

DEPARTMENT OF HUMAN SERVICES  
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413  
DIVISION 110

PRE-ADOPTION SERVICES

*Amended 08/06/17*

TABLE OF CONTENTS

<b>Definitions .....</b>	<b>2</b>
<b>Legal Risk Placement .....</b>	<b>5</b>
<b>Sibling Adoption Placement Planning .....</b>	<b>9</b>
<b>Termination of Parental Rights.....</b>	<b>12</b>
<b>Determining the Appropriateness of Adoption as a Permanency Plan.....</b>	<b>18</b>

# Definitions

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## 413-110-0000

### Definitions

(Amended 08/06/17)

The following definitions apply to OAR chapter 413, division 110.

- (1) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a *child* where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.
- (2) "Appropriateness of adoption" means the determination that a *child* can be successfully freed, placed, and maintained in an adoptive placement and that adoption is in the best interest of the *child*.
- (3) "Approved family" means a family that has been selected for a *child* in accordance with OAR 413-120-0010 to 413-120-0060.
- (4) "Birth parent" means the woman or man who holds a legally recognized parental relationship to the *child*.
- (5) "Child" means a person under 18 years of age.
- (6) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency or adoption committee meeting.
- (7) "Compelling reason" means a reason meeting specific criteria and documented in the case plan by the local Department staff for not to file a petition to terminate parental rights of the parents of a *child* where the Department would otherwise be required to do so under state and federal law.
- (8) "Date child entered substitute care": Oregon statute and federal law use the date the *child* is found to be within the jurisdiction of the court under ORS 419B.100 or 60 days from date of removal, whichever is earlier. The Department uses the date of the child's initial *substitute care* placement for calculating Citizens Review Board reviews, court, or permanency hearings intervals.
- (9) "Department" means the Department of Human Services, Child Welfare.
- (10) "Indian child" means any unmarried person who is under age 18 and either:
  - (a) Is a member or citizen of an Indian tribe; or
  - (b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

- (11) "Legal risk placement" means a placement that occurs when the Department believes that an adoption is in the best interests of the *child*; that the *child* is placed in an approved adoptive home; and the agency intends to approve this placement for adoption if the *child* becomes legally free for adoption.
- (12) "Local Office Permanency/Adoption Committee" means the branch committee responsible for certain permanency and adoptions decisions, as specified in these rules. Members are selected by the local office from among the staff of the Department's field offices. The members must not be involved in the case to be heard.
- (13) "Permanency/Adoption Council" (Council) means a council consisting of field management staff, permanency and adoption staff, and community partners from several districts, except that the Council in District 2 consists only of representatives from Multnomah County. A Council makes decisions for children whose county of jurisdiction is within their geographic area about *appropriateness of adoption* as a *permanency plan*, *sibling* planning, recruitment, adoption disruptions, and adoption selections referred by the local office. It also may provide permanency staffings to decide whether to place a *child* with an out-of-state *relative* resource prior to receipt by the Department of an approved adoption home study.
- (14) "Permanency/Adoption Council Committee" (Committee) means a committee established by the *Permanency/Adoption Council* that is responsible for decisions regarding adoptive placement selections that are not the responsibility of the local office or the Department's Adoption Services Unit. The district manager or designee responsible for the local office may delegate a decision to the Committee. Each Committee must include at least three members not involved in the case to be heard by the Committee. There are two types:
- (a) An ad-hoc committee selected by the child's worker. This committee consists of three people drawn from a pool of qualified permanency and adoption staff designated by the *Council*.
  - (b) The Standing Permanency/Adoption Committee. This committee is a standing committee of three persons appointed by the *Council* or the *Council* chair. Responsibilities of this committee include making decisions, such as those relating to *sibling* placement planning or current caretaker placement decisions, delegated by the *Local Office Permanency/Adoption Committee* to the *Council*.
- (15) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a *permanency plan* or a potential permanency resource when the *child* or young adult likely is not returning to his or her parent.
- (16) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the *child*. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the *child* during the remaining years of dependency and be accessible and supportive to the *child* in adulthood.
- (17) "Relative" has the same meaning as in OAR [413-070-0000](#).

- (18) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:
- (a) By blood or adoption through a common *parent*;
  - (b) Through the marriage of the legal or biological parents of the children or young adults; or
  - (c) Through a legal or biological parent who is the *registered domestic partner* of the legal or biological parent of the children or young adults.
- (19) "Substitute care" means an out-of-home placement of a *child* or young adult who is in the legal or physical custody and care of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

# Legal Risk Placement

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## **413-110-0010**

### **Purpose**

(Amended 10/26/15)

A *child* in the legal custody of the Department for whom the Department has determined that adoption is an appropriate *permanency plan* and who is in the process of being freed for adoption may be placed in an approved adoptive home with the understanding that if the *child* becomes legally free for adoption, the *child* will be adopted. In the past, such a placement was described as a "foster-adopt placement" or a "potential adoptive placement." The term for such placements is now "*legal risk placement*" if the placement meets the requirements specified in these rules, OAR 413-110-0010 to 413-110-0060.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-110-0015**

### **Values**

(Adopted 07/01/01)

- (1) Any *child* whose parent or parents are unable to provide a safe and healthy home for the *child* should be assured the opportunity to become a valued and permanent member of another safe family that understands and responds to the child's needs.
- (2) Early identification and development of an alternative to placement with a parent increases the likelihood that the alternate *permanency plan* can be achieved in a timely manner.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

## **413-110-0020**

### **Eligibility Criteria for Legal Risk Placement**

(Amended 10/26/15)

A *child* may be placed in a *legal risk placement* when all of the following conditions have been met:

- (1) The *child* is a ward of the court and is in *substitute care* and the Department has determined that adoption is an appropriate *permanency plan* for the *child* according to the procedures outlined in OAR 413-110-0300 to 413-110-0360.
- (2) In accordance with OAR 413-070-0060 to 413-070-0093, the Department has considered all parents and relatives and has either determined none of them is a suitable permanent

placement for the *child* or has selected one *relative* who meets the requirements of OAR 413-070-0060 to 413-070-0093 as the resource for a *legal risk placement*.

- (3) The Department's *legal assistance specialist* has assessed the status of the *child* and has determined that a plan to free the *child* for adoption is in the best interests of the *child*.
- (4) The Department has determined, in accordance with OAR 413-110-0300 to 413-110-0360, that adoption is an appropriate *permanency plan* for the *child*, and an approved adoptive home has been selected according to the process outlined in OAR 413-120-0010 to 413-120-0060.
- (5) The Adoption Services Unit has reviewed and approved the plan.
- (6) In the case of an out-of-state placement, prior to approval and designation of the child's *legal risk placement*:
  - (a) The Department has notified the court and has obtained its approval of the plan to place the *child* out of state;
  - (b) If the out-of-state placement is made through a private agency, the Department has a signed contract with the placing agency in the receiving state; and
  - (c) The Department has obtained verification that the *child* will receive medical coverage by the receiving state.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

### **413-110-0030**

#### **Legal Risk Placement; Effective Date of Designation**

*(Amended 01/01/04)*

- (1) The designation date of the child's current caretaker home as a *legal risk placement* is the date the Department's Adoption Services Unit accepts all required documents.
- (2) The designation date of the child's selected adoptive home (non-current caretaker) as a *legal risk placement* is the date the *child* is physically placed in the selected home or the date the Adoption Services Unit accepts all applicable documents (see section (1) of this rule), whichever date is later.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

## **413-110-0040**

### **Home Requirements**

*(Amended 10/26/15)*

- (1) The home in which the *legal risk placement* will be made must be studied and approved as an adoptive home in accordance with OAR 413-120-0190 to 413-120-0246 or, in the case of an out-of-state placement, with OAR 413-040-0200 to 413-040-0330. The home must also meet the requirements of OAR 413-200-0301 to 413-200-0396.
- (2) Each adoptive parent considered for a *legal risk placement* is informed by the Department of the risk of having the *child* removed and must sign an agreement that provides that:
  - (a) The adoptive parent understands that the *child* is not legally free for adoption;
  - (b) The adoptive parent understands that the Department cannot guarantee that the *child* will be legally free for adoption in the future;
  - (c) The adoptive parent wants to adopt the *child*; and
  - (d) The adoptive parent understands that the adoptive family will continue to provide temporary care for the *child* if adoption is not possible.
- (3) The potential adoptive parents must complete the Adoption Recruitment Management System (ARMS) form 3010, "Legal Risk Placement Agreement," acknowledging that they understand the uncertainty of the *legal risk placement*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-110-0050**

### **Effect on a Release and Surrender**

*(Adopted 12/29/95)*

A *Legal Risk Placement* shall be considered a placement for the "purpose of adoption" in accordance with ORS 418.270, subsection (4), which specifies when a release and surrender given by a parent or guardian shall be considered irrevocable. These rules shall apply to any release and surrender accepted prior to, concurrent with or subsequent to the *Legal Risk Placement*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-110-0060**

### **Termination of Legal Risk Placement Status**

*(Amended 07/01/01)*

When the *child* is legally free to be adopted, the Central Office Adoption Services Unit will change the child's placement status from *Legal Risk Placement* to Adoptive Placement.

Stat. Auth.: ORS 418.005(1)(a)

Stats. Implemented: ORS 418.005

# Sibling Adoption Placement Planning

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## 413-110-0100

### Purpose

(Amended 10/26/15)

The purpose of OAR 413-110-0100 to 413-110-0150 is to describe the Department's case planning responsibility to maintain and support lifelong *sibling* relationships for a *child* in the legal custody of the Department whose *permanency plan* is adoption.

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

Stats. Implemented: ORS 418.005, 419B.192

## 413-110-0130

### Consideration of Sibling Placement

(Amended 10/26/15)

- (1) The Department's first priorities for placement of a *child* in the legal custody of the Department are placement with relatives and placing siblings together.
- (2) When any *child* in the legal custody of the Department is separated from one or more siblings in *substitute care*, the Department must make diligent efforts to place the siblings together in *substitute care*, so long as it is in the best interests of the *child*, regardless of each child's *permanency plan*.
  - (a) The caseworker must document the efforts to place siblings together in *substitute care* in the Department's information system.
  - (b) If siblings are placed separately in *substitute care*, the Department must ensure that the children have the opportunity for regular, ongoing contact unless contact is not in the best interests of the *child* or one or more of the siblings.
- (3) When the Department is considering the permanent separation of one or more siblings through adoption, the caseworker must schedule a *permanency committee* for a recommendation and decision pursuant to OAR 413-070-0500 to 413-070-0519.

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

Stats. Implemented: ORS 418.005, 419B.192

## 413-110-0132

### Consideration of Sibling Separation

(Amended 09/19/11)

- (1) A *permanency committee* is used to consider the permanent separation of siblings in the legal custody of the Department through adoption, unless an *adoptive resource* has been selected for one or more siblings.
- (2) The *permanency committee* must consider the best interests of each *child* in the *sibling* group under consideration, and each of the following factors when making a recommendation:
  - (a) The current and lifelong needs of each *child* and of each *sibling* in the *sibling* group under consideration;
  - (b) The existence of each child's significant emotional ties to each *sibling* in the *sibling* group under consideration;
  - (c) The needs of each *child* and each *sibling* in the *sibling* group under consideration for each of the following:
    - (A) Physical and emotional safety;
    - (B) Ability to develop and maintain current and lifelong connections with the child's family;
    - (C) Continuity and familiarity;
    - (D) Appropriate educational, developmental, emotional, and physical support;
    - (E) Stability and permanency; and
    - (F) Maintaining his or her identity, cultural, religious, and spiritual heritage.
- (3) The *permanency committee* considers all of the information, deliberates, and, when committee members agree, makes a recommendation to the Child Welfare Program Manager or designee including one or more of the following options:
  - (a) Separation of a *child* from one or more siblings in the *sibling* group under consideration is not in the best interest of the *child* or the siblings, and the caseworker must continue to make efforts to place the siblings together for the purpose of adoption;
  - (b) Separation of a *child* from one or more siblings in the *sibling* group under consideration for the purpose of adoption is in the best interests of the *child* or the siblings; or

- (c) When there are multiple siblings, recommendations with respect to which siblings in the *sibling* group under consideration should remain together for the purpose of adoption and how those matches are in the best interests of each *sibling*.
- (4) When the *permanency committee* cannot reach agreement, each *permanency committee* member makes his or her respective recommendations known to the *committee facilitator*.
- (5) The Child Welfare Program Manager or designee who makes the decision on behalf of the Department must consider all of the following when making the decision:
  - (a) The considerations in subsections (2)(a)-(c) of this rule;
  - (b) The information presented to the *permanency committee*; and
  - (c) The recommendations of the *permanency committee*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

## **413-110-0150**

### **Sibling Placement and Permanency Planning**

*(Amended 10/26/15)*

- (1) When separation of siblings has occurred as a result of a Department action or decision pursuant to OAR 413-070-0519, the Department's efforts to identify and recruit a potential *adoptive resource* must include recruitment efforts to identify a potential *adoptive resource* who can initiate and maintain connections between the *child* and one or more siblings, unless such a connection is not in the best interests of the *child* or one or more siblings.
- (2) The caseworker must make efforts to recruit and identify potential adoptive resources who appear to have the knowledge, skills, and abilities to be considered as the potential *adoptive resource* for other siblings when there are one or more siblings in *substitute care* who do not yet have a *permanency plan* of adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

# Termination of Parental Rights

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## **413-110-0200**

### **Purpose**

(Amended 01/01/02)

Pursuant to Oregon law related to the termination of parental rights the Child Abuse Prevention and Treatment Act (CAPTA) and the Adoption and Safe Families Act (ASFA) Department of Human Services (DHS) is mandated or authorized to seek termination of a parent's rights in certain cases where a *child* is in *substitute care*. These rules first outline under what circumstances DHS must seek the termination of parental rights of parents whose children are in DHS custody, and next under what circumstances it has the discretion to do so.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498 - 419B.530

## **413-110-0210**

### **Values**

(Amended 01/01/02)

- (1) Every *child* needs and deserves a safe, nurturing and permanent home. Termination of parental rights is one means by which DHS can achieve adoption of a *child*. Adoption is one of several possible permanent plans.
- (2) No *child* shall be freed for adoption without the probability of being placed in a permanent home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498 - 419B.530

## **413-110-0220**

### **Policy**

(Amended 01/01/02)

DHS shall only initiate a termination of parental rights action to free a *child* for adoption and where DHS has determined that adoption is in the child's best interest, and that other possible permanent plans such as guardianship would not be a more appropriate *plan*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498 - 419B.530

## **413-110-0230**

### **Permanency Plan Review**

*(Amended 01/01/02)*

DHS shall review the *permanency plan* for each *child* in its legal custody after the 6 month review conducted under ORS 419A.106 or any hearing conducted in lieu of such review; but prior to the permanency hearing required by ASFA to determine the appropriateness of the *permanency plan*. If the permanency hearing is scheduled before the above 6 month review, DHS shall review the *permanency plan* prior to the permanency hearing even if the review has not occurred. If the *child* cannot be safely placed with a parent, in determining if adoption is the appropriate concurrent permanent plan:

- (1) The local designated review body shall consider whether the plan is in the best interest of the *child* and whether there is a potential *adoptive resource* for the *child* or a resource can be located; and
- (2) The Legal Assistance Specialist shall provide consultation to the local staff on whether the plan is consistent with statewide practice and whether the plan complies with the requirements of the DHS Adoption Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498 - 419B.530

## **413-110-0240**

### **Decision to File a Petition to Terminate Parental Rights**

*(Amended 01/01/02)*

- (1) Unless one of the exceptions outlined in section (2) of this rule applies, and is so documented in the case plan, DHS shall file a petition to terminate the parental rights of the parents to a *child* in DHS custody. The local DHS staff, in consultation with the Legal Assistance Specialist, shall decide whether to file a petition to terminate the parental rights to a *child* who:
  - (a) Has been in foster care for 15 of the most recent 22 months as calculated from the date the *child* entered *substitute care*; or
  - (b) Has been determined by the court to be an abandoned *child*; or
  - (c) Has a parent who has been found by a court of competent jurisdiction to have:
    - (A) Committed murder, of another *child* of the parent;
    - (B) Committed manslaughter, of another *child* of the parent;
    - (C) Aided, abetted, attempted, conspired or solicited to commit murder or voluntary manslaughter of another *child* of the parent; or

- (D) Committed felony assault that results in serious bodily injury to the *child* or another *child* of the parent.
- (2) DHS however, is not required to file a petition to terminate the parental rights to children meeting the criteria of 413-110-0240(1)(a) through (c) if:
- (a) The *child* is being cared for by a *relative* and the permanent plan is for the *child* to remain with that *relative*;
  - (b) DHS has not provided to the family of the *child*, consistent with the time period in the case plan, the services DHS deemed necessary for the safe return of the *child* to the child's home, if the plan required reasonable efforts (or active efforts in the case of an *Indian child* under the Indian Child Welfare Act) to do so; or
  - (c) Local DHS staff have documented in the case plan a *compelling reason* for determining that filing such a petition would not be in the best interests of the *child*. Compelling reasons may include, but are not limited to:
    - (A) A court or Citizens Review Board (CRB) has made a finding at a CRB review, permanency hearing or other hearing that DHS has made "no reasonable efforts" (or "active efforts" in the case of an *Indian child* under the Indian Child Welfare Act) to make it possible for the *child* to safely return home, as documented by CRB findings or a court order;
    - (B) A court or DHS has determined that:
      - (i) The parent has made significant measurable progress and continues to make diligent efforts to complete the requirements of the case plan and reunification is likely within a reasonable time, but the parent needs more than 15 months to complete the requirements of the plan as documented by narrative recording on the CF 147A, CF 147B, or Service Agreement;
      - (ii) DHS is working with the non-offending parent to establish a permanent placement as documented by the narrative recording on the CF 147A, CF 147B, or Service Agreement;
      - (iii) There is a viable alternative to termination of parental rights that would free the *child* for adoption within a reasonable time;
      - (iv) If the *child* is an *Indian child* under the Indian Child Welfare Act (ICWA), the Indian child's tribe opposes adoption and has another plan for permanency for the *child*, in accordance with the provisions of the ICWA.
    - (C) DHS has determined that adoption is not an appropriate plan for the *child* for reasons that may include, but are not limited to:

- (i) A *child* age 12 years or over or a *child* less than 12 years of age who is capable of making this decision will not consent to be adopted, and another *permanency plan* has been identified;
  - (ii) The parent and *child* have a significant bond, but the parent is unable to care for the *child* because of a disability and another permanent *plan* has been identified;
  - (iii) The *child* has a demonstrated inability to be maintained in a family setting as documented by a professional assessment that may include, but is not limited to, a medical, psychiatric or psychological assessment.
- (d) If the *compelling reason* that DHS applied in making the determination that it would not be in the best interest of the *child* to file a petition to terminate parental rights no longer exists, DHS shall review the decision not to file, to determine if there is another *compelling reason* not to file the petition, or if it would be in the best interest of the *child* to proceed with filing.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498 - 419B.530

## **413-110-0250**

### **Other Situations for Filing a Termination Petition**

*(Amended 01/01/02)*

DHS may file a petition to terminate the rights of a parent whose *child* is in DHS custody but is not required to do so if:

- (1) The parent has engaged in extreme conduct as specified in ORS 419B.502, which includes but is not limited to:
  - (a) Rape, sodomy or sex abuse of any *child* by the parent;
  - (b) Intentional starvation or torture of any *child* by the parent;
  - (c) Abuse or neglect by the parent of any *child* resulting in death or serious physical injury;
  - (d) Conduct by the parent to aid or abet another person who, by abuse or neglect, caused the death of any *child*;
  - (e) Conduct by the parent to attempt, solicit or conspire to cause the death of any *child*;

- (f) Previous involuntary terminations of the parent's rights to another *child* if the conditions giving rise to the previous action have not been ameliorated; or
  - (g) Conduct by the parent that knowingly exposes any *child* of the parent to the manufacture of amphetamines.
- (2) The parent is unfit due to conduct or condition that is seriously detrimental to the *child* as specified in ORS 419B.504, which includes but is not limited to:
- (a) Emotional illness, mental illness or mental deficiency of the parent of such nature and duration as to render the parent incapable of providing proper care for the *child* for extended periods of time;
  - (b) Conduct toward any *child* of an abusive, cruel or sexual nature;
  - (c) Addictive or habitual use of intoxicating liquors or controlled substances to the extent that parental ability has been substantially impaired;
  - (d) Physical neglect of the *child*;
  - (e) Lack of effort of the parent to adjust the circumstances of the parent, conduct, or conditions to make the return of the *child* possible or failure of the parent to effect a lasting adjustment after reasonable efforts by available social agencies for such extended duration of time that it appears reasonable that no lasting adjustment can be effected; or
  - (f) Criminal conduct that impairs the parent's ability to provide adequate care for the *child*.
- (3) The parent has failed or neglected without reasonable and lawful cause to provide for the basic physical and psychological needs of the *child* as specified in ORS 419B.506, which includes but is not limited to:
- (a) Failure to provide care or pay a reasonable portion of substitute physical care and maintenance if custody is lodged with others.
  - (b) Failure to maintain regular visitation or other contact with the *child* which was designed and implemented in a plan to reunite the *child* with the parent;
  - (c) Failure to contact or communicate with the *child* or with the custodian of the *child*. In making this determination, the court may disregard incidental visitations, communications or contributions.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498 - 419B.530

## **413-110-0252**

### **Termination of Parental Rights**

*(Amended 01/01/02)*

In some cases, DHS may decide to file a petition to terminate the parental rights of a parent whose *child* is in DHS custody without making reasonable efforts to make it possible for the *child* to be safely returned home and without seeking or having the juvenile court make a finding that DHS is not required to make such efforts.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.498 - 419B.530

# Determining the Appropriateness of Adoption as a Permanency Plan

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## **413-110-0300**

### **Purpose**

(Amended 08/06/17)

The purpose of OAR 413-110-0300 to 413-110-0360 is to establish the Department's policies for determining whether adoption is an appropriate plan for a *child*. In the case of an *Indian child*, the Department follows OAR chapter 413, division 115.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-010-0320**

### **Values**

(Adopted 01/01/04)

- (1) Adoption is a permanency option that should be considered as part of concurrent case planning for all children in *substitute care*.
- (2) The assessment of the *appropriateness of adoption* as the *permanency plan* for a *child* begins at the time of the child's initial placement and continues until a permanent *plan* is achieved.
- (3) If safe placement with a parent is not possible for a *child*, and the *child* can be legally freed for adoption and has an appropriate and available *adoptive resource* who wishes to adopt the *child*, it is concluded that adoption is an appropriate *permanency plan* for the *child*.
- (4) Adoption is not the most appropriate plan for every *child*.
- (5) The Department will not initiate proceedings to free a *child* for adoption unless there is a probability of being placed with an *approved family*.
- (6) Decisions whether adoption is an appropriate *permanency plan* for the *child* must be made collaboratively.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## 413-110-0330

### Procedure to Determine the Appropriateness of Adoption as a Permanency Plan

(Amended 10/26/15)

- (1) Before proceeding to free a *child* for adoption, the Department must make a formal decision regarding whether adoption is an appropriate *permanency plan* for the *child* in accordance with these rules.
- (2) The preliminary case-planning steps in the process of determining whether adoption is an appropriate *permanency plan* for the *child* are as follows:
  - (a) An adoption permanency goal must be considered concurrently with other permanency goals for a *child* in *substitute care*;
  - (b) When it appears that placement with a parent is not a viable goal, but not later than six months after the *child* enters *substitute care*, the local office must begin the process of obtaining information sufficient to make a formal decision whether adoption is an appropriate *permanency plan* for the *child*, for instance:
    - (A) The child's worker must obtain pertinent information such as psychological evaluations, therapist's assessments, an assessment by a mental health professional when appropriate that includes the attachment and other permanency needs of the *child*, medical records, personal care or special rate assessments, individual education plans, and early intervention assessments.
    - (B) The child's worker must address the following areas:
      - (i) The ability of the *child* to attach.
      - (ii) The needs of the *child*.
      - (iii) Prior or current caretaker or family relationships that could support or interfere with the ability of the *child* to build new family relationships.
      - (iv) Information about the siblings and half siblings of the *child* (see OAR 413-110-0100 to 413-110-0150).
      - (v) Prospective adoptive resources who have made it known to the agency that they want to be considered as an adoptive placement for this specific *child*.
      - (vi) The willingness of the *child* to consent to adoption, if the *child* is 12 years of age or older.
- (3) Formal decision making at the local office.

- (a) If the child's worker and supervisor believe adoption is an appropriate *permanency plan* for the *child*, and the legal assistance specialist concurs, the adoption plan may proceed without review by the *Local Office Permanency/Adoption Committee*.
  - (b) When the child's worker and supervisor review a case together and it is not clear that adoption is an appropriate *permanency plan* for the *child*, or if there are questions regarding available approved families, the determination whether adoption is an appropriate *permanency plan* for the *child* will be made by *Local Office Permanency/Adoption Committee*. The child's worker is responsible for scheduling a staffing with a *Local Office Permanency/Adoption Committee* within 60 days of the staffing by the child's worker and supervisor.
  - (c) If the child's worker and supervisor believe that adoption is not an appropriate *permanency plan* for the *child*, they must submit their written recommendation to the district manager or designee. Their recommendation must include the compelling reasons for their assessment that it is not an appropriate *permanency plan* (see OAR 413-110-0240(2)(c)(D)). If the district manager or designee disagrees with the recommendation or wishes to seek consultation, they must direct the child's worker to refer the determination of *appropriateness of adoption* to a *Permanency/Adoption Council Committee*.
  - (d) Before the Department initiates the *permanency plan* for adoption, the legal assistance specialist and the local office must agree that the plan is in the best interests of the *child* and is achievable.
- (4) When a Committee determines that adoption is an appropriate *permanency plan* for the *child*, the committee representative must record the decision regarding the *appropriateness of adoption as a permanency plan* and provide a copy of the documentation to the child's worker.
  - (5) The child's worker must send documentation of a Permanency/Adoption Committee decision to the Adoptions Services Unit to be included in the child's central office file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-110-0340**

### **When Adoption Is an Appropriate Permanency Plan**

*(Amended 10/26/15)*

- (1) When the Department determines that adoption is an appropriate *permanency plan* for the *child*, and in legal risk situations the legal assistance specialist has approved placement planning for the *child*, the child's worker must accomplish the following:

- (a) The child's worker begins the process to locate an appropriate *approved family* while proceeding with efforts to free the *child* for adoption.
  - (b) The child's worker requests that either a *Local Office Permanency/Adoption Committee* or a *Permanency/Adoption Council Committee* review the decision that adoption is an appropriate *permanency plan* for the *child* if the child's worker has not been able to find an appropriate *approved family* for the *child* within four months of the initial staffing.
  - (c) If a *child* is placed for adoption and the adoption disrupts, the child's worker follows the procedures in OAR 413-120-0870. The child's worker requests that either a *Local Office Permanency/Adoption Committee* or a *Permanency/Adoption Council Committee* review the decision determining that adoption is an appropriate *permanency plan* for the *child* if the child's worker has not been able to find an appropriate *approved family* for the *child* within six months of the disruption date.
  - (d) If an adoptive placement disrupts and there is question as to whether adoption is currently an appropriate *permanency plan* for the *child*, the question is referred by the worker to either a *Local Office Permanency/Adoption Committee* or a *Permanency/Adoption Council Committee* within three months of the disruption.
- (2) In the case of a *child* for whom the *permanency plan* is adoption, the worker must document in the *permanency plan* the child's specific needs and the steps the Department is taking to find an adoptive family for the *child* who can respond to those needs, to place the *child* with an adoptive family, and to finalize adoption. At a minimum, such documentation must include comment on the child-specific recruitment efforts employed by the Department such as the use of state, regional, or national adoption exchanges, including electronic exchange systems, as well as efforts to identify potential adoptive families from the neighborhood and community in which the *child* resides.
- (3) Out-of-state adoptions. The Department will not delay or deny placement of a *child* for adoption when an *approved family* is available outside of Oregon. If the out-of-state placement is a *legal risk placement*, the worker must obtain approval from the *legal assistance specialist* as required by OAR 413-110-0010 to 413-110-0060. Once the *legal risk placement* is approved, the worker must notify the court and obtain approval of the plan prior to placing the *child* out of state. If the out-of-state adoption is supervised by a private agency, the Department will not make the placement of the *child* into the adoptive home until the Department has a signed contract with the placing agency. Out-of-state adoptions are further regulated by OAR 413-040-0200 to 413-040-0330.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-110-0350**

### **When Adoption Is Not an Appropriate Permanency Plan**

*(Adopted 01/01/04)*

- (1) When it is determined that adoption is not the appropriate *permanency plan* for the *child*, and the *compelling reason* for this determination has been documented in the case file, the child's worker must develop and implement an alternate plan.
- (2) If there are significant changes, the child's worker may refer the case to either the *Local Office Permanency/Adoption Committee* or the *Permanency/Adoption Council Committee* for a new determination whether adoption is an appropriate *permanency plan* for the *child*. The *appropriateness of adoption* as a *permanency plan* for the *child* can change as the child's circumstances change. When the legal assistance specialist has questions about the *appropriateness of adoption* as the *permanency plan* for the *child*, the legal assistance specialist may ask the local office to recruit for a potential adoptive placement prior to initiating the process to free the *child* for adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-110-0360**

### **Review Process**

*(Adopted 10/26/15)*

When the *Local Office Permanency/Adoption Committee* or the *Permanency/Adoption Council Committee* has staffed a case and reached a decision with which the child's worker disagrees, the child's worker will staff the case with the worker's supervisor and district manager or designee. If the district manager or designee agrees with the child's worker, he or she will request review of the decision by the Adoption Services Unit Manager who may review the committee's decision and make the final decision.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005