

DEPARTMENT OF HUMAN SERVICES
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413
DIVISION 40

CASE MANAGEMENT – SERVICE PLANS

Amended 08/06/17

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Definitions

413-040-0000

Definitions

(Amended 08/06/17)

Unless the context indicates otherwise, the following definitions apply to rules in OAR chapter 413, division 040:

- (1) "AAICPC" means the Association of Administrators of the Interstate Compact on the Placement of Children, which is the national professional association of state administrators of the Interstate Compact on the Placement of Children, housed at the American Public Human Services Association (APHSA).
- (2) "Action agreement" means a written document between the Department and a *parent* or *guardian* that identifies one or more of the services or activities provided by the Department or other community partners, in which the *parent* or *guardian* will participate to achieve an *expected outcome*.
- (3) "Acquired Immune Deficiency Syndrome (AIDS)" is a disorder in which a person's immune system is severely suppressed. It is caused by the human immunodeficiency virus (HIV). In order for a person to be diagnosed as having AIDS, the virus, immune system suppression, and an opportunistic infection or other condition stipulated by the U.S. Centers for Disease Control must all be present. A laboratory diagnosis of a CD4 less than 200 also is an AIDS defined illness.
- (4) "Age-appropriate or developmentally appropriate activities" means:
 - (a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a *child* or *young adult*, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
 - (b) In the case of a specific *child* or *young adult*, activities or items that are suitable for the *child* or *young adult* based on the developmental stages attained by the *child* or *young adult* with respect to the cognitive, emotional, physical, and behavioral capacities of the *child* or *young adult*.
- (5) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a *child* or *young adult* for one or more of the following purposes:

- (a) To identify case planning, service planning, and supervision needs of the *child* or *young adult* in *substitute care* with a certified family.
 - (b) To determine the level of care payment while in *substitute care* with a certified family; and
 - (c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.
- (6) "Case plan" means a written goal-oriented, time-limited individualized plan for the *child* and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.
 - (7) "Child" means a person under 18 years of age.
 - (8) "Compact administrator" means the person for each party to the Compact responsible for carrying out the provisions of the Compact. In Oregon, it is the Assistant Director, Children, Adults and Families, Department of Human Services.
 - (9) "Complete judicial review" means a hearing that results in a written order that contains the findings required under ORS 419B.476 or includes substantially the same findings as are required under ORS 419A.116.
 - (10) "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.
 - (11) "Conditions for return" mean a written statement of the specific behaviors, conditions, or circumstances that must exist within a child's home before a *child* can safely return and remain in the home with an in-home *ongoing safety plan*.
 - (12) "Counseling" means group and individual counseling, emotional support groups, one-on-one emotional support, AIDS education, and/or information services.
 - (13) "Date child entered substitute care" means the earlier of the following two dates:
 - (a) The date the court found the *child* within the jurisdiction of the court (under ORS 419B.100); or
 - (b) The date that is 60 days from the date of removal.
 - (14) "Department" means the Department of Human Services, Child Welfare.
 - (15) "Deputy compact administrator" means the person appointed by a *compact administrator* as the coordinator to assure compliance with the law.

- (16) "Expected outcome" means an observable, sustained change in a *parent* or guardian's behavior, condition, or circumstance that, when accomplished, will increase a *parent* or guardian's *protective capacity* and reduce or eliminate an identified impending danger safety threat, and which, when accomplished, will no longer require Child Welfare intervention to manage a child's safety. It is a desired end result and takes effort to achieve.
- (17) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge, and when the expert is evaluating a *parent* or *guardian*, whether the individual's functioning impacts his or her *protective capacity*.
- (18) "Family member" means any person related to the *child* or *young adult* by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, or great-grandparents. *Family member* also includes the *registered domestic partner* of a person related to the *child*, a *child* 12 years of age or older, and when appropriate, a *child* younger than 12 years of age. In a case involving an *Indian child* under the Indian Child Welfare Act (ICWA), a "family member" is defined by the law or custom of the child's tribe.
- (19) "Family plan" means a written document developed at the *OFDM* that includes family recommendations on planning for the *child* and may include a *permanency plan*, *concurrent permanent plan*, *placement* recommendations, or service recommendations. The "family plan" also includes expectations of the parents of the *child* and other family members; services the Department will provide; timelines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate. The "family plan" described in ORS 417.375(1) is incorporated into the *case plan* to the extent that it protects the *child*, builds on family strengths, and is focused on achieving permanency for the *child* within a reasonable time.
- (20) "Grandparent" for purposes of notification, visitation, contact, or communication ordered by the court under ORS 419.B876 means the legal parent of the child or young adult's legal parent, regardless of whether the parental rights of the child or young adult's legal parent have been terminated under ORS 419B.500 to 419B.524.
- (21) "Guardian" means an individual who has been granted guardianship of a *child* through a judgment of the court.
- (22) "High risk behaviors" means the following:
- (a) Having shared a needle with an intravenous drug abuser since 1977;

- (b) For a man, having had sex with another man or men since 1977;
 - (c) Having been sexually active in an area where heterosexual transmission is believed to be high;
 - (d) Persons with hemophilia;
 - (e) Having been the sexual partner of a person in one of the previous categories;
 - (f) Being born to a woman whose history has put her in one of these other categories.
- (23) "HIV" is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.
- (24) "HIV Infection". People who have been tested and found to have the antibody are referred to as having HIV infection. These people are capable of transmitting the virus through risk behaviors, as described below.
- (25) "HIV Positive" means that a blood test has indicated the presence of antibodies to HIV. This means that the person has been infected by the virus and the immune system has responded by producing antibodies. An exception is infants of HIV-infected mothers. They have been exposed to the mother's antibodies and carry these antibodies in their blood for a number of months after birth. A series of tests is necessary to determine if these infants are themselves infected with HIV.
- (26) "ICPC approved family" means a family approved by the Interstate Compact on the Placement of Children (ICPC) *deputy compact administrator* or designee after reviewing a home study.
- (27) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five *safety threshold* criteria. When it is occurring, this type of threat to a *child* is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family function.
- (28) "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.
- (29) "Indian custodian" means any *Indian* who has legal *custody* of an *Indian child* under applicable tribal law or custom or under applicable state law, or to whom temporary physical care, *custody*, and control has been transferred by the *parent* of such *child*.

- (30) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. § 1602.
- (31) "Local Citizen Review Board (CRB)" means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home *placement* (ORS 419A.090-419A.094).
- (32) "OFDM" means the family decision-making meeting as defined in ORS 417.365, and is a family-focused intervention facilitated by professional staff that is designed to build and strengthen the natural care giving system for the *child*. These meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision-making meeting is to establish a plan that provides for the safety, attachment, and permanency needs of the *child*. The role of the "OFDM" is described in ORS 417.365 to 417.375.
- (33) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more impending danger safety threats at the conclusion of a CPS assessment or anytime during ongoing work with a family.
- (34) "Parent" means the biological or adoptive mother or the legal father of the *child*. A legal father is a man who has adopted the *child* or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.610, or by a juvenile court. In cases involving an *Indian child* under the ICWA, parent means any biological parent of an Indian child, or any Indian who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed biological father where paternity has not been acknowledged or established. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the *child* by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.
- (35) "Permanency hearing" means the hearing that determines the *permanency plan* for the *child*. The "Permanency Hearing" is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.
- (36) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the *child* or *young adult*. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family

resources with the parents, relatives, or other people who will assume legal responsibility for the *child* or *young adult* during the remaining years of dependency and be accessible and supportive to the *child* or *young adult* in adulthood.

- (37) "Personal care services" means the provision of or assistance with those functional activities described in OAR 413-090-0120 consisting of mobility, transfers, repositioning, basic personal hygiene, toileting, bowel and bladder care, nutrition, medication management, and delegated nursing tasks that a *child* or *young adult* requires for his or her continued well-being.
- (38) "Placement" means the arrangement for the care of a *child* in a foster home, relative foster home, non-paid relative home, or a child-caring agency or institution. It does not include the arrangement for care in an institute caring for the mentally ill, an institution primarily educational in character, or a hospital or other medical facility.
- (39) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a *child* safe.
- (40) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a *child* or *young adult* while encouraging the emotional and developmental growth of the *child* or *young adult*, that a substitute care provider shall use when determining whether to allow a *child* or *young adult* in substitute care to participate in extracurricular, enrichment, cultural, and social activities.
- (41) "Receiving state" means the state to which a *child* is sent, brought, or caused to be sent or brought, whether by a public authority or a private person or agency, whether for *placement* with a state or local public authority or with a private agency or person.
- (42) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.
- (43) "Reunification" means *placement* with a *parent* or *guardian*.
- (44) "Safety threshold" means the point at which family behaviors, conditions, or circumstances are manifested in such a way that they are beyond being risk influences and have become an *impending danger safety threat*. In order to reach the "safety threshold" the behaviors, conditions, or circumstances must meet all of the following criteria: be imminent, be out of control, affect a vulnerable *child*, be specific and observable, and have potential to cause severe harm to a *child*. The "safety threshold" criteria are used to determine the presence of an *impending danger safety threat*.
- (45) "SAIP" means Secure Adolescent Inpatient Program.
- (46) "SCIP" means Secure Children's Inpatient Program.

- (47) "Sending agency" means a party state or an officer or employee thereof; a subdivision of a party state or an officer or employee thereof; a court of a party state; or a person, corporation, association, charitable agency, or other entity that sends, brings, or causes to be sent or brought a *child* to another party state.
- (48) "Sending state" means the state from which a proposed *placement* is made.
- (49) "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.
- (50) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a *child* or *young adult* in the legal or physical custody of the Department.
- (51) "Termination of parental rights" means that a court of competent jurisdiction has entered an order terminating the rights of the *parent* or parents, pursuant to ORS 419B.500 through 419B.530 or the statutes of another state. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419A.200).
- (52) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Developing and Managing the Case Plan

413-040-0005

Purpose

(Amended 10/01/15)

The purpose of OAR 413-040-0000 to 413-040-0032 is to describe the activities required to:

- (1) Complete a *protective capacity* assessment;
- (2) Use the Family Decision-making Meeting;
- (3) Develop a *case plan*;
- (4) Develop an *action agreement*;
- (5) Monitor the *case plan*;
- (6) Review and revise the *case plan*;
- (7) Determine when *conditions for return* have been met; and
- (8) Close the *ongoing safety plan* and close the case.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0006

Requirements for the Conditions for Return and the Protective Capacity Assessment

(Amended 10/01/15)

- (1) The caseworker must determine *conditions for return* during the development of the *ongoing safety plan*.
- (2) The *conditions for return* are documented in the *ongoing safety plan* and the *case plan*, and must describe:
 - (a) The specific behaviors, conditions, or circumstances that must exist before the Department may develop an in-home *ongoing safety plan* that assures a child's safety, as described in OAR 413-015-0450(2)(b)(A)(i) - (iii); and

- (b) The actions, services, and time requirements of all participants in the in-home *ongoing safety plan*.
- (3) The Department uses the *protective capacity* assessment to engage the parents or guardians of the *child* or *young adult* in a collaborative process to --
 - (a) Examine and understand the behaviors, conditions, or circumstances that made the *child* unsafe and the strengths of the *parent* or *guardian* that build *protective capacity*;
 - (b) Examine and understand how the behavioral, cognitive and emotional characteristics of the parents or guardians impact their ability to care for and keep the *child* safe;
 - (c) Determine the expected outcomes related to the behaviors, conditions, or circumstances of the parents or guardians that will increase *protective capacity* and reduce or eliminate the identified *impending danger safety threat*; and
 - (d) Identify services or activities that are likely to achieve the expected outcomes.
- (4) Whenever possible, the Department and the parents or guardians should come to agreement on expected outcomes and the actions, services, and activities to achieve the expected outcomes.
- (5) The caseworker must:
 - (a) Complete the following activities within five days of receipt of the case from the CPS worker or after replacing or adding an *impending danger safety threat* during ongoing case management:
 - (A) Review the Child Welfare case history, case documentation, and the actions and decisions of the most recent CPS assessment;
 - (B) Review and update as necessary the *ongoing safety plan* by contacting all participants in the safety plan to determine whether the *ongoing safety plan* assures the safety of the *child*;
 - (C) Review and update as necessary the *conditions for return*; and
 - (D) Document the review of the *ongoing safety plan* and *conditions for return* in the Department's electronic information system.
 - (b) Complete the following activities:
 - (A) Conduct reasonable inquiries for the purpose of identifying individuals who may contribute to the caseworker's understanding of the *protective*

capacity of the parents or guardians and the safety of the *child*. Such individuals may include parents or guardians, grandparents, extended family, an Indian child's tribe, and any other family members, persons with significant attachments to the *child*, other professionals, substitute caregivers, neighbors, and friends of the family. Reasonable inquiries mean, as defined in ORS 417.371(4)(b), efforts that include reviewing the case file for relevant information, contacting the parents or guardians, and contacting additional sources of information for the purpose of ascertaining the whereabouts of family members, if necessary.

- (B) Gather information from these individuals through individual interviews or meetings for the purpose of identifying and understanding the needs, concerns, strengths, and limitations associated with the *protective capacity* of parents or guardians and assessing the impact on the child's safety.
- (C) Evaluate the relationship between --
 - (i) The existing protective capacities of parents or guardians that contribute to *child* safety;
 - (ii) The diminished protective capacities of parents or guardians that must change for the parents or guardians to care for and keep the *child* safe; and
 - (iii) The parents' or guardians' readiness to change.
- (D) Whenever possible, collaboratively identify with the parents or guardians:
 - (i) Other family members, persons with significant attachments to the *child*, community members, and members of an Indian child's tribe who will contribute to meeting the *conditions for return* and actively participate in an *ongoing safety plan* or enhancing the *protective capacity* of the parents or guardians; and
 - (ii) Actions and services that will reduce or eliminate identified safety threats or enhance the *protective capacity* of the parents or guardians.
- (E) Inform the parents or guardians of the Department's actions and decisions regarding identified impending danger safety threats, *conditions for return*, *protective capacity*, and the *ongoing safety plan*.
- (F) Enter the findings of the *protective capacity* assessment, the information obtained by conducting the activities required in paragraphs (A) to (D) of this subsection, and the *conditions for return* in the Department's information system.

- (6) The caseworker must document the findings of the *protective capacity* assessment and the *conditions for return* in the *case plan*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0008

Requirements for a Family Decision-making Meeting

(Amended 10/01/15)

- (1) When the *child* has been placed in *substitute care* for more than 30 days, the Department must consider scheduling an *OFDM*. When considered appropriate, the meeting is scheduled, whenever possible, between the 30th and 60th day of the out-of-home care *placement*.
- (2) When a decision has been made by the Department and the family to use the *OFDM*, the Department will conduct and document reasonable inquiries to promptly locate and notify the parents, grandparents, an Indian child's tribe, and any other *family member* who has had significant, direct contact with the *child* in the year prior to the *substitute care placement*. Other participants in the meeting must include the *child*, if the *child* is 12 years of age or older, and for a child 14 years of age and older, at their option, up to two members of the case planning team who are chosen by the *child*. Other participants in the meeting may include a child younger than 12 when appropriate, other professionals, foster parents, neighbors, and family and friends of the family as appropriate.
- (3) Family members or an Indian child's tribe who are located after reasonable inquiries will be notified by the Department of the *OFDM* in a timely manner to allow them the opportunity to prepare for and attend the meeting.
- (4) Other participants will be jointly identified by the parents, guardians, *Indian custodian* of the *child*, and the Department, and the Department will notify identified participants in a timely manner to allow them the opportunity to prepare for and attend the meeting.
- (5) To assist the family in developing the family's plan for the *child*, the Department must provide participants with information regarding the federal timeline for determining permanency for the *child* and the Oregon Administrative Rules that govern the sufficiency of a safety plan, *conditions for return*, and *reunification*.
- (6) The located family members may attend the *OFDM* unless the other participants determine that a *family member* may threaten or place other participants at risk. The Department may exclude family members it determines are violent, unpredictable, or abusive or an alleged perpetrator of sexual abuse, domestic violence, or severe physical assault.

- (7) Family members who are not invited or allowed to participate may submit written information and recommendations to the caseworker prior to the scheduled meeting concerning the subjects of the *OFDM*, including concerns regarding the *placement* of the *child*, *permanency plan*, *concurrent permanent plan*, and services.
- (8) During the *OFDM*, family members will develop a *family plan* for the *child*.
- (9) Any *family member* or tribal representative participating in an *OFDM* must sign a written acknowledgment of the content of the *family plan* developed at the meeting and of his or her attendance at the meeting.
- (10) The Department will send a copy of the *family plan* developed at the *OFDM* within 21 days after the date of the meeting to family participants, including those who participated by submitting written information and recommendations.
- (11) The Department will incorporate the *family plan* developed at the *OFDM* into the Department's *case plan* to the extent that the *family plan* protects the *child*, builds on family strengths, and focuses on achieving permanency for the *child* within a reasonable time. If the family's plan developed at the meeting cannot be incorporated into the Department's *case plan*, the reasons shall be documented in the Department's *case plan*.
- (12) The Department is responsible for confirming that any *family plan* developed at an *OFDM* is sufficient to ensure the safety or permanency of the *child* before implementing a *family plan* developed at an *OFDM*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0010

Requirements for the Case Plan

(Amended 08/06/17)

- (1) The caseworker must analyze the information gathered during the *protective capacity* assessment to develop a *case plan*. The *case plan* must include all of the following information:
 - (a) Family composition, which includes the information identifying each *child*, each *young adult*, and each *parent* or *guardian*.
 - (b) Original impending danger safety threats identified in the CPS assessment as described in OAR 413-015-0425.
 - (c) The *ongoing safety plan* including any additional impending danger safety threats identified since the CPS assessment, as described in OAR 413-015-0450 and recorded in the Department's information system.

- (d) The findings of the *protective capacity* assessment.
- (e) Expected outcomes and actions that each *parent* or *guardian* is taking to achieve them.
- (f) Services (if applicable) to the *child* or *young adult* that include:
 - (A) The identified needs of and services provided to any *child* or *young adult* placed in *substitute care*, including the results of the *CANS screening*, the *personal care services* provided to an eligible *child* or *young adult* under OAR 413-090-0100 to 413-090-0210, and other current assessments or evaluations of the *child* or *young adult*, and the reasons the *substitute care placement* is the least restrictive *placement* to meet the *child* or *young adult's* identified needs;
 - (B) The health information of the *child* or *young adult*, which documents the child's routine and specialized medical, dental, and mental health services;
 - (C) The education services of the *child* or *young adult*, the school or educational placement history of the *child* or *young adult*, high school credits earned for a *child* over 14 years of age or a *young adult*, and any special educational needs; and
 - (D) Services to transition the *child* or *young adult* to successful adulthood in all cases when the *child* is 14 years of age or older.
- (g) Services the Department will provide including:
 - (A) Case oversight and routine contact with the parents or guardians and the *child* or *young adult*;
 - (B) Appropriate and timely referrals to services and service providers suitable to address identified impending danger safety threats or strengthen parental *protective capacity*;
 - (C) Appropriate and timely referrals to services and service providers suitable to address the needs of the *child* or *young adult* as identified through the *CANS screening* and other current assessments or evaluations of the *child* or *young adult*; and
 - (D) Timely preparation of reports to the court or other service providers.
- (h) The date that the progress of the parents or guardians in achieving expected outcomes will be reviewed. The *case plan* must be reviewed with the parents or

guardians every 90 days; however, the caseworker and parents or guardians may agree on a review date at any time within the 90-day period.

- (i) When the *child* or *young adult* is in *substitute care*, the *case plan* must also include:
 - (A) Current *placement* information including:
 - (i) The location of the *child* or *young adult* and the *substitute caregiver* of the *child* or *young adult*, except when doing so would jeopardize the safety of the *child*, *young adult*, or the *substitute caregiver*, or the *substitute caregiver* will not authorize release of the address; and
 - (ii) Documentation that shows that the *child* or *young adult* is receiving safe and appropriate care in the least restrictive environment able to provide safety and well-being for the *child* or *young adult*.
 - (B) The *child* or *young adult's* record of visits with his or her parents and siblings.
 - (C) The *permanency plan*.
 - (D) The *conditions for return*.
 - (E) The *concurrent permanent plan* and the progress the Department has made in implementing the *concurrent permanent plan*.
- (j) The *case plan* for any *child* or *young adult* in foster care who has attained 14 years of age must include:
 - (A) A document that describes:
 - (i) The rights of the *child* or *young adult* with respect to education, health, visitation, and court participation;
 - (ii) The right to be provided with a copy of the young adult's birth certificate, social security card, health insurance information, medical records, and a driver's license or equivalent state-issued identification card when the child leaves foster care having attained age 18 or greater; and
 - (iii) The right to stay safe and avoid exploitation.

- (B) A signed acknowledgment by the *child* or *young adult* that the *child* or young adult has been provided with a copy of the document and that the rights contained in the document have been explained to the *child* in an age-appropriate way.
- (2) As applicable, the caseworker must also include in the *case plan*:
- (a) The goals and activities required for an *Indian child* under OAR 413-115-0030 to 413-115-0130 or for a refugee *child* under OAR 413-070-0300 to 413-070-0380.
 - (b) Recommendations of expert evaluations requested by the Department whenever the recommendations may impact parental protective capacities or treatment services for the *child* or *young adult*. If the recommendations are not included in the *case plan*, the rationale must be documented in the Department's information system.
 - (c) Diligent efforts to place the *child* or *young adult* with relatives and with siblings who are also in *substitute care*, sibling connections, and the Department's efforts to keep siblings together.
 - (d) Orders of the court.
- (3) The persons involved with the Department in the development of the *case plan* include:
- (a) The parents or guardians, unless their participation threatens or places other participants at risk;
 - (b) The child who has obtained 14 years of age or the *young adult*; and
 - (c) At the option of the *child* or *young adult*, up to two members of the case planning team chosen by the *child* or *young adult* who are not:
 - (A) A foster parent;
 - (B) A caseworker for the *child* or *young adult*; or
 - (C) An individual the Department has good cause to believe would not act in the best interests of the *child* or *young adult*.
 - (d) One of the individuals in subsection (c) of this section may be designated to be the advisor of the *child* or *young adult*, and as needed, advocate for the *child* or *young adult* with respect to the application of the *reasonable and prudent parent standard* to the *child* or *young adult*.
- (4) Additional persons involved with the Department in the development of the case plan may include the *child* regardless of age or *young adult*, adoptive parents, an *Indian*

custodian when applicable, other relatives, persons with significant attachments to the *child* or *young adult*, the *substitute caregiver*, and other professionals when appropriate.

- (5) The *case plan* must include the signature of the caseworker and each *parent* or *guardian*, unless subsections (7)(a) or (7)(b) of this rule apply.
- (6) Approval and distribution of the *case plan*.
 - (a) The Child Welfare supervisor must approve and sign the *case plan*.
 - (b) The caseworker must give a copy of the *case plan* to the parents or guardians of the *child* or *young adult*, and the Indian child's tribe when applicable, as soon as possible but no later than seven working days after the *case plan* is approved by the supervisor, except when doing so would provide information that places another person at risk.
- (7) Exceptions and exemptions to the required *case plan*.
 - (a) A court may authorize an exception to the involvement of the parents or guardians when it determines that reasonable efforts to return the *child* home are not required, as described in OAR 413-070-0515.
 - (b) When the Department has custody of a *child* or *young adult* in *substitute care* and is unable to obtain the signature of a *parent* or *guardian*, the caseworker must prepare and send a letter of expectations and a copy of the *case plan* to the *parent* or *guardian* within seven working days after the supervisor has approved and signed the *case plan*. A letter of expectations means an individualized written statement for the family of the *child* or *young adult* that identifies family behaviors, conditions, or circumstances that resulted in an unsafe *child*; the expected outcomes; and what the Department expects each *parent* or *guardian* will do to achieve safety, permanency, and well-being of the *child* or *young adult* in the parental home.
 - (c) A *case plan* as described in sections (1) to (5) of this rule is not required if a family, *child*, or *young adult* is eligible for Family Support Services as described in OAR 413-030-0000 to 413-030-0030.
- (8) Timeline for *case plan* development. The caseworker must develop the *case plan* within 60 days of a child's removal from home or within 60 days of the completion of the CPS assessment, in cases where the *child* remains in the home of a *parent* or *guardian*.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0011

Requirements of Action Agreements

(Amended 01/15/13)

- (1) The Department develops a time-limited *action agreement* in conjunction with the *case plan*. If sufficient resources are available, the *action agreement* must use culturally appropriate services and service providers whose interventions are focused on the achievement by the parents or guardians of the expected outcomes identified in the *case plan*.
- (2) The caseworker must ensure the *action agreement* includes all of the following:
 - (a) A minimum of one of the expected outcomes in the *case plan*.
 - (b) The specific activities or services required to achieve the *expected outcome*.
 - (c) Participants and the responsibilities of each participant.
 - (d) Anticipated start and completion dates.
 - (e) If appropriate, identification of an order of the court that relates to the *expected outcome* or specified activities or services.
 - (f) The method of measuring progress.
 - (g) A timeline for review.
- (3) A caseworker may develop sequential action agreements with a *parent* or *guardian*, and each *action agreement* must include the information required in section (2) of this rule.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0013

Requirements for Monitoring the Case Plan

(Amended 11/01/16)

- (1) The caseworker must --
 - (a) Make reasonable efforts to:
 - (A) Reduce the stay of a *child* or *young adult* in *substitute care*;
 - (B) Reunify the *child* or *young adult* with the parents or guardians whenever possible; and

- (C) Achieve a *permanency plan* when *reunification* is no longer possible.
 - (b) Monitor the *case plan*; and
 - (c) Terminate Department intervention services in a timely manner.
- (2) The caseworker is responsible for all of the following actions:
- (a) Contacting and communicating with each *parent* or *guardian* through monthly face-to-face contact about progress toward achieving the *conditions for return* and the expected outcomes.
 - (b) Contacting and communicating with the *child* or *young adult* during the monthly face-to-face contact required under OAR 413-080-0054.
 - (c) Monitoring the child's or young adult's opportunities to participate in *age-appropriate or developmentally appropriate activities*, which include extracurricular, enrichment, cultural, and social activities.
 - (d) Monitoring the services provided through the *case plan* through contact with each service provider a minimum of once every 90 days.
 - (e) Monitoring the *ongoing safety plan*.
 - (f) Monitoring action agreements.
 - (g) Monitoring the visitation and contact plan when a *child* or *young adult* is in *substitute care*.
 - (h) Monitoring the *parent* or guardian's progress toward meeting the *conditions for return* when a *child* or *young adult* is in *substitute care*.
 - (i) Monitoring the *parent* or guardian's progress toward meeting the expected outcomes of the *case plan*.
 - (j) Ensuring completion of the actions and activities that are the responsibility of the Department.
 - (k) Reviewing the progress the *parent* or *guardian* has made in reducing or eliminating identified impending danger safety threats and enhancing parental *protective capacity* during each monthly review of the *ongoing safety plan*.
 - (l) Arranging for supervision or other services to address the *child* or young adult's strengths and needs identified through the most recent *CANS screening* as required by OAR 413-020-0200 to 413-020-0255.

- (m) Responding immediately to issues that may impact the safety of the *child* or *young adult* which become known to the caseworker.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0014

Replacing or Adding Impending Danger Safety Threats During Ongoing Case Management

(Adopted 10/01/15)

- (1) A caseworker may replace an identified *impending danger safety threat* or add a new *impending danger safety threat* to an *ongoing safety plan* during ongoing case management.
 - (a) A caseworker may replace an identified *impending danger safety threat* when:
 - (A) The Department determines the incorrect *impending danger safety threat* was identified during the CPS assessment in error; or
 - (B) After completing a protective capacity assessment, receiving evaluations, or based on other new information, the Department determines there is an *impending danger safety threat* that more accurately describes the family behaviors, conditions, or circumstances.
 - (b) A caseworker may add an *impending danger safety threat* to an *ongoing safety plan* during ongoing case management when a change occurs in the family behaviors, conditions, or circumstances that is not a new allegation of abuse or neglect, but indicates a new *impending danger safety threat* is present.
- (2) Prior to adding a new *impending danger safety threat*, the caseworker must:
 - (a) Apply the *safety threshold* criteria as outlined in OAR 413-015-0425(2)(a) to (e), assure all five criteria are met and, if so, document in the Department's electronic information system the application of the *safety threshold* criteria and how the *impending danger safety threat* is occurring; and
 - (b) Review and update as necessary the *ongoing safety plan*, *conditions for return*, and protective capacities and complete the activities outlined in OAR 413-040-0006.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0016

Requirements for Review of the Case Plan

(Amended 10/01/15)

- (1) The *case plan* is reviewed a minimum of every 90 days. This review must take place in a face-to-face meeting with the parents or guardians, unless excluded under section (3) of this rule. The meeting may include the *child* at any age if developmentally appropriate, service providers, safety plan participants, substitute caregivers, attorneys, a *child* or young adult's CASA, persons with significant attachments to the *child* or *young adult*, and family members. The meeting must include the *child* 14 years of age or older or young adult and, at the option of the *child* or *young adult*, up to two members of the case planning team who are chosen by the *child* or *young adult* as described in OAR 413-040-0010(3)(c).
- (2) During the *case plan* review, the caseworker assesses and determines the progress that has been made in achieving the expected outcomes of the *case plan*, and, when the *child* or *young adult* is in *substitute care*, the progress toward meeting the *conditions of return*.
- (3) Exceptions to the face-to-face *case plan* review. If a *parent* or *guardian* is not available for the review, the caseworker must document the reason the *parent* or *guardian* was unavailable and the efforts that were made to involve the *parent* or *guardian* in the review.
- (4) During a *case plan* review, the caseworker must consider input received from the *child* or *young adult*, the service providers, safety plan participants, substitute caregivers, attorneys, a *child* or young adult's CASA, persons with significant attachments to the *child* or *young adult*, and family members.
- (5) Subsequent to the face-to-face meeting, the caseworker documents all of the following in the Department's information system:
 - (a) The services provided and the progress of the parents or guardians in achieving expected outcomes or, when a *child* is in *substitute care*, meeting the *conditions of return*.
 - (b) Observations of improved *parent* or *guardian protective capacity* based on specific behaviors, conditions, or circumstances that have measurably changed.
 - (c) Input received from service providers, substitute caregivers, attorneys, the *child* or young adult's CASA, persons with significant attachments to the *child* or *young adult*, and family members.
 - (d) The addition, reduction, or elimination of the identified impending danger safety threats.

- (e) The actions the Department has taken to develop and implement the *concurrent permanent plan* for the *child* or *young adult* in *substitute care* if a *parent* or *guardian* has not demonstrated progress in achieving the *conditions for return* in a timely manner including:
 - (A) A review of the *child* or *young adult's* education, health, and mental health services to ensure the needs of the *child* or *young adult* are being met;
 - (B) A review of other services provided to address the identified needs of the *child* or *young adult*, including those identified through the *CANS screening*;
 - (C) An assessment of the need of the *child* or *young adult* for a safe and permanent home; and
 - (D) An assessment of the capacity of the *substitute caregiver* to meet the identified needs of the *child* or *young adult* as described in OAR 413-070-0640.
 - (E) A review of the participation by, the *child* or *young adult* in *age-appropriate or developmentally appropriate activities*, and any identified barriers to participation in extracurricular, enrichment, social, and cultural activities that are of interest to the *child* or *young adult*; and
 - (F) An assessment of the capacity of the *substitute caregiver* to apply the *reasonable and prudent parent standard*.
- (6) Within 30 days of receiving an *expert evaluation* requested by the Department, the caseworker must consider revising the *case plan* to include recommendations that will improve *parent* or *guardian protective capacity* related to the identified impending danger safety threats. If the recommendations are not included in the *case plan*, the rationale must be documented in the Department's information system.
- (7) The Child Welfare supervisor must review the caseworker's documentation of the *case plan* review, and document completion of the review in the Department's information system every 90 days. The supervisor must review, approve, and sign the six-month *case plan* review submitted for required administrative review.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0017

Requirements for Return and Reunification

(Amended 10/01/15)

- (1) The caseworker recommends returning the *child* or *young adult* to a *parent* or *guardian* after the caseworker has reviewed the impending danger safety threats identified in the CPS assessment that required an out-of-home *ongoing safety plan* and verified that:
 - (a) The *conditions for return* in the *case plan* have been met;
 - (b) The identified impending danger safety threats can be managed with an *ongoing safety plan*;
 - (c) The parents or guardians are willing and able to accept responsibility for the care of the *child* or *young adult* with an *ongoing safety plan*;
 - (d) The parents or guardians are willing and able to continue participating in *case plan* services;
 - (e) Service providers who are currently working with the *child*, *young adult*, parents or guardians, and other involved persons including the *child* or young adult's CASA and attorneys have been informed, in writing, of the plan to return the *child* or *young adult* with an in-home *ongoing safety plan*; and
 - (f) No safety concerns for the *child* or *young adult* are raised in the caseworker's review of the criminal history records and child welfare protective service records of all persons currently residing in a *parent* or guardian's home.
- (2) When the *child* or *young adult* is returning to a *parent* living in a residential treatment facility, an alcohol and drug free housing program, or a residential domestic violence program, the Department does not review the criminal history records and child welfare protective service records of persons living in the state funded facilities and programs.
- (3) If the caseworker cannot confirm that identified impending danger safety threats can be managed if the *child* or *young adult* is returned to a *parent* or *guardian* with an in-home *ongoing safety plan*, the *child* or *young adult* must remain in *substitute care*.
- (4) The caseworker's supervisor must review and concur that *conditions for return* have been met, and that any disagreement with the plan to return the *child* or *young adult* has been reviewed and considered in the development of the in-home *ongoing safety plan* prior to the caseworker recommending to the court that a *child* or *young adult* be returned to a *parent* or *guardian*.
- (5) The in-home *ongoing safety plan* must specifically document the planned caseworker and safety service provider contacts with the *child* or *young adult* and the *parent* or *guardian*, when the *child* or *young adult* is returned to the *parent* or *guardian*.

- (6) The caseworker must revise, as necessary, and confirm the sufficiency of an in-home *ongoing safety plan* that will manage impending danger safety threats as they are uniquely occurring within a particular family prior to the *child* or young adult's physical return.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0024

Requirements for an In-home Ongoing Safety Plan Prior to Return and Next Day Contact

(Amended 10/01/15)

- (1) When the caseworker determines the *conditions for return* have been achieved and identified impending danger safety threats can be managed when a *child* or *young adult* is returned to a *parent* or *guardian*, the caseworker must develop an in-home *ongoing safety plan*. The caseworker's supervisor must:
 - (a) Approve the proposed in-home *ongoing safety plan* during the five working days prior to the return of a *child* or *young adult* to the home of a *parent* or *guardian* of the *child* or *young adult*; and
 - (b) Document the approval in the Department's information system.
- (2) After a proposed in-home *ongoing safety plan* returning a *child* or *young adult* to the *parent* or *guardian*'s home is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:
 - (a) Visit the *child* or *young adult*, outside the presence of a *parent* or *guardian*, at least once during the five days prior to the return of the *child* or *young adult* to the home to confirm the readiness of and prepare the *child* or *young adult* for the return home.
 - (b) Visit the *parent* or *guardian* in the home of the *parent* or *guardian*, at least once during the five days prior to the return of the *child* or *young adult* to the home, to verify:
 - (A) The behaviors, conditions, and circumstances in the home are safe for the return of the *child* or *young adult*;
 - (B) Confirmation of all persons living in the household;
 - (C) The *parent* or *guardian* is ready for the return of the *child* or *young adult*;

- (D) The *parent* or *guardian* is willing and able to participate in the *ongoing safety plan*; and
 - (E) The *parent* or *guardian* is willing and able to continue in *case plan* services.
- (c) If necessary, revise the proposed in-home *ongoing safety plan* to ensure that it is able to manage impending danger safety threats as they are uniquely occurring within the family prior to the *child* or young adult's physical return.
 - (d) Confirm the in-home *ongoing safety plan* with the *parent* or *guardian*, and obtain the signature of the *parent* or *guardian*.
 - (e) Document the revised in-home *ongoing safety plan* in the Department's information system.
- (3) After a proposed in-home *ongoing safety plan* returning a *child* or *young adult* to the *parent* or guardian's residential treatment facility, an alcohol and drug free housing program, or residential domestic violence program is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:
- (a) Visit the *child* or *young adult*, outside the presence of a *parent* or *guardian*, at least once during the five days prior to the return of the *child* or *young adult* to the home to confirm the readiness of and prepare the *child* or *young adult* for the return.
 - (b) Contact the *parent* or *guardian* at least once during the five days prior to the return of the *child* or *young adult* to the home, to verify:
 - (A) The *parent* or *guardian* is ready for the return of the *child* or *young adult*;
 - (B) The *parent* or *guardian* is willing and able to participate in the *ongoing safety plan*;
 - (C) The *parent* or *guardian* is willing and able to continue to participate in *case plan* services.
 - (c) Verify that the residential treatment facility, an alcohol and drug free housing program, or residential domestic violence program is a safe environment for the *child* or *young adult*.
 - (d) If necessary, revise the proposed in-home *ongoing safety plan* to ensure that it is able to manage the impending danger safety threats as they are uniquely occurring prior to the *child* or young adult's physical return.

- (e) Confirm the in-home *ongoing safety plan* with the *parent* or *guardian* and obtain the signature of the *parent* or *guardian*.
 - (f) Document the revised *ongoing safety plan* in the Department's information system.
- (4) In the event a court orders the return of a *child* or *young adult* to a *parent* or *guardian* of the *child* or *young adult* before an in-home *ongoing safety plan* can be developed and approved in accordance with the criteria in OAR 413-015-0450 and this rule:
- (a) The caseworker must complete the activities described in this rule as soon as practicable, but not later than seven working days following the court order; and
 - (b) If the caseworker disagrees with the order of the court, the caseworker must immediately consult with his or her supervisor.
- (5) The caseworker must visit the *child* or *young adult* in the residence of the *parent* or *guardian* the day following the return home of the *child* or *young adult*. The caseworker must:
- (a) Monitor the safety of the *child* or *young adult* by completing the activities required by OAR 413-080-0055(2);
 - (b) Follow the requirements of OAR 413-080-0055(4)-(6), as appropriate; and
 - (c) Document observations and the conditions of the residence in the Department's information system within seven business days of the visit.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

413-040-0032

Requirements for Closing the In-Home Ongoing Safety Plan and Closing the Case

(Amended 10/01/15)

- (1) When a *child* or *young adult* is in the home of the *parent* or *guardian* and the *parent* or *guardian* can sustain the safety of the *child* or *young adult*, the caseworker must assess when the in-home *ongoing safety plan* should close.
- (2) When assessing whether the in-home *ongoing safety plan* can be closed, the caseworker must determine whether:
 - (a) The *parent* or *guardian* has demonstrated capacity to sustain the safety of the *child* or *young adult* based upon:

- (A) Observations of the *child* or *young adult* and the *parent* or *guardian* in the home;
 - (B) Expert evaluations and reports from service providers;
 - (C) Reports from participants in the in-home *ongoing safety plan*;
 - (D) The extent to which the achievement of expected outcomes supports the ability of the *parent* or *guardian* to sustain the safety of the *child* or *young adult*; and
 - (E) Consultation with other individuals participating with the *parent* or *guardian* to sustain the safety of the *child* or *young adult*.
- (b) The *child* or *young adult* is safe in the home based upon:
- (A) The elimination of the identified impending danger safety threats or the *protective capacity* of the *parent* or *guardian* is sufficient to manage identified impending danger safety threats;
 - (B) The willingness and ability of the *parent* or *guardian* to protect the *child* or *young adult*; and
 - (C) Caseworker confidence in the ability of the *parent* or *guardian* to sustain the safety of the *child* or *young adult* over time.
- (3) The caseworker must document the determination that the in-home *ongoing safety plan* can be closed and the facts supporting the ability of the *parent* or *guardian* to provide safety for the *child* or *young adult* and to sustain the safety of the *child* or *young adult*.
- (4) The caseworker's supervisor must review the caseworker's documentation to ensure the criteria in section (2) of this rule are met, and concur that the in-home *ongoing safety plan* can be closed prior to approving the closure of the safety plan.
- (5) The caseworker closes the in-home *ongoing safety plan* and the case when the court dismisses the commitment of the *child* or *young adult* to the Department or the court's wardship over the *child* terminates.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Substitute Care Placement Reviews

413-040-0100

Purpose

(Amended 10/01/15)

An outline of the required review process to maintain a *child* or *young adult* who is in the legal custody of the Department and placed in substitute care. These rules emphasize that child safety, permanency and well-being are the paramount concerns guiding the review process for providing and maintaining services to children in Department custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656

413-040-0130

Administrative Reviews for Title IV and ORS 419A.090 et seq

(Adopted 05/22/03)

- (1) Administrative reviews will be held on:
 - (a) All children in the legal or physical custody of the Department and placed in paid or unpaid substitute care, including court sanctioned permanent foster care, a non-finalized adoptive *placement*; subsidized independent living; or returned to a parental home on the basis of a trial home visit;
 - (b) All children placed in substitute care with a Voluntary Custody Agreement or Voluntary Placement Agreement.
- (2) Exceptions to the administrative review requirements are:
 - (a) Children placed directly from the hospital into a nursing home without a prior substitute care *placement*;
 - (b) Children hospitalized on a long-term acute basis; or
 - (c) Youth in detention.
- (3) An administrative review shall be held within six months following the first day of *placement* in care and every six months thereafter from the date of the last review. The administrative review requirement may be met by:
 - (a) A local *CRB* review conducted in accordance with OR 419A.090 through 419A.128;

- (b) A Permanency Hearing or other court hearing meeting the definition of a *complete judicial review*, held no earlier than five months after *placement* when the court relieves the *CRB* of its responsibility to review the case pursuant to ORS 419A.106(1)(b); or
- (c) An Internal Review Committee. In exceptional and rare circumstances, in the absence of a review by a local *CRB* or court, an internal review committee may be convened to conduct an internal administrative review. An internal review will not relieve the Department of the requirements for *CRB* reviews in those counties where the local *CRB* boards operate, therefore, a review must be scheduled with the *CRB* or court within 30 days of the internal review. At least one member of the internal review committee must not be involved with day-to-day planning on the case. After concluding the internal review, the committee must complete and distribute a findings document to the participants and the *CRB* (contents should be similar to the findings issued by the *CRB*).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 – 419A.122; 419B.440 – 419B.476; 419C.623 – 419C.656

413-040-0135

Responsibility for Administrative Reviews

(Amended 02/01/06)

- (1) Responsibility for *CRB* Reviews when more than one Department office, cluster or state is involved with the case. Offices will meet the administrative review requirements for children in placements as follows:
 - (a) For Oregon children in substitute care placements inside and outside of Oregon, the local Department office in the county holding legal jurisdiction is responsible for the administrative review.
 - (A) Information about a *child* placed out-of state will be requested through Interstate Compact on the Placement of Children (ICPC) from the supervising state; and
 - (B) The Oregon caseworker will compile information for the review on family members residing in Oregon and receiving Department services.
 - (b) For non-finalized adoptive placements on fully free children, the supervising Department office is responsible for the administrative review.
 - (c) For children in the legal custody of the Department whose *placement* is being co-managed by the Department and mental health or developmental disability case managers:

- (A) The Department office in the county holding legal jurisdiction is responsible for the administrative review. The mental health or development disability case managers will be invited and encouraged to participate in the review;
 - (B) The Department caseworker will gather information for the review from the Mental Health or Developmental Disabilities case manager; and
 - (C) The Department caseworker will compile information for the review on family members receiving Department services.
- (2) Review Requirements for Hospitalized Children and Children on Runaway Status. Administrative Reviews must be held for the following children:
- (a) Children returned to care from SAIP or SCIP. The review must be held within 30 days of the child's return to care if the review would have been due during the child's hospitalization, with the exception of children placed directly from the hospital into a nursing home, without a prior substitute care *placement*.
 - (b) Children placed in an accredited psychiatric facility or hospital shall continue to have regularly scheduled *CRB* reviews.
 - (c) Children on the run shall continue to have regularly scheduled *CRB* reviews.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656

413-040-0140

Permanency Hearings by the Court

(Amended 02/01/06)

A *Permanency Hearing* must be held no later than 12 months after a *child* was found within the jurisdiction of the court under ORS 419B.100 or 14 months after the *child* was placed in substitute care, whichever is the earlier, and thereafter no less frequently than 12 months for as long as the *child* remains in substitute care. The *Permanency Hearing* will:

- (1) Be held for all children in the legal or physical custody of the Department and placed in paid or unpaid substitute care including, but not limited to, children in foster or relative placements, group homes, permanent foster care, emergency shelters, residential facilities, non-finalized adoptive placements, subsidized independent living, accredited psychiatric facilities, SAIP, and SCIP. Children's permanency hearings continue regardless of whether the *placement* is licensed or certified or, the *child* is on runaway status, or the *child* is returned to a parental home on the basis of a trial home visit.

- (2) Be conducted by a juvenile court, another court of competent jurisdiction, or by an authorized tribal court; and
- (3) Determine the *permanency plan* for the *child* that includes whether, and if applicable, when the *child* will:
 - (a) Be returned to the *parent*;
 - (b) Be placed for adoption and the Department shall file a petition to terminate the parental rights of the *parent(s)* to a *child* in Department custody;
 - (c) Be referred to legal guardianship; or
 - (d) Be placed in another planned permanent living arrangement. If the Department has determined that is not in the best interest of the *child* to file a petition for termination of parental rights, the *case plan* must also contain documentation for review by the court that:
 - (A) The *child* is being cared for by a relative and that *placement* is intended to be permanent; or
 - (B) There is a compelling reason that filing such a petition would not be in the best interests of the *child*. Such compelling reasons include, but are not limited to:
 - (i) The *parent* is successfully participating in services that will make it possible for the *child* to safely return home within a reasonable time;
 - (ii) Another permanent plan is better suited to meet the health and safety needs of the *child*;
 - (iii) The court or local *CRB* in a prior hearing or review determined that while the *case plan* was to reunify the family the Department did not make reasonable efforts or, if the Indian Child Welfare Act applies, active effort to make it possible for the *child* to safely return home; or
 - (iv) The Department has not provided to the family of the *child*, consistent with the time period in the *case plan*, such services as the Department deems necessary for the *child* to safely return home, if reasonable efforts to make it possible for the *child* to

safely return home are required to be made with respect to the *child*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656

413-040-0145

Court Notification of Placement Changes

(Effective 06/01/16)

- (1) The Department must notify the court when a permanent foster care *placement* disrupts so the court can take appropriate action, including scheduling a *permanency hearing*.
- (2) Unless section (3) of this rule applies, the Department must file a report with the juvenile court when the Department has removed or plans to remove a child or young adult from a foster home as defined in ORS 418.625 that is certified under ORS 418.635 and the removal is for the purpose of placing the child or young adult in a different substitute care placement if:
 - (a) The *child* or *young adult* has resided for 12 consecutive months or more in the foster home; or
 - (b) The *child* or *young adult* resides or resided in the foster home pursuant to a permanent foster care agreement.
- (3) The Department is not required to file a report under section (2) of this rule when:
 - (a) The removal of the *child* or *young adult* was made following a founded allegation of abuse or neglect by the foster care provider of the *child* or *young adult*;
 - (b) The removal was made to address an imminent threat to the health or safety of the *child* or *young adult* pending completion of an investigation of reported abuse or neglect by the foster care provider of the *child* or *young adult*;
 - (c) The Department has placed the *child* with a person who has been selected by the Department to be the adoptive parent, when the selection has become final after the expiration of any administrative or judicial review procedures under ORS chapter 183; or
 - (d) The removal was made at the request of the foster care provider.
- (4) The Department must attend a court review hearing scheduled by the court.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419B.373, 419B.376, 419B.440 – 419B.476; 419C.623 – 419C.656

413-040-0150

Participant Notification of Administrative Reviews, Permanency Hearings, and Review Hearings

(Effective 06/01/16)

- (1) The local Department office shall provide correspondence information to the local *CRB* to assure that written notice of the review is provided to the Department, any other agency directly responsible for the care or *placement* of the *child*, the parents or their attorneys, foster parents, surrogate parents, persons granted intervener status, mature children or their attorneys, court-appointed attorney or court appointed special advocate for any *child*, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that persons receiving a notice may participate in the hearing and be accompanied by a representative.
- (2) The local Department office shall provide foster parent, pre-adoptive parent, *grandparent*, or relative who is actively providing care for a *child*, notice of any court hearing concerning the *child*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656

413-040-0155

Participants in Administrative Reviews and Permanency Hearings

(Amended 08/06/17)

- (1) All legal custodians and parents must be invited and encouraged to participate in Administrative Reviews and Permanency Hearings.
- (2) Other individuals to invite are:
 - (a) Substitute care providers;
 - (b) Children, when it is determined that the child's attendance would be appropriate and the *child* wishes to attend;
 - (c) Attorneys and Court Appointed Special Advocates (CASA);

- (d) *Indian tribe* (if applicable).

Stat. Auth.: ORS 418.005

Stats. Implemented: 419A.090 – 419A.122, 419B.440 – 419B.476; ORS 419C.623 – 419C.656

413-040-0157

Documentation Requirements for Administrative Reviews and Permanency Hearings

(Adopted 05/22/03)

- (1) Required documentation supporting the administrative review includes:
 - (a) The current Substitute Care Case Plan narrative (CF 147B) of case information; and
 - (b) A signed recommendation of the findings of the *CRB* or internal review committee (to be attached to the file copy of the CF 147B in the "Narrative" section of the case record); or
 - (c) A court order with language to the effect that a *complete judicial review* was held in place of an administrative review, and the court relieves the *CRB* of its responsibility to review the case pursuant to OR 419A.
- (2) Written evidence of a *Permanency Hearing* having taken place will include:
 - (a) A written report filed by the worker in accordance with OR 419B.440 through 419B.452, and any additional information required by the court; (with court's approval, the CF 147B may be used to meet reporting requirements of OR 419B.400 through 419B.452); and
 - (b) A written court order.
- (3) Citizen Review Board Recommendations. The Department will implement recommendations of a local *CRB* as the Department deems appropriate. The Department will give written notification to the local *CRB* of any recommendations which the Department does not intend to implement. This notification will be given within 17 days of receipt of the *CRB* recommendations.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 – 419A.122, 419B.440 – 419B.476; ORS 419C.623 – 419C.656

413-040-0159

Notification and Distribution Requirements for Administrative Reviews and Permanency Hearings

(Amended 08/06/17)

- (1) Case records must contain documentation that written advance notice was provided to the persons cited in OAR 413-040-0150 inviting them to attend the Administrative Review or *Permanency Hearing*.
- (2) The Department will provide copies of the Substitute Care Case Plan narrative (CF 147B) to:
 - (a) Legal custodial and non-custodial parents;
 - (b) Parents out-of-state;
 - (c) Parents who have not had their parental rights terminated or have not signed a release and surrender agreement for adoption;
 - (d) Indian tribes (if applicable);
 - (e) Parents' and child's attorneys; and
 - (f) Court Appointed Special Advocates (CASA).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 – 419A.122; 419B.440 – 419B.476; 419C.623 – 419C.656

413-040-0170

Judicial Requirements for Voluntary Custody Agreement or Voluntary Placement Agreement

(Amended 05/22/03)

- (1) Children in out-of-home *placement* on the basis of a signed Voluntary Custody Agreement or Voluntary Placement Agreement, and Title IV-E-FC eligible must, within 180 days of *placement*, have a judicial determination by court order to the effect that such *placement* is in the best interests of the *child*. A finding of reasonable efforts is not required. The judicial determination requirement may be met without a court hearing, e.g. letter to the court which results in an *ex parte* court order. However, if a court hearing does not occur, a *CRB* review must be held and Permanency Hearings must occur as scheduled.

- (2) Children placed on the basis of a Voluntary Custody Agreement or Voluntary Placement Agreement are subject to the same Administrative Review and *Permanency Hearing* requirements as children placed on the basis of a court order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656

Interstate Compact on the Placement of Children

413-040-0200

The Interstate Compact on the Placement of Children (ICPC)

(Amended 01/01/04)

- (1) The Interstate Compact on the Placement of Children (ICPC or Compact) was adopted into law by the 1975 Oregon Legislature and is codified at ORS 417.200 to 417.260. All states are parties to the Compact as are the District of Columbia and the Virgin Islands. The protections of the Indian Child Welfare Act also apply to children who are subject to the protections of the ICPC.
- (2) Article I of the Interstate Compact on the Placement of Children and ORS 417.200 provide, in part, that it is the policy of the party states to cooperate with each other in the interstate *placement* of children to the end that:
 - (a) Each *child* requiring *placement* receives the maximum opportunity to be placed in a suitable environment with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care;
 - (b) The appropriate authorities in the state where a *child* is to be placed have full opportunity to ascertain the circumstances of the proposed *placement*, thereby promoting full compliance with applicable requirements for the protection of the *child*;
 - (c) The proper authorities of the state from which the *placement* is made are able to obtain the most complete information to evaluate a projected *placement* before it is made; and
 - (d) Appropriate jurisdictional arrangements for the care of children are promoted.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260

413-040-0205

Denial or Delay of Placement

(Adopted 01/01/04)

- (1) The Department will not delay or deny *placement* of a *child* for adoption when an *ICPC approved family* is available outside the jurisdiction of the State of Oregon.

- (2) An approved (adoptive) family (defined in OAR 413-200-0306(7)) who alleges denial of adoption approval as a result of residing outside the jurisdiction of the State of Oregon has the right to a contested case hearing as provided in ORS 183.310 to 183.550.

Stat. Auth.: 418.005

Stats. Implemented: 417.200 – 417.260

413-040-0215

Required Forms

(Amended 01/15/13)

- (1) Several Department forms are referred to by form number in these rules. The forms are available at the Department's web site except as noted. When use of a form is required by these rules, the current version of the form must be used.
- (2) To be effective, a form required by these rules must be complete.
- (3) The following forms are required to be used by these rules:
 - (a) Form CF 93, "ICPC Foster Care Statement"
 - (b) Form CF 100A, "Interstate Compact Placement Request"
 - (c) Form CF 100B, "Interstate Compact on the Placement of Children Report on Child's Placement Status"
 - (d) Form CF 246, "Genetic and Medical History of Child and Biological Family"
 - (e) Form CF 246A, "Non-State Department of Human Services Adoptions"
 - (f) Form CF 246B, "ICPC Interstate Compact Placement of Children Genetic and Medical History of Child's Biological Family"
 - (g) Form CF 307 (available from Department's FACIS system)
 - (h) Form CF 1044, "Interstate Compact Financial/Medical Plan If Child is Placed Out-of-State"
 - (i) Form CF 1297, "Department of Human Services Travel Expense Claim"
 - (j) Form CF 6723 Child Specific Case Plan

(k) Form CF 6788 Child Welfare Case Plan

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 417.200 – 417.260, 418.005

413-040-0230

Who Must Use Interstate Compact

(Amended 01/01/04)

- (1) Placements subject to the Compact. A sending agency that arranges the *placement* of a *child* that is covered by the ICPC must comply with the requirements of the ICPC. The ICPC and these rules apply when a *child* is sent to, brought to, or caused to be sent or brought to a compact state by a sending agency for *placement*. This includes, but is not limited to, the following placements:
 - (a) *Placement* with a *parent* or relative if a *parent* or relative is not making the *placement*.
 - (b) *Placement* in a foster home, adoptive home, group home, residential treatment facility, or institution.
- (2) Placements not subject to the Compact. The ICPC and these rules do not apply to:
 - (a) A *placement* of a *child* into a receiving state by a *parent*, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or *guardian* and leaving the *child* with any such relative or *guardian* in the receiving state.
 - (b) A *placement* of a *child* into a receiving state pursuant to another interstate compact to which both the state from which the *child* is sent or brought and the receiving state are party, or to another agreement between the sending and receiving states.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260

413-040-0240

Financial and Medical Responsibility of Sending Agency

(Amended 01/15/13)

- (1) The *sending agency* is responsible for the support and maintenance of the *child* during the period of the *placement*.
- (2) The *sending agency* is responsible for arranging for medical coverage for the *child* before the *child* is placed with an *ICPC approved family*.

- (3) When, subsequent to ICPC approval, the Department places a *child* out of state with a foster parent or relative caregiver, foster care payment is determined in accordance with Child Welfare Policy I-E.5.1, "Foster Care Payments for a Child or Young Adult Living with a Certified Family or Living Independently", OAR 413-090-0000 to 413-090-0050.

Stat. Auth.: ORS 409.050, 418.005, 418.647

Stats. Implemented: ORS 409.010, 417.200 – 417.260, 418.005, 418.647

413-040-0260

Penalty for Violating ICPC

(Amended 01/01/04)

- (1) A private child-caring agency that violates a provision of the ICPC or these rules may be subject to a civil penalty and its license may be subject to denial, suspension, or revocation in accordance with the Department's rules.
- (2) A person who violates the terms of the ICPC may be prosecuted criminally under ORS 417.990.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260

413-040-0265

Action on Referral from Oregon

(Amended 01/01/04)

- (1) Upon receipt of the referral from the Oregon ICPC office, the receiving state compact office will conduct a home study. The home study is completed by the receiving state's worker as required by the *AAICPC*. The home study includes a recommendation regarding *placement*.
- (2) The local field office in the receiving state sends three copies of the home study to the receiving state's compact office after completion. For ICPC purposes, the home study is valid for one year from the date on the home study. However, the receiving state's compact office may request and obtain additional information on any home study it finds to be incomplete, inaccurate or not current. The receiving state's compact office reviews the home study and approves or denies the *placement* in writing by completing and signing a form CF 100A and sending it to the Oregon ICPC office.
- (3) Upon receipt of the home study or licensing study and the signed, approved form CF 100A, the Oregon ICPC office forwards a copy of each to the sending agency in Oregon. However, the Oregon ICPC office may request and obtain additional information from the receiving state on any home study it finds to be incomplete, inaccurate or not current.

Approval for *placement* is valid for six months from the date the receiving state *compact administrator* or designee signs the form CF 100A.

- (4) After the interstate application is approved by the receiving state, the *child* may be placed. After the *child* is placed, the Oregon sending agency completes and mails three copies of the form CF 100B to the Oregon ICPC office indicating the date of *placement*.
- (5) Upon receipt of the CF 100B, the receiving state begins supervision. Supervision will include a visit to the resource home or institution in accordance with the receiving state's laws and policy. The caseworker in the receiving state prepares a progress report, as requested on the form CF 100A, and forwards the report in triplicate to the receiving state's *deputy compact administrator*. The receiving state's *deputy compact administrator* sends the report, in duplicate, to the Oregon ICPC office which in turn sends the report to the sending agency.
- (6) The receiving state supervises the case until it is closed as described in OAR 413-040-0250.
- (7) The Oregon ICPC office conducts annual case reviews on open ICPC cases.

Stat. Auth.: 418.005

Stats. Implemented: 417.200 – 417.260

413-040-0270

Preparing Referral to Send a Child Out of Oregon

(Amended 01/15/13)

- (1) A *sending agency* making an out-of-state *placement* of a *child* must comply with the ICPC and these rules (OAR 413-040-0200 to 413-040-0330).
- (2) A *sending agency*, other than the Department, that refers a *child* for an out-of-state *placement* in a child-caring agency or institution, must submit the following to the Oregon ICPC office:
 - (a) Prior to the referral:
 - (A) A complete, signed form CF 100A; and
 - (B) An acceptance letter from the facility, child-caring agency, or institution.
 - (b) After the *placement* is made, a form CF 100B.
- (3) When the Department refers a *child* for *placement* outside the State of Oregon, the following requirements must be met:

- (a) Three copies of the following must be submitted by the Department's field office to the Oregon ICPC office:
 - (A) A complete, signed form CF 100A;
 - (B) A cover letter outlining the Department's request;
 - (C) Form CF 1044;
 - (D) The court order or commitment order establishing jurisdiction over the *child*;
 - (E) The social summary on the *child* (forms CF 307 and CF 6713), the most recent court report, and, if available, a psychological evaluation of the *child* and an evaluation identifying the child's current level of functioning and special needs;
- (b) In addition to the requirements of subsection (a) of this section:
 - (A) If the case involves a request for an adoption home study, the Department's field office must submit to the Oregon ICPC office any available, current home study information that would assist with approval of the *placement* and the following:
 - (i) A termination-of-parental-rights order; or
 - (ii) A signed Release and Surrender and a Certificate of Irrevocability.
 - (B) Before a *child* in the Department's custody can be placed in an out-of-state residential treatment facility, a manager in the Department's Well Being Program authorizes the *placement* contract before the ICPC is initiated.
 - (C) If the Department is considering an out-of-state *placement* with a relative, the relative's home must meet the receiving state's certification criteria. If the *receiving state* does not require that relatives be licensed or certified, the Oregon ICPC office sends an ICPC Foster Care Statement (form CF 93) to the *receiving state* for completion.
- (4) When an intact Department foster or adoptive family is moving to another state, the Oregon ICPC office will follow regulations adopted by the *AAICPC* and assist the Department's field office staff in complying with those regulations.
- (5) The Oregon ICPC office reviews all referrals for compliance with the ICPC, the Department's administrative rules, and *AAICPC* regulations and guidelines; signs as the

Oregon *deputy compact administrator* or designee; and forwards the material to the *receiving state* compact office in duplicate.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 417.200 – 417.260, 418.005

413-040-0280

Transportation Procedures

(Amended 01/01/04)

- (1) The Department pays transportation costs related to the interstate *placement* of a *child* in the Department's custody based on need. Before the Oregon ICPC office pays for those costs, the Department's field office must evaluate all other financial resources, including those of the *child* and family.
- (2) The Department's field office may contact the Oregon ICPC office for assistance in paying transportation costs only if the field office is unable to identify other resources to pay for transportation costs.
- (3) The ICPC office may pay for:
 - (a) A one way ticket for the *child*.
 - (b) A round trip ticket for the escort. If more than one escort is needed, additional tickets may be purchased as approved by the Oregon ICPC office.
 - (c) If needed, car rental, meals, and shipment of reasonable belongings.
 - (d) Transportation per diem costs at the current contract rates.
 - (e) A one night stay if the travel requires more than 10 hours. Additional nights may be approved by the Oregon ICPC office based on the child's special needs.
 - (f) One pre-placement visit after adoption *placement* has been approved through ICPC. If the visit is to be made in-state, the Oregon ICPC office pays in-state rates only and pays one to five nights at the in-state rate. If the visit is out of state, current contract rates apply.
 - (g) Exceptions to the above travel standards may be approved by the ICPC manager.
- (4) Travel arrangements for children in the Department's custody will be made only after the ICPC authorization number is received and must be made through the authorized carrier. Expenses will be reimbursed using the form CF 1297, Travel Expenses. Receipts must be submitted for expenses other than per diem.

- (5) If a *child* in the Department's custody returns to Oregon, the Department's field office must contact the Oregon ICPC office prior to making travel arrangements.
- (6) In custody cases where children are being returned to non-offending custodial parents, the field office returns the *child* to the non-offending custodial *parent* as long as jurisdiction, including temporary custody or shelter care order, has either been dismissed or has not been established in Oregon.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260

413-040-0290

Requests for Placement in Oregon

(Amended 01/15/13)

- (1) A request for a home study and *placement* of a *child* in Oregon must be sent to the Oregon ICPC office for review. The Oregon ICPC office will forward the request to the appropriate Department's field office, tribe, court, private agency, or residential treatment center. The Department may contract with private agencies for certain relative adoptive home studies. If an out-of-state court asks a field office to complete a custody study, the field office will send the request to the Oregon ICPC office for review before taking action on the request.
- (2) The Department's local branch office, or other agency where appropriate, will conduct a home study or certification study after receiving the request from the Oregon ICPC office. In addition to the suitability of the home, factors such as need for financial assistance, special education, and availability of medical or psychological services are considered. Each home study includes a review of Child Protective Services records, LEDS checks, and fingerprint checks. For a *placement* regulated by the ICPC, the home study is valid for two years from the date on the study. However, the Oregon ICPC office may request additional information on any home study it finds to be incomplete, inaccurate, or not current.
- (3) A relative caregiver or foster-family must meet the requirements of OAR 413-200-0301 to 413-200-0396, "Standards for Certification of Foster Parents and Relative Caregivers and Approval of Potential Adoptive Resources" and a potential adoptive family must additionally meet the requirements of OAR 413-120-0190 to 413-120-0246, "Adoption Applications, Adoption Home Studies, and Standards for Adoption."
- (4) After the study is completed, the local branch office or agency must provide it to the Oregon ICPC office and must not provide the study to the party or agency that requested it. If a criminal history exception was required, a copy of the completed criminal history exception must be forwarded to the Oregon ICPC office with the completed study. The study must include a recommendation regarding *placement*.

- (5) The Oregon ICPC Deputy Administrator or designee will review the study and will either approve or not approve the *placement* based on information contained in the report and case record. The Oregon Deputy Compact Administrator or designee follows *AAICPC* regulations, opinions, positions and guidelines when making the determination.
- (6) Two copies of the study, along with two copies of the interstate application (form CF 100A), are sent by the Oregon ICPC office to the sending state's Interstate Compact Office. One signed copy of the approved form CF 100A is sent to the Oregon field office.
- (7) The Oregon ICPC office is notified of the child's *placement* into Oregon by the *sending state* by receipt of the form CF 100B. A copy of this form is sent to the supervising agency to inform it of the *placement* and to start the supervision.
- (8) Following *placement* of the *child*, supervision by the Oregon local branch office includes a monthly contact with the *child* as described in OAR 413-080-0055.
- (9) The supervising agency must submit progress reports (three copies) to the Oregon ICPC office as requested by the *sending state* on the form CF 100A.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 417.200 – 417.260, 418.005

413-040-0300

Requests That By-pass the Oregon ICPC Office

(Amended 01/15/13)

A request for a home study received by the field office directly from another *sending agency*, including a state, tribe, agency or court, must be sent to the Oregon ICPC office for review and handling. The local branch office will take no action on the request unless approval is given by the Oregon Deputy Compact Administrator or designee.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 417.200 – 417.260, 418.005

413-040-0310

Independent and Private Agency Adoptions; Documentation Required for Placement in or from Oregon

(Amended 08/06/17)

- (1) When a *child* is placed out of or into Oregon by a sending agency, including a *parent* or a private licensed agency, for purposes of adoption, the ICPC applies. Independent and private agency adoption referrals are processed as soon as practicable after receipt by the ICPC office of the complete compact placement referral.

- (2) Referrals for *placement* covered by the Compact must be sent to the Oregon ICPC office, after the birth of the *child*, containing three copies of the following:
- (a) Form CF 100A;
 - (b) Cover letter;
 - (c) Forms CF 246, 246A, and 246B;
 - (d) Medical information on the *child*;
 - (e) The consents and surrenders required by law. A mother must sign the consent and surrender after the birth of the *child*;
 - (f) An affidavit from the child's mother regarding the biological father and, if the legal father is not the biological father, regarding the legal father. The affidavit is not necessary unless the biological or the legal father has not signed a consent and surrender;
 - (g) A statement regarding the applicability of the Indian Child Welfare Act;
 - (h) If the child is an *Indian child*, the parental consents for adoption must comply with the ICWA;
 - (i) Documentation regarding all known facts about each legal or putative father. If the mother has stated that the identity or whereabouts of the father is unknown, documentation regarding what advice and information the mother was given and the reason why the father's identity or whereabouts are unknown to the mother;
 - (j) Affidavit regarding counseling;
 - (k) Affidavit regarding the Voluntary Adoption Registry;
 - (l) The completed home study;
 - (m) An update to the current home study if the completed home study is completed more than one year from the date the ICPC referral is made; and
 - (n) A legal risk statement signed by the adoptive family that acknowledges that the *child* is not legally free for adoption and that there is a risk of having the *child* removed from the home. This statement is required when one of the biological or legal parents has not signed a consent and surrender.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260

413-040-0320

Intercountry Adoptions; Applicability of ICPC

(Amended 01/01/04)

When a *child* is placed from a foreign country into a state other than Oregon by a private agency licensed in Oregon, the following requirements apply:

- (1) If the *child* enters the United States under an IR4 visa, the entity facilitating the *placement* must comply with the ICPC before the *child* enters the United States. If the *child* enters the United States under an IR3 visa, the ICPC does not apply.
- (2) If the Oregon agency takes custody of the *child* before placing the *child* outside the State of Oregon, the ICPC applies.
- (3) If the Oregon private agency does not take custody of the *child*, the *child* has been fully adopted in the other country, and the U.S. Embassy has sanctioned the adoption, the ICPC does not apply.
- (4) The Oregon private agency may be asked to assure that if the *placement* disrupts it will take custody of the *child*. This may be done through the ICPC process or by letter, depending upon the documentation requirements of the receiving state.
- (5) Oregon licensed agencies must comply with the receiving state's laws and requirements regarding an intercountry adoption.
- (6) If ICPC applies, the adoption agency submits the form CF 100B to the Oregon ICPC office to close the case after the adoption is finalized.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260

413-040-0325

Termination of Jurisdiction over Child

(Amended 08/06/17)

- (1) The sending agency retains jurisdiction over the *child* sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the *child* that it would have had if the *child* had remained in the sending agency's state until the *child*:
 - (a) Is adopted;
 - (b) Reaches the age of majority according to the law of the sending state;
 - (c) Becomes self supporting;

- (d) Is discharged with the concurrence of the appropriate authority in the receiving state; or
 - (e) Is returned to the sending state.
- (2) Interstate services are not terminated until the receiving state's compact office concurs with closure.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260, Article V

413-040-0330

Communications

(Amended 01/01/04)

In order to be effective, a communication required to be submitted to the Oregon ICPC office must be mailed or delivered to:

The Deputy Compact Administrator
Oregon Interstate Compact on the Placement of Children
Department of Human Services
500 Summer Street NE, E-70
Salem, OR 97301-1068
Telephone (503) 945-5671

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 417.200 – 417.260

HIV Testing of Children in Department Custody and HIV Confidentiality

413-040-0400

Policy

(Amended 01/07/03)

HIV testing is an intrusive medical procedure which can have serious social consequences. The Department will subject children in its custody to this procedure only if it is medically indicated. When a *child* in Department custody is tested for HIV, informed consent procedures shall be followed and the results of the test held in strictest confidence.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-040-0420

HIV Antibody Testing

(Amended 01/07/03)

- (1) For children and youth in Department custody, the HIV antibody test is to be done only to facilitate the medical care of the *child* if clinically indicated after a thorough medical evaluation by a doctor knowledgeable about HIV infections. The test is not to be used to screen individuals with *high risk behaviors* or any other groups, nor to satisfy the curiosity of Department staff or contracted providers.
- (2) Under the direction of a physician, infants born to mothers known to have engaged in *high risk behaviors* may be tested for HIV. The presence of HIV infection in an infant can be determined only after the mother's antibodies are gone from the child's bloodstream. Because maternal antibody crosses the placenta, the presence of HIV infection can only be determined after a series of tests.
- (3) Victims of sexual abuse who have been exposed to blood or semen may be tested for HIV. If the *child* can understand, informed consent procedures shall be used (I-B.5.1, 413-040-0430). A physician knowledgeable in HIV care should be consulted immediately for consideration of HIV post-exposure prophylaxis.
- (4) The Department shall not license any private child-caring agency whose admission criteria include a mandatory HIV test.

- (5) The Department shall not contract with any service provider whose admission criteria include a mandatory HIV test.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-040-0430

Informed Consent

(Amended 01/07/03)

- (1) No person shall submit the blood of an individual to an HIV test without first obtaining informed consent or ascertaining that informed consent is obtained, consistent with subsection (7) of this rule.
- (2) As legal custodian and *guardian* of the *child*, the Department may grant medical consent and authorize medical treatment. Children 13 years of age or older should be included in this planning and also consent. The Department must have a medical statement that the HIV test is necessary for care and treatment before ordering or arranging for a test. If the Department orders or arranges for an HIV test, informed consent procedures must be followed. A minor of any age may consent to a HIV test; and when the minor's consent is given, the consent of the minor's parents or guardians is not necessary for diagnosis, care or treatment. However, such consent must be informed consent.
- (3) In all cases involving a *child* old enough to give informed consent, the worker shall try to obtain the consent of the *child*. However, if the physician and Department staff believe an HIV test is necessary to provide information necessary for the care of the *child*, and that *child* objects to the test and will not consent, the following options are available:
 - (a) SDA Manager or designee after consultation with the child's physician, may consent to the test for the *child* over the child's objection (413-020-0150(c)(A)(iii)); or
 - (b) The worker may petition the court to order the *child* to be tested.
- (4) Department staff are responsible to assure that informed consent is obtained when children in Department custody are to be given an HIV test. If the medical provider does not obtain the informed consent, Department staff shall do so or arrange for it to be done prior to the test.
- (5) If a *child* is placed pursuant to a Voluntary Custody Agreement or a Voluntary Placement Agreement, the *parent* and the *child* retain the authority to consent to the test. The Department does not have the authority to consent to the test on behalf of the *parent* unless such authority is included in the express terms of the Agreement.
- (6) Providers are not authorized to consent to a child's HIV test.

- (7) Informed consent shall be obtained in the following manner, giving consideration to the child's age and ability to understand:
- (a) Provide the person for his/her retention a copy of the CF 990, HIV Test Informed Consent.
 - (b) Orally summarize for the person the substance of the statements in the CF 990 and specify alternatives to the HIV test in the particular instance, and if the test information will be disclosed to others, who those others will be.
 - (c) Explain the risks from having the HIV test. This shall include a description of Oregon law pertaining to the confidentiality of information about an individual having the test and that individual's test results; a statement that there may be circumstances under which disclosure might be permitted or required without consent; and a statement of the potential consequences in regards to insurability, employment, and social discrimination if the HIV test results become known to others.
 - (d) Inform the person that he or she has the right to request additional information from a knowledgeable person before giving consent.
 - (e) Ask the person to be tested whether he/she has any further questions, and if so, provide a full and complete opportunity to ask those questions and receive answers from a person who is sufficiently knowledgeable to give accurate and complete answers about AIDS, HIV tests and the consequences of being tested or not tested.
 - (f) Have the person sign the CF 990, HIV Test Informed Consent, after having had an opportunity to read it.
 - (g) Maintain the signed CF 990 for at least seven years in a locked file separate from the case file.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-040-0440

Counseling

(Amended 01/07/03)

A *child* being referred for HIV antibody testing must be referred for pre-and post-test *counseling*.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

413-040-0450

Confidentiality

(Amended 01/07/03)

- (1) Many Department records are exempt from disclosure and are strictly confidential under the public records exemptions or confidentiality status. All medical records are privileged information. AIDS and/or HIV test results are specifically designated highly confidential by statute (ORS 433.045) and Department Health Administrative Rule (333-012-0270(1)-(9)) and must be held in the most strictly observed confidence possible to avoid consequences of casual or inappropriate disclosure of information. Information regarding a client's HIV status is to be maintained in a locked file separate from the case.
- (2) In order to provide services to the *child* and to administer Department's child welfare services, Department staff may inform only those directly involved in case planning and who have a need to know, that a *child* or an adult who has a significant role in the child's plan, has AIDS or is HIV positive. The identification of who has a need to know in order to adequately meet the needs of the *child* shall be determined through a staffing which includes the worker, supervisor and Department central office (Personal Care Coordinator) representative, and should include input from the physician, county Health Department who ordered the test, or the HIV Program of the Department's Health Policy cluster.
- (3) For children receiving services under a Voluntary Custody Agreement (CF 1005) or a Voluntary Placement Agreement (CF 499), the responsible *parent(s)* shall always be involved in making medical decisions for the *child*, and have access to medical information.
- (4) Each person who subsequently gains access to this information must keep it in strictest confidence (ORS 433.045(3)). The worker shall advise all persons who have access to the medical information of their duty to safeguard the confidential nature of the information.
- (5) If the Department learns from any source that a *child* is HIV positive, the above procedures must be followed.
- (6) Pursuant to Health cluster Rule 333-012-0270, if the Department possesses information that an adult client or other person associated with a case is HIV positive, this does not confer the right to disclose the information, except as permitted by Oregon law.
- (7) If disclosure of HIV information is deemed necessary for planning in the context of a court hearing, the worker shall not disclose the status in open court without either the written consent of the infected persons or a court order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005