitation Act of 1973 or P.L. 94-142 (Individuals with Disabilities Education Act);

(d) Facility-based sheltered employment programs providing training and skill development for individuals. Group employment of nine or more individuals in a crew or enclave is considered sheltered employment;

(e) Activities preparing individuals for employment, including discovery activities, volunteer positions, and work-experience positions; or

(f) Alternatives to employment services providing support for individuals to participate in:

(A) Community inclusion activities based upon individuals' interests;

(B) Volunteer positions; or

(C) Other non-paid activities.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0030 Program Management
(Amended 1/6/2012)

(1) CERTIFICATION, ENDORSEMENT, AND ENROLLMENT. To provide employment and alternatives to employment services, a service provider must have:

(a) A certificate and an endorsement to provide employment and alternatives to employment services as set forth in OAR chapter 411, division 323;

(b) A Medicaid Agency Identification Number assigned by the Department as described in OAR chapter 411, division 370; and

(c) For each specific geographic service area where employment and alternatives to employment services shall be delivered, a Medicaid Performing Provider Number assigned by the Department as described in OAR chapter 411, division 370.

(2) INSPECTIONS AND INVESTIGATIONS. The service provider must allow inspections and investigations as described in OAR 411-323-0040.

(3) AGENCY MANAGEMENT AND PERSONNEL PRACTICES. The service provider must comply with the agency management and personnel practices as described in OAR 411-323-0050.

(4) PERSONNEL FILES AND QUALIFICATION RECORDS. The service provider must maintain written documentation of six hours of pre-service training prior to supervising individuals including mandatory abuse reporting training, training to work with individuals with developmental disabilities, and training on the support needs of the individual to whom they will provide support;

(5) CONFIDENTIALITY OF RECORDS. The service provider must ensure all individuals' records are confidential as described in OAR 411-323-0060.

(6) DOCUMENTATION REQUIREMENTS. All entries required by these rules, unless stated otherwise must:

(a) Be prepared at the time, or immediately following the event being recorded;

(b) Be accurate and contain no willful falsifications;

(c) Be legible, dated, and signed by the person making the entry; and

(d) Be maintained for no less than five years.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0040 Application for Initial Certificate and Certificate Renewal
(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0050 Reciprocal Compliance
(Amended 1/6/2012)

(1) The Department may accept compliance with other formally recognized standards as assurance of compliance with all or part of these rules.

(2) An employment or alternative to employment service seeking an endorsement based on compliance with other standards must provide the Department with a copy of the complete detailed report from the reviewing group. Where there are differences between other standards and Oregon Administrative Rules, the Oregon Administrative Rules shall take precedence.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0060 Certification Expiration, Termination of Operations, Certificate Return
(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0070 Change of Ownership, Legal Entity, Legal Status, Management Corporation
(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0080 Inspections and Investigations
(Repealed 1/6/2012 – See OAR 411-323-0040)

411-345-0090 Variances
(Amended 1/6/2012)

(1) The Department may grant a variance to these rules based upon a demonstration by the service provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, safety, or rights of individuals.

(2) The service provider requesting a variance must submit, in writing, an application to the CDDP that contains the following:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) The alternative practice, service, method, concept, or procedure proposed; and

(d) If the variance applies to an individual's services, evidence that the variance is consistent with an individual's currently authorized ISP.

(3) The CDDP must forward the signed variance request form to the Department within 30 days of receipt of the request for variance indicating the CDDP's position on the proposed variance.

(4) The Department shall approve or deny the request for a variance.

(5) The Department's decision shall be sent to the service provider, the CDDP, and to all relevant Department programs or offices within 30 calendar days of the receipt of the variance request.

(6) The service provider may appeal the denial of a variance, within 10 working days of the denial, by sending a written request for review to the Director and a copy of the request to the CDDP. The Director's decision is final.

(7) The Department shall determine the duration of the variance.

(8) The service provider may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0095 Provider Service Payment Limitation
(Adopted 7/1/2011)

(1) Effective July 1, 2011, monthly service rates, as authorized in Division payment and reporting systems for individuals enrolled in employment and alternatives to employment services and paid to certified service providers for delivering employment or alternatives to employment services as described in these rules, shall be limited to a maximum of $1,728 per month.

(2) An exception to the provider service payment limitation, only for costs of directly supporting the individual served, may be granted by the Division if documentation supports the following criteria are met:

> (a) The individual has a current behavior or health condition, as well as a documented history of such, posing a risk to the individual's health and welfare or that of others; AND
>
> (b) The individual has a current service rate and ISP requiring at least 1:1 staffing for purposes of meeting behavioral or medical support needs; AND
>
> (c) Steps have been taken to address the existing behavior or condition within the rate cap and there is continued risk to health and safety of self or others, regardless of setting.

(3) Special conditions shall be required in the service provider's contract. The Division or the Division's designee shall monitor services to assure their delivery and the continued need for additional funds.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0100 Staffing Requirements
(Amended 1/6/2012)

(1) Each service provider must provide direct service staff appropriate to the number and level of individuals served as follows:

> (a) Supported employment and community based service providers must provide adequate direct services staff to ensure initial service and site development, training, and ongoing support to ensure that individual's rights, basic health, and safety are met. A staff member

must contact individual's receiving services through supported employment or community based sites two times per month at minimum.

(b) Facility based service providers must provide adequate direct services staff to ensure that individual's rights, basic health, and safety are met. When individuals are present, the service provider must provide and document that there are staff trained in the following areas:

(A) At least one staff member on duty with CPR certification at all times;

(B) At least one staff member on duty with current First Aid certification at all times;

(C) At least one staff member on duty with training to meet other specific medical needs as determined through ISP processes; and

(D) At least one staff member on duty with training to meet other specific behavior intervention needs as determined through ISP processes.

(2) Each service provider must meet all additional requirements for direct service staff ratios and specialized training as specified by contract requirements.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0110 Individual Rights
(Amended 1/6/2012)

(1) ABUSE. Any individual as defined in OAR 411-345-0020 must not be abused nor shall abuse be tolerated by any employee, staff, or volunteer of the service provider.

(2) PROTECTION AND WELLBEING.

(a) The service provider must have and implement written policies and procedures that protect individuals' rights during the hours the individual is receiving services. The service provider must encourage and assist individuals to understand and exercise their rights. The policies and procedures must at a minimum provide for:

(A) Assurance that each individual has the same civil and human rights accorded to other citizens;

(B) Adherence to all applicable state and federal labor rules and regulations;

(C) Opportunities for individuals to be productive;

(D) Services that promote independence and that are appropriate to the age and preferences of the individual;

(E) Confidentiality of personal information regarding the individual;

(F) Adequate medical and health care, supportive services, and training;

(G) Opportunities for visits to legal and medical professionals when necessary;

(H) Private communication, including personal mail and access to a telephone, consistent with the service provider's policies for all employees;

(I) Fostering of personal control and freedom regarding personal property;

(J) Protection from abuse and neglect, including freedom from unauthorized training, treatment, and chemical or mechanical restraints;

(K) Freedom from unauthorized personal restraints; and

(L) Transfer of individuals within a service as described in OAR 411-345-0140.

(b) At entry to service and in a timely manner as changes occur, the service provider must inform each individual and parent, guardian, or advocate orally and in writing of the service provider's policy and procedures and a description of how the individual may exercise their rights.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0120 Rights: Confidentiality of Records
(Repealed 7/1/2011 – Language moved to OAR 411-345-0110)

411-345-0130 Grievances
(Amended 1/6/2012)

(1) The service provider must implement written policies and procedures for individuals' grievances as required by OAR 411-323-0060.

(2) The service provider must send copies of the documentation on all grievances to the services coordinator within 15 working days of initial receipt of the grievance.

(3) At entry to service and as changes occur, the service provider must inform each individual and parent, guardian, or advocate orally and in writing of the service provider's grievance policy and procedures and a description of how to utilize them.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0140 Entry, Exit, and Transfer
(Temporary Effective 7/1/2013 - 12/28/2013)

(1) NON-DISCRIMINATION. An individual considered for Department-funded services may not be discriminated against because of race, color, creed, age, disability, national origin, gender, religion, duration of Oregon

residence, method of payment, or other forms of discrimination under applicable state or federal law.

(2) QUALIFICATIONS FOR DEPARTMENT-FUNDED SERVICES PRIOR TO JULY 1, 2013. An individual considered for Department-funded services must --

(a) Be referred by the CDDP;

(b) Be determined to have a developmental disability by the Department or the Department's designee;

(c) Be 18 years of age or older and not eligible to receive public education services under Public Law 94-142; and

(d) Be an individual also receiving residential services that are paid or regulated by the Department including but not limited to:

(A) Comprehensive 24-hour residential services regulated by OAR chapter 411, division 325;

(B) An adult foster home regulated by OAR chapter 411, division 360;

(C) A supported living program regulated by OAR chapter 411, division 328; or

(D) An individual's own home or family home when the individual receives comprehensive in-home support services provided according to OAR chapter 411, division 330.

(3) QUALIFICATIONS FOR DEPARTMENT-FUNDED SERVICES ON OR AFTER JULY 1, 2013. An individual who enters 24-hour residential services on or after July 1, 2013, is subject to eligibility as described in this section.

(a) To be eligible for home and community-based waivered services or Community First Choice State Plan services, an individual must:

(A) Be an Oregon resident;

(B) Be eligible for OSIP-M;

(C) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080; and

(D) After completion of an assessment, meet the level of care as defined in OAR 411-345-0020.

(b) To be eligible for employment and alternatives to employment services, an individual must:

(A) Be an Oregon resident;

(B) Be determined eligible for developmental disability services by the CDDP of the individual's county of residence as described in OAR 411-320-0080;

(C) Be 18 years of age or older and not eligible to receive public education services under Public Law 94-142;

(D) Be an individual also receiving residential services that are paid or regulated by the Department including but not limited to:

(i) Comprehensive residential services regulated by OAR chapter 411, division 325;

(ii) An adult foster home regulated by OAR chapter 411, division 360;

(iii) A supported living program regulated by OAR chapter 411, division 328; or

(iv) An individual's own or family home when the individual receives comprehensive in-home support services that are provided according to OAR chapter 411, division 330; and

(E) Be eligible for home and community-based waivered services or Community First Choice State Plan services as described in subsection (a) of this section; OR

(F) Be determined to meet crisis eligibility as defined in OAR 411-320-0160.

(4) ENTRY. An entry ISP team meeting must be conducted prior to the initiation of services to an individual.

(a) A service provider must acquire the following information prior to or upon an individual's entry ISP team meeting:

(A) A copy of the individual's eligibility determination document;

(B) A statement indicating the individual's safety skills including the individual's ability to evacuate from a building when warned by a signal device;

(C) A brief written history of the individual's behavioral challenges, if any, including supervision and support needs;

(D) Documentation of the individual's current physical condition, including any physical limitations that may affect employment;

(E) Documentation of any guardianship or conservatorship, or any other legal restriction on the rights of the individual, if applicable; and

(F) A copy of the individual's most recent ISP, if applicable.

(b) The findings of the entry meeting must be recorded in the individual's file and include at a minimum:

(A) The name of the individual proposed for services;

(B) The date of the meeting;

(C) The date determined to be the individual's date of entry;

(D) Documentation of the participants at the meeting;

(E) Documentation as required by OAR 411-345-0190 and 411-345-0200;

(F) Documentation of the pre-entry information required by subsection (a) of this section;

(G) Documentation of the proposed transition plan for services to be provided;

(H) Documentation of any deviation from the unit of service;

(I) Documentation of the type of employment or alternatives to employment service the individual will receive; and

(J) Documentation of the decision to serve or not serve the individual requesting service, including the reason for the determination to not serve the individual.

(5) VOLUNTARY TRANSFERS AND EXITS.

(a) If an individual or the individual's legal representative gives notice of the individual's intent to exit, or the individual abruptly exits services, the service provider must promptly notify the individual's services coordinator.

(b) A service provider must notify an individual's ISP team prior to the individual's voluntary transfer or exit from services.

(c) Notification and authorization of the individual's voluntary transfer or exit must be documented in the individual's record.

(6) INVOLUNTARY TRANSFERS AND EXITS.

(a) A service provider may only transfer or exit an individual involuntarily for one or more of the following reasons:

(A) To protect the health, safety, and welfare of the individual or others;

(B) The individual's service needs exceed the ability of the service provider;

(C) The individual fails to pay for services; or

(D) The service provider's Developmental Disability Certification or Endorsement as described in OAR chapter 411, division 323 is suspended, revoked, not renewed, or voluntarily surrendered.

(b) NOTICE OF INVOLUNTARY TRANSFER OR EXIT. A service provider may not transfer or exit an individual involuntarily without 30 days advance written notice to the individual and the individual's legal representative and services coordinator except in the case of a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others as described in subsection (c) of this section.

(A) The written notice must be provided on a form approved by the Department (form SDS 0719) and include:

(i) The reason for the transfer or exit; and

(ii) The individual's right to a hearing as described in subsection (d) of this section.

(B) A notice is not required when an individual or the individual's legal representative requests a transfer or exit.

(c) A service provider may give less than 30 days advanced written notice only in a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others. The notice must be provided to the individual and the individual's legal representative and services coordinator immediately upon determination of the need for a transfer or exit.

(d) HEARING RIGHTS. An individual must be given the opportunity for a contested case hearing under ORS 183 to dispute an involuntary transfer or exit. If an individual or the individual's representative requests a hearing, the individual must receive the

same services until the hearing is resolved. When an individual has been given less than 30 days advanced written notice of an exit or transfer as described in subsection (c) of this section and the individual or the individual’s representative has requested a hearing, the service provider must reserve service availability for the individual until receipt of the Final Order.

(7) EXIT.

(a) An individual's ISP team must meet before any decision to exit is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:

(A) The name of the individual considered for exit;

(B) The date of the meeting;

(C) Documentation of the participants included in the meeting;

(D) Documentation of the circumstances leading to the proposed exit;

(E) Documentation of the discussion of the strategies to prevent the individual's exit from service (unless the individual or the individual's legal representative is requesting the exit);

(F) Documentation of the decision regarding the individual's exit including verification of the voluntary decision to transfer or exit or a copy of the Notice of Involuntary Transfer or Exit; and

(G) Documentation of the proposed plan for services to the individual after the exit.

(b) Requirements for an exit meeting may be waived if an individual is immediately removed from the service under the following conditions:

(A) The individual or the individual's legal representative requests an immediate removal from the service; or

(B) The individual is removed by legal authority acting pursuant to civil or criminal proceedings.

(8) TRANSFER. A meeting of the ISP Team to discuss any proposed transfer of an individual must precede the decision to transfer. Findings of such a meeting must be recorded in the individual's file and include at a minimum:

(a) The name of the individual considered for transfer;

(b) The date of the meeting or telephone call;

(c) Documentation of the participants included in the meeting or telephone call;

(d) Documentation of the circumstances leading to the proposed transfer;

(e) Documentation of the alternatives considered instead of transfer;

(f) Documentation of the reasons any preferences of the individual or the individual's legal representative or family members cannot be honored;

(g) Documentation of a majority agreement of the participants regarding the decision; and

(h) The written plan for services to the individual after transfer.

(9) APPEAL. Any member of the ISP team may file an appeal in cases where an individual or the individual's legal representative or advocate object to, or the ISP team cannot reach majority agreement regarding an admission refusal. In the case of a request to exit or transfer, the individual must continue to receive the same services received prior to the appeal until the appeal is resolved.

(a) All appeals must be made in writing to the CDDP Director or the CDDP Directors designee for decision using the county's appeal process. The CDDP Director must make a decision within 30 working

days of receipt of the appeal and notify the appellant of the decision in writing.

(b) The decision of the CDDP Director may be appealed by the individual, the individual's legal representative, advocate, or the service provider by notifying the Department in writing within 10 working days of receipt of the CDDP's decision.

(A) The Director shall appoint a committee composed of a Department representative, a service representative, and a services coordinator.

(B) In case of a conflict of interest, as determined by the Director, alternative representatives may be temporarily appointed by the Director to the committee.

(C) The committee must review the appealed decision and make a written recommendation to the Director within 45 working days of receipt of the notice of appeal.

(D) The Director makes a decision on the appeal within 10 working days after receipt of the recommendation from the committee.

(E) If the decision is for admission or continued placement and the service refuses admission or continued placement, the funding for that unit of service may be withdrawn by the contractor.

Stat. Auth.: ORS 409.050 and 410.070
Stats. Implemented: ORS 430.610, 430.662, and 430.670

411-345-0150 Entry, Exit and Transfer: Appeal Process
(Repealed 7/1/2011 – Language moved to OAR 411-345-0140)

411-345-0160 Individual Support Plan
(Amended 7/1/2011)

The ISP is an annual agreement made between an individual receiving services and the team of people supporting the individual that describes

what is important to and for the individual receiving services, The ISP explains the balance of, and any conflicts between, what is important to and for the individual and documents commitments made by service providers and other team members to support the individual working toward their goals.

(1) An individual has the right to participate in their ISP meeting and must be afforded every opportunity to develop their ISP with the ISP team.

(2) The ISP must be implemented and a copy of each individual's ISP must be available at the service site within 60 days of entry and updated at least annually or as changes occur.

(3) The service provider must:

> (a) Assign a staff member to participate as a team member in the development of an ISP for each individual served;
>
> (b) Follow any required process and format as described in this rule;
>
> (c) Train staff to understand each individual’s ISP and supporting documents and to provide individual services; and
>
> (d) Comply with Department or Division rules and policies regarding the ISP.

(4) A face-to-face meeting must be conducted annually with all ISP team members. An exception is made when the individual chooses not to participate in the meeting.

(5) In preparation for the ISP meeting, the service provider must:

> (a) Gather person-centered information regarding preferences, interests, and desires of the individual supported;
>
> (b) Review the current ISP to determine the ongoing appropriateness and adequacy of the services and supports identified in the plan; and
>
> (c) Share all materials drafted in preparation for the ISP meeting with all team members one week in advance of the ISP meeting.

(6) The ISP must:

(a) Address an individual's interest in pursuing a path to employment;

(b) Include action plans that further an individual’s achievement of employment or their goals for other types of day activities;

(c) Reflect decisions and agreements made by the team during planning;

(d) Include documentation of the commitments made by team members to support the individual’s accomplishment of personal goals;

(e) Identify the type of services needed, how services are delivered, and the frequency of provided services;

(f) Identify timeframes for completion of goals or activities: and

(g) Contain signature of all ISP team members.

(7) The format for the ISP is based on the residential service being provided.

(a) For adults residing in 24-hour residential services, the ISP must be in accordance with OAR 411-325-0430 and this rule.

(b) For adults residing in foster care, the ISP must be in accordance with OAR 411-360-0170 and this rule.

(c) For adults residing in supported living services, the ISP must be in accordance with OAR 411-328-0750, 411-320-0120, and this rule.

(d) For adults residing in in-home comprehensive services, the ISP must be in accordance with OAR 411-330-0050 and this rule.

(8) Any deviation from the unit of service must be agreed to and documented by the ISP team.

(9) To meet the changing needs of the individual throughout the authorized ISP period:

(a) The ISP and supporting documents must be amended with ISP team approval; and

(b) The documentation must be kept current and be available for review by the individual, guardian, CDDP, and Department representatives.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0170 Behavior Support
(Amended 7/1/2011)

(1) The service provider must have and implement a written policy for behavior support utilizing individualized positive support techniques and prohibiting abusive practices.

(2) The service provider must inform the individual and the individual's legal guardian of the behavior support policy, and any applicable procedures, at the time of entry to services and as changes to the behavior policy occur.

(3) Prior to the development of a Behavior Support Plan, the service provider must conduct a functional behavioral assessment of the behavior, which must be based upon information provided by one or more persons who know the individual. The functional behavioral assessment must include:

(a) A clear, measurable description of the behavior that includes (as applicable) frequency, duration, and intensity of the behavior;

(b) A clear description and justification of the need to alter the behavior;

(c) An assessment of the meaning of the behavior that includes the possibility that the behavior is one or more of the following:

(A) An effort to communicate;

(B) The result of medical conditions;

(C) The result of psychiatric conditions; and

(D) The result of environmental causes or other factors.

(d) A description of the context in which the behavior occurs; and

(e) A description of what currently maintains the behavior.

(4) The Behavior Support Plan must include:

(a) An individualized summary of the individual's needs, preferences, and relationships;

(b) A summary of the functions of the behavior, as derived from the functional behavioral assessment;

(c) Strategies that are related to the functions of the behavior and are expected to be effective in reducing problem behaviors;

(d) Prevention strategies including environmental modifications and arrangements;

(e) Early warning signals or predictors that may indicate a potential behavioral episode and a clearly defined plan of response;

(f) A general crisis response plan that is consistent with OIS;

(g) A plan to address post crisis issues;

(h) A procedure for evaluating the effectiveness of the Behavior Support Plan that includes a method of collecting and reviewing data on frequency, duration, and intensity of the behavior;

(i) Specific instructions for staff who provide support to follow regarding the implementation of the Behavior Support Plan; and

(j) Positive behavior supports that includes the least intrusive intervention possible.

(5) Service providers must maintain the following additional documentation for implementation of Behavior Support Plans:

(a) Written evidence that the individual, the individual's parent (if applicable), guardian or legal representative (if applicable), and the ISP team are aware of the development of the Behavior Support Plan and any objections or concerns;

(b) Written evidence of the ISP team decision for approval of the implementation of the Behavior Support Plan; and

(c) Written evidence of all informal and positive strategies used to develop an alternative behavior.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0180 Physical Intervention
(Amended 7/1/2011)

(1) The service provider must only employ physical intervention techniques that are included in the approved OIS curriculum or as approved by the OIS Steering Committee. Physical intervention techniques must only be applied:

(a) When the health and safety of the individual and others are at risk and the ISP team has authorized the procedures in a documented ISP team decision that is included in the ISP and uses procedures that are intended to lead to less restrictive intervention strategies;

(b) As an emergency measure, if absolutely necessary to protect the individual or others from immediate injury; or

(c) As a health related protection ordered by a physician if absolutely necessary during the conduct of a specific medical or surgical procedure, or for the individual's protection during the time that a medical condition exists.

(2) Staff supporting an individual must be trained by an instructor certified in OIS when the individual has a history of behavior requiring physical intervention and the ISP team has determined there is probable cause for future application of physical intervention. Documentation verifying OIS training for staff must be maintained in their personnel file.

(3) The service provider must obtain the approval of the OIS Steering Committee for any modification of standard OIS physical intervention techniques. The request for modification of physical intervention techniques must be submitted to the OIS Steering Committee and must be approved in writing by the OIS Steering Committee prior to the implementation of the modification. Documentation of the approval must be maintained in the individual's record.

(4) Use of physical intervention techniques in emergency situations that are not part of an approved Behavior Support Plan must:

> (a) Be reviewed by the services director or designee within one hour of application;
>
> (b) Be used only until the individual is no longer an immediate threat to self or others;
>
> (c) Be documented as an incident report and submitted to the services coordinator, or other Department designee (if applicable), and the individual's legal guardian (if applicable), no later than one working day after the incident has occurred; and
>
> (d) Prompt an ISP team meeting if an emergency intervention is used more than three times in a six-month period.

(5) Any use of physical interventions must be documented in an incident report excluding circumstances defined in section (8) of this rule. The incident report must include:

> (a) The name of the individual to whom the physical intervention was applied;
>
> (b) The date, type, and length of time the physical intervention was applied;

(c) A description of the incident precipitating the need for the use of the physical intervention;

(d) Documentation of any injury;

(e) The name and position of the staff member applying the physical intervention;

(f) The name and position of the staff witnessing the physical intervention;

(g) The name and position of the person providing the initial review of the use of the physical intervention; and

(h) Documentation of an administrative review that includes the follow-up to be taken to prevent a recurrence of the incident by the director or designee who is knowledgeable in OIS, as evident by a job description that reflects this responsibility.

(6) The service provider must forward a copy of the incident report within five working days of the incident, to the services coordinator and when applicable to the individual's legal guardian.

(a) The services coordinator, or when applicable the Department designee, shall receive complete copies of incident reports.

(b) Copies of incident reports may not be provided to a legal guardian or other service provider when the report is part of an abuse or neglect investigation.

(c) Copies provided to a legal guardian or other service provider must have confidential information about other individuals removed or redacted as required by federal and state privacy laws.

(7) All interventions resulting in injuries must be documented in an incident report and forwarded to the services coordinator, or other Department designee (if applicable), within one working day of the incident.

(8) The service provider may substitute a behavior data summary in lieu of individual incident reports when:

(a) There is no injury to the individual or others;

(b) The intervention utilized is not a physical restraint;

(c) There is a formal written functional assessment and a written Behavior Support Plan;

(d) The individual's Behavior Support Plan defines and documents the parameters of the baseline level of behavior;

(e) The physical intervention techniques and the behaviors for which they are applied remain within the parameters outlined in the individual's Behavior Support Plan and the OIS curriculum;

(f) The behavior data collection system for recording observation, intervention, and other support information critical to the analysis of the efficacy of the Behavior Support Plan, is also designed to record items as required in section (5) of this rule; and

(g) There is written documentation of an ISP team decision that a behavior data summary had been authorized for substitution in lieu of incident reports.

(9) A copy of the behavior data summary must be forwarded every 30 days to the services coordinator or other Department designee (if applicable), and the individual's legal guardian (if applicable).

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0190 Medical Services
(Amended 1/6/2012)

(1) All individuals' medical records must be kept confidential as described in OAR 411-323-0060.

(2) The service provider must have and implement written policies and procedures that describe the medical management system including medication administration, early detection and prevention of infectious disease, self-administration of medication, drug disposal, emergency medical procedures including the handling of bodily fluids, and confidentiality of medical records.

(3) Individuals must receive care that promotes their health and well being, as follows:

(a) The service provider must observe the health and physical condition of individuals and take action in a timely manner in response to identified changes in condition that could lead to deterioration or harm;

(b) The service provider must assist individuals with the use and maintenance of prosthetic devices as necessary for the activities of the service;

(c) The service provider, with the individual's knowledge, must share information regarding medical conditions with the individual's residential contact and the Services Coordinator; and

(d) The service provider must provide rest and lunch periods at least as required by applicable law unless the individual's needs dictate additional time.

(4) The service provider must maintain records on each individual to aid physicians, medical professionals, and the service provider in understanding the individual's medical history and current treatment program. These records must be kept current and organized in a manner that permits staff and medical persons to follow easily the individual's course of treatment. Such documentation must include:

(a) A medical history obtained prior to entry to services including where available:

(A) A copy of a record of immunizations; and

(B) A list of known communicable diseases and allergies.

(b) A record of the individual's current medical condition including:

(A) A copy of all current orders for medication administered, maintained at the service provider’s site;

(B) A list of all current medications; and

(C) A record of visits to medical professionals, consultants, or therapists if facilitated or provided by the service provider.

(5) The administration of medication at the service site must be avoided whenever possible. When medications, treatments, equipment, or special diets must be administered or monitored for self-administration, the service provider must:

(a) Obtain a copy of a written order, signed by a physician, physician's designee, or a medical practitioner prescribing the medication, treatment, special diet, equipment or other medical service; and

(b) Follow written orders.

(6) PRN orders are not accepted for psychotropic medication.

(7) All medications administered or monitored in the case of self-administration must be:

(a) Kept in their original containers;

(b) Labeled by the dispensing pharmacy, product manufacturer, or physician, as specified per the physician's or licensed health care practitioner's written order;

(c) Kept in a secured locked container and stored as indicated by the product manufacturer; and

(d) Recorded on an individualized Medication Administration Record (MAR), including treatments and PRN orders.

(8) The MAR must include:

(a) The name of the individual;

(b) The brand or generic name of the medication including the prescribed dosage and frequency of administration as contained on physician order and medication;

(c) For topical medications and basic first aid treatments utilized without a physician's order, a transcription of the printed instructions from the package or the description of the basic first aid treatment provided;

(d) Times and dates of administration or self-administration of the medication;

(e) The signature of the staff administering the medication or monitoring the self-administration of the medication;

(f) Method of administration;

(g) Documentation of any known allergies or adverse reactions to a medication;

(h) Documentation and an explanation of why a PRN medication was administered and the results of such administration; and

(i) An explanation of any medication administration irregularity with documentation of administrative review by the service provider's executive director or designee.

(9) Safeguards to prevent adverse medication reactions shall be utilized to include:

(a) Maintaining information about each prescribed medication's effects and side-effects;

(b) Communicating any concerns regarding any medication usage, effectiveness, or effects to the residential contact and the services coordinator; and

(c) Prohibiting the use of one individual's medications by another.

(10) The service site or service provider may not keep unused, discontinued, outdated, or recalled drugs, or drug containers with worn, illegible, or missing labels. All unused, discontinued, outdated, or recalled drugs, or drug containers with worn, illegible, or missing labels must be promptly disposed of in a manner consistent with federal statutes and designed to prevent illegal diversion of the substances into the possession of people other than for whom it was prescribed. A written record must be maintained by the service provider of all disposed drugs and must include:

(a) Date of disposal;

(b) A description of the medication including amount;

(c) The individual for whom the medication was prescribed;

(d) The reason for disposal;

(e) The method of disposal;

(f) Signature of staff disposing; and

(g) For controlled medications, the signature of a witness to the disposal.

(11) For any individual who is self-administering medication the service provider must:

(a) Have documentation that a training program was initiated with approval of the individual's ISP team or that training for the individual is unnecessary;

(b) If necessary, have a training program that is consistent with the self-administration training program in place at the individual's residence;

(c) If necessary, have a training program that provides for retraining when there is a change in dosage, medication, or time of delivery;

(d) Have specific supports identified and documented for the individual when training has been deemed unnecessary; and

(e) Provide for an annual review, at a minimum, as part of the ISP process, upon completion of the training program or when training for the individual has been deemed necessary by the ISP team.

(12) The service provider must ensure that individuals able to self-administer medications keep them secured, unavailable to any other person, and stored as recommended by the product manufacturer.

(13) The service provider must immediately contact the services coordinator when the individual's medical, behavioral, or physical needs change to a point that the individual's needs may not be met by the service provider. The ISP team must determine alternative placement or arrangement if necessary.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0200 Individual Summary Sheets and Emergency Information
(Amended 7/1/2011)

(1) INDIVIDUAL SUMMARY SHEETS. A current one to two page summary sheet record must be maintained at the service provider's primary place of business for each individual receiving services. The record must include:

(a) The individual's name, current address, telephone number, date of entry into services, date of birth, gender, preferred hospital, medical prime and private insurance number where applicable, guardianship status; and

(b) The name, address, and telephone number of:

(A) The individual's legal representative, family, advocate, and other significant person;

(B) The individual's preferred physician, secondary physician, and clinic;

(C) The individual's preferred dentist;

(D) The individual's services coordinator; and

(E) Other agencies and representatives providing services and supports to the individual.

(2) EMERGENCY INFORMATION. A service provider must maintain emergency information for each individual receiving supports and services from the service provider in addition to an individual summary sheet identified in section (1) of this rule.

(a) The emergency information must be kept current and must include:

(A) The individual's name;

(B) The service provider's name, address, and telephone number;

(C) The address and telephone number of the residence where the individual lives;

(D) The individual's physical description, which may include a picture and the date it was taken, and identification of:

(i) The individual's race, gender, height, weight range, hair, and eye color; and

(ii) Any other identifying characteristics that may assist in identifying the individual may the need arise, such as marks or scars, tattoos, or body piercing.

(E) Information on the individual's abilities and characteristics including:

(i) How the individual communicates;

(ii) The language the individual uses or understands;

(iii) The ability of the individual to know and take care of bodily functions; and

(iv) Any additional information that may assist a person not familiar with the individual to understand what the individual may do for him or herself.

(F) The individual's health support needs including:

(i) Diagnosis;

(ii) Allergies or adverse drug reactions;

(iii) Health issues that a person would need to know when taking care of the individual;

(iv) Special dietary or nutritional needs such as requirements around the textures or consistency of foods and fluids;

(v) Food or fluid limitations due to allergies, diagnosis, or medications the individual is taking that may be an aspiration risk or other risk for the individual;

(vi) Additional special requirements the individual has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the individual;

(vii) Physical limitations that may affect the individual’s ability to communicate, respond to instructions, or follow directions; and

(viii) Specialized equipment needed for mobility, positioning, or other health related needs.

(G) The individual's emotional and behavioral support needs including:

(i) Mental health or behavioral diagnosis and the behaviors displayed by the individual; and

(ii) Approaches to use when dealing with the individual to minimize emotional and physical outbursts.

(H) Any court ordered or guardian authorized contacts or limitations;

(I) The individual's supervision requirements and why; and

(J) Any additional pertinent information the service provider has that may assist in the care and support of the individual in the event of a natural or man-made disaster.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0210 Health and Safety: Personnel
(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0220 Health and Safety: Staffing Requirements
(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0230 Incident Reports and Emergency Notifications
(Amended 7/1/2011)

(1) A written incident report describing any injury, accident, act of physical aggression, or unusual incident involving an individual must be placed in the individual's record. Such description must include:

(a) Conditions prior to or leading to the incident;

(b) A description of the incident;

(c) Staff response at the time; and

(d) Administrative review and follow-up to be taken to prevent a recurrence of the injury, accident, physical aggression, or unusual incident.

(2) Copies of all unusual incident (as defined by OAR 411-345-0020) reports must be sent to the Services Coordinator within five working days of the incident.

(3) The program must notify the CDDP immediately of an incident or allegation of abuse falling within the scope of OAR 407-045-0260.

(4) In the case of an unusual incident requiring emergency response, the service must immediately notify:

(a) The individual's legal guardian or conservator, parent, next of kin, designated contact person, and other significant person;

(b) The CDDP;

(c) The individual's residential contact; and

(d) Any other agency responsible for the individual.

(5) In the case of an individual who is missing or absent without supervision beyond the time frames established by the ISP team, the service must immediately notify:

(a) The individual's designated contact person;

(b) The individual's guardian, if any, or nearest responsible relative;

(c) The individual's residential contact;

(d) The local police department; and

(e) The CDDP.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0240 Emergency Plan and Safety Review
(Amended 7/1/2011)

(1) Service providers must develop, keep current, and implement a written emergency plan for the protection of all individuals in the event of an emergency or disaster.

(a) The emergency plan must:

(A) Be practiced at least annually.

(B) Consider the needs of the individuals being supported and address all natural and human-caused events identified as a potential significant risk to the individuals such as a pandemic or an earthquake.

(C) Coordinate with each residential provider or residential contact to address the possibility of emergency or disaster resulting in the following:

(i) Extended utility outage;

(ii) No running water;

(iii) Inability to provide food or supplies; and

(iv) Staff unable to report as scheduled.

(D) Include provisions for evacuation and relocation that identifies:

(i) The duties of staff during evacuation, transport, and housing of individuals;

(ii) The requirement for staff to notify the Division and the local CDDP office of the plan to evacuate or the evacuation of the facility, as soon as the emergency or disaster reasonably allows;

(iii) The method and source of transportation;

(iv) Planned relocation sites that are reasonably anticipated to meet the needs of the individuals;

(v) A method that provides persons unknown to the individual the ability to identify each individual by the individual's name and to identify the name of the individual's supporting provider; and

(vi) A method for tracking and reporting to the Division, local CDDP office, or designee, the physical location of each individual until a different entity resumes responsibility for the individual,

(E) Address the needs of the individual including medical needs.

(F) Be submitted to the Division as a summary, per Division format, at least annually and upon revision and change of ownership.

(2) Service providers must post the following emergency telephone numbers in close proximity to all phones used by staff:

(a) The telephone numbers of the local fire, police department, and ambulance service, if not served by a 911 emergency services; and

(b) The telephone number of the service provider's executive director and additional persons to be contacted in the case of an emergency.

(3) If an individual regularly accesses the community independently, the service provider must provide to the individual information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

(4) A documented safety review must be conducted quarterly to ensure the service site is free of hazards. The service provider must keep the quarterly safety review reports for five years and must make them available upon request by the CDDP or the Department.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0250 Evacuation
(Amended 7/1/2011)

(1) The service provider must train all individuals immediately upon entry to each service site to leave the site in response to an alarm or other emergency signal to exit.

(2) The service provider must document the level of assistance needed by each individual to safely evacuate and such documentation must be maintained in the individual's entry records.

(3) Facility-based service providers must conduct unannounced evacuation drills one per quarter each year when individuals are present, unless required more often by the Oregon Occupational Safety and Health Division.

(a) Drills must occur at different times of the day.

(b) Exit routes must vary based on the location of a simulated emergency.

(c) Any individual failing to evacuate the service site unassisted within three minutes, or an amount of time set by the local fire authority for the site, must be provided specialized training and support in evacuation procedures.

(4) Facility-based service providers must make written documentation at the time of each drill and keep the documentation for at least two years following the drill. Documentation must include:

(a) The date and time of the drill;

(b) The location of the simulated emergency and exit route;

(c) The last names of all individuals and staff present in the service area at the time of the drill;

(d) The type of evacuation assistance provided by staff to individuals' that need more than three minutes to evacuate as specified in an individual's safety plan;

(e) The amount of time required by each individual to evacuate if the individual needs more than three minutes to evacuate;

(f) The amount of time for all individuals to evacuate exclusive of individuals with specialized support per section (3)(c) of this rule; and

(g) The signature of the staff conducting the drill.

(5) The service provider must develop a written safety plan for individuals who are unable to evacuate the site within the required evacuation time or who, with concurrence of the ISP team, request not to participate in evacuation drills. The safety plan must include:

(a) Documentation of the risk to the individual's medical, physical condition, and behavioral status;

(b) Identification of how the individual must evacuate the site including level of support needed;

(c) The routes to be used to evacuate the individual to a point of safety;

(d) Identification of assistive devices required for evacuation;

(e) The frequency the plan shall be practiced and reviewed by the individual and staff;

(f) The alternative practices;

(g) Approval of the plan by the individual's guardian, services coordinator, and the service provider's director; and

(h) A plan to encourage future participation in evacuation drills.

(6) The service provider must provide necessary adaptations or accommodations to ensure evacuation safety for individuals with sensory and physically impairments.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0260 Physical Environment
(Amended 7/1/2011)

(1) All supported employment and community based services must ensure that the service site has no known health or safety hazards in its immediate environment and that individuals are trained to avoid recognizable hazards.

(2) The service provider must assure that at least once every five years a health and safety inspection is conducted of owned, leased, or rented buildings and property.

(a) The inspection must cover all areas and buildings where services are delivered to individuals, administrative offices, and storage areas.

(b) The inspection may be performed by:

(A) Oregon Occupational Safety and Health Division;

(B) The service's workers compensation insurance carrier; or

(C) An appropriate expert such as a licensed safety engineer or consultant approved by the Division; and

(D) The Oregon Public Health Division, when necessary.

(c) The inspection must cover:

(A) Hazardous material handling and storage;

(B) Machinery and equipment used by the service;

(C) Safety equipment;

(D) Physical environment; and

(E) Food handling, when necessary.

(d) The documented results of the inspection, including recommended modifications or changes, and documentation of any resulting action taken must be kept by the service provider for five years.

(3) The service provider must ensure buildings and property at each owned, leased, or rented service site has annual fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes, and documentation of any resulting action taken must be kept by the service provider for five years.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0270 Vehicles and Drivers
(Amended 7/1/2011)

(1) Services that own or operate vehicles that transport individuals must:

(a) Maintain the vehicles in safe operating condition;

(b) Comply with Oregon Driver and Motor Vehicle Services Division laws;

(c) Maintain insurance coverage; and

(d) Carry a first-aid kit in vehicles.

(2) Drivers operating vehicles to transport individuals must meet applicable Oregon Driver and Motor Vehicle Services Division requirements.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0280 Individual/Family Involvement
(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0290 Certificate Denial, Suspension, Revocation, Refusal to Renew
(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0300 Hearings
(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)