

Policy Title:	Legal Risk Placement – OAR		
Policy Number:	I-F.5 413-110-0000 thru 0060		Effective Date: 01-01-2004

Approved By: *on file*

Date Approved:

Policy

Forms, etc.

Definitions

References

Contact

History

Reference(s):

- ORS 418.270
- Child Welfare Policy I-E.1.1, Working with Relatives Towards Permanency for Children
http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-e11.pdf
- Child Welfare Policy I-F.3, Determining the Appropriateness of Adoption as a Permanency Plan
http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-f3.pdf
- Adoptions Recruitment Management System (ARMS) 3010, Legal Risk Placement Agreement

Form(s) that apply:

- None referenced.

Rules:

413-110-0000

Purpose

A child in the legal custody of the Department of Human Services (Department) for whom the Department has determined that adoption is an appropriate permanency plan and who is in the process of being freed for adoption may be placed in an approved adoptive home with the understanding that if the child becomes legally free for adoption, the child will be adopted. In the past, such a placement was described as a "foster-adopt placement" or a "potential adoptive placement." The term for such placements is now "legal risk placement" if the placement meets the requirements specified in these rules (OAR 413-110-0000 to 413-110-0060).

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

Stats. Implemented: ORS 418.005

413-110-0010

Definitions

The following definitions apply to OAR 413-110-0000 to 413-110-0060:

- (1) A "legal risk placement" is a placement that occurs when the Department believes that an adoption is in the best interests of the child; that the child is placed in an approved adoptive home; and the agency intends to approve this placement for adoption if the child becomes legally free for adoption.
- (2) "Relative" has the same meaning it does in DHS Child Welfare policy I-E.1.1, "Working with Relatives Toward Placement of Children," OAR 413-070-0069(1)(a).
Stat. Auth.: ORS 418.005 (1)(a)
Stats. Implemented: ORS 418.005

413-110-0015

Values

- (1) Any child whose parent or parents are unable to provide a safe and healthy home for the child should be assured the opportunity to become a valued and permanent member of another safe family that understands and responds to the child's needs.
- (2) Early identification and development of an alternative to placement with a parent increases the likelihood that the alternate permanency plan can be achieved in a timely manner.
Stat. Auth.: ORS 418.005 (1)(a)
Stats. Implemented: ORS 418.005

413-110-0020

Eligibility Criteria for Legal Risk Placement

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

- (1) The child is a ward of the court and is in substitute care and the Department has determined that adoption is an appropriate permanency plan for the child according to the procedures outlined in OAR 413-110-0300 to 413-110-0360, "Determining the Appropriateness of Adoption as a Permanency Plan for a Child," (DHS Child Welfare policy I-F.2).
- (2) In accordance with OAR 413-070-0060 to 413-070-0093, "Working with Relatives Toward Placement of Children" (DHS Child Welfare Policy I-E.1.1), the Department has considered all parents and relatives and has either determined none of them is a suitable permanent placement for the child or has selected one relative who meets the requirements of OAR 413-070-0060 to 413-070-0093 as the resource for a legal risk placement.
- (3) The Department's Legal Assistance Specialist has assessed the child's status and has determined that a plan to free the child for adoption is in the best interests of the child.
- (4) The Department has determined, in accordance with OAR 413-110-0300 to

413-110-0360, "Determining the Appropriateness of Adoption as a Permanency Plan for a Child" (DHS Child Welfare policy I-F.2), that adoption is an appropriate permanency plan for the child, and an approved adoptive home has been selected according to the process outlined in DHS Child Welfare policy I-G.1.5, "Adoption Placement Selection," OAR 413-120-0000 to 413-120-0080.

- (5) The Adoption Services Unit has reviewed and approved the plan.
- (6) In the case of an out-of-state placement, prior to approval and designation of the child's legal risk placement—
 - (a) The Department has notified the court and has obtained its approval of the plan to place the child out of state;
 - (b) If the out-of-state placement is **made** through a private agency, the Department has a signed contract with the placing agency in the receiving state; and
 - (c) The Department has obtained verification that the child will receive medical coverage by the receiving state.

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

Stats. Implemented: ORS 418.005

413-110-0030

Legal Risk Placement; Effective Date of Designation

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

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

Stats. Implemented: ORS 418.005

413-110-0040

Home Requirements

- (1) The home in which the legal risk placement will be made must be studied and approved as an adoptive home in accordance with OAR 413-120-0200 to 413-120-0230, "Adoption Applications" or, in the case of an out-of-state placement, with OAR 413-040-0200 to 413-040-0330, "Interstate Compact on the Placement of Children." The home must also meet the requirements of DHS Child Welfare policy II-B.1, "Safety Standards for Foster Care, Relative Care, and Adoptive Families," OAR 413-200-0301 to 413-200-0401.
- (2) Each adoptive parent considered for a legal risk placement is informed by the Department of the risk of having the child removed and must sign an agreement that provides that:
 - (a) The adoptive parent understands that the child is not legally free for adoption;

- (b) The adoptive parent understands that the Department cannot guarantee that the child will be legally free for adoption in the future;
 - (c) The adoptive parent wants to adopt the child; and
 - (d) The adoptive parent understands that the adoptive family will continue to provide temporary care for the child if adoption is not possible.
- (3) The potential adoptive parents must complete the Adoption Recruitment Management System (ARMS) form 3010, "Legal Risk Placement Agreement," acknowledging that they understand the uncertainty of the legal risk placement.
- Stat. Auth.: ORS 418.005 (1)(a)**
Stats. Implemented: ORS 418.005

413-110-0050

Effect on a Release and Surrender

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

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

413-110-0060

Termination of Legal Risk Placement Status

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

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

Contact(s):

- **Name:** CAF Reception; **Phone:** 503-945-5600

Policy History

- 12/29/95
- 07/01/01