

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES

A Statement of Need and Justification must accompany this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on

March 4, 2016 by the

Department of Human Services, Office of Self-Sufficiency Programs

461

Agency and Division

Chapter Number

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to become effective March 4, 2016 through August 30, 2016.*

**Temporary rules are effective for a maximum of 180 days including the effective date.*

Rule Caption: *Amending citizenship and alien status requirements to add an exception for children in Head Start*

AMEND: 461-120-0110

ORS 411.060, 411.816, 412.049

Stat. Auth.

None.

Other Auth.

ORS 411.060, 411.816, 412.049

Stats. Implemented

Rule Summary

OAR 461-120-0110 about citizenship and alien status requirements is being amended to include a waiver of the proof of citizenship requirements for children participating in a Head Start program.

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules must accompany this form.

Department of Human Service, Office of Self-Sufficiency Programs

461

Agency and Division

Chapter Number

In the Matter of: *Temporary amendment of OAR 461-120-0110*

Rule Caption: *Amending citizenship and alien status requirements to add an exception for children in Head Start*

Need for the Rules

OAR 461-120-0110 needs to be amended because the Department is currently out of compliance with federal law, which requires a waiver of citizenship requirements for children participating in the Head Start program. The amendments to 461-120-0110 add in a waiver of the proof of citizenship requirements for children participating in the Head Start and Early Head Start programs, which ensures that Oregon is in compliance with federal law.

Documents Relied Upon

US Department of Health and Human Services guidance issued on May 2, 2008 available at http://www.acf.hhs.gov/sites/default/files/occ/pi2008_01.pdf.

Justification of Temporary Rules

The Department finds that failure to act promptly by amending OAR 461-120-0110 will result in serious prejudice to the public interest, the Department, and Head Start participants. The Department needs to proceed by temporary rule because the public, the Department, and Head Start participants will immediately benefit because the rule will properly reflect the federal waiver of citizenship requirements for Head Start participants. Failure to immediately amend 461-120-0110 would mean the Department is out of compliance with federal law, and make the Department susceptible to losing federal funding for child care programs.

Citizenship and Alien Status Requirements

- (1) Except as provided in section (5) of this rule, in all programs except the CAWEM, ERDC, REF, and REFM programs, to be a member of a *benefit group* (see OAR 461-110-0750) an individual must meet the requirements of at least one of the following subsections:
 - (a) Be a citizen of the United States;
 - (b) Meet the alien status requirements in OAR 461-120-0125;
 - (c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or
 - (d) Be a national from American Samoa or Swains Islands.
- (2) In the CAWEM program, to be a member of the *benefit group* an individual must meet the eligibility requirements of OAR 461-135-1070.
- (3) In the ERDC program, the *need group* (see OAR 461-110-0630) and *benefit group* must include a child who meets the requirements of section (1) of this rule ~~except that:~~
 - (a) For children enrolled in programs that are subject to Head Start Performance Standards and are supported by both Head Start and CCDF funds, parents must submit verification of Head Start enrollment in lieu of other documentation; and
 - (b) For children in contracted programs, a Head Start eligibility checklist may be used as verification.
- (4) In the REF and REFM programs, to be a member of the *need group* and the *benefit group* an individual must meet the alien status requirements of OAR 461-120-0125.
- (5) In the TA-DVS and TANF programs, a victim of *domestic violence* (see OAR 461-001-0000) is not subject to section (1) of this rule when OAR 461-135-1200 applies.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231