

OREGON DEPARTMENT OF HUMAN SERVICES  
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413  
DIVISION 120

ADOPTION

*Updated 07/01/2022*

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# Definitions

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## **413-120-0000**

### **Definitions**

*(Amended 03/01/2022)*

Unless the context indicates otherwise, the following definitions apply to OAR chapter 413, division 120:

- (1) "Adoption" means a legal or administrative process that establishes a permanent legal parent-child relationship between a child and an adult who is not already the child's legal parent and terminates the legal parent-child relationship between the adopted child and any former parent.
- (2) "Adoption agency" means an organization providing the services under any one of the following subsections:
  - (a) Identifying a child for adoption and arranging an adoption.
  - (b) Securing the necessary consent to relinquishment of parental rights and to adoption.
  - (c) Performing a background study on a child or a home study on a prospective adoptive parent and reporting on such a study.
  - (d) Making determinations of the best interests of a child and the appropriateness of adoption placement for a child.
  - (e) Monitoring a case after placement until final adoption.
  - (f) When necessary because of disruption before final adoption, assuming custody and providing child care or other social services for a child pending an alternative placement.
- (3) "Adoption committee" means a group of individuals convened by Department staff to make recommendations to an Adoption Decision Specialist (ADS) regarding adoptive resources for a child.

- (4) "Adoption decree" means a decree which a court issues, pursuant to a petition for adoption, setting forth the facts of the case and ordering that from the date of the decree the child, to all legal intents and purpose, is the child of the petitioner.
- (5) "Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a child or children.
- (6) "Adoption placement selection" means a decision made by the Department that an individual or individuals have been identified as the adoptive resource for the child.
- (7) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.
- (8) "Adoption transition" means activities related to the placement of a child or sibling group under consideration in the home of the family selected as the adoptive resource.
- (9) "ADS" means an Adoption Decision Specialist, who is a Department employee appointed by the Adoption Program Manager to attend an adoption committee and make an adoption placement selection for a child.
- (10) "Applicant" means any individual who applies:
  - (a) To become or remain a certified resource family;
  - (b) To change certification type; or
  - (c) For approval through the Department as a potential adoptive resource.
- (11) "Authorized designee" means a Department employee who is designated and authorized by the Department to receive and process criminal records check request forms from subject individuals, receive criminal records information from the Background Check Unit, and make fitness determinations as described in these rules.
- (12) "Battery" means the use of physical force to injure, damage, or abuse or to cause offensive physical contact.

- (13) "Birth Relatives" means birth parents, grandparents, siblings and other members of the child's birth family, pursuant to ORS 109.305.
- (14) "Central authority" means the entity designated as such by a Convention country that is authorized to discharge the duties imposed on Convention countries.
- (15) "Central authority functions" means any duty required to be carried out by a central authority or foreign authorized entity under the Convention.
- (16) "Certified resource family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.
- (17) "Child" means a person under 18 years of age.
- (18) "Child care" means the supervision of a child in the care or custody of the Department by a licensed, approved, or listed provider when care is required due to the employment or educational program of the certified resource family.
- (19) "Child welfare mediator" means a neutral third party who meets or exceeds Department qualifications to provide mediation services for mediation participants in the cooperative adoption mediation process and has a legal assistance mediation contract with the Department.
- (20) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency committee or adoption committee meeting.
- (21) "Concurrent permanent plan" means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the child to the parents or legal guardians.
- (22) "Consent to the Adoption": The "Consent to the Adoption" documents that the adoptive parents have been investigated and approved by the Department and gives permission for the adoption.
- (23) "Contested case hearing" means a hearing conducted under ORS chapter 183 and applicable administrative rules.

- (24) "Convention" means the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions, concluded at The Hague, the Netherlands, on May 29, 1993, which went into effect in the United States on April 1, 2008.
- (25) "Convention adoption" means an adoption of a child who is a habitual resident in a Convention country by an individual in another Convention country when the child has been, is being, or will be moved between the two Convention countries for the purpose of adoption.
- (26) "Convention country" means a country that is a party to the Convention.
- (27) "Cooperative adoption mediation" or "Mediation" means a process in which a trained neutral third party assists parties in voluntarily reaching mutually acceptable resolution of issues, as well as assisting the parties in establishing relationships built on mutual trust and respect. Throughout these rules, "cooperative adoption mediation" will be referred to as "mediation".
- (28) "Criminal Offender Information" means records, including fingerprints and photographs, received, compiled and disseminated by the Oregon Department of State Police (OSP) , or by other states, for purposes of identifying criminal offenders and alleged offenders, and maintained as part of an individual's records of arrests, the nature and disposition of criminal charges, sentencing, confinement, but does not include the retention by OSP or records of transfer of inmates between penal institutions or other correctional facilities, and release. It also includes the OSP Computerized Criminal History System.
- (29) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:
- (a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information obtained from other sources.
  - (b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) The national criminal records check may also include a review of other criminal records information.
  - (c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information sources located in, or regarding, a state or jurisdiction outside Oregon.

- (30) "Current caretaker" means a foster parent who:
- (a) Is currently caring for a child in the care and custody of the Department and has a permanency plan or concurrent permanent plan of adoption; and
  - (b) Has cared for the child or at least one sibling of the child for at least 12 months or for one-half of the child's or sibling's life if the child or sibling is younger than two years of age. Time spent caring for the child or sibling under this definition is calculated cumulatively.
- (31) "Department" means the Oregon Department of Human Services, Child Welfare.
- (32) "Disruption" means an approval by the Child Permanency Program Manager to end an adoption process after adoption placement selection but before the adoption is legally finalized.
- (33) "Fitness determination" means the decision made by an authorized designee, with regard to information obtained through a criminal records check, to either approve or deny a subject individual under these rules.
- (34) "Foreign authorized entity" means a foreign central authority, or an accredited entity authorized by the foreign country to perform central authority functions in Convention adoption cases.
- (35) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.
- (36) "General applicant" means an individual who:
- (a) Is neither a relative or current caretaker; and
  - (b) Has submitted a completed application to adopt a child.
- (37) "Hague adoption certificate" means a certificate issued by the Secretary of State in an outgoing Convention adoption certifying that the child has been adopted in the United States in conformity with the Convention and IAA.

- (38) "Hague custody declaration" means a declaration issued by the Secretary of State in an outgoing Convention adoption declaring that custody of the child for purposes of adoption has been granted in the United States in conformity with the Convention and IAA.
- (39) "Home Study" means a written evaluation of the prospective adoptive parent's suitability to adopt and parent a child who may be placed for adoption. The "home study" is completed prior to the filing of a petition to adopt, in accordance with the Department's reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes as set forth in OAR 413-120-0190 to 413-120-0246.
- (40) "Home study" means a document containing an analysis of the ability of the applicant to provide safe and appropriate care of a child or young adult. For OAR 413-120-0190 to 413-120-0246 "Home study" means a written evaluation of the prospective adoptive parent's suitability to adopt and parent a child who may be placed for adoption. The "home study" is completed prior to the filing of a petition to adopt, in accordance with the Department's reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes.
- (41) "IAA" means the Intercountry Adoption Act of 2000, Public Law 106-279, 42 USC 14901 to 14954.
- (42) "ICPC" means the Interstate Compact on the Placement of Children (see ORS 417.200).
- (43) "ICWA" or "the Act" means the Indian Child Welfare Act of 1978, 25 U.S.C. §§1901-63.
- (44) "Incoming Convention adoption" means a case in which a child who is a resident of another Convention country has been, is being, or will be moved to the United States for placement and adoption.
- (45) "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.
- (46) "Legal Assistance Mediation Program" means, for the purpose of these rules, services contracted through the Department Legal Assistance program to assist the birth family

and the identified adoptive family to participate in a cooperative adoption process that may result in a Post Adoption Communication Agreement (PACA).

- (47) "Legal Assistance Referral" means an attorney-client privileged document used to prepare the termination of parental rights petition and or trial preparation work.
- (48) "Legal assistance specialist (LAS)" means a central office Department staff who provides a vital link in the execution of the technical and legal processes of the alternative permanent plans for children whose best interests are not served by returning to their families of origin.
- (49) "Legalization" means the process of giving an adoptive placement legal validity.
- (50) "Mediation communications" means, as defined in ORS 36.110(8):
  - (a) All communications that are made, in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and
  - (b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or by a mediator, a mediation program or a party to, or any other person present at, mediation proceedings.
- (51) "Mediation participants" means persons who will be working directly with the mediator in the cooperative adoption mediation process and who will be responsible for the creation and implementation of any PACA that results.
- (52) "Member of the Household" means adult, young adult or child living in the home of an applicant or certified resource family, including the applicant, resource parent or relative resource parent.
- (53) "OSP" means the Oregon State Police.
- (54) "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. "Other criminal records information" includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of



Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

- (55) "Outgoing Convention adoption" means a case in which a child in the United States has been, is being, or will be moved to another Convention country for placement and adoption.
- (56) "Parties" means those participants whose signatures are necessary for the PACA to be implemented and are subject to enforcement of ORS 109.305.
- (57) "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.
- (58) "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 individuals who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.
- (59) "Petition for Adoption" means a petition, filed in circuit court by any person, for leave to adopt another person.
- (60) "Placement Report" means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department's prescribed reporting format and includes information about the child's background and placement; medical and genetic history; birth parents' history; status and adjustment of the child in the adoptive home; and status and adjustment of the child's prospective adoptive parents.
- (61) "Post-adoption communication" means the manner and frequency of contact and communication between the birth family and the child and/or the birth family and the adoptive family.
- (62) "Post Adoption Communication Agreement (PACA)" means a written agreement for post-adoptive communication, signed by birth parents and adoptive parents and is based

on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.

- (63) "Post-placement supervision" means the supervision of a child following placement with an adoptive resource.
- (64) "Prospective adoptive parents" means the parents, family members, or other people who reside in the residence, or the physical home location of the family, who have been studied and approved by a foreign authorized entity to adopt a child in the legal and physical custody of the Department and with whom the Department has made an official decision to place the child in the family home for the purpose of adoption.
- (65) "RCWAC" means the Refugee Child Welfare Advisory Committee.
- (66) "Receiving Convention country" means a Convention country in which a child who is the subject of an outgoing adoption will be placed for the purpose of adoption.
- (67) "Refugee child" has the meaning given that term under ORS 418.925.
- (68) "Relative" means any of the following:
  - (a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:
    - (A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.
    - (B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.
    - (C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.
    - (D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

- (b) An individual with one of the following relationships to the child or young adult:
  - (A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.
  - (B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.
  - (C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.
  - (D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.
  - (E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.
  - (F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.
  - (G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.
- (c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.
- (d) An individual meeting the requirements of at least one of the following:
  - (A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

- (i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and
      - (ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.
    - (B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.
  - (e) For eligibility for the guardianship assistance program:
    - (A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.
    - (B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:
      - (i) There is a compelling reason why adoption is not an achievable permanency plan;
      - (ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;
      - (iii) The foster parent has cared for the child for at least 12 of the past 24 months; and
      - (iv) The Department or tribe has approved the foster parent for consideration as a guardian.
- (69) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

- (70) "Relative Resource Parent" means a person defined as a "relative" under OAR 413-070-0000 who operates a home approved by the Department to provide care for a related child or young adult placed in the home by the Department.
- (71) "Resource parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.
- (72) "Respite care" means a formal planned arrangement to relieve a certified family's responsibilities by an individual temporarily assuming responsibility for the care and supervision of a child or young adult in the home of the respite provider or certified family.
- (73) "Secretary of State" means the Secretary of the United States Department of State, the central authority for the United States.
- (74) "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.
- (75) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.
- (76) "Substitute caregiver" means a relative caregiver, foster parent, or provider who is authorized to provide care to a child or young adult who is in the legal or physical custody of the Department.
- (77) "Subject individual" means an individual on whom the Department may conduct a criminal records check and from whom the Department may require fingerprints and other information for the purpose of conducting a criminal records check.

- (78) "U.S. State Department" means the United States Department of State.
- (79) "Violence" means the use of physical force to injure, damage, or abuse.
- (80) "Weighing test" means the process in which an authorized designee considers available information to make a fitness determination when a subject individual has a criminal conviction.
- (81) "Young adult" means an individual aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285, 419A.004

# Adoption Placement Selection

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## **413-120-0010**

### **Purpose**

(Amended 10/01/15)

The purpose of OAR 413-120-0010 to 413-120-0060 is to describe the responsibilities of the Department when making an *adoption placement selection* for a *child* or *sibling* group who is in the custody of the Department

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285, 418.937, 419B.100, 419B.192

## **413-120-0016**

### **Confidentiality**

(Amended 10/01/15)

- (1) To be considered as a potential *adoptive resource*, each applicant who is the subject of an *adoption home study* must provide a signed, valid release of information to release the *adoption home study* and associated documents to be considered in the *adoption placement selection*.
- (2) When the Department considers written information in addition to the *adoption home study* concerning a potential *adoptive resource* during the *adoption placement selection*, the adoption worker must:
  - (a) Notify the potential *adoptive resource* of the additional written information; and
  - (b) Have the potential *adoptive resource* sign a release of information for the additional written information to be considered in the *adoption placement selection*.
- (3) The Child Permanency Program Manager, at his or her discretion, may determine that any written information released under section (1) or (2) of this rule must be a summary or redacted copy when:
  - (a) An individual who is a subject of the *adoption home study* or additional information has requested that information be redacted or summarized; or
  - (b) There is a conflict of interest as described in OAR 413-120-0222.
- (4) Any written information released under section (1), (2) or (3) of this rule must:

- (a) Be kept confidential by the recipients;
- (b) Be used only for the purpose of making the recommendation and selection of a child's *adoptive resource*;
- (c) Not be redisclosed verbally or in writing;
- (d) Not be copied; and
- (e) Be returned to the Department when the *adoption placement selection* has been made.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.225, 418.005, 418.280, 418.285, 418.305, 419A.255

## **413-120-0020**

### **Adoption Placement Selection Options**

*(Amended 08/06/17)*

When a *child* or *sibling* group has a *permanency plan of adoption*, the Department uses one of the three options below to make an *adoption placement selection*:

- (1) Selection by Caseworker. After considering the input from the child's team and following consultation with the supervisor, the caseworker may make the *adoption placement selection* for a *child* or *sibling* group using the process in OAR 413-120-0021 when the requirements of at least one of the following is met:
  - (a) Pursuant to OAR 413-115-0090(3), if the *child* being considered for *adoption* alone or as part of a sibling group is an *Indian child*, and there is a single potential *adoptive resource* who:
    - (A) Has been identified as the placement preference through tribal resolution;
    - (B) Complies with the placement preference order prescribed by the ICWA and OAR 413-115-0090(3)(c); or
    - (C) Has been identified as the placement preference by the court through a good cause order as required by the ICWA and OAR 413-115-0090(3)(c).
  - (b) The *child* is identified as a *refugee child* and the *adoption placement selection* complies with OAR 413-070-0300 to 413-070-0380.
  - (c) A *relative* of the *child* or *sibling* group is being considered alone as the potential *adoptive resource* unless subsections (c), (d), or (e) of section (3) of this rule apply. Prior to making a selection, ensure the Department has conducted a diligent



search and there is no other identified *relative* who has expressed an interest in, or who is being assessed as a potential *adoptive resource* and there is no *current caretaker* who has expressed an interest in, or who is being assessed, as a potential *adoptive resource*.

- (d) A *current caretaker* of the *child* or *sibling* group is being considered alone as a potential *adoptive resource* unless subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no *relative* who has expressed an interest in, or who is being assessed as, a potential *adoptive resource*, and there is no other *current caretaker* who has expressed an interest, or who is being assessed, as a potential *adoptive resource*.
  - (e) The *child* is under six years of age with no extraordinary needs and each potential *adoptive resource* is a *general applicant*, unless subsection (d) of section (2) of this rule or subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no *relative* who has expressed an interest in, or who is being assessed as, a potential *adoptive resource*, and there is no *current caretaker* who has expressed an interest, or who is being assessed, as a potential *adoptive resource*.
- (2) Local Adoption Committee and ADS. The local *adoption committee* recommends an *adoptive resource* and the ADS makes the *adoption placement selection* when section (3) of this rule does not apply and at least one of the following applies:
- (a) The *child* is six years of age or older.
  - (b) The *child* has extraordinary needs.
  - (c) A *sibling* group is being placed together for the purpose of *adoption* and each potential *adoptive resource* is a *general applicant*.
  - (d) The identified potential adoptive resources include the child's current *foster parent*, who is not a *current caretaker*, being considered as a *general applicant* with other general applicants.
- (3) Central Office Adoption Committee and ADS. The central office *adoption committee* recommends an *adoptive resource*, and the ADS makes the *adoption placement selection* when one of the following applies:
- (a) The potential adoptive resources include:
    - (A) More than one *relative* as defined in OAR 413-120-0000(64)(a)-(c);
    - (B) A *relative* as defined in OAR 413-120-0000(64)(a)-(d) and a *current caretaker*; or

- (C) A *relative*, as defined in OAR 413-120-0000(64)(d) for whom an exception to the order of preference has been granted under OAR 413-120-0760.
  - (b) The potential adoptive resources include more than one *current caretaker* being considered for siblings who will be placed together in *adoption*.
  - (c) A DHS staff member is a potential *adoptive resource*, and the requirements of the DHS-060-002, "Conflict of Interest Policy" and the "Conflict of Interest Policy Addendum for CAF Employees" apply.
  - (d) A non-DHS staff member with a potential conflict of interest with the Department is a potential *adoptive resource*.
  - (e) The potential *adoptive resource* is an individual living outside of the United States.
- (4) The caseworker, following consultation with the supervisor, may request that the *adoption placement selection* be made by an ADS following an *adoption committee* recommendation based on the complexities or dynamics of a case. The request must be approved by --
- (a) The Child Welfare Program Manager or designee for the use of a local *adoption committee* rather than a caseworker selection; or
  - (b) The Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for the use of a central office *adoption committee* rather than a local *adoption committee*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

## **413-120-0021**

### **Adoption Placement Selection by Caseworker**

*(Amended 08/06/17)*

- (1) Before making an *adoption placement selection*, the child's caseworker must comply with the provisions of OAR 413-120-0700 to 413-120-0760.
- (2) When the caseworker, after considering the input from the child's team and following consultation with the supervisor, has identified the potential adoptive resources to be considered for *adoption placement selection*, the caseworker must consult with the adoption worker for each of the identified families to --

- (a) Provide the adoption worker with written information, redacted to remove identifying information, about the history and needs of each *child* under consideration for *adoption*; and
  - (b) Discuss the ability of the potential *adoptive resource* to meet the needs of each *child* under consideration for *adoption*.
- (3) The adoption workers must complete all of the following:
- (a) Provide the identified potential adoptive resources with the information described in subsection (2)(a) of this rule.
  - (b) Describe the *adoption placement selection* process to the potential adoptive resources to --
    - (A) Inform them of the individuals who will be reviewing their *adoption home study* or other information during the *adoption placement selection* process; and
    - (B) Assure all appropriate releases of information described in OAR 413-120-0016(1) and (2) have been obtained.
  - (c) Confirm with the caseworker for each *child* who is under consideration that the potential *adoptive resource* is willing and available to be considered for *adoption*.
- (4) When the caseworker has been informed that the identified potential adoptive resources are available and appropriate to be considered, the caseworker must set a date for the *adoption placement selection* and notify the adoption worker for each of the identified potential adoptive resources.
- (5) At least ten business days before the *adoption placement selection*, the caseworker must complete all of the following:
- (a) Notify the following individuals of the potential adoptive resources to be considered and the date the *adoption placement selection* will occur:
    - (A) The CASA;
    - (B) The child's attorney;
    - (C) An authorized representative of the child's tribe, if the *child* is an *Indian child*; and
    - (D) A member of the RCWAC, if the *child* is a *refugee child*.

- (b) Ensure that the individuals identified in subsection (a) of this section are sent copies of the *adoption home study* and any additional written information released under OAR 413-120-0016 for each potential *adoptive resource*, unless the individual has notified the caseworker that they do not want a copy of the materials.
  - (c) Notify the individuals identified in subsection (a) of this section that any input regarding the ability of a potential *adoptive resource* to meet the current and lifelong needs of the *child* or *sibling* group must be received at least two days before the date of the *adoption placement selection* to assure it will be considered.
- (6) When the caseworker has provided the notifications in section (5) of this rule, an adoption selection date has been scheduled by the caseworker or committee, and a child's *relative* or *current caretaker* now expresses interest in being considered as a potential *adoptive resource*, the Child Welfare Program Manager must:
- (a) If the newly expressed interest is from a *relative*, review the diligent efforts to identify a child's relatives required under OAR 413-070-0060 to 413-070-0063;
  - (b) If the newly expressed interest is from a *current caretaker*, review the efforts to determine if the *current caretaker* was given adequate and reasonable time to request consideration as the potential *adoptive resource*;
  - (c) Consider the impact of a delay in achieving permanency on the best interests of the *child*; and
  - (d) Make a determination whether it is in the best interest of the *child* for an *adoption home study* to be conducted with a *relative* or *current caretaker* despite the delay in achieving permanency.
- (7) The Child Welfare Program Manager in consultation with the Child Permanency Program Manager makes the determination whether to consider a *relative* or *current caretaker* under section (6) of this rule.
- (8) When a Child Welfare Program Manager informs the caseworker of the determination to consider a *relative* or *current caretaker* identified under section (6) of this rule, the caseworker must notify each individual in subsection (5)(a) of this rule and the adoption worker for each identified potential *adoptive resource* that the adoption selection process has been suspended.
- (9) When the adoption selection process has been suspended, the adoption workers must notify each identified potential *adoptive resource* that the adoption selection process has been suspended.

- (10) The timelines in this rule may be changed when the caseworker, the adoption worker for each of the identified potential adoptive resources, and each individual in section (5) of this rule agree on a new timeline.
- (11) After considering the input from individuals in section (5) of this rule, the caseworker -- following consultation with his or her supervisor -- makes the *adoption placement selection* for a *child* or *sibling* group under consideration for *adoption* when OAR 413-120-0020(1) applies.
- (12) On the day that the selection is made, the child's caseworker must notify the adoption workers for each of the identified potential adoptive resources who were considered for the *adoption placement selection*.
- (13) By the end of the next business day following the *adoption placement selection*, the child's caseworker must send written notification of the *adoption placement selection* to each of the following individuals:
  - (a) The CASA;
  - (b) The child's attorney;
  - (c) An authorized representative of the child's tribe, if the *child* is an *Indian child*; and
  - (d) A member of the RCWAC, if the *child* is a *refugee child*.
- (14) By the end of the next business day following the *adoption placement selection*, written notification on a form approved by the Department must be sent to each identified potential *adoptive resource* of whether they were selected as the *adoptive resource* by the following individuals:
  - (a) A Department adoption worker; or
  - (b) The child's caseworker when the adoption worker is a private agency employee.
- (15) Notifications in sections (12) and (13) of this rule must contain information on the Department's review process as described in OAR 413-120-0060, unless the identified potential adoptive resources were all general applicants.
- (16) Within three days of the *adoption placement selection*, the caseworker must assure that:
  - (a) The *adoption placement selection* and the basis for that selection are documented on a Department-approved form; and
  - (b) The central office Adoption Program is notified of the *adoption placement selection*.

- (17) Any individual who received a copy of an *adoption home study* or other written documents during the adoption selection process must return the materials to the Department within seven business days of the notice of the *adoption placement selection*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285, 419B.192

## **413-120-0025**

### **Composition of an Adoption Committee**

*(Amended 08/06/17)*

- (1) An *adoption committee* must be composed of the following individuals:
- (a) The caseworker of each *child* for whom *adoption placement selection* is being made;
  - (b) Three individuals appointed by the Child Welfare Program Manager or designee for a local *adoption committee*, and by the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for a central office *adoption committee*:
    - (A) The *committee facilitator*, who must be a Department staff person; and
    - (B) Two other individuals, who may be a community partner or a Department staff person.
- (2) In addition to the committee members identified in section (1), the following individuals for each *child* for whom *adoption placement selection* is being made must be notified of the *adoption committee* and may be adoption committee members, if they so choose, under OAR 413-120-0053(1):
- (a) The CASA;
  - (b) The child's attorney;
  - (c) An authorized representative from the child's tribe, if the *child* is an *Indian child*; and
  - (d) A member of the RCWAC, if the *child* is a *refugee child*.
- (3) The adoption worker for each identified potential *adoptive resource* must attend the full *adoption committee*.

- (4) With the approval of the *committee facilitator*, the following individuals may attend the *adoption committee*:
  - (a) The supervisor for an individual identified in section (1), (2), or (3) of this rule;
  - (b) Department staff who may have information about the *child* or *sibling* group under consideration for adoption or the potential *adoptive resources* being considered; and
  - (c) Department staff, for training or observation purposes.
- (5) Committee members appointed under subsection (1)(b) of this rule must meet the following requirements:
  - (a) Be knowledgeable of *adoption* and permanency issues;
  - (b) Be knowledgeable of the importance of lifelong family and cultural connections;
  - (c) Be knowledgeable of the importance of attachment and emotional ties to caregivers; and
  - (d) Have no personal or current professional relationship to any of the children for whom *adoption placement selection* is being made or to the potential adoptive resources being considered.
- (6) The *committee facilitator* appointed under paragraph (1)(b)(A) of this rule must comply with all of the following subsections:
  - (a) Hold the meeting in accordance with the requirements of Chapter 413 of the Oregon Administrative Rules;
  - (b) Inform each individual who is present of the responsibilities of the committee;
  - (c) Have each individual who is present sign a confidentiality agreement for the proceedings of the *adoption committee* meeting;
  - (d) Ensure the individuals who are invited to attend and present information to the committee as described in OAR 413-120-0035(5) are --
    - (A) Allowed to present information appropriate for consideration for each *child* for whom *adoption placement selection* is being made; and
    - (B) Excused in a timely manner.
  - (e) Give the committee recommendations to the ADS at the end of the *adoption committee* meeting.

- (7) The ADS --
- (a) Is appointed by the Child Permanency Program Manager or designee and must --
    - (A) Have significant expertise in the areas of *adoption* and permanency issues;
    - (B) Have experience with adoption placement planning;
    - (C) Be knowledgeable of the importance of lifelong family and cultural connections;
    - (D) Be knowledgeable of the importance of attachment and emotional ties to caregivers; and
    - (E) Have no personal or current professional relationship to the *child, sibling* group under consideration for *adoption*, or the potential adoptive resources being considered.
  - (b) Must attend the *adoption committee* and may ask clarifying questions, but does not participate in the deliberations or recommendations of the *adoption committee*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

### **413-120-0035**

#### **Invitation to and Notification of Adoption Committee**

*(Amended 10/01/15)*

- (1) In preparation for and prior to scheduling an *adoption committee*, the caseworker for each *child* and the *adoption worker* for each potential *adoptive resource* must comply with the provisions of OAR 413-120-0700 to 413-120-0760.
- (2) No later than ten business days before the scheduled *adoption committee*, the Department must send the ADS and each individual identified in OAR 413-120-0025(1), (2), and (3) all of the following:
  - (a) Notification of the date, time, and location of the *adoption committee*.
  - (b) A copy of each of the adoption home studies and the written information released under OAR 413-120-0016(1) and (2).
  - (c) Written information about the needs of each *child* under consideration.



- (d) A notice that confidential information may not be re-released, under OAR 413-120-0016(4).
  - (e) A request to thoroughly review all of the information provided before the date of the *adoption committee* when the individual will be serving as a committee member.
- (3) Information in subsections (b) to (e) of section (2) of this rule need not be provided again to the caseworker for each *child* under consideration for adoption and the adoption worker for each potential adoptive resource.
- (4) Individuals identified in OAR 413-120-0025(1), (2), and (3) may request that the Department invite individuals to the *adoption committee* to present information regarding a child's needs.
- (5) The Department has the discretion to invite the following individuals to attend and present information regarding the child's current and lifelong needs to an *adoption committee*:
- (a) The *child*, on a case by case basis, when the child's caseworker determines the child's attendance is appropriate;
  - (b) The child's current or previous *substitute caregiver*, unless the individual is being considered as a potential *adoptive resource* for the *child*; and
  - (c) Any other individual who has significant information about the current and lifelong needs of the *child* relevant to the selection of an *adoptive resource*.
- (6) Any individual invited to provide information related to the child's needs may present information to the *adoption committee* in person, by telephone, through electronic communication, or in writing.
- (7) A potential *adoptive resource* may provide supplemental information regarding his or her ability to meet the current and lifelong needs of the *child* or *sibling* group under consideration for adoption through the *adoption worker*. An identified potential *adoptive resource* and his or her legal or personal advocate may not attend an *adoption committee*.
- (8) When the notification in section (2) of this rule has been provided and a child's *relative* or *current caretaker* now expresses interest in being considered as a potential *adoptive resource*, the Child Welfare Program Manager must:
- (a) If the newly expressed interest is from a *relative*, review the diligent efforts to identify a child's relatives under OAR 413-070-0060 to 413-070-0063;

- (b) If the newly expressed interest is from a *current caretaker*, review the efforts to determine if the *current caretaker* was given adequate and reasonable time to request consideration as the potential *adoptive resource*;
  - (c) Consider the impact of a delay in achieving permanency on the best interests of the *child*; and
  - (d) Make a determination whether it is in the best interests of the *child* for an *adoption home study* to be conducted with the *relative* or *current caretaker* despite the delay in achieving permanency.
- (9) The Child Welfare Program manager in consultation with the Child Permanency Program manager makes the determination whether to consider a *relative* or *current caretaker* under section (8) of this rule.
- (10) When a Child Welfare Program Manager informs the caseworker of the determination to consider a *relative* or *current caretaker* identified under section (8) of this rule, the caseworker must notify each individual identified in OAR 413-120-0025(1), (2), and (3) that the adoption selection process has been suspended.
- (11) When the adoption selection process has been suspended, the adoption workers must notify each identified potential *adoptive resource* that the adoption selection process has been suspended.
- (12) The timelines in this rule may be changed by the *committee facilitator* when the individuals identified in OAR 413-120-0025(1), (2), and (3) agree on a new timeline.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

### **413-120-0053**

#### **The Adoption Committee**

(Amended 12/29/10)

- (1) An individual described in OAR 413-120-0025(2) attending an *adoption committee* must inform the *committee facilitator* at the beginning of the *adoption committee* whether the individual intends to serve as an *adoption committee* member. These individuals may present written or oral information regarding the needs of the *child* during the *adoption committee*, whether or not they are serving as *adoption committee* members.
- (2) An individual invited to attend the *adoption committee* under OAR 413-120-0035(5) to present information about the *child* must:
- (a) Present written or oral information regarding the needs of the *child* during the *adoption committee*; and

- (b) Respond to clarifying questions from *adoption committee* members and the ADS; and
  - (c) Leave when excused from the *adoption committee*, prior to the presentation of the potential adoptive resources.
- (3) The adoption workers must present information on the knowledge, skills, and abilities of the potential *adoptive resource* in relation to meeting the current and lifelong needs of the *child*.
- (4) After all presentations have been completed:
- (a) The following individuals must remain at the *adoption committee*:
    - (A) The *adoption committee* members;
    - (B) Each adoption worker presenting information regarding a potential *adoptive resource*; and
    - (C) The ADS.
  - (b) The following individuals may remain at the *adoption committee*, if they so choose:
    - (A) Department staff or supervisors as described in OAR 413-120-0025(4).
    - (B) Individuals described in OAR 413-120-0025(2) attending an *adoption committee* who have elected not to serve as committee members.
- (5) The *adoption committee* members must:
- (a) Consider all of the information, deliberate, and make recommendations regarding the *adoptive resource* most likely to permanently and fully integrate the *child* into the family and meet the current and lifelong needs of each *child* for whom potential adoptive resources are being considered.
    - (A) When *adoption committee* members all agree, the *adoption committee* may make one or more of the following recommendations:
      - (i) A single potential *adoptive resource* is the most appropriate.
      - (ii) An order of preference of appropriate adoptive resources.
      - (iii) A potential *adoptive resource* is not appropriate and should not be considered.

- (B) When the *adoption committee* cannot reach agreement, each *adoption committee* member makes his or her respective recommendations known to the *committee facilitator*.
- (b) At the conclusion of the *adoption committee*, the *committee facilitator* must record the recommendations on a form approved by the Department and submit the form to the ADS.
- (6) All confidential written information provided for the purpose of *adoption placement selection* to individuals who are not Department staff must be:
  - (a) Retained by the Department at the conclusion of the *adoption committee* when the individual attended the committee; and
  - (b) Returned to the Department within seven business days when the individual did not attend the committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0057**

### **Adoption Placement Selection, Notification, and Documentation**

*(Amended 08/06/17)*

- (1) Adoption Placement Selection.
  - (a) The ADS must make a decision regarding the *adoption placement selection* no later than the end of the next business day following the scheduled *adoption committee*.
  - (b) The ADS may make one of the following *adoption placement selection* decisions from the identified potential adoptive resources presented at the *adoption committee*:
    - (A) Select one *adoptive resource*.
    - (B) Select an *adoptive resource* and identify a second *adoptive resource* as an alternate in the event that the selected *adoptive resource* is subsequently found to be unavailable or no longer deemed by the Department to meet the current and lifelong needs of the *child* under OAR 413-120-0800 to 413-120-0880.
    - (C) Select none of the potential adoptive resources.

- (2) Notification of the Adoption Placement Selection.
- (a) The ADS must send written notification to the child's caseworker, the adoption workers, and the *committee facilitator* of the *adoption placement selection*, and alternate if one was named, no later than the end of the next business day following the scheduled *adoption committee*.
- (b) By the end of the next business day following the notice sent in subsection (a) of this section, written notification on a form approved by the Department must be sent as follows:
- (A) Each potential *adoptive resource* who was presented at the *adoption committee* must be notified by the following individuals of whether they were selected:
- (i) A Department adoption worker; or
- (ii) The child's caseworker when the adoption worker is not a Department employee.
- (B) The child's attorney, CASA, an authorized representative from the child's tribe, if the *child* is an *Indian child*, a member of the RCWAC, and the private *adoption agency* representing a potential *adoptive resource*, as applicable, must be notified of the *adoption placement selection* by the child's caseworker.
- (C) Notices in paragraphs (A) and (B) of this subsection must contain information on the Department's review process as described in OAR 413-120-0060, except when the potential adoptive resources were all general applicants.
- (3) The ADS must send written documentation on a form approved by the Department regarding the *adoption placement selection*, the alternate when one is named, and the basis for those decisions to the central office Adoption Program within two business days following the *adoption committee*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0060**

### **Review of the Adoption Placement Selection**

*(Amended 08/06/17)*

- (1) A review may not be requested of an *adoption placement selection* when each potential *adoptive resource* was a *general applicant*.

- (2) Except as provided in section (1) of this rule:
- (a) Each of the following individuals may request a review of the process and the *adoption placement selection* under OAR 413-120-0021(10) or 413-120-0057(1):
    - (A) The *child*.
    - (B) The child's attorney.
    - (C) The CASA.
    - (D) An authorized representative from the child's tribe, if the *child* is an *Indian child*.
    - (E) A member of the RCWAC.
    - (F) The child's caseworker, with the approval of the caseworker's supervisor and the Child Welfare Program Manager or designee.
    - (G) A *relative* or *current caretaker* who was considered as the *adoptive resource* but was not selected.
  - (b) A request for review of the process and decision made in the *adoption placement selection* must be in writing and received by the Child Permanency Program Manager or designee within seven calendar days of the notification of the *adoption placement selection* under OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b).
  - (c) When a request for review has been received, the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee must notify the Director of Child Welfare or designee and must send written notice of the request to the following individuals:
    - (A) Each of the potential adoptive resources considered by the caseworker or *adoption committee* and ADS;
    - (B) The child's caseworker;
    - (C) The adoption worker for each of the potential adoptive resources considered;
    - (D) The supervisors of the workers;
    - (E) The child's attorney;

- (F) The child's CASA;
  - (G) An authorized representative from the child's tribe, if the *child* is an *Indian child*;
  - (H) A member of the RCWAC, if the *child* is a *refugee child*; and
  - (I) The local Child Welfare Program Manager.
- (d) The Director of Child Welfare or designee must decide whether to grant a review of the *adoption placement selection* within 14 calendar days after the notice of the *adoption placement selection* under OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b). Written notice of the decision whether or not to conduct a review must be sent to the individuals listed in subsection (c) of this section and to the Child Permanency Program Manager. This written notice is not required to be provided within the 14 calendar day timeline for the decision whether to grant a review.
- (e) The Director of Child Welfare or designee may, on his or her initiative and without a request for a review, give notice of intent to review the *adoption placement selection* when the decision to review is made within seven calendar days following the date of the notice of the *adoption placement selection* in OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b).
- (f) The Director of Child Welfare or designee may conduct the review by any of the following methods:
- (A) Personally conduct a review of information considered in making the *adoption placement selection* and may consider additional, relevant information about the *child* or potential *adoptive resource*.
  - (B) Refer the *adoption placement selection* to a review committee appointed by and at the discretion of the Director of Child Welfare or designee to --
    - (i) Review the information considered in making the original *adoption placement selection*;
    - (ii) Consider additional relevant information about the *child* or potential adoptive resources; and
    - (iii) Issue a recommendation that the Director of Child Welfare or designee affirm or modify the original *adoption placement selection* of the caseworker or the ADS or recommend a different *adoption placement selection*.
  - (C) Appoint another individual to --

- (i) Review the information considered in making the original *adoption placement selection*;
  - (ii) Consider additional relevant information about the *child* or potential adoptive resources; and
  - (iii) Issue a recommendation that the Director of Child Welfare or designee affirm or modify the original *adoption placement selection* of the caseworker or the ADS, or recommend a different *adoption placement selection*.
- (g) The Director of Child Welfare or designee must provide written notification of the decision affirming or changing the original *adoption placement selection* to the individuals identified in subsection (2)(c) of this rule and the Adoption Program Manager.
- (3) Notwithstanding sections (1) and (2) of this rule, the Director of Child Welfare may reconsider a decision and require the actions in subsection (2)(f) of this rule to occur when the following conditions exist:
- (a) The time to request review of an *adoption placement selection* under subsection (2)(b) of this rule has expired;
  - (b) There is no request for review pending; and
  - (c) The deadline set by statute for a person entitled to seek judicial review of an *adoption placement selection* entered under this rule has not expired.
- (4) The *adoption placement selection* made by the Director of Child Welfare or designee under this rule is final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285



# Legalizing the Adoption

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## **413-120-0100**

### **Purpose**

(Amended 07/01/2022)

These rules define the process for legalizing an adoptive placement for children in the permanent custody of the Oregon Department of Human Services.

Stat. Auth. ORS 418.005, ORS 409.050

Stats. Implemented: ORS 418.005, ORS 419B.529

## **413-120-0110**

### **Values**

(Amended 09/17/96)

- (1) Creating a legal child-parent relationship is the final goal of *adoption*.
- (2) Achieving permanency for the *child* is important.

Stat. Auth. ORS 418.005

Stats. Implemented: ORS 418.005, 419B.529

## **413-120-0115**

### **Requirements for Legalizing the Adoption When a Petition is Filed**

(Amended 07/01/2022)

- (1) When adoption assistance has been approved, and the adoptive parents decide to use a "qualified vendor" attorney, the Adoption Assistance staff send the family a Qualified Vendor Agreement and the Qualified Vendor Attorney List. The family and the attorney must sign the Qualified Vendor Agreement and return it to the central Adoptions Services Unit. Upon receipt of the *adoption decree*, the adoption assistance staff will prepare the request to reimburse the attorney in accordance with the Department's contract with the attorney.
- (2) If the adoptive parents choose to use an attorney who is not on the Qualified Vendor Attorney List, the adoption assistance staff will send the adoptive parents a Non Vendor Agreement. The adoptive parents must sign the agreement and return it to the Adoption Services Unit. Upon receipt of the *adoption decree*, the adoption assistance staff will reimburse the adoptive parents at the same rate as for a vendor attorney. The adoptive parents are responsible for any additional charges billed by the attorney and are responsible to reimburse the attorney for those charges.

- (3) Department employees may not recommend an attorney to serve as counsel for the prospective parents.
- (4) When the central office Adoptions Services Unit has received the request for *consent to the adoption* and the vendor or non-vendor agreement, the adoption assistance is in place, and the *legal assistance specialist* has given approval, the Adoptions Services Unit will prepare the *consent to the adoption* to be signed by the Child Permanency Program Manager or designee. In addition to the *consent to the adoption*, the Department's Adoption Services Unit will provide the adoptive parents or their attorney with the following documents to be filed with the petition:
  - (a) A certified copy of the court orders or the original release and surrender documents which show that the *Department* has permanent custody of the *child* and the authority to *consent to the adoption* of the *child*.
  - (b) ICWA correspondence, if applicable.
  - (c) Statement of verification that the birth parents and the petitioners have been advised of the voluntary adoption registry.
  - (d) Documentation regarding compliance with the Interstate Compact on Placement of Children, if applicable.
  - (e) A copy of a signed legally enforceable Post Adoption Communication Agreement or *Cultural Continuity Agreement*, if applicable.
  - (f) Affidavits, if applicable.
- (5) After receiving the documents listed in section (4) of this rule, the *Department* will send the *consent to the adoption* to the attorney for the adoptive family.
  - (a) Within 30 calendar days of the date the *Department* sends the *Consent to the Adoption*, the attorney must file the petition that is consistent with the requirements of ORS 109.315 and Oregon Laws 2021. Ch. 398, Section 8, (unless a petition is not required under ORS 419B.529).
  - (b) Within 30 days of filing the petition, the attorney must:
    - (A) Provide a copy of the filed petition to the *Department*.
    - (B) If there is *reason to know* the *child* is an *Indian child*, file with the court a declaration of compliance with the notice requirements of *ORICWA* consistent with ORS 109.315 and Oregon Laws 2021. Ch. 398, section 8(5)(d). The declaration must include copies of the notice(s) sent and any

return receipts or proof of service the notice must be provided to the following:

- (i) Each *tribe* of which the *child* may be a *member* or in which the *Indian child* may be eligible for *membership*;
  - (ii) Child's parents, including parents who have relinquished their parental rights, but not parents whose parental rights have been judicially terminated;
  - (iii) The child's *Indian custodian*, if applicable; and
  - (iv) The US *Bureau of Indian Affairs* Regional Director, if the identity or location of the child's parents, Indian custodian or tribe cannot be ascertained.
- (c) Within 90 days after the Department's Adoptions Services Unit has received a copy of the petition filed with the court, the *Department* must:
- (A) Review the petition and file an *ICWA compliance report* with the court pursuant to ORS 109.304 to 109.410 and Oregon Laws 2021. ch. 398, section 7(1); and
  - (B) File a written *placement report* with the court, which may include a waiver of the 90-day waiting period.
- (d) Within 30 days following the court's receipt of the *ICWA compliance report*, the petitioner's attorney must prepare a decree and send it to the court or schedule an Adoption Ceremony.
- (6) The court granting the *adoption decree* provides the central office Adoption Services Unit with a copy of the *adoption decree*.

Stat. Auth.: ORS 418.005 , ORS 409.050

Stats. Implemented: ORS 109.307, ORS 109.309, ORS 109.316, ORS 419B.529

# Legalizing the Adoption if Petition Not Required

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## **413-120-0142**

### **Purpose**

(Amended 01/01/02)

ORS 419B.529 sets forth conditions under which a prospective adoptive parent is not required to file a petition for *adoption*. These rules establish DHS's responsibilities in the process for legalizing an *adoption* through the juvenile court where a petition for *adoption* is not required.

Stat. Auth. ORS 418.005

Stats. Implemented: ORS 419B.529

## **413-120-0145**

### **Values**

(Adopted 07/06/99)

- (1) Every *child* needs and deserves a safe, nurturing, and permanent home.
- (2) Creating a legal *child* parent relationship is the final goal of *adoption*.
- (3) Expediting *legalization of adoption* is desirable if the interests of the *child* and adoptive family are protected and basic requirements met.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

## **413-120-0155**

### **Conditions for Not Filing a Petition for Adoption**

(Amended 04/01/04)

Pursuant to ORS 419B.529 and notwithstanding ORS 109.309, a prospective adoptive parent is not required to file a *petition for adoption* if all of the following conditions are in place:

- (1) A juvenile court that is a circuit court has entered an order of permanent commitment of the *child* to DHS pursuant to ORS 419B.527, or the parent has signed and Department of Human Services Office of Safety and Permanency for Children has accepted a release and surrender to the Department and a certificate of irrevocability and waiver as provided in ORS 418.270 regarding the *child*.
- (2) DHS has completed a *home study* that finds the prospective adoptive parent(s) suitable to adopt the *child* and consents to the *adoption*; and

- (3) The adoptive parent(s) elect to legalize the *adoption* through the juvenile court.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.270, 419B.529

### **413-120-0160**

#### **Right to Use Expedited Process**

*(Adopted 07/06/99)*

The adoption worker shall inform the adoptive parent(s) in writing of their right to use this expedited process, using form CF 438, Legalizing the Adoption.

Stat. Auth. ORS 418.005

Stats. Implemented: ORS 419B.529

### **413-120-0165**

#### **Requirements Prior to Proceeding to Legalization of the Adoption**

*(Amended 08/06/17)*

When the supervision period is concluded and the Adoption Services Unit receives a request from the adoptive parent(s) or their legal representative to proceed with finalization of the *adoption* in the juvenile court, the Adoption Services Unit shall assure that the following requirements have been met or processes have been completed before proceeding with forwarding the matter to the juvenile court for *legalization*:

- (1) The requirements of the ICWA and OAR chapter 413, division 115 have been met.
- (2) If applicable, the requirements of the Interstate Compact on Placement of Children have been met (OAR 413-040-0200 through 0330).
- (3) The birth parent(s) and petitioners have been advised of the Voluntary Adoption Registry (OAR 413-130-0300 through 0360).
- (4) The worker has assessed the child's need for openness in *adoption*, and if appropriate to the case, has provided information to the adoptive parent(s) and facilitated the development of a Post Adoption Communication Agreement (OAR 413-120-0610 through 0650); and
- (5) The *child* has been referred to the Adoption Assistance Program; and if the *child* meets the criteria, a written Adoption Assistance Agreement has been completed, (OAR 413-130-0000 through 0110). If the adoptive parent(s) decline to participate in the Adoption Assistance Program, the worker must obtain a statement signed by the adoptive parent(s)

which says that they have been fully informed of the availability of the Adoption Assistance Program and waive their rights to these benefits now and in the future.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

#### **413-120-0170**

##### **Attorney Fees**

*(Adopted 07/06/99)*

If Adoption Assistance has been approved, and the adoptive parent(s) elect to use an attorney to assist with *legalization*, the adoptive parent(s) can request reimbursement for reasonable and necessary attorney fees through the Adoption Assistance Program pursuant to OAR 413-130-0080(1),(4), OAR 413-130-0090, and OAR 413-120-0115(1) and (2).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

#### **413-120-0175**

##### **Court Filing Requirements**

*(Amended 08/06/17)*

When the requirements of OAR 413-120-0165 have been met, the Adoption Services Unit will send the following to the attorney selected by the adoptive family, and the attorney must file with the court:

- (1) A written consent to the *adoption*.
- (2) A *placement report* requesting the juvenile court to enter a decree of *adoption*.
- (3) Indian Child Welfare Act statement, ORS 109.315(1)(h).
- (4) Statement regarding Voluntary Adoption Registry Notification, ORS 109.35.
- (5) Documentation regarding compliance with the Interstate Compact on Placement of Children, Article IV, ORS 417.200.
- (6) Adoption Disclosure Statement, form CF 960.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.529

# Adoption Applications, Adoption Home Studies, and Standards for Adoption

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## 413-120-0190

### Purpose

(Amended 12/29/10)

These rules (OAR 413-120-0190 to 413-120-0246) describe the Department's --

- (1) Adoption application requirements for Oregon residents.
  - (a) Applying to adopt a *child* in the legal custody of the Department.
  - (b) Submitting an application to the Department to conduct an *adoption home study* for a *child* in the custody of a public child welfare agency in another state after the agency in the other state has submitted an adoptive placement request to the Department in accordance with the ICPC.
  - (c) Submitting an application to the Department to conduct an *adoption home study* for a *child* in the custody of a public child welfare agency in another country after the agency in the other country has submitted an *adoption home study* request to the Department and in accordance, when applicable, with Child Welfare Policy I-G.1.14, "Intercountry Adoption Pursuant to the Hague Convention and Intercountry Adoption Act", OAR 413-120-0900 to 413-120-0970.
- (2) Authority regarding adoption applications submitted to the Department.
- (3) *Adoption home study* criteria for individuals applying to adopt a *child* in the legal custody of the Department.
- (4) Standards for an adoptive home for a *child* in the custody of the Department.
- (5) Authority to release an *adoption home study*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## 413-120-0220

### Adoption Application Requirements

(Amended 10/01/15)

- (1) A resident of Oregon applying to adopt a *child* in the legal custody of the Department must submit an application for an *adoption home study* to the Department or to a licensed *adoption agency* willing to contract with the Department or willing to allow another licensed *adoption agency* to contract with the Department for post placement supervision services as outlined in OAR 413-120-0830(2)(c).
- (2) Applications.
  - (a) The Department accepts applications for an *adoption home study* from Oregon residents applying to adopt a *child*:
    - (A) In the custody of the Department;
    - (B) In the custody of a public child welfare agency in another state following receipt of an ICPC request from the agency in the other state; or
    - (C) In the custody of a public child welfare agency in another country following a request from the agency in the other country and in accordance, when applicable, with OAR 413-120-0900 to 413-120-0970.
  - (b) The Department accepts applications for an *adoption home study* for Oregon residents who have previously applied or are currently applying through another *adoption agency*. The applicant must:
    - (A) Sign a release of information allowing ongoing communication with the other *adoption agency*; and
    - (B) Sign a release of information allowing the Department to obtain a copy of the adoption file of the individual.
- (3) An application submitted to the Department must include all of the following:
  - (a) An adoption application form;
  - (b) A signed, valid release of information from each applicant who is a subject of the *adoption home study* allowing the *adoption home study* to be released to the individuals and for the purposes described in OAR 413-120-0246(2);
  - (c) An Adoptive Family Information and Placement Preference form, unless the Department determines this is not required due to the existing relationship between the *child* and the applicant;



- (d) Financial information, current within 12 months of application, demonstrating the ability of the applicant to meet the needs of the family and the *child* to be adopted;
  - (e) Medical information current within 24 months of application;
  - (f) When applicable, mental health information;
  - (g) When applicable, copy of marriage certificate, divorce verification, or death certificate of spouse;
  - (h) Consent to a criminal offender information records check for each applicant and all household members age 18 and older under Child Welfare Policy I-G.1.4, "Oregon Computerized Criminal History Checks and Nationwide Criminal History Checks through the FBI for Relative Caregivers, Foster Parents, Other Persons in the Household and Adoptive Parents for Children in the Care or Custody of DHS", OAR 413-120-0400 to 413-120-0470;
  - (i) Consent to a child abuse and neglect background check for each adoptive applicant and all household members age 18 and older; and
  - (j) Names and contact information of four references, two of whom may be relatives of the adoptive applicant, who can attest to the character and ability of the adoptive applicant to provide safe and protective care for a *child*.
- (4) The Department may require additional information from an adoptive applicant to assess the ability of the applicant to meet the standards of an adoptive home.
- (5) The adoptive applicant must be at least 21 years of age, unless one of the following subsections applies:
- (a) The Child Welfare Program Manager or designee has approved a *relative* adoptive applicant between the ages of 18 through 20 years; or
  - (b) The *child* is an *Indian child* and the adoptive applicant is:
    - (A) A member of the child's extended family;
    - (B) Another member of the Indian child's tribe; or
    - (C) Another Indian family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0222**

### **Conflict of Interest for Adoptive Applicants**

*(Adopted 12/29/10)*

- (1) When an adoptive applicant under OAR 413-120-0220 is a Department of Human Services (DHS) staff member, the requirements of DHS Administrative Policy DHS-060-002, "Conflict of Interest Policy" and "Conflict of Interest Policy Addendum for CAF Employees" apply.
- (2) When an adoptive applicant under OAR 413-120-0220 is not a DHS staff member and the Child Welfare Program Manager determines a potential conflict of interest with the Department exists, section (3) of this rule applies. If the Child Welfare Program Manager is unable to determine if there is a conflict of interest, the Adoption Program Manager or designee makes the determination.
- (3) An adoptive applicant who has a conflict of interest with the Department is referred to one of the following entities for application and completion of the *adoption home study*:
  - (a) A local child welfare office in another district, upon the approval of the supervisor; or
  - (b) A contracted *adoption agency*, with the approval of the Adoption Program Manager or designee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0225**

### **Conditions that Require Additional Approval or Termination of the Department's Adoption Application Process**

*(Amended 12/29/10)*

- (1) Prior to proceeding with an adoption application submitted by an individual who has lost permanent custody of a *child*, there must be an approval by the Adoption Program Manager or designee, at the request of the District Manager or designee.
- (2) The Department may terminate the application process and deny an application at any time or remove a completed *adoption home study* from consideration, when one or more of the following subsections applies:
  - (a) Information regarding the adoptive applicant is sufficient to determine the adoptive applicant cannot meet adoption home standards described in OAR 413-120-0246.

- (b) An adoptive applicant's license or certificate to provide services to children, the elderly, or individuals with disabilities has previously been or is currently being denied, revoked, or suspended.
  - (c) The adoptive applicant falsifies or omits information.
  - (d) The adoptive applicant does not respond to the inquiries and requests for information within the timelines established by the Department.
  - (e) The adoptive applicant does not submit the required application information under OAR 413-120-0220.
  - (f) The adoptive applicant is selected by another *adoption agency* to adopt a *child*.
- (3) When the Department terminates the adoption application process, the caseworker must:
- (a) Send written notification of the termination to the adoptive applicant; and
  - (b) Document the termination and notification in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

## **413-120-0240**

### **Status Notification of Adoption Applications**

*(Amended 12/29/10)*

The Department must send written notice of the status of the application to an individual who has submitted an adoption application to the Department when the requirements of any of the following sections apply:

- (1) The *adoption home study* is not initiated within 180 calendar days from the date the application is received; or
- (2) The Department determines that an individual will not be recommended as a potential *adoptive resource*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

### **413-120-0243**

#### **Prioritization of an Adoption Home Study Application**

(Amended 10/01/15)

The Department has discretion to prioritize *adoption home study* applications received from the following individuals according to the needs of the *child* or children awaiting *adoption* rather than the date of receipt of an application;

- (1) An individual applying to adopt a related *child*.
- (2) An individual applying as a *current caretaker* for a *child*.
- (3) An individual who is a *general applicant* when the Department has determined that further general recruitment is not required under OAR 413-120-0750.
- (4) An individual who is a *general applicant* interested in adopting a *child* with special needs for whom there are few or no available approved homes.
- (5) An individual who is a *general applicant* other than those described in sections (3) and (4) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

### **413-120-0246**

#### **Standards for an Adoptive Home and Release of an Adoption Home Study**

(Amended 10/01/15)

- (1) Except to the extent provided otherwise in section (2) of this rule, to be approved to adopt a *child* in the legal custody of the Department, an individual must complete all of the following:
  - (a) Have an *adoption home study* recommending the applicant as a potential *adoptive resource* written, amended, or updated within the 12 months prior to the *adoption placement selection*, completed by --
    - (A) The Department under OAR 413-200-0301 to 413-200-0396;
    - (B) An Oregon licensed private agency for an Oregon resident when the *home study* is prepared by a private agency for an Oregon resident under OAR 413-215-0401 to 413-215-0481;
    - (C) An out-of-state agency under OAR 413-040-0200 to 413-040-0330; or
    - (D) An agency in another country under OAR 413-120-0900 to 413-120-0970.

- (b) Meet the Department's standards for adoptive homes by demonstrating the knowledge, skills, and ability to meet, without agency oversight, the current and lifelong needs of the *child* for all of the following:
    - (A) Physical and emotional safety and well-being;
    - (B) Developing and maintaining connections to the child's family;
    - (C) Continuity and familiarity;
    - (D) Appropriate social, educational, developmental, emotional, and physical support;
    - (E) Integration into the family;
    - (F) Stability and permanency; and
    - (G) Maintaining his or her identity, cultural, religious, and spiritual heritage.
  - (c) Provide evidence of successful completion of a training program approved by the Department, unless the Adoption Program Manager has approved an alternate training program.
- (2) In the case of an individual or individuals residing in a state that does not complete an *adoption home study* prior to a *child* being placed with the individual or individuals or prior to the *child* being legally free for *adoption*:
- (a) The Child Permanency Program may approve a foster home study or a relative study as an *adoption home study* for the purpose of *adoption placement selection* only as long as all other requirements of subsections (1)(a), (b), and (c) of this rule are met.
  - (b) An approved *adoption home study* must be completed prior to designation of the child's placement for the purpose of *adoption*.
- (3) Release of an adoption home study. An *adoption home study* is considered confidential information and, when released under this rule must have a signed, valid release of information from each applicant who is a subject of the *adoption home study*.
- (a) The Department may release a copy of the *adoption home study* to:
    - (A) An adoption applicant who is a subject of the *adoption home study*;
    - (B) Individuals involved in the *adoption placement selection* process, under OAR 413-120-0021 and OAR 413-120-0035;

- (C) The court for the purposes of finalizing an *adoption*; and
  - (D) A public agency upon the written request of an applicant who is a subject of the *adoption home study*.
- (b) A Child Welfare Program Manager must approve the release of an *adoption home study* requested for a purpose other than those listed in subsection (a) of this rule.
  - (c) An individual receiving a copy of an *adoption home study* must keep the information contained therein confidential.
  - (d) Before releasing an *adoption home study*, the Department must redact or summarize information, when necessary, to prevent the identification of individuals, other than the applicants, who provided information for the *adoption home study*.
  - (e) When an agency or entity other than the Department completes the *adoption home study*, the Department must receive approval from the agency or entity that completed the *adoption home study* before release.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

# Criminal Records Check Requirements for Relative Resource Parents, Resource Parents, Adoptive Resources, and Other Persons in the Household

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## **413-120-0400**

### **Purpose**

*(Amended 12/01/2021)*

- (1) These rules (OAR describe the criminal records check requirements for those seeking to become or remain a certified resource family or an applicant seeking approval as an adoptive resource under OAR 413-200-0260 to 413-200-0396, or individuals seeking approval as a member of the household, to provide child care, or to provide respite care. These rules supplement Department of Administrative Services rules, OAR 125-007-0210 to 125-007-0330.
- (2) In these rules, a resource parent, relative resource parent, and certified resource family, is a foster parent under ORS 418.016, 418.625, 418.640 and 418.648.
- (3) These rules set forth the criminal convictions which disqualify a subject individual from being approved as a resource parent, relative resource parent, certified resource family, a potential adoptive resource or a member of the household.
- (4) These rules outline the process by which the Department assesses the fitness of a subject individual with a criminal conviction.
- (5) These rules must be used in conjunction with other Oregon administrative rules when determining a subject individual's fitness to be approved as a certified resource family, approved as a member of the household, approved to provide child care, or approved to provide respite care.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016

## 413-120-0440

### **Circumstances in which a Criminal Records Check Must Occur and Types of Records Checks Required**

(Amended 06/29/2022)

- (1) The Department must complete a *criminal records check* through the Law Enforcement Database System (LEDS) and a fingerprint-based *criminal records check* of national crime information databases by the Federal Bureau of Investigation (FBI) on the following *subject individuals*:
  - (a) An *applicant* seeking initial approval as a *certified resource* family;
  - (b) An applicant seeking approval as a potential *adoptive resource*;
  - (c) An *adult member of the household* of an *applicant* to become a *certified resource family* or potential *adoptive resource*, *except*:
    - (A) A temporary certificate of approval under OAR 413-200-0275 is allowed after assessing the LEDS results but prior to receiving the FBI results.
    - (B) A *young adult* in the care or custody of the Department is not required to have a *criminal records check*.
    - (C) A *member of the household* who turns 18 after the issuance of a *Certificate of Approval* or *Child Specific Certificate of Approval* is not required to have a *criminal records check* until the *certified resource family* is being assessed for renewal of certification.
    - (D) A *member of the household* of a potential *adoptive resource* who turns 18 does not need a FBI fingerprint- based check until the previously approved *adoption home study* is being amended or updated.
  - (d) A potential *respite provider* or *child care* provider, not otherwise licensed, listed or approved by a state or county entity with child care licensing authority.
    - (A) A respite or child care provider not otherwise licensed, listed or approved by a state or county entity with child care licensing authority, may be approved on a temporary basis after assessing LEDS results, but prior to receiving the FBI results, with an approval by the child welfare program manager or designee, documented on the form approved by the Department.
    - (B) A currently certified resource parent who is a potential respite or child care provider is exempt from criminal background check requirements in this rule.



- (e) Any *subject individual* who has lived outside of Oregon for more than 60 consecutive days after their last *criminal records check*.
  - (f) A subject individual previously approved as a respite provider or as a member of the household must undergo a new criminal records check and fitness determination, including a fingerprint-based check of records maintained by FBI, when applying to adopt a child or to be a certified resource parent or certified relative resource parent.
- (2) The Department must complete a *criminal records check* through LEDS on the following subject individuals:
- (a) An *applicant* for renewal of certification
  - (b) An adult *member of the household*, a respite provider, or a child care provider of a *certified resource family* applying for renewal of certification, who previously had a fingerprint-based FBI background check under *OAR 413-120-0400 to OAR 413-120-0475*.
  - (c) A potential *adoptive resource* when a previously approved *adoption home study* is being amended or updated within the 12 months prior to an *adoption placement selection* as required by OAR 413-120-0246.
- (3) Notwithstanding subsection 1, a *subject individual* otherwise required to complete a fingerprint-based FBI background check who the *Department* determines is unable to submit fingerprints due to a physical or mental condition that makes compliance unreasonable to the *subject individual* may be exempted from the fingerprint requirement with a Child Welfare Program Manager approval.
- (a) The approval for the exemption from the fingerprint based criminal history check must be reviewed at each renewal assessment process.
  - (b) The *subject individual* approved for the exemption must obtain a fingerprint-based FBI background check if circumstances have changed and the individual is able to submit fingerprints.
- (4) "Notwithstanding sections (1) and (2) of this rule, if deemed necessary by the *Department*, the *Department* may require a criminal records check through LEDS to protect child safety, and a fingerprint-based FBI background check on an individual with direct access to a child or young adult."
- (5) A criminal records check under OAR 413-120-0400 to 413-120-0475 may include a review of *other criminal records information*.
- (6) When it is determined that a previously approved *subject individual* has new or previously unknown criminal history, the *Department* must complete a criminal records

check through the LEDS and, if appropriate, complete a fingerprint-based FBI background check of national crime information databases and conduct a new *fitness determination* if applicable.

- (a) Following the discovery of previously unknown criminal history, and pending a new fitness determination, the Department may permit a subject individual to continue to function in the capacity for which the individual was previously approved.
  - (b) Pending the completion of the fitness determination, approval of the continued placement of a child or young adult must be made by the Child Welfare Program Manager within 24 hours of the discovery of the new information.
- (7) A subject's juvenile record is not a criminal record for the purposes of OAR 413-120-0400 to 413-120-0475.
- (8) A *subject individual* may not be denied under these rules for adult criminal records which have been expunged or set aside.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016

## **413-120-0450**

### **Assessment of Criminal Convictions**

*(Amended 06/29/2022)*

- (1) The *Department* must complete a *fitness determination* of any *applicant* with a criminal conviction being assessed as a *resource parent, relative resource parent, potential adoptive resource, or any individual* being assessed as a *member of the household, respite care provider, or child care provider* unless the *subject individual* must be denied under OAR 413-120-0450(4) or (5).
- (2) A *subject individual* for whom a positive fitness determination is made following a criminal records background check, may still be denied approval to be a *resource parent, relative resource parent, adoptive resource, member of the household, respite provider or child care provider* if the *subject individual* does not meet other requirements contained in *Department* rules governing care, foster care relative care, and adoption.
- (3) An *authorized designee* employed by the Department must make all fitness determinations.
- (4) A subject individual convicted in Oregon or any other jurisdiction of any felony crime listed in subsections (a) to (e) of this section may not be a resource parent, relative resource parent, adoptive resource, member of the household, respite provider or child care provider regardless of how long ago the subject individual was convicted or any

other factors or circumstances that exist. An authorized designee may not conduct a weighing test and must deny approval if the conviction is for a felony crime that involves:

- (a) Violence, including rape, sexual assault, and homicide, but not including other physical assault or battery;
- (b) Abuse or neglect of a *child*;
- (c) Spousal abuse;
- (d) A *child* as the victim (including child pornography);
- (e) Felony criminal convictions under Oregon law that fall under subsection (4) (a)-(d) and for which the *authorized designee* must make a negative *fitness determination* include:
  - (A) ORS 162.165 - Escape in the first degree;
  - (B) ORS 163.095 - Aggravated murder;
  - (C) ORS 163.107 - Murder in the first degree;
  - (D) ORS 163.115 - Murder;
  - (E) ORS 163.118 - Manslaughter in the first degree;
  - (F) ORS 163.125 - Manslaughter in the second degree;
  - (G) ORS 163.145 - Criminally negligent homicide;
  - (H) ORS 163.149 - Aggravated vehicular homicide;
  - (I) ORS 163.160 - Assault in the fourth degree, if classified as a felony, and the victim is a *child* or the subject individual's spouse;
  - (J) ORS 163.165 - Assault in the third degree if the victim is a *child* or the subject individual's spouse;
  - (K) ORS 163.175 - Assault in the second degree if the victim is a *child* or the subject individual's spouse;
  - (L) ORS 163.185 - Assault in the first degree if the victim is a *child* or the subject individual's spouse;

- (M) ORS 163.192 - Endangering a person protected by a Family Abuse Prevention Act restraining order, if the victim is a child or the subject individual's spouse;
- (N) ORS 163.205 - Criminal mistreatment in the first degree if the victim is a *child* or the subject individual's spouse;
- (O) ORS 163.207 - Female genital mutilation;
- (P) ORS 163.235 - Kidnapping in the first degree if the victim is a *child* or the subject individual's spouse;
- (Q) ORS 163.245 - Custodial interference in the second degree if the victim is a *child*;
- (R) ORS 163.257 - Custodial interference in the first degree if the victim is a *child*;
- (S) ORS 163.266 - Trafficking in persons if the victim is a *child*;
- (T) ORS 163.275 - Coercion, if the victim is a *child* or the subject individual's spouse;
- (U) ORS 163.355 - Rape in the third degree;
- (V) ORS 163.365 - Rape in the second degree;
- (W) ORS 163.375 - Rape in the first degree;
- (X) ORS 163.385 - Sodomy in the third degree;
- (Y) ORS 163.395 - Sodomy in the second degree;
- (Z) ORS 163.405 - Sodomy in the first degree;
- (A)(A) ORS 163.408 - Unlawful sexual penetration in the second degree;
- (B)(B) ORS 163.413 - Purchasing sex with a minor;
- (C)(C) ORS 163.411 - Unlawful sexual penetration in the first degree;
- (D)(D) ORS 163.425 - Sexual abuse in the second degree;
- (E)(E) ORS 163.427 - Sexual abuse in the first degree;

- (F)(F) ORS 163.432 - Online sexual corruption of a child in the second degree;
- (G)(G) ORS 163.433 - Online sexual corruption of a child in the first degree;
- (H)(H) ORS 163.452 - Custodial sexual misconduct in the first degree;
- (I)(I) ORS 163.479 - Unlawful contact with a child;
- (J)(J) ORS 163.525 - Incest, if the victim of the offense is a *child*;
- (K)(K) ORS 163.535 - Abandonment of a child;
- (L)(L) ORS 163.537 - Buying or selling a person under 18 years of age;
- (M)(M) ORS 163.547 - Child neglect in the first degree;
- (N)(N) ORS 163.670 - Using a child in display of sexually explicit conduct;
- (O)(O) ORS 163.684 - Encouraging child sexual abuse in the first degree;
- (P)(P) ORS 163.686 - Encouraging child sexual abuse in the second degree;
- (Q)(Q) ORS 163.688 - Possession of materials depicting sexually explicit conduct of a child in the first degree;
- (R)(R) ORS 163.689 - Possession of materials depicting sexually explicit conduct of a child in the second degree;
- (S)(S) ORS 163.701 - Invasion of personal privacy in the first degree, if the victim is a *child*;
- (T)(T) ORS 164.225 - Burglary in the first degree if the victim is a child or the subject individual's spouse;
- (U)(U) ORS 164.405 - Robbery in the second degree if the victim is a child or the subject individual's spouse;
- (V)(V) ORS 164.415 - Robbery in the first degree if the victim is a child or the subject individual's spouse;
- (W)(W) ORS 167.017 - Compelling prostitution, if the victim is a *child* or the subject individual's spouse;

(X)(X) ORS 167.057 - Luring a minor;

(Y)(Y) ORS 475.371 - Administration to another person under 18 years of age; or

(Z)(Z) ORS 475.367 - Causing another person to ingest marijuana, if the victim is a child or the subject individual's spouse.

- (5) A subject individual convicted of any crime listed in this section within five years preceding the signature of the consent for background check may not be a resource parent, relative resource parent, adoptive resource, member of the household, respite provider or child care provider regardless of any factors or circumstances that exist. An authorized designee may not conduct a weighing test and must deny approval if the felony crime involves:
- (a) Physical assault, battery;
  - (b) A drug-related offense;
  - (c) Felony criminal convictions which occurred within five years preceding the signature of the consent for background check that fall under subsection (5)(a)-(b) and for which an authorized designee must deny include:
    - (A) ORS 163.160 - Assault in the fourth degree, if classified as a felony.
    - (B) ORS 163.165 - Assault in the third degree.
    - (C) ORS 163.175 - Assault in the second degree.
    - (D) ORS 163.185 - Assault in the first degree.
    - (E) ORS 163.208 - Assaulting a public safety officer.
    - (F) ORS 164.225 - Burglary in the first degree
    - (G) ORS 164.395 Robbery in the third degree
    - (H) ORS 164.405 - Robbery in the second degree
    - (I) ORS 164.415 - Robbery in the first degree
    - (J) ORS 166.015 - Riot;
    - (K) ORS 166.165 - Bias in the first degree;
    - (L) ORS 167.212 - Tampering with drug records.

- (M) ORS 167.262 - Adult using minor in commission of controlled substance offense, if classified as a felony.
- (N) ORS 475.752 - Prohibited acts generally, if classified as a felony.
- (O) ORS 475.806 - Unlawful manufacture of hydrocodone.
- (P) ORS 475.808 - Unlawful manufacture of hydrocodone within 1000 feet of a school.
- (Q) ORS 475.810 - Unlawful delivery of hydrocodone.
- (R) ORS 475.812 - Unlawful delivery of hydrocodone within 1000 feet of school.
- (S) ORS 475.816 - Unlawful manufacture of methadone.
- (T) ORS 475.818 - Unlawful manufacture of methadone within 1000 feet of a school.
- (U) ORS 475.820 - Unlawful delivery of methadone.
- (V) ORS 475.822 - Unlawful delivery of methadone within 1000 feet of a school.
- (W) ORS 475.824 - Unlawful possession of methadone, if classified as a felony.
- (X) ORS 475.826 - Unlawful manufacture of oxycodone.
- (Y) ORS 475.828 - Unlawful manufacture of oxycodone within 1000 feet of a school.
- (Z) ORS 475.830 - Unlawful delivery of oxycodone.
- (A)(A) ORS 475.832 - Unlawful delivery of oxycodone within 1000 feet of a school.
- (B)(B) ORS 475.846 - Unlawful manufacture of heroin.
- (C)(C) ORS 475.848 - Unlawful manufacture of heroin within 1,000 feet of school.
- (D)(D) ORS 475.850 - Unlawful delivery of heroin.

- (E)(E) ORS 475.852 - Unlawful delivery of heroin within 1,000 feet of school.
- (F)(F) ORS 475.854 - Unlawful possession of heroin, if classified as a felony.
- (G)(G) ORS 475.856 - Unlawful manufacture of marijuana, if classified as a felony.
- (H)(H) ORS 475.858 - Unlawful manufacture of marijuana within 1,000 feet of school.
- (I)(I) ORS 475.860 - Unlawful delivery of marijuana, if classified as a felony.
- (J)(J) ORS 475.862 - Unlawful delivery of marijuana within 1,000 feet of school.
- (K)(K) ORS 475.864 - Unlawful possession of marijuana, if classified as a felony.
- (L)(L) ORS 475.866 - Unlawful manufacture of 3,4-methylenedioxymethamphetamine.
- (M)(M) ORS 475.868 - Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.
- (N)(N) ORS 475.870 - Unlawful delivery of 3,4-methylenedioxymethamphetamine if classified as a felony.
- (O)(O) ORS 475.872 - Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.
- (P)(P) ORS 475.874 - Unlawful possession of 3,4-methylenedioxymethamphetamine.
- (Q)(Q) ORS 475.876 - Unlawful manufacture of cocaine.
- (R)(R) ORS 475.878 - Unlawful manufacture of cocaine within 1,000 feet of school.
- (S)(S) ORS 475.880 - Unlawful delivery of cocaine.
- (T)(T) ORS 475.882 - Unlawful delivery of cocaine within 1,000 feet of school.



- (U)(U) ORS 475.884 - Unlawful possession of cocaine if classified as a felony.
- (V)(V) ORS 475.886 - Unlawful manufacture of methamphetamine.
- (W)(W) ORS 475.888 - Unlawful manufacture of methamphetamine within 1,000 feet of school.
- (X)(X) ORS 475.890 - Unlawful delivery of methamphetamine.
- (Y)(Y) ORS 475.892 - Unlawful delivery of methamphetamine within 1,000 feet of school.
- (Z)(Z) ORS 475.894 - Unlawful possession of methamphetamine, if classified as a felony.
- (A)(A)(A) ORS 475.904 - Unlawful manufacture or delivery of controlled substance within 1,000 feet of school.
- (B)(B)(B) ORS 475.908 - Causing another person to ingest a controlled substance.
- (C)(C)(C) ORS 475.910 - Application of controlled substance to the body of another person, if the controlled substance is in Schedule I, II, III, or IV.
- (D)(D)(D) ORS 475.914 - Prohibited acts for registrants related to Schedule I controlled substances, if classified as a felony.
- (E)(E)(E) ORS 475.962 - Distribution of equipment, solvent, reagent, or precursor substance with intent to facilitate manufacture of controlled substance.
- (F)(F)(F) ORS 475.967 - Possession of precursor substance with intent to manufacture controlled substance.
- (G)(G)(G) ORS 475.977 - Possessing or disposing of methamphetamine manufacturing waste.
- (H)(H)(H) ORS 475B.227 - Prohibition against importing or exporting marijuana items, if classified as a felony.
- (I)(I)(I) ORS 475B.337 - Unlawful possession by person 21 years of age or older, if classified as a felony.

(J)(J)(J) ORS 475B.341 - Unlawful possession by person under 21 years of age, if classified as a felony.

(K)(K)(K) ORS 475B.346 - Unlawful delivery of marijuana item, if classified as a felony.

(L)(L)(L) ORS 475B.349 - Unlawful manufacture of marijuana item, if classified as a felony.

(M)(M)(M) ORS 475B.359 - Arson incident to manufacture of cannabinoid extract first degree.

(N)(N)(N) ORS 475B.363 - Arson incident to manufacture of cannabinoid extract second degree.

(O)(O)(O) ORS 475B.367 - Causing another person to ingest marijuana.

- (6) The *fitness determination* of a *subject individual* with a felony conviction in subsection (5) which occurred more than 5 years, but less than 10 years, from the date of the criminal records check must be made by the Child Welfare Director or designee.
- (7) The *fitness determination* of a *subject individual* with a felony conviction described in subsection (5) which occurred more than 10 years from the date of the criminal background check must be made by the District Manager or Designee.
- (8) The *fitness determination* of a *subject individual* with a criminal conviction other than described in sections (3), (4), or (5), of this rule may be made by a Program Manager or Designee.

Stat Auth.: ORS 409.050, 418.005, 418.016 & 181A.195

Stats. Implemented: ORS 418.005, 418.016, 181A.200, 181A.010 - 181A.245 & 409.010

## **413-120-0455**

### **Arrests Involving a Certified Resource Family**

*(Amended 06/29/2022)*

When a certified resource parent, certified relative resource parent, member of the household, respite provider or child care provider is arrested the Department must determine if the individual is fit to remain in their caregiving role.

- (1) Within 24 hours of the Department learning of the arrest the Child Welfare Program Manager must make a determination whether a child or young adult may continue to be placed in the home, or whether the respite or child care provider

may continue to be approved, based upon information available to the Department.

- (2) If the arrest leads to a conviction a determination of the fitness of the individual must be made assessing:
  - (a) The details of the incident
  - (b) The social context of the incident
  - (c) When the subject individual is a relative or has a caregiving relationship with the child or young adult requiring placement, whether the placement may mitigate the trauma due to the existing relationship and whether the placement would provide for the child or young adult's safety, well-being and permanency.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005 & 418.016

### **413-120-0457**

#### **Weighing Test**

*(Amended 12/01/2021)*

- (1) The Department may approve a subject individual convicted of certain crimes if the subject individual demonstrates to the Department:
  - (a) The person possesses the qualifications to be a resource parent, potential adoptive resource member of the household, child care or respite care provider, regardless of having been convicted of a crime; or
  - (b) The disqualification would create emotional harm to the child or young adult and placement of the child or young adult with the person would be a safe place that is in the best interests of the child or young adult.
- (2) When making a fitness determination with regard to a subject individual with a criminal conviction, the authorized designee must assess information, available to the Department, surrounding the conviction and consider the following factors:
  - (a) When the subject individual is a relative or has a caregiving relationship with the child or young adult requiring placement, whether the placement may mitigate the trauma due to the existing relationship and whether the placement would provide for the child or young adult's safety, well-being and permanency.

- (b) The impact of cultural or societal forces such as structural racism or poverty and other impacts to marginalized communities, upon the subject individual and whether those forces contributed to the circumstances leading to a conviction;
- (c) The nature of the crime, including the relevancy of the crime or false statements made by the subject individual about the crime, to the ability to be a certified resource parent;
- (d) The details (or facts) of the incidents that led to the criminal convictions;
- (e) The details of the conviction, including periods of incarceration and compliance with parole, post-prison supervision, or probation and any subsequent convictions;
- (f) The timeline and frequency of criminal convictions and criminal involvement not resulting in conviction, including arrests, criminal investigations and unresolved or pending arrests, charges, indictments or outstanding warrants;
- (g) The age of the subject individual and the passage of time since the conviction and criminal involvement and likelihood of a repetition of offenses or the commission of another crime; and
- (h) Information suggesting changes in circumstances or behavior of the subject individual since the conviction showing self-improvement including, but not limited to:
  - (A) The subject individual's experience in caregiving or parenting, engagement in drug, alcohol or mental health treatment, work experience, relevant education or training, community involvement; and
  - (B) Information from references, community members, employers or other sources with knowledge about the subject individual.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016

## **413-120-0460**

### **Contesting a Fitness Determination**

*(Amended 12/01/2021)*

- (1) If the Department determines that a subject individual cannot be certified or based on a negative fitness determination, unless the subject individual voluntarily withdraws from the process, the Department must notify the subject individual in writing that the subject individual:
  - (a) Has a right to inspect and challenge their Oregon criminal offender information through OSP procedures as adopted per ORS 181.555(3) and OAR 257-010-0035;
  - (b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the FBI's Criminal Justice Information Services Division; and
  - (c) May appeal the Department's determination of unfitness or indicate an intent to challenge information in the OSP or FBI report by requesting a contested case hearing pursuant to ORS chapter 183 and OAR 413-010-0500 to 413-010-0535 provided that the hearing request is postmarked or the Department receives the request within 30 days from the date of mailing the notice.
  
- (2) Upon the determination of the Department that an applicant to become a certified resource family, or a potential adoptive resource of a child in the custody of the Department cannot be approved due to the denial of a member of the household, the certifier or adoption worker must inform:
  - (a) The member of the household, who was denied, of the right to inspect and challenge the subject individual's Oregon criminal offender information through OSP procedures as adopted per ORS 181A.230(3) and OAR 257-010-0035 and the person's rights under ORS 181A.240
  - (b) The member of the household, who was denied, of the right to challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the FBI's Criminal Justice Information Services Division; and
  - (c) The applicant whose approval is affected by the denial of the member of the household, in writing, that:
    - (A) Based on the member of the household's denial, the Department may not certify or approve the applicant as long as the other person in the

household remains in the home or provides care to a child or young adult in the home; and

- (B) The applicant may appeal in a contested case hearing the Department's denial, provided that the hearing request is postmarked or the Department receives the request within 30 days from the date of mailing the notice.
- (3) Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535 describes the requirements and process for requesting a contested case hearing due to the denial or revocation of a Certificate of Approval or a denial of approval to be an adoptive resource, including denials based on the criminal history, or false statement with regard to criminal history, of an applicant or other person in the household.

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016

## **413-120-0475**

### **Record Keeping, Confidentiality**

*(Amended 12/01/2021)*

- (1) All LEDS reports are confidential, and the authorized designee must maintain the reports in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 257, division 15).
  - (a) LEDS and FBI reports are confidential and may only be received or viewed by an authorized designee.
  - (b) LEDS and FBI reports and any photocopies may be shared with another authorized designee only if there is a need to know consistent with these rules.
- (2) The results of a national criminal records check provided by the FBI or the OSP are confidential and may not be disseminated by the Department, except in the following circumstances:
  - (a) If a fingerprint-based criminal records check was conducted on the subject individual, the subject individual is provided a copy of the results if requested.
  - (b) The state and national criminal offender information may be provided as exhibits during a contested case hearing.

- (3) All completed background check requests, other criminal records information, and other records collected or developed during the background check or contested case process must be kept confidential and disseminated only on a need-to-know basis.
- (4) The Department must retain and destroy all criminal records check documents pursuant to federal law and records retention schedules published by Oregon State Archives.
- (5) Documents may be requested and reviewed by the Oregon State Police for the purposes of determining and ensuring compliance with these rules (OAR 413-120-0400 to 413-120-0475).

Stat Auth.: ORS 409.050, 418.005, 418.016

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005, 418.016

# Openness and Post Adoption Communication through Legal Assistance Mediation Services

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## 413-120-0600

### Purpose

(Amended 10/03/03)

The purpose of these rules OAR 413-600-0005 through 0035 is to provide guidelines for a cooperative adoption planning process, as well as procedures for developing Post Adoption Communication Agreements (PACA), funded and managed by the Department's Adoption Services Program Unit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

## 413-120-0620

### Values

(Amended 10/03/03)

- (1) **Support and Safe Communication:** Every healthy family requires support. Families created through *adoption* have different support needs than biological families in that the *child* is connected to more than one set of parent(s). One important aspect is the need for continued safe connection and communication between biological and adoptive families, to the extent that it is consistent with the health and safety needs of the *child*.
- (2) **Collaboration:** The *child* and their families benefit when the significant adults in their lives work collaboratively to identify and respond to the individual needs of the *child*. The significant adults for a *child* in foster care may include, but are not limited to: biological parent(s), prospective adoptive parent(s), child welfare workers, CASA, attorneys, and others.
- (3) **Empowered, Informed Decisions:** Families, and individuals within them, are capable of making decisions about their lives. They should be empowered to make those decisions that affect the cooperative nature of an agreement for *post-adoption communication*, whenever possible. In order for their decisions to be effective, they may need to be informed by a wide range of people and sources about a variety of adoption related issues.
- (4) **Mediation as Tool:** *Mediation* is a process that can play an important role in developing effective communication between those families seeking to participate in a cooperative adoption planning process. Qualified mediators can provide assistance in the cooperative



adoption planning process by providing a safe and constructive atmosphere for effective communication.

- (5) Voluntary Commitment to Cooperate/Participate: *Mediation* is most successful when the adoptive parent(s) and biological parent(s) participate voluntarily. Their commitment to a cooperative planning process to support the lifelong safety and well-being of their *child* is an essential aspect of this success. It is these parent(s) who are the ultimate decision makers about this agreement and are responsible for maintaining the agreement throughout the life of the *child*.
- (6) No Coercion: The *cooperative adoption mediation* process is meant to be a tool that is used to achieve a result that is in the long term best interest of the *child*. It is not meant to be used coercively for unilateral gain.
- (7) Flexibility: PACAs should be flexible in responding to the child's maturity and developmental needs, or changes in the lifestyles of the birth and adoptive parent(s). Flexibility in these agreements will support the on-going nature of the cooperative relationship that is formed and fostered through the cooperative adoption process.
- (8) Benefits of the PACA for the *child* may include, but are not limited to:
  - (a) Having knowledge and information about his/her birth family,
  - (b) Having an ability to maintain birth family identity,
  - (c) Having a good model of effective communication,
  - (d) Having a realistic understanding of the circumstances of the birth parent(s),
  - (e) Having a sense of well-being fostered by adoptive and birth parent(s) working collaboratively to support the needs of the *child*,
  - (f) Having a better ability to process important life transitions as the *child* grows into an adult,
  - (g) Having an opportunity to appropriately grieve the loss of the birth family, and
  - (h) Having the permission of the birth parent(s) to become a member of the adoptive family.
- (9) Benefits of the PACA for the adoptive parent(s) may include, but are not limited to:
  - (a) Having an understanding of who the biological family is;
  - (b) Having an exchange of on-going information such as medical and other important life information;

- (c) Supporting the child's need to be connected to the birth family;
  - (d) Having the sense of accomplishment that is associated with positive cooperative relationships;
  - (e) Helping the *child* to appropriately grieve the loss of the birth family; and
  - (f) Having the permission and the support of the birth parent(s) to help the *child* to become a member of the adoptive family.
- (10) Benefits of the PACA for the birth parent(s) may include, but are not limited to:
- (a) Knowing their *child* is in a safe and secure environment,
  - (b) Having a better ability to process loss of a *child* and the transition to a new family,
  - (c) Having an exchange of on-going information such as medical and other important life information,
  - (d) Having the sense of accomplishment that is associated with positive cooperative relationships,
  - (e) Being able to get on-going information about the life of the *child*,
  - (f) Having a sense of closure related to the loss of the *child*, and
  - (g) Having assisted their *child* to successfully become a member of the adoptive family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

## **413-120-0625**

### **Roles and Responsibilities**

*(Amended 08/06/17)*

- (1) Child's caseworker: The child's caseworker represents the custodian of the *child* and assesses the appropriateness of *mediation* for cooperative post adoption planning for the children on their caseload. The child's caseworker consults with the supervisor and LAS, and seeks input from other interested persons. The decision to refer a case to *mediation* is based on the best interest of the *child* and whether the child's safety and permanency needs will be met with *post-adoption communication*. The child's caseworker consults with an adoption worker, if assigned, or the identified adoptive parent(s) and the birth

parent(s) about willingness to participate in the *cooperative adoption mediation* process. The child's caseworker initiates the referral to *mediation* and is the primary contact for the contract mediator.

- (2) Adoption worker: The adoption worker connects to the *cooperative adoption mediation* process, selected adoptive parents (including preliminary *current caretaker* families) of children who may benefit from *post-adoption communication*. The adoption worker collaborates with the child's worker to identify benefits of the *cooperative adoption mediation* process and documents safety concerns to be communicated on the Mediation Referral Form.
- (3) LAS:
  - (a) The LAS ensures that legal assistance mediation or *cooperative adoption mediation* services are included in the discussions of the plan to free the *child* for adoption (by relinquishment or termination of parental rights). The LAS determines, in consultation with the child's worker and the legal assistance attorney, whether *cooperative adoption mediation* planning meets the child's best interest post adoptively. If the referral is appropriate the LAS approves the Referral for Mediation (CF 0437). The LAS confers with the child's caseworker when the caseworker determines that the PACA may not meet the safety concerns of the *child*. The LAS advises the child's caseworker on additional requirements related to Indian children.
  - (b) The outcome of the procedures to terminate parental rights shall not be the basis of ending the *cooperative adoption mediation* process.
- (4) Contract Mediator: The contracted mediator for the *cooperative adoption mediation* process assists *mediation participants* in clarifying issues and stating expectations. The mediator is a neutral third party who assists the *mediation participants* in exploring options and empowers the *mediation participants* to make decisions through the confidential cooperative adoption planning process. The mediator will not make or impose decisions about the final outcome of the PACA.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

## **413-120-0628**

### **Criteria for Using the Cooperative Adoption Mediation Process**

*(Adopted 10/03/03)*

- (1) The fundamental criteria for referring a *child* for a *cooperative adoption mediation* process is the best interest of the child's well-being, permanency and safety. It is the responsibility of the department to determine if a referral for *mediation* is appropriate in accordance with the criteria of OAR 413-120-0628(1) through (3).

- (2) Parent(s) who actively chose *adoption* for their *child* through voluntary relinquishment of parental rights and who do not present a danger to their *child* or to an adoptive family, may be most appropriate to participate in a *cooperative adoption mediation* process. However, parent(s) who have an adversarial relationship with the Department may be able to work cooperatively with a mediator and the adoptive family in a *cooperative adoption mediation* process.
- (3) The decision of a birth parent(s) to relinquish parental rights or a Department decision to proceed to a termination of parental rights trial must be made independent from the Department's decision to refer a case for *cooperative adoption mediation*. One decision must not be conditioned upon the other.
  - (a) Relinquishment or termination of parental rights resolves the child's legal status;
  - (b) The *cooperative adoption mediation* process is not a means to avoid a termination of parental rights trial. At no time shall a voluntary relinquishment be conditioned on the willingness of the birth parent(s) and/or adoptive parent(s) to enter into a *cooperative adoption mediation* process;
  - (c) Caseworkers may not guarantee a certain level of openness in *adoption* nor make any promises regarding the *cooperative adoption mediation* process to convince a parent(s) to voluntarily relinquish the *child* for *adoption*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

## **413-120-0630**

### **Post Adoption Communication Agreements (PACA)**

*(Adopted 10/03/03)*

- (1) The *cooperative adoption mediation* process allows the *mediation participants* to make an informed and self determined decision after exploring the full range of options available to them. These decisions may be memorialized in a PACA. Post Adoption Communication Agreements make the most sense in situations where birth parent(s) are working with the agency to plan *adoption*, and where voluntary relinquishment of parental rights will be the mechanism to free the *child* for *adoption* rather than termination of parental rights. Parents who actively choose *adoption* for their *child*, and who do not present a danger to their *child* or to an adoptive family, are appropriate for a Post Adoption Communication Agreement.
- (2) The PACA must address the safety concerns listed in the Mediation Referral Form.
- (3) The PACA must not condition the terms of agreement upon the decision of the birth parent(s) to relinquish parental rights.

- (4) Informed decision making in *mediation* involves giving the participants the opportunity to make self-determined decisions after exploring options that may impact the terms of their final agreement. The following characteristics should be considered in forming a PACA:
- (a) It is based on the individual needs of the *child* and capable of meeting the child's developmental needs over time;
  - (b) reflects the intent of relationship building in order for the adoptive parent(s) to meet the needs of the adopted *child* through growth and development;
  - (c) It is clear and can be understood by the *mediation participants*;
  - (d) It addresses how contingencies will be handled. For example: failure to adhere to the terms of the agreement by any *mediation* participant; requests for informal changes to the terms of the agreement, etc.
  - (e) It includes a procedure for modifying the agreement to meet the changes of the *child* through growth;
  - (f) It addresses how costs to support the agreement, such as transportation, counseling, supervision of visits, and letter and picture exchanges will be met.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

### **413-120-0635**

#### **Cooperative Adoption Planning Through Legal Assistance Mediation Services**

*(Adopted 10/01/15)*

- (1) Department will provide information on an ongoing basis to birth and adoptive families, Department staff, and other interested persons in the child's life: Information regarding the value and benefits of cooperative adoption planning; the use of *mediation* as a tool to achieve a cooperative adoption; and, the roles of all *mediation participants* in the cooperative adoption process. This concurrent planning education will take place early and often throughout the case. (See Flow Chart Box 1 & 2)
- (2) The birth parents, identified adoptive parents, CASA, *child*, attorneys of record, Citizen Review Boards and other persons interested in the child's need for permanency, safety and well-being may request that the case be referred for *cooperative adoption mediation* services. (See Flow Chart Box 3.)
- (3) The Department will obtain input from interested persons, prior to or during the cooperative adoption planning process, regarding the appropriateness of cooperative

adoption planning to address the child's permanency, safety and well-being. (See Flow Chart Box 4.)

- (4) On an ongoing basis, Department staff will explore the willingness of the birth and adoptive parents to engage in the cooperative adoption planning process through *mediation*. (See Flow Chart Box 5.)
- (5) A Mediation Referral Form must not be submitted until a committee has selected the adoptive parents for a *child*, either at the preliminary current caretaker or adoption committee, and until the case has been staffed and approved for *mediation* by a LAS. See OAR 413-120-0010 to 413-120-0060.
- (6) To support the development of a cooperative adoption planning process through *mediation*, the Department has the following responsibilities:
  - (a) After a *Legal Assistance Referral* has been approved, the caseworker must consult with the LAS and the assigned legal assistance attorney. Consultation must address whether the birth parents present a continuing threat to their *child* or adoptive parents, and whether a plan for openness in *adoption* will meet the needs of the *child*;
  - (b) If parents want to plan cooperatively and there is no approval for a legal assistance referral an exception can be made to allow for a referral for *mediation* using the criteria provided in OAR 413-120-0628.
  - (c) The child's caseworker must obtain from the birth parent(s) and from the adoptive parents, if no adoption worker is assigned, a signed DHS 2098 Authorization for Use and Disclosure of Non-Health Information and DHS 2099 Authorization for Use and Disclosure of Health Information to the mediator;
  - (d) To request *mediation* services funded through the Legal Assistance program, the child's caseworker, or in some cases, the adoptive parents' worker must make referrals for *cooperative adoption mediation* on the CF 0437 Mediation Referral Form. The child's caseworker, in consultation with the adoptive parents worker, if assigned, must list on the Mediation Referral Form, benefits specific to the individual case and safety concerns that, if an agreement is reached, must be met in a written PACA. The form should be prepared with the understanding that the birth parents and adoptive parents will be receiving a copy of the form.
  - (e) The child's caseworker, and in some cases, the adoptive parents' worker, must provide to the mediator, on the CF 437b Contact Information Form, information of the *mediation participants*, and other collateral resources when applicable.
- (7) In order to allow for informed decision-making by the adoptive parents in the *cooperative adoption mediation* process, the adoption worker must:

- (a) Provide the adoptive parents with the case materials itemized on the Form CF 963;
  - (b) Review with the adoptive parents the statement of benefits to the *child* for cooperative adoption planning listed on the Cooperative Adoption Mediation Referral Form CF 0437;
  - (c) Obtain from the adoptive parents a signed Authorization of Use and Disclosure of Non-Health Information Form DHS 2098 and a signed Authorization for Use and Disclosure of Health Information Form DHS 2099 authorizing release of information to the mediator;
  - (d) Be responsible to contact the mediator if the adoption worker is assigned after the *cooperative adoption mediation* process has already begun.
- (8) The Cooperative Adoption Mediation Referral form must be forwarded to the central office LAS assigned to the local Department office for approval of funds disbursement. If funds are approved, Central office staff must notify the mediator that funds have been approved and that the *mediation* service may begin. (See Flow Chart Box 6.)
- (9) A *child welfare mediator* contracted to provide *cooperative adoption mediation* must have the following responsibilities:
- (a) The mediator must keep confidential all *mediation communications*. (ORS 36.220-25.238);
  - (b) The mediator must accept referrals from the Department on the Cooperative Mediation Referral Form CF 0437;
  - (c) Within two weeks of receiving the CF 0437, the mediator must contact the child's worker and the adoption worker of the selected adoptive family for additional information on the case and further discussion of the Department's safety concerns, if needed (See Flow Chart Box 7.);
  - (d) After contacting the child's worker and the adoption worker, but within the two week of receiving the CF 0437, the mediator must contact the birth parent(s) and adoptive parent(s) to begin *mediation* services,
  - (e) The beginning of the *mediation* process, the mediator must inform the *mediation participants* about the *mediation* process, explain their role and responsibilities during the process, provide them with a copy of ORS 109.305, review the mediation referral form with the *mediation participants* and provide them with a copy, and if the *mediation participants* choose to continue in *mediation*, obtain their signature on the Agreement to Mediate Form (See Flow Chart 8a.);



- (f) The mediator must make collateral contact with professionals involved in the case including, but not limited to, children’s attorney, CASA, and birth and adoptive parent(s)’ attorneys. If requested, the mediator must also keep informed, the Assistant Attorney General or Deputy District Attorney assigned to the case;
  - (g) If the *mediation participants* reach agreement and the *mediation participants* desire it, the mediator must draft a PACA. The PACA must address the *mediation* participant’s issues and the documented safety concerns as set forth in the Mediation Referral Form (See Flow Chart 9.);
  - (h) The mediator must provide the draft PACA to the *mediation participants* and must encourage the *mediation participants* to review the draft with legal counsel;
  - (i) Once the *mediation participants* have approved the draft, the mediator must provide the child’s worker with the proposed PACA for the review and concurrence that it meets the safety needs of the *child*.
- (10) The Department has the following additional responsibilities:
- (a) The child’s caseworker must review the draft PACA solely for the purpose of assessing whether it will meet the safety needs of the *child*, as set forth in the Mediation Referral Form (See Flow Chart Box 9.);
  - (b) If the child’s caseworker concludes that the PACA meets the safety needs of the *child*, the child’s caseworker or other agency representative must sign the final PACA. (Flow Chart Box 11(b).)
  - (c) If the child’s caseworker concludes that the PACA may not meet the safety needs of the *child*, the child’s caseworker must notify the LAS. The LAS must inform the *mediation participants* in the form of written communication sent to the mediator (“LAS Notice”). The LAS Notice must state the continued safety concerns for the *child*. (See Flow Chart Box 11(a).)
- (11) A contracted mediator has the following additional responsibilities:
- (a) If the mediator is informed through a LAS Notice (see Flow Chart, Box 11) that the PACA does not meet the safety needs of the *child*, the mediator must set another *mediation* session with the *mediation participants*, and an agency representative, if requested by the *mediation participants*. The mediator may consult with the child’s caseworker for clarification about the LAS Notice before setting the additional *mediation* session.
  - (b) If the additional *mediation* session results in a revised draft PACA, the mediator will repeat the processes outlined in (9)(g) through 10(c) in this rule.



- (c) After the Department determines that the revised draft PACA meets the safety needs of the *child*, the mediator must arrange for the *mediation participants* and an agency representative to sign the agreement (See Flow Chart 11(b));
- (d) If no agreement can be reached, the mediator must send a letter summarizing the situation to Central Office with the final invoice.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

# Identification and Consideration of Potential Adoptive Resources

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## 413-120-0700

### Purpose

(Amended 08/08/2019)

- (1) The purpose of OAR 413-120-0700 to 413-120-0760 is to describe the responsibilities of the Department to:
  - (a) Identify the potential adoptive resources for a *child* or *sibling group* under consideration for *adoption* to best meet the current and lifelong needs of each *child* for safety, attachment, and well-being;
  - (b) Establish an order of preference for assessment and consideration of potential adoptive resources; and
  - (c) Consider a *current caretaker* or *relative caregiver* request for an adoption home study in order to be considered as a potential *adoptive resource*.
- (2) The term "sibling group" means siblings in the care and custody of the Department who are under consideration for *adoption* together.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.309, 409.010, 418.005, 418.280, 418.285, 418.937, 419B.090, 419B.100, 419B.192, 419A.004

## 413-120-0720

### Department Efforts to Place with Relatives and Current Caretakers and to Place Siblings Together

(Amended 10/01/15)

- (1) The Department's preference for placement of a *child* is to place siblings together for the purpose of *adoption* with relatives or current caretakers.
- (2) Prior to pursuing a *general applicant* as a potential *adoptive resource*, the caseworker and the caseworker's supervisor must comply with all of the following requirements:
  - (a) Review the diligent efforts of the Department to identify, contact, and place a *child* with relatives and to place siblings together as required by OAR 413-070-0060 to 413-070-0087.

- (b) Confirm there are no current *Department* actions to identify or assess a *relative* who has expressed an interest in being assessed as a potential *adoptive resource* for the *child* or sibling group.
- (c) Confirm there are no *Department* actions to identify or assess a *current caretaker* who has expressed an interest in being assessed as a potential *adoptive resource* for the *child* or sibling group.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.309, 409.010, 418.005, 418.285, 419B.090, 419B.192

### **413-120-0730**

#### **Order of Preference for Identification of Potential Adoptive Resources**

(Amended 08/06/17)

- (1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a *child* or *sibling* group, the caseworker must consider the needs and the best interest of each *child*, and assess the knowledge, skills, and abilities of each potential *adoptive resource* in the following order of preference:
  - (a) Except when (c) of this section applies, a *relative* as defined in OAR 413-120-0000(64)(a)-(c).
  - (b) Except when (c) of this section applies, a *relative* as defined in OAR 413-120-0000(64)(d).
  - (c) When a *child* or *sibling* group has a *current caretaker* as defined in OAR 413-120-0000(26), the *current caretaker* and a *relative* as defined in OAR 413-120-0000(64)(a)-(d).
  - (d) A *general applicant*.
  - (e) When an individual would otherwise meet the definition of *current caretaker*, except for being a *relative* as defined in OAR 413-120-0000(64)(d), the individual is considered a *current caretaker* for purposes of this section.
- (2) For an *Indian child*, the caseworker must comply with the ICWA and OAR chapter 413, division 115.
- (3) For a *refugee child*, the caseworker must comply with OAR 413-070-0300 to 413-070-0380.

- (4) When an exception to the order of preference in section (1) of this rule is determined in the best interest of the *child*, the Child Welfare Program Manager must submit a written request to the Child Permanency Program Manager
- (5) When a request for exception is received, the Child Permanency Program Manager must submit it to the Director of the Department or designee for review and consideration. Within 30 days of receipt of the written request, the Director of the Department or designee must determine whether to grant the exception.

Stat. Auth.: ORS 109.309, 418.005

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

### **413-120-0735**

#### **Current Caretaker or Relative Caregiver Request for an Adoption Home Study**

*(Amended 09/01/2020)*

- (1) When a *current caretaker* or *relative caregiver* requests a home study to be considered as a potential *adoptive resource* for a *child* or *sibling group* that are under consideration for adoption, prior to the completion of the adoption home study, the Department shall:
  - (a) Convene a staffing that includes:
    - (A) The caseworker for the *child*;
    - (B) The assigned courtesy caseworker for the *child*, if applicable;
    - (C) The assigned supervisor for each caseworker assigned to the child;
    - (D) The assigned ODHS certifier or ICPC worker for the *current caretaker* or *relative caregiver*; and
    - (E) The assigned ODHS adoption worker or, if known, ICPC adoption worker, if different from the assigned certifier or ICPC worker.
  - (b) Notify and invite the following individuals to the staffing:
    - (A) The attorney of the *child* or *young adult*;
    - (B) The CASA of the *child* or *young adult*;
    - (C) A representative of the child's tribe, if the caseworker knows or there is reason to know the *child* is an *Indian child* pursuant to OAR 413-115-0060;

- (D) A member of the *RCWAC*, if the *child* or *young adult* is a *refugee child*;  
and
  - (E) Any other individual who a caseworker, in consultation with a supervisor, believes may provide valuable input regarding the *child* and the ability of the *current caretaker* or *relative caregiver* to meet the current and lifelong needs of the *child* or sibling group under consideration for adoption.
- (2) Participants of the staffing must consider the following:
- (a) The safety, attachment, and well-being needs of the *child* or *sibling group* under consideration for adoption and how well the *current caretaker* or *relative caregiver* has met those needs;
  - (b) The history of the *current caretaker* or *relative caregiver* in meeting the standards of certification pursuant to OAR 413-200-0301 to 413-200-0396;
  - (c) Any child abuse or neglect reports made to the Department that were assigned for assessment, closed at screening, or documented in the Department’s electronic information system;
  - (d) Recommendations for continued contact with birth parents, birth family, or other significant persons for the *child* or *sibling group* under consideration for adoption;  
and
  - (e) Any other information pertinent to the evaluation of the ability of the *current caretaker* or *relative caregiver* to meet the lifelong safety, attachment, and well-being needs of the *child* or *sibling group* under consideration.
- (3) The Department certifier for the family must document in a case note in the provider’s file any specific information the staffing participants determine must be explored in the adoption *home study* for the *current caretaker* or *relative caregiver*.
- (4) If the *current caretaker* or *relative caregiver* lives outside of Oregon, the Department must document in the ICPC request for an adoption *home study* any specific information the staffing participants determine must be explored in the adoption home study for the *current caretaker* or *relative caregiver*.

Stat. Auth.: ORS 109.309, 409.050, 418.005

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

## 413-120-0750

### Recruitment Efforts

(Amended 08/06/17)

- (1) The Department must begin recruitment for the *child* or *sibling group* in a timely manner that is appropriate to each child's permanency and concurrent permanent plans.
- (2) The Department may consider up to three general applicants as adoptive resources for a *child* or *sibling group*.
- (3) Except as provided in section (4) of this rule, the Department's recruitment efforts may not consider the race, color, or national origin of a potential *adoptive resource* or a *child*.
- (4) When recruiting potential adoptive resources for an *Indian child*, the Department must comply with the ICWA and OAR 413-115-0090.
- (5) When a *child* is not fully free for *adoption*, the *legal assistance specialist* must:
  - (a) Determine when recruitment may begin;
  - (b) Determine whether recruitment may begin for a *child* with extraordinary needs before the Department initiates the process to free the *child* for *adoption*; and
  - (c) Notify the caseworker to begin recruitment efforts.
- (6) As part of the identification of general applicants who will be considered in the *adoption placement selection* process, the child's caseworker must conduct recruitment activities including, at a minimum, ensuring a Waiting Child Bulletin has been posted, for at least 30 days, unless one or more of the following subsections applies:
  - (a) An exception to this timeline has been approved by the Assistant Child Permanency Program Manager or designee.
  - (b) The Department has determined, under OAR 413-070-0514, an individual known to the *child* or *sibling group* should be assessed as a potential *adoptive resource*, based upon all of the following:
    - (A) The best interest of each *child*.
    - (B) The strength of the relationship between each *child* and the individual.
    - (C) The likelihood the individual will have a positive *adoption home study* and meet the requirements of OAR 413-120-0246(1).
    - (D) The demonstrated knowledge, skills, abilities, and commitment of the individual to raise each *child*.

- (E) The capacity of the individual to meet the current and lifelong safety, attachment, and well-being needs of the *child* as required by OAR 413-070-0640.
- (7) Recruitment activities under section (6) of this rule are not required when:
- (a) The Department has planned for the *child* or *sibling group* to be adopted by a *relative* of at least one of the siblings;
  - (b) The Department has planned for the *child* or *sibling group* to be adopted by a *current caretaker*; or
  - (c) In the case of an *Indian child*, alone or as part of a *sibling group*, the Department has planned for *adoption* by an identified potential *adoptive resource* meeting the order of placement preference in the ICWA and OAR 413-115-0090.
- (8) The recruitment efforts of the Department for a *child* or *sibling group* must be documented in the Department's electronic information system.

Stat. Auth.: ORS 109.309, 418.005

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

## **413-120-0760**

### **Identification of a Child's Potential Adoptive Resources**

*(Amended 08/06/17)*

- (1) When identifying potential *general applicant* adoptive resources for a *child* or *sibling group*, the caseworker may:
- (a) After discussion with his or her supervisor and on a case-by-case basis, consult with a birth parent to identify one to three potential adoptive resources; and
  - (b) Provide a birth parent with non-identifying information from the *adoption home study* of a potential *adoptive resource* who is a *general applicant* not known to the parent or *child*.
- (2) When more than one *relative* is interested in being an *adoptive resource* for a *child* or *sibling group*, the Department must consult with the interested relatives to facilitate agreement on the most appropriate potential *adoptive resource*.
- (a) When agreement cannot be reached, the Department considers relatives among both maternal and paternal family members who have expressed an interest, and may choose up to three relatives for adoption home studies.

- (b) When an *adoption home study* has been initiated and the potential *adoptive resource* is not approved or withdraws, the Child Welfare Program Manager or designee decides whether the Department will initiate adoption home studies with additional relatives based upon:
    - (A) The best interest of the *child* or *sibling* group; and
    - (B) The impact on timeliness to achieving permanency.
  - (c) For an *Indian child* alone or as part of a *sibling* group, the Department must identify potential *adoptive resources* and initiate adoption home studies as necessary to comply with the ICWA.
- (3) The child's caseworker must comply with the requirements of all of the following subsections:
- (a) Make reasonable efforts to identify and place the *child* or *sibling* group with an *adoptive resource* in a timely manner.
  - (b) Request input about the knowledge, skills, abilities, and commitment a potential *adoptive resource* needs to best meet the current and lifelong needs of the *child* from:
    - (A) Professionals who have worked closely with the *child*, when applicable; and
    - (B) The child's attorney, CASA, an authorized representative from the Indian child's tribe, a RCWAC representative, and *substitute caregiver*, when applicable.
  - (c) Receive and review adoption home studies in a timely manner.
  - (d) Unless section (4) of this rule applies, following consultation with his or her supervisor, identify up to three potential adoptive resources following the order of preference in OAR 413-120-0730 to be considered for *adoption placement selection* who:
    - (A) Meet the standards of an adoptive home in OAR 413-120-0246;
    - (B) Have the knowledge, skills, abilities, and commitment to raise each *child*; and
    - (C) Have the capacity to meet the current and lifelong safety, attachment, and well-being needs of the *child* or *sibling* group under OAR 413-070-0640.



- (4) Upon the recommendation of a caseworker and supervisor, and when it is determined in the best interest of the child, the Child Welfare Program Manager may submit a written request to the Child Permanency Program Manager for an exception to subsection (d) of section (3) of this rule to increase the number of potential adoptive resources to be considered for adoption placement who are in the order of preference as described in 413-120-0730(1)(c).
- (5) In consultation with the supervisor, the caseworker must determine the appropriate adoption selection process pursuant to OAR 413-120-0020.
- (6) The caseworker must consult with the adoption worker for each of the identified potential adoptive resources pursuant to OAR 413-120-0021(2).
- (7) The caseworker must document the actions taken under this rule in the Department's electronic information system.

Stat. Auth.: ORS 109.309, 418.005

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

# Supervision and Support of an Adoptive Placement

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## **413-120-0800**

### **Purpose**

(Amended 10/01/15)

The purpose of OAR 413-120-0800 to 413-120-0880 is to describe --

- (1) Department responsibilities following the selection of an *adoptive resource* pursuant to OAR 413-120-0010 to 413-120-0060 for:
  - (a) *Adoption transition* and placement of the *child* with the *adoptive resource*;
  - (b) Supervision of the adoptive placement;
  - (c) Support for the *child* and adoptive family after placement; and
  - (d) Actions required by the Department when a *disruption* of an adoptive placement of a *child* in the legal custody of the Department is likely or has occurred.
- (2) The actions required by the Department when concerns arise regarding the appropriateness of an *adoptive resource* for a *child* or children in the legal custody of another public child welfare agency that the Department is supervising.
- (3) The additional requirements for an international *adoption* of a *child* in the legal custody of the Department pursuant to OAR 413-120-0900 to 413-120-0970.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-120-0830**

### **Department Actions Prior to Placement**

(Amended 09/01/12)

- (1) Prior to the physical placement of a *child* in the home of the family selected to be the *adoptive resource*, the caseworker must arrange *post-placement supervision* and medical coverage for the *child*.
- (2) When the family selected to be the *adoptive resource* is outside the state of Oregon, but in the United States:
  - (a) The court and the receiving state must agree to the adoptive placement prior to the physical placement of a *child* who is not yet legally free for *adoption*;

- (b) Approval as required by Child Welfare Policy I-B.3.4.2, "Interstate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330 must be received; and
- (c) When supervision is to be provided by a private agency, the Department must contract only with an agency willing to --
  - (A) Provide supportive services to the *child* and adoptive family;
  - (B) Provide progress reports as required by the Department;
  - (C) Provide a written recommendation regarding the finalization of the *adoption*; and
  - (D) Accept payment as authorized by the Department.
- (3) Unless an exception is approved as described in OAR 413-120-0840, *adoption transition* of a *child* into the home of a family selected to be the *adoptive resource* may not begin until:
  - (a) The time period has expired for the written request for review of the *adoption placement selection* as described in Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0060; or
  - (b) In the event the ODHS Assistant Director of the Office of Child Welfare Programs or designee gives notice of the intent to review, until that review is complete.
- (4) The Department may issue a child specific foster care certificate to an individual or individuals who have been selected as an *adoptive resource* when:
  - (a) Department staff have completed an assessment and *home study* under OAR 413-200-0274 for an adoptive applicant; or
  - (b) A child-caring agency licensed under OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0414 to 413-215-0481 as an *adoption agency* has submitted all of the following to the Department:
    - (A) Verification that the *adoptive resource* has completed the *adoption agency* orientation required under OAR 413-215-0446(2) and training required under OAR 413-215-0456;
    - (B) The *home study* prepared subsequent to the assessment of the family described in OAR 413-215-0451;

- (C) A copy of the checklist verifying the safety of the home and surrounding environment;
  - (D) Documentation verifying the approval of the criminal history and child abuse history checks required under OAR 413-215-0451(2)(s) and (t); and
  - (E) A copy of the Certificate of Approval as a potential *adoptive resource*.
- (5) The child specific foster care certificate issued under subsection (4)(a) of this rule has a begin date coinciding with the date of approval of the most recent *home study* or *home study* update, and an end date two years from that approval unless the *criminal records check* required under OAR 413-120-0460 requires an earlier end date.
- (6) The child specific foster care certificate issued under subsection (4)(b) of this rule is a two-year certificate with a begin date coinciding with the approval of the *home study* or *home study* update.
- (7) When a child specific foster care certificate is issued under section (4) of this rule, the home visits required by a certifier under OAR 413-200-0283(1) are not required. Caseworker contact requirements for monitoring child safety under OAR 413-080-0059 are required.

Stat. Auth.: ORS 418.005, 418.640

Stats. Implemented: ORS 418.005, 418.630, 418.640

## **413-120-0840**

### **Early Adoption Transition**

*(Amended 12/29/10)*

- (1) The child's caseworker, following consultation with the caseworker's supervisor and the approval of the Child Welfare Program Manager, may request physical placement with the family selected to be the *adoptive resource* before the timelines described in OAR 413-120-0830 when the requirements in all of the following subsections are met:
- (a) It is in the best interests of the *child*;
  - (b) There are no indications that a review of the *adoption placement selection* will be requested; and
  - (c) When the *child* is to be placed in a state within the United States and outside of Oregon, the requirements under OAR 413-120-0830 have been met regarding a placement in a state other than Oregon.

- (2) The caseworker must send the written request for early *adoption transition*, including the basis for the request, to the Adoption Program Manager or designee who makes the final decision.
- (3) The caseworker must document the decision regarding the early *adoption transition* in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

## **413-120-0860**

### **Placement and Post-placement Supervision**

*(Amended 01/15/13)*

- (1) The child's caseworker must offer support and services to the *adoptive resource* to assist in a successful *adoption transition* of the *child* into the home of a family selected to be the *adoptive resource*.
- (2) *Post-placement supervision* must include all of the following:
  - (a) Monthly face-to-face contact with the *child* described in OAR 413-080-0055;
  - (b) Assessment of the child's safety and well-being under Child Welfare Policy I-B.1, Monitoring Child Safety, OAR 413-080-0067;
  - (c) Providing services and support to assist the *adoptive resource* in meeting the requirements described in Child Welfare Policy I-G.1.3, "Adoption Applications, Adoption Home Studies, and Standards for Adoption", OAR 413-120-0246(1)(b).
  - (d) Providing support to the *adoptive resource* in the process of the completion and submission of the adoption assistance application, when applicable; and
  - (e) Documentation from the supervising worker which includes the supervision reports and a recommendation regarding finalization of the *adoption*.
- (3) When the *child* is placed through an in-state private agency, the Department must provide supervision of the placement and, when applicable, must coordinate support services with the in-state private agency.
- (4) When it becomes known to the Department that there are significant changes to the adoptive resource's situation, including changes in the family structure, the Department may require an updated *adoption home study* prior to making a determination to proceed with finalization of the *adoption*.

- (5) Prior to finalization of the *adoption*, the Department must ensure that the *adoptive resource* is made aware of all of the following:
  - (a) Available post-legal services;
  - (b) The potential eligibility for federal or state adoption tax credits, or both; and
  - (c) The ability to seek voluntary supportive services through the Department to stabilize an *adoption* and promote lifelong permanency for children.
- (6) The standard supervision period for an adoptive placement is a minimum of six consecutive months and can include the time the *adoptive resource* was the child's *substitute caregiver*. When the child's caseworker and the adoption worker agree that it is in the child's best interests to proceed with finalization before the standard six month period:
  - (a) The child's caseworker or adoption worker must request approval from --
    - (A) Their supervisor; and
    - (B) The Adoption Program Manager or designee.
  - (b) The child's caseworker must document in the Department's information system when approval is given for a reduced *post-placement supervision* time.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

## **413-120-0870**

### **Disruption**

(Amended 08/06/17)

- (1) After the *adoption placement selection* has been made pursuant to OAR 413-120-0021 or 413-120-0057, but prior to the physical placement of the *child* with the family selected as the *adoptive resource*, when circumstances occur or conditions are made known to the Department that give the child's caseworker reason to believe the selected *adoptive resource* is no longer appropriate for the *child* or his or her siblings, the child's caseworker must:
  - (a) Consult with his or her supervisor;
  - (b) Document the conditions or circumstances of concern; and
  - (c) Request approval from the Adoption Program Manager to reconsider the *adoption placement selection*.

- (2) When the caseworker for the *child* determines that a *disruption* is likely, the caseworker must consult with each of the following to try to preserve the placement, when it is in the best interest of the *child* to do so:
  - (a) His or her supervisor;
  - (b) The adoption worker who is supervising the adoptive placement;
  - (c) Members of the child's team identified as individuals who can offer additional information or support, and
  - (d) The family, if possible.
- (3) When the Department is supervising an adoptive placement of a *child* in the custody of another public child welfare agency and concerns arise that indicate that the *adoptive resource* is no longer appropriate for the *child* or children, the caseworker must ensure contact is made with the responsible entity and coordinate subsequent actions.
- (4) When the caseworker and supervisor recommend to the Child Welfare Program Manager that the *adoptive resource* for a *child* in the custody of the Department is no longer appropriate for the *child* or children, the Child Welfare Program Manager, when in agreement, forwards the request for final approval for a *disruption* to the Adoption Program Manager.
- (5) The caseworker must document the *disruption* in the Department's information system and notify the central office Adoption Program and the central office ICPC unit, if applicable, of the date of the adoption *disruption*.
- (6) After the *disruption* of an adoptive placement of a *child* in the custody of the Department, the child's caseworker must consult with his or her supervisor, the child's team, and individuals with significant adoption experience to staff the case in order to:
  - (a) Gain a comprehensive understanding of the issues leading to the *disruption*; and
  - (b) Increase the likelihood for the child's success in another adoptive placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

**413-120-0880**

**No Delay in Placement**

*(Amended 08/06/17)*

- (1) The Department may not delay placement of a *child for adoption* with an *adoptive resource* based on any criteria listed in the following subsections:
  - (a) Geographic location; or
  - (b) Race, color, or national origin of the *child* or the *adoptive resource*.
- (2) An *adoptive resource* who believes that the Department violated the prohibition under section (1) of this rule may file a civil rights complaint and request a review under OAR 413-010-0400 to 413-010-0480.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005



# Intercountry Adoption Pursuant to The Hague Convention and Intercountry Adoption Act

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## 413-120-0900

### Purpose

(Amended 05/01/14)

These rules (OAR 413-120-0900 to 413-120-0970) describe:

- (1) The Department's responsibilities in cases that are subject to the requirements of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (*Convention*) and the Intercountry Adoption Act of 2000, 42 USC 14901 to 14954 (IAA). The *Convention* and IAA apply to any case where a *child* who is a habitual resident of one *Convention country* has been, is being, or will be moved to another *Convention country* for the purpose of *adoption*. The *Convention* and IAA are intended to protect the rights of and prevent abuses against children, birth families, and adoptive parents involved in any *adoption* that is subject to the *Convention* and IAA and to ensure that such adoptions are in the best interests of the *child*.
- (2) The duty of the Department to enter into a formal agreement with the *foreign authorized entity* of the *receiving Convention country* for an *outgoing Convention adoption* to assure that the *prospective adoptive parents* are suitable and willing to adopt the *child*, support *child* safety, and assure the provision of needed services during the period of *post-placement supervision* prior to finalization of the *adoption*.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

## 413-120-0910

### Duty to Provide Information to Convention Case Registry

(Amended 05/01/14)

- (1) Notwithstanding any other Department rule regarding the disclosure of information related to adoptions, the Department must provide all information to the U.S. State Department that is required for registry reporting. This includes, but is not limited to, information on each of the following actions for a *Convention adoption*, either incoming or outgoing, pending or finalized by the Department:
  - (a) A *child* immigrating to the United States for the purpose of *adoption*;
  - (b) A *child* emigrating from the United States for the purpose of *adoption*;

- (c) Number of disruptions;
  - (d) Number of dissolutions; and
  - (e) Average length of time to finalization.
- (2) The Department must maintain a database of all Oregon, licensed, private agency *adoption* placements, disruptions, finalizations, and dissolutions. This information must be reported to the U.S. Department of Health and Human Services Administration for Children, Youth, and Families Children's Bureau.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

### **413-120-0920**

#### **Adoption of a Child Immigrating to the United States (Incoming Convention Adoption)**

*(Amended 05/01/14)*

- (1) An *incoming Convention adoption* can involve a *child* who --
- (a) Holds or is eligible for dual United States and foreign citizenship; or
  - (b) Is undocumented, but the *foreign authorized entity* of the child's birth country has determined that the *Convention* applies to the *adoption*.
- (2) The Department will cooperate with each applicable *foreign authorized entity* and comply with the requirements of the *Convention* and IAA with respect to each *incoming Convention adoption*.
- (3) *Adoption* planning for a *child* that may be the subject of an *incoming Convention adoption* must comply with all other applicable Department rules.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

### **413-120-0925**

#### **Adoption of a Child Emigrating from the United States (Outgoing Convention Adoption)**

*(Amended 08/06/17)*

- (1) The Department may pursue an *outgoing Convention adoption* provided that:

- (a) It is in the best interest of the *child*;
  - (b) The *child* has not been abducted, sold, or trafficked in connection with the *adoption*; and
  - (c) The prospective adoptive parent meets all of the following requirements:
    - (A) Is one of the following:
      - (i) A relative as described in OAR 413-120-0000(64)(a)(A), (B), or (C);
      - (ii) A relative as described in OAR 413-120-0000(64)(b)(A) or (G); or
      - (iii) An individual with a relationship to the *child* or young adult's half-sibling through the half-sibling's legal or biological father or mother as described in subparagraph (i) or (ii) of this paragraph for the purpose of placing the half-siblings together.
    - (B) Has been assessed, approved, and trained; and
    - (C) Has been determined able and willing to permanently provide for the safety, well-being, and special needs of the *child*.
- (2) An *outgoing Convention adoption* may involve a *child* who meets the requirements of one of the following subsections:
- (a) The *child* is, or is eligible to become, a --
    - (A) United States citizen;
    - (B) Legal United States resident; or
    - (C) Dual United States and foreign citizen.
  - (b) The *child* is undocumented, but the *foreign authorized entity* of the child's birth country has determined that the *Convention* applies to the *adoption*.
- (3) *Adoption* planning for a *child* that may be the subject of an *outgoing Convention adoption* must comply with other Department rules, including Child Welfare polices: I-AB.4 "CPS Assessment", OAR 413-015-0400 to 413-015-0485; I-F.2 "Determining the Appropriateness of Adoption as a Permanency Plan for a Child", OAR 413-110-0300 to 413-110-0360; I-E.1.1 "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0087; I-F.6 "Sibling Adoption Placement Planning", OAR 413-110-0100 to 413-110-0150; I-G.1.2 Identification and Consideration of Potential Adoptive Resources", OAR 413-120-0700 to 413-120-0760; I-G.1.5 "Adoption Placement

Selection", OAR 413-120-0000 to 413-120-0060; and I-G.1.10 "Supervision and Support of an Adoptive Placement", OAR 413-120-0800 to 413-120-0880.

- (4) Before a *child* may be placed in a prospective adoptive home in another *Convention country* the Department must meet the requirements of each of the following subsections:
- (a) Make a written determination that the *child* is eligible for *adoption*, that an *outgoing Convention adoption* is in the child's best interests, and that placement with the *prospective adoptive parents* is in the best interests of the *child*.
  - (b) Complete or obtain a written *child* background study that includes information about the child's identity; upbringing; adoptability; ethnic, religious, and cultural background; social environment; family history; personal medical history; family medical history; and special needs.
  - (c) Determine that the *prospective adoptive parents* meet the requirements of paragraph (1)(c)(A) of this rule and document that determination.
  - (d) Work with the *foreign authorized entity* in the *receiving Convention country* to determine whether the *prospective adoptive parents* are suitable, qualified, and eligible to adopt the *child*. To do so the Department must meet the requirements in each of following paragraphs:
    - (A) Provide a copy of the child's background study to the *foreign authorized entity* in the *receiving Convention country*.
    - (B) Obtain from the *foreign authorized entity* a comprehensive *home study* on the *prospective adoptive parents* that is prepared in accordance with the laws of the receiving country; meets the standards established by the Department using the Department's Hague Home Study template; addresses the capacity of the *prospective adoptive parents* to meet the child's safety, permanency and well-being needs; and includes all of the following:
      - (i) Information on the *prospective adoptive parents*, including: identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for *adoption*, ability to undertake an inter-country *adoption*, and the characteristics of a *child* for whom they would be qualified to care;
      - (ii) Confirmation that a *foreign authorized entity* has determined that the *prospective adoptive parents* are eligible and suitable to adopt and has ensured that the *prospective adoptive parents* have been counseled as necessary;
      - (iii) The results of a criminal background check; and

- (iv) Information from competent references for the *prospective adoptive parents*.
- (C) Obtain written confirmation from the *foreign authorized entity* that the *prospective adoptive parents* have completed a minimum of 10 hours of Department-approved training that includes training on all of the following:
- (i) The effects of physical, emotional, and sexual abuse and neglect on a *child*;
  - (ii) The effects of drugs and alcohol on a *child*;
  - (iii) The effects of relocating a *child* and transition issues;
  - (iv) The significance of the birth family, include grief and loss issues;
  - (v) Openness in *adoption*;
  - (vi) Attachment process and attachment difficulties;
  - (vii) Positive behavior management; and
  - (viii) The specific needs of the *child* to be adopted by the *prospective adoptive parents*.
- (D) Provide notice to the *foreign authorized entity* studying the prospective adoptive family and providing required training to the *prospective adoptive parents* that the Department does not condone the use of corporal punishment.
- (E) Obtain from the *foreign authorized entity* a written, signed Supervision Agreement using the approved Department form that describes the responsibilities of the Department and *foreign authorized entity* with regard to the child's placement with the *prospective adoptive parents* and includes each of the following:
- (i) Requirements for face-to-face visits with the *child* and the *prospective adoptive parents* at least every 30 days. These meetings must occur in the prospective adoptive home at least once every 60 days.
  - (ii) Requirements for face-to-face visits in the prospective adoptive home with other individuals living in the home who can provide

information about the child's safety and well-being, as well as any concerns with the placement.

- (iii) Requirements for contact at least once every 30 days with professional persons who have established a relationship to the *child* who can provide collateral observations regarding the child's functioning and the adoptive placement.
  - (iv) Minimum standards for written reports to be provided every 90 days on contacts with the *child*, prospective adoptive family, other family members, and collateral contacts.
  - (v) Confirmation that the *child* will be authorized to enter and reside in the receiving country permanently or on the same basis as the *prospective adoptive parents*.
  - (vi) Confirmation that the *foreign authorized entity* consents to the *adoption* of the *child* by the prospective adoptive family.
  - (vii) Confirmation that the *foreign authorized entity* agrees that the child's *adoption* by the prospective adoptive family may proceed.
- (e) After the *child* is fully free for *adoption*, establish proof of citizenship for the *child* and apply for applicable passports.
  - (f) Submit to the *foreign authorized entity* written confirmation of the reasons the Department determined that the proposed adoptive placement is in the best interests of the *child*.
  - (g) Establish a direct means for the child's collateral contacts in the *receiving Convention country* to communicate any health or safety concerns about the *child* to the Department.
  - (h) Counsel and inform the *child*, as appropriate in light of the child's age and maturity, of the effects of the *adoption*, consider the child's views regarding the *adoption*, and document the discussion and how the child's views were considered.
  - (i) If the child's consent to the *adoption* is required, counsel and inform the *child* about the effects of granting consent, obtain written consent from the *child* in a manner that assures the consent is given freely and without any inducement by compensation of any kind, and document the discussion.
  - (j) Determine whether the *receiving Convention country* requires a *Hague custody declaration* prior to placement of the *child* in the home of the *prospective*

*adoptive parents*, and, if required, apply for and obtain a *Hague custody declaration* from the U.S. State Department, as provided in OAR 413-120-0970.

- (k) Assure that the child's move to the *receiving Convention country* will be made under secure and appropriate circumstances and in the company of the child's *prospective adoptive parents*, caseworker, or with another adult.
- (5) Following completion of all of requirements in section (4) of this rule and prior to the *child* traveling to the *receiving Convention country* for placement with the *prospective adoptive parents*, the Department must obtain an order from the court that makes findings --
- (a) In support of an application for a *Hague adoption certificate*;
  - (b) That the prospective adoptive placement is in the best interests of the *child*;
  - (c) Authorizing the *child* to travel to the foreign country for placement with the *prospective adoptive parents*; and
  - (d) Authorizing release of the court order for purposes of affecting the child's placement.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

## **413-120-0930**

### **Transition, Travel, Placement, and Registration Requirements**

*(Amended 05/01/14)*

For an *outgoing Convention adoption*:

- (1) The Department is responsible for assuring that the *child* is fully prepared for transition to a new home, community, and country.
- (2) A component of transition is establishing that the region the *child* will travel to and reside in is approved as a safe place to travel by the U.S. State Department.
- (3) The child's move to the *receiving Convention country* must be made under secure and appropriate circumstances and in the company of the child's *prospective adoptive parents*, caseworker, or another adult.
- (4) The *child* must carry a regular passport from all countries in which the *child* is a citizen.

- (5) If the *receiving Convention country* requires a *Hague custody declaration*, the individual accompanying the *child* during travel must carry a copy of the *Hague custody declaration*.
- (6) After a *child* is placed in another country for the purpose of *adoption*, the Department must register the *child* with the U.S. State Department as a United States citizen living abroad.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

## **413-120-0940**

### **Post-Placement Supervision**

*(Amended 05/01/14)*

- (1) Notwithstanding the provisions of OAR 413-120-0830 the Department may not consent to an *outgoing Convention adoption* until at least 6 months after the *child* has been placed with the *prospective adoptive parents*. This *post-placement supervision* period may not be waived.
- (2) The Department must keep the *foreign authorized entity* fully informed about the *adoption* process and the steps taken to complete the *adoption*.
- (3) The Department must comply with the requirements of each of the following subsections:
  - (a) Monitor the *child's adoption* placement by reviewing the 90-day written progress reports received from the *foreign authorized entity*.
  - (b) Assess, based on the information in the 90-day reports, whether the *child* is adjusting to and being integrated into the prospective adoptive family's household.
  - (c) Complete all necessary steps related to the *adoption* assistance process, if applicable.
- (4) When it becomes known to the Department that there are significant changes to the situation of the *prospective adoptive parents*, including changes in family structure, the Department may require an updated *adoption home study* prior to making a determination to proceed with finalization of the *adoption*.
- (5) Prior to finalization of the *adoption*, when the local child welfare office determines the *prospective adoptive parents* are no longer appropriate for the *child*, the requirements of OAR 413-120-0870 apply.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005



## **413-120-0945**

### **Finalization and Post-Finalization Duties**

*(Amended 05/01/14)*

- (1) After the *post-placement supervision* period has expired and before finalization of an *outgoing Convention adoption* the Department must submit to the *foreign authorized entity* proof of the Department's consent to the child's *adoption*.
- (2) An *outgoing Convention adoption* must be finalized in Oregon pursuant to ORS 419B.529.
- (3) Concurrent with finalization of the *outgoing Convention adoption* the Department must request an order from the court making all of the necessary findings required by the *Convention* and IAA to support an application for a *Hague adoption certificate*.
- (4) After finalization of the *outgoing Convention adoption* the Department must apply for a *Hague adoption certificate*. To apply for a *Hague adoption certificate* the Department must submit all of the following to the *Secretary of State*:
  - (a) A completed *Hague adoption certificate* application on the form prescribed by the *Secretary of State*;
  - (b) A certified copy of the court's order finding that the *child* is eligible for *adoption*, that the *adoption* is in the child's best interest, granting the *adoption*, and verifying that the requirements of 22 C.F.R. 97.3 have been met; and
  - (c) Any other additional documentation and information required by the *Secretary of State*.
- (5) For an *outgoing Convention adoption*, the Department must request two original Hague adoption certificates. The Department provides one original *Hague adoption certificate* to the adoptive parents and enters one original *Hague adoption certificate* into the sealed *adoption* record.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005, 419B.529

### **413-120-0950**

#### **Adoption Assistance**

*(Amended 08/06/17)*

To be eligible for *adoption* assistance a *child* who is the subject of a *Convention adoption* must be a United States citizen and meet all other eligibility requirements under Child Welfare Policy I-G.3.1 “Adoption Assistance”, OAR 413-130-0000 to 413-130-0130.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

### **413-120-0960**

#### **Disclosure to the Adoptive Family**

*(Amended 05/01/14)*

The Department must provide the *prospective adoptive parents* in an *outgoing Convention adoption* all the *child* summary and medical history in both the original format and translated into the primary language of the *prospective adoptive parents*.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005

### **413-120-0970**

#### **Hague Custody Declarations**

*(Amended 05/01/14)*

- (1) When a *child* will be placed for *adoption* in a *Convention country* the *Secretary of State* may issue a *Hague custody declaration* acknowledging that legal custody of the *child* has been granted to *prospective adoptive parents* for the purpose of immigration and *adoption* in another *Convention country*. If the *receiving Convention country* requires a *Hague custody declaration* for placement of a *child* for *adoption* in the *receiving Convention country*, the Department must apply for and obtain a *Hague custody declaration* by completing the U.S. State Department's application and submitting the application with a court order with the proper findings supporting the application.
- (2) The *Hague custody declaration* must accompany the *child* when the *child* leaves the United States and travels to the other *Convention country*.

Stat. Auth.: ORS 417.262, 417.265, 418.005

Stats. Implemented: ORS 417.262, 417.265, 418.005