

**NOTICE OF PROPOSED RULEMAKING FILING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT**

For internal agency use only.

Department of Human Services, Developmental Disabilities	411	
Agency and Division Name	Administrative Rules Chapter Number	
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FILING CAPTION

ODDS: Employment Services for Individuals with Intellectual or Developmental Disabilities (411-345)

Last Date and Time for Public Comment: [**September 30, 2019 at 5:00 p.m.**]

September 27, 2019	3:30 p.m.	500 Summer Street NE, Rm. 160 Salem, OR 97301 Teleconference: 1-877-848-7030, 458900#	Staff
Hearing Date	Time	Address/Teleconference	Hearings Officer

HEARING NOTES: If you wish to participate in the hearing, either by phone or in person, please call or be signed in no later than 15 minutes after the hearing start time.

RULEMAKING ACTION

List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.

AMEND:

**411-345-0010, 411-345-0020, 411-345-0030, 411-345-0035, 411-345-0090,
411-345-0130, 411-345-0140, 411-345-0145, 411-345-0160, 411-345-0170**

RULE SUMMARY

Include a summary for each rule included in this filing.

The Department of Human Services, Office of Developmental Disabilities Services (ODDS) is proposing to amend rules in OAR chapter 411, division 345 about employment services to reflect changes relating to:

- Abuse and incident reporting to implement the Centralized Abuse Management (CAM) system;
- Employment service requirements;
- Employment provider qualifications and training requirements;
- Staffing requirements;
- Variances and administrative reviews for agency service providers;
- Complaints, notification of planned action, and hearings;
- Exit and transfer requirements for a provider agency;
- Entry requirements for a provider agency; and
- Individual Support Plans and Career Development Plans.

Implementation of the proposed rule changes relating to abuse and incident reporting is contingent on the approval of the Centers for Medicare and Medicaid Services of the 1915(c) Home and Community-Based Services waivers.

OAR 411-345-0010 about the Statement of Purpose is being amended to make a small grammatical change.

OAR 411-345-0020 about Definitions and Acronyms is being amended to define "General Community Employer".

OAR 411-345-0030 about Employment Provider Qualifications and Training Requirements is being amended to clarify employment professionals must complete an ODDS-approved training for discovery prior to delivering discovery services.

OAR 411-345-0035 about Standards for Provider Agencies Delivering Employment Services is being amended to:

- Refer to the abuse and incident handling and reporting procedures codified in OAR 411-323-0063.
- Update staffing requirements.

OAR 411-345-0090 about Variances for Agency Service Providers is being amended to refer to the Department (ODDS).

OAR 411-345-0130 about Complaints, Notification of Planned Action, and Hearings is being amended to clarify requirements related to notification of planned action and hearings.

OAR 411-345-0140 about Exit and Transfer Requirements for a Provider Agency is being amended to update the requirements for involuntary reductions, transfers, and exits.

OAR 411-345-0145 about Entry Requirements for a Provider Agency is being amended to:

- Update the information required prior to the delivery of employment services.
- Codify requirements for distribution of the written strategies for service implementation and risk mitigation strategies or protocols.

OAR 411-345-0160 about Individual Support Plan (ISP) and Career Development Planning is being amended to:

- Clarify the actions of a provider agency in annual ISP meetings.
- Codify requirements for distribution of the written strategies for service implementation and risk mitigation strategies or protocols.

OAR 411-345-0170 about Behavior Supports and Physical Restraints is being amended to remove reference to the incident reporting process because the language is codified in OARs 411-323-0063 and 411-345-0035.

Other changes may be made to these rules to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and improve the accuracy, structure, and clarity of the rules.

STATEMENT OF NEED

ODDS needs to amend rules in OAR chapter 411, division 345 about employment services to reflect changes relating to:

- Abuse and incident reporting to implement CAM;
- Employment service requirements;
- Employment provider qualifications and training requirements;
- Staffing requirements;
- Variances and administrative reviews for agency service providers;
- Complaints, notification of planned action, and hearings;
- Exit and transfer requirements for a provider agency;
- Entry requirements for a provider agency; and
- Individual Support Plans and Career Development Plans.

Implementation of the proposed rule changes relating to abuse and incident reporting is contingent on the approval of the Centers for Medicare and Medicaid Services of the 1915(c) Home and Community-Based Services waivers.

Other changes may be made to these rules to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and improve the accuracy, structure, and clarity of the rules.

FISCAL IMPACT

Fiscal and Economic Impact:

The fiscal and economic impact is stated below in the cost of compliance statement. The fiscal and economic impact was evaluated as part of the Administrative Rules Advisory Committee process which engaged community members representing an array of roles in the developmental disabilities services field.

Cost of Compliance:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

Employment Services

ODDS has identified the following fiscal and economic impact relating to the rule changes specific to employment services:

- ODDS - ODDS anticipates there may be an increase in employment related complaints as a result of rule changes. If there is an increase in complaints, it will be absorbed within existing staffing. Additionally, the number of hearings may go down if issues are resolved as a complaint instead of through the hearing process.
- Other State Agencies - No fiscal impact is expected. Rule changes are limited to ODDS and ODDS providers and partners.
- Case Management Entities (units of local government) - No fiscal impact is expected. Rule changes predominantly reflect current practice.
- Individuals Receiving Services - No fiscal impact is expected. Rule changes predominantly reflect current practice.
- Members of the Public - No fiscal impact is expected. Rule changes are limited to ODDS and ODDS providers and partners.
- Providers - No fiscal impact is expected. Rule changes predominantly reflect current practice.

CAM/Incident Reporting

ODDS has identified the following fiscal and economic impact relating to CAM and incident reporting:

- ODDS - No fiscal impact is expected. Business process changes may result from implementation of the CAM system but will not be outside of the normal course of operations. ODDS will be engaged with training activities for all provider types, including case management entities, on the implementation of the new system, but this is also within the normal scope of ODDS' activities.
- Other State Agencies - No fiscal impact is expected. The new CAM system and rule changes are limited to ODDS and ODDS providers and partners.
- Case Management Entities (units of local government) - Serious incident and abuse management related activities have been accounted for in the Workload Model developed for case management entities. The Workload Model will be

revisited on a regular basis to determine which measurements have been impacted by these changes. Until the Workload Model is revisited, ODDS is unable to estimate the overall impact of the rule changes.

- Individuals Receiving Services - No fiscal impact is expected. These rule changes impact the administration of the program and will not have any direct impact on individuals in service.
- Members of the Public - No fiscal impact is expected. These changes are limited to ODDS and ODDS providers and partners.
- Providers - Providers will be impacted due to the need to update policies and procedures. Another potential impact could result from the need to train employees around the new requirements, however the pre-existing requirement for 12 hours of annual training may absorb some or all of the training required for the new requirements. ODDS is unable to determine the extent of this impact, if any. A new requirement to document medication errors on a written incident report will likely cause an increased workload, however ODDS does not have data showing the frequency of medication errors nor the difference in time between the current process of documenting medication errors and the new process.

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

ODDS has determined the proposed rule changes may impact providers as described in the cost of compliance statement. There are currently 142 employment agencies. Some providers may meet the definition of a small business as defined in ORS 183.310.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

The impact of the proposed rule changes is described in the cost of compliance statement.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The impact of the proposed rule changes is described in the cost of compliance statement.

Describe how small businesses were involved in the development of these rule(s)?

Small businesses as defined in ORS 183.310 were invited to participate in the Administrative Rule Advisory Committees. Small business are also included in the public review and comment period.

Documents Relied Upon, and where they are available:

None.

Was an Administrative Rule Advisory Committee consulted? Yes or No?

If not, why not?

Yes. Solicitation for Administrative Rule Advisory Committee (RAC) participants was posted on the ODDS Engagement and Innovation website.

The RACs to review the proposed rule changes relating to:

- Employment services took place on May 28.
 - CAM and incident reporting took place on May 29 and June 13.
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**DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 345**

**EMPLOYMENT SERVICES FOR INDIVIDUALS WITH INTELLECTUAL
OR DEVELOPMENTAL DISABILITIES**

411-345-0010 Statement of Purpose

The purposes of the rules in OAR chapter 411, division 345 are to:

(1) Effectuate Oregon's Employment First policy, as described in the State of Oregon Executive Order No. 15-01 and OAR chapter 407, division 025, under which:

(a) The employment of individuals with intellectual or developmental disabilities in competitive integrated employment is the highest priority over unemployment, segregated employment, or other non-work day activities.

(b) For individuals who successfully achieve the goal of competitive integrated employment, future person-centered service planning focuses on maintaining employment, maximizing the number of hours an individual works, using the standard of obtaining at least 20 hours of-per week of work, consistent with the individual's preferences and interests, and considering additional career or advancement opportunities.

(c) Employment services are considered and provided on an individualized basis using a person-centered approach based on informed choice and consistent with the philosophy of self-determination.

(2) Prescribe service standards and requirements for providers of home and community-based services in settings where employment services are delivered. These rules incorporate the provisions for home and community-

based services and settings and person-centered service planning set forth in OAR chapter 411, division 004 to ensure individuals with intellectual or developmental disabilities receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(3) Prescribe the standards and procedures by which the Department endorses a provider agency to deliver employment services.

(4) Prescribe service eligibility requirements for individuals with intellectual or developmental disabilities to receive employment services.

Stat. Auth.: ORS 409.050, 427.007, 427.104, ~~430.662~~

Stats. Implemented: ORS 427.007, 427.104, 427.154, ~~430.610, 430.662, 430.670~~

411-345-0020 Definitions and Acronyms

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 345. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "Benefits Counseling" means the benefits supports, training, and planning delivered as an activity of employment path services.

(2) "CDDP" means "Community Developmental Disabilities Program".

(3) "Competitive Integrated Employment" means work that is performed on a full-time or part-time basis (including self-employment):

(a) For which an individual:

(A) Is compensated at a rate that:

(i) Is not less than the higher of the rate specified in federal, state, or local minimum wage law, and also is not less than the customary rate paid by the employer for the same or similar work performed by other employees who

are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(ii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(B) Is eligible for the level of benefits provided to other employees.

(b) That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(4) "Customized Employment" means competitive integrated employment for an individual with a disability that is based on an individualized determination of the strengths, needs, and interests of the individual, is designed to meet the specific abilities of the individual, and the business needs of the employer.

(5) "Discovery" is a time-limited comprehensive, person-centered, and community-based employment planning support service to better inform an individual seeking an individualized job in a competitive integrated employment setting and to create a Discovery Profile. Discovery includes a series of work or volunteer related activities to inform the individual and the job developer about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as identify the conditions and employment settings in which the individual will be successful. Discovery is

also an opportunity for the individual to begin active pursuit of competitive integrated employment.

(6) "Discovery Profile" is a comprehensive and person-centered report produced as an outcome of discovery, representing an individual, and providing information to better inform employment service planning and job development activities. The Discovery Profile includes information about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as information about conditions and employment settings for the success of the individual.

(7) "Employment Path Services" means services to provide learning and work experiences, including volunteer opportunities, for an individual to develop general, non-job-task-specific, strengths and skills that contribute to employability in an individual job in a competitive integrated employment setting in the general workforce. Employment path services may also include individualized benefits counseling.

(8) "Employment Professional" means an employee of a provider agency or an independent provider who has the qualifications and training to provide employment services under these rules.

(9) "Endorsement" means the authorization to provide program services issued by the Department to a certified provider agency that has met the qualification criteria outlined in these rules, the corresponding program rules, and the rules in OAR chapter 411, division 323.

(10) "Evidence-Based Practices" means well-defined best practices, which have been demonstrated to be effective by multiple peer-reviewed research studies specific to the relevant population or subset of that population.

(11) "Executive Director" means the person designated by a board of directors or corporate owner of a provider agency responsible for the administration of agency provided employment services.

(12) "General Community Employer" means a typical community setting that employs a workforce that is reflective of the general population and is not a setting designed to hire or provide services for individuals with disabilities.

(~~42~~13) "Individual Employment Support" means job coaching or job development services to obtain, maintain, or advance in an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(~~43~~14) "ISP" means "Individual Support Plan".

(~~44~~15) "Job Coaching" means support for an individual to maintain or advance in an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(~~45~~16) "Job Development" means support for an individual to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment.

(~~46~~17) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(~~47~~18) "PRN" means the administration of medication to an individual on an 'as needed' basis (pro re nata).

(~~48~~19) "Small Group Employment Support" means services and training activities provided in regular business, industry, and community settings for groups of two to eight individuals with disabilities. Small group employment support is provided in a manner that promotes integration into the workplace and interaction between participants and people without disabilities in those workplaces.

(~~49~~20) "These Rules" mean the rules in OAR chapter 411, division 345.

(~~20~~21) "Vocational Assessment" means an assessment administered to provide employment related information essential to the development of, or revision of, the employment related planning documents for an individual.

Stat. Auth.: ORS 409.050, 427.007, 427.104

Stats. Implemented: ORS 427.007, 427.104, 427.154

411-345-0030 Employment Provider Qualifications and Training

Requirements

(1) EMPLOYMENT PROVIDER TYPES. A qualified provider of employment services must be one of the following:

(a) A provider agency certified and endorsed under OAR chapter 411, division 323.

(b) A provider agency certified under OAR 411-340-0170 prior to January 1, 2016. A provider agency certified under OAR 411-340-0170 prior to January 1, 2016 must be certified and endorsed under OAR chapter 411, division 323 upon re-certification but also no later than January 1, 2021.

(c) A qualified independent provider.

(A) An independent provider who is employed by an individual may only provide job coaching.

(B) An independent provider who is an independent contractor may only provide job development and discovery.

(2) EMPLOYMENT PROVIDER REQUIREMENTS.

(a) A provider agency or independent provider of employment services must:

(A) Complete the provider enrollment requirements in accordance with OAR chapter 411, division 370.

(B) Obtain a Medicaid Performing Provider Number in accordance with OAR chapter 411, division 370.

(C) Have a job description or Service Agreement with clearly stated job responsibilities, service requirements, service outcomes, and duties specific to the provider's area of specialization. The job description or Service Agreement must be current, signed, and dated by the provider.

(b) CREDENTIALING.

(A) A provider agency must have at least one employee in a supervisory position who has Department-approved credentialing.

(B) An independent provider who is an independent contractor must have Department-approved credentialing.

(3) JOB DEVELOPMENT. A provider of job development must be qualified as a vendor through Vocational Rehabilitation and hold a current contract for Vocational Rehabilitation job placement services.

(4) DISCOVERY. A provider of discovery must be qualified as a vendor through Vocational Rehabilitation and hold a current contract for Vocational Rehabilitation job placement services.

(5) BENEFITS COUNSELING.

(a) An employment professional delivering benefits counseling as part of employment path services must meet the following requirements:

(A) Be employed by a provider agency certified and endorsed to deliver employment services.

(B) Be certified as a benefits counselor by completing a Department-approved certification program and completing the annual training required to maintain certification.

(C) Complete the Department-approved online core competencies for supported employment professionals within one year of employment.

(b) Documentation of certification and training must be maintained in the benefit counselor's personnel file. The case manager must verify the benefits counselor has a Department-approved certification.

(6) EMPLOYMENT PROFESSIONALS.

(a) An employment professional must possess and demonstrate all of the following qualifications:

(A) Knowledge of developmental disabilities services.

(B) Knowledge of best practice methodologies regarding employment services.

(C) Knowledge of the rules governing employment services.

(D) Ability to provide services designed to support successful employment outcomes consistent with individualized career goals, including goals identified in an individual's ISP and Career Development Plan.

(E) Ability to support individuals to maintain and be successful in employment.

(F) Demonstrate by background, education, references, skills, and abilities, the employment professional is capable of safely and adequately performing the tasks to support an individual's Service Agreement or ISP and Career Development Plan including, but not limited to, all of the following:

(i) Ability and sufficient education to follow oral and written instructions and keep any records required.

(ii) Responsibility, maturity, and reputable character exercising sound judgment.

(iii) Ability to communicate with the individual.

(iv) Training of a nature and type sufficient to ensure the employment professional has knowledge of emergency procedures specific to the individual receiving services.

(b) An employment professional must self-report any potentially disqualifying crimes under OAR 125-007-0270 and potentially disqualifying conditions under OAR 407-007-0290 to the Department,

or the designee of the Department, within 24 hours.

(c) SUPPORTED EMPLOYMENT TRAINING.

(A) An employment professional must complete the following supported employment training:

(i) At least one Department-approved competency-based supported employment training:

(I) Within 90 calendar days from the date of employment (for benefits counselors, this requirement is satisfied through the credentialing);
or

(II) For independent providers, before enrollment.

(ii) The Department-approved online core competencies for supported employment professionals:

(I) Within one year from the date of employment; or

(II) For independent providers, before enrollment.

(iii) Twelve hours of Department-approved supported employment training on an annual basis based on the employment professional's hire or enrollment date.

(iv) Employment professionals must complete a Department-approved training for Discovery prior to delivering Discovery services.

(B) Documentation showing an employment professional has completed the training requirements must be maintained in the employment professional's personnel file and provided to an individual's case manager at, or prior to, the individual's annual ISP meeting.

Stat. Auth.: ORS 409.050, 427.007, 427.104

Stats. Implemented: ORS 427.007, 427.104, 427.154

411-345-0035 Standards for Provider Agencies Delivering Employment Services

(1) INSPECTIONS AND INVESTIGATIONS. A provider agency must allow inspections and investigations in accordance with OAR 411-323-0040.

(2) MANAGEMENT AND PERSONNEL PRACTICES. A provider agency must comply with the management and personnel practices described in OAR 411-323-0050.

(3) PERSONNEL FILES AND QUALIFICATION RECORDS. A provider agency must maintain written documentation of six hours of pre-service training prior to staff supervising individuals that includes mandatory abuse reporting, ISPs, and Service Agreements.

(4) CONFIDENTIALITY OF RECORDS. A provider agency must ensure the confidentiality of individuals' records in accordance with OAR 411-323-0060.

(5) ABUSE AND INCIDENT HANDLING AND REPORTING. Complaints of abuse and the occurrence of serious incidents must be treated as described in OAR 411-323-0063.

(5) IMMEDIATE NOTIFICATION.

~~(a) ABUSE. If an incident falls within the scope of abuse as defined in OAR 411-317-0000, a provider agency must immediately notify an individual's case management entity. In addition to immediately notifying the case management entity, the provider agency must also immediately notify the following:~~

~~(A) Local law enforcement if there is reason to suspect a crime has occurred.~~

~~(B) Child Welfare if the allegation of abuse involves a child under the age of 18 years.~~

~~(b) SERIOUS ILLNESS, INJURY, ACCIDENT, DEATH. In the case of a serious illness, injury, accident, or death of an individual, a provider agency must immediately notify all of the following (as applicable):~~

~~(A) The individual's legal or designated representative, parent, next of kin, and designated contact person.~~

~~(B) The individual's case management entity.~~

~~(C) Any other agency responsible for, or delivering services to, the individual.~~

~~(c) ABSENCE. In the case where an individual is missing without support, beyond the time frame anticipated or expected by the provider or ISP team, then a provider agency must immediately notify all of the following (as applicable):~~

~~(A) The individual's legal or designated representative and nearest responsible relative.~~

~~(B) The local police department.~~

~~(C) The individual's case management entity.~~

~~(6) INCIDENT REPORTING.~~

~~(a) TYPES OF INCIDENTS. A provider agency must complete an incident report for all of the following:~~

~~(A) Any allegation of abuse as defined in OAR 411-317-0000.~~

~~(B) Death or serious illness, injury, or accident, requiring inpatient or emergency hospitalization.~~

~~(C) An individual is missing and without support beyond the time frames anticipated or expected by the provider or ISP team.~~

~~(D) Use of an emergency physical restraint.~~

~~(E) Use of a safeguarding intervention or safeguarding equipment.~~

~~(F) Unusual incident as defined in OAR 411-317-0000.~~

~~(b) INCIDENT REPORT REQUIREMENTS. An incident report must include all of the following information:~~

~~(A) Name of the individual who is the subject of the incident.~~

~~(B) Date, time, duration, type, and location of the incident.~~

~~(C) Conditions prior to, or leading to, the incident.~~

~~(D) Detailed description of the incident, including staff response.~~

~~(E) Description of injury, if injury occurred.~~

~~(F) Name of staff, including their position title, and witnesses to the incident.~~

~~(G) Follow-up to be taken to prevent a recurrence of the incident. The use of any emergency physical restraint must be reviewed by an agency's executive director, or as applicable their designee, within two hours of application.~~

~~(c) INCIDENT REPORTING TIMELINES.~~

~~(A) A provider agency must place an incident report in the individual's record and provide a copy to the individual's case manager, and as applicable their legal representative, in accordance with the following timelines:~~

~~(i) ABUSE. An incident report documenting abuse must be provided within five business days from the date of the incident.~~

~~(ii) DEATH, SERIOUS ILLNESS, INJURY, OR ACCIDENT. An incident report documenting a death or a serious illness, injury, or accident, must be provided within five business days from the date of the incident.~~

~~(iii) UNAUTHORIZED ABSENCE. An incident report documenting an individual's unauthorized absence must be provided within five business days from the date of the incident.~~

~~(iv) EMERGENCY PHYSICAL RESTRAINT. An incident report documenting the use of an emergency physical restraint must be provided within one business day from the date of the incident.~~

~~(v) SAFEGUARDING INTERVENTION AND SAFEGUARDING EQUIPMENT.~~

~~(I) TEMPORARY EMERGENCY SAFETY PLANS. If an individual has a Temporary Emergency Safety Plan, an incident report documenting the use of an emergency crisis strategy or physical restraint must be completed in accordance with the requirements outlined in the individual's Temporary Emergency Safety Plan.~~

~~(II) INJURY. An incident report documenting the use of a safeguarding intervention or safeguarding equipment, resulting in an injury, must be provided within one business day from the date of the incident.~~

~~(III) NO INJURY. An incident report documenting the use of a safeguarding intervention or safeguarding equipment, not resulting in an injury, must be provided within five business days from the date of the incident.~~

~~(vi) UNUSUAL INCIDENT. An incident report~~

~~documenting an unusual incident must be provided within five business days.~~

~~(B) An individual's case manager or a Department designee (when applicable) must receive complete copies of all incident reports.~~

~~(C) A copy of an incident report provided to an individual's legal representative or other service providers must have confidential information about other individuals removed or redacted as required by federal and state privacy laws.~~

~~(D) A copy of an incident report may not be provided to an individual's legal representative when the report is part of an abuse investigation.~~

(76) SERVICE RECORD. A provider agency must maintain a current service record for each individual receiving services. The individual's service record must include all of the following:

(a) The individual's name, current home address, and home phone number.

(b) The individual's Career Development Plan as well as the current ISP or written Service Agreement.

(c) Contact information for the individual's legal or designated representative (as applicable) and any other people designated by the individual to be contacted in case of incident or emergency.

(d) Contact information for the case management entity assisting the individual to obtain services.

(e) Records of service provided, including type of services, dates, hours, and staff involved.

(f) Records describing medication taken by the individual that emergency medical personnel must be aware of in the event of an emergency.

(87) EMERGENCY PLANS AND INFORMATION. A provider agency that owns or leases a site and regularly has individuals present and receiving services at the site must meet all of the following minimum requirements:

(a) A written emergency plan must be developed and implemented and must include instructions for staff and volunteers in the event of fire, explosion, accident, or other emergency, including evacuation of individuals receiving services.

(b) Posting of emergency information:

(A) The telephone numbers of the local fire, police department, and ambulance service, or "911" must be posted by designated telephones.

(B) The telephone numbers of the agency director and other people to be contacted in case of emergency must be posted by designated telephones.

(c) A documented safety review must be conducted quarterly to ensure the service site is free of hazards. Safety review reports must be kept in a central location by a provider agency for three years.

(d) When an individual begins receiving services at a provider owned or controlled service site, a provider agency must deliver training to the individual to leave the site in response to an alarm or other emergency signal and to cooperate with assistance to exit the site.

(e) A provider agency must conduct an unannounced evacuation drill each quarter when individuals are present.

(A) Exit routes must vary based on the location of a simulated fire.

(B) Any individual failing to evacuate the service site unassisted within the established time limits set by the local fire authority for the site must be provided specialized training or support in

evacuation procedures.

(C) Written documentation must be made at the time of the drill and kept by the provider agency for at least two years following the drill. The written documentation must include all of the following:

(i) The date and time of the drill.

(ii) The location of the simulated fire.

(iii) The last names of all individuals and staff present at the time of the drill.

(iv) The amount of time required by each individual to evacuate if the individual needs more than the established time limit.

(v) The signature of the staff conducting the drill.

(f) In sites delivering services to individuals who are medically fragile or have severe physical limitations, requirements of evacuation drill conduct may be modified. The modified plan must:

(A) Be developed with the local fire authority, the individual or the individual's legal or designated representative (as applicable), and the provider agency's director; and

(B) Be submitted as a variance request according to OAR 411-345-0090.

(g) A provider agency must provide necessary adaptations to ensure fire safety for sensory and physically impaired individuals.

(98) HEALTH AND SAFETY INSPECTIONS. At least once every five years, a provider agency must conduct a health and safety inspection for all provider owned or controlled settings where services are delivered.

(a) The inspection must cover all areas and buildings where services are delivered to individuals, including administrative offices and storage areas.

(b) The inspection must be performed by:

(A) The Oregon Occupational Safety and Health Division;

(B) A provider agency's worker's compensation insurance carrier;

(C) An appropriate expert, such as a licensed safety engineer or consultant as approved by the Department; or

(D) The Oregon Health Authority, Public Health Division, when necessary.

(c) The inspection must cover all of the following:

(A) Hazardous material handling and storage.

(B) Machinery and equipment used at the service site.

(C) Safety equipment.

(D) Physical environment.

(E) Food handling, when necessary.

(d) The documented results of the inspection, including recommended modifications or changes and documentation of any resulting action taken, must be kept by the provider agency for five years.

(109) FIRE AND LIFE SAFETY INSPECTIONS. ~~(a)~~ A provider agency must ensure each provider owned, operated, or controlled service site has received initial fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or

changes and documentation of any resulting action taken, must be kept by the provider agency for five years.

(10) STAFFING

(a) Direct service staff must be present in sufficient number to meet health, safety, and service needs specified in the ~~individual written agreements of~~ ISPs or Service Agreements for the individuals present.

(b) Direct service staff must be provided to meet staffing requirements specified in the ISPs or Service Agreements for the individuals present.

(c) Employment Path and Small Group Services may not be delivered at the same time to more than eight individuals per employment professional or direct service staff.

(d) Job Coaching and Discovery are a one-to-one service and may not be delivered in groups.

(e) When individuals are present, at least one staff member on duty must have the following minimum skills and training:

(A) CPR certification.

(B) Current First Aid certification.

(C) Training to meet other specific medical needs identified in individual ISPs or Service Agreements.

(D) Training to meet other specific behavior support needs identified in individual ISPs or Service Agreements.

(11) HEALTH AND MEDICAL NEEDS. A provider agency delivering services to individuals that involve assistance with meeting health and medical needs must:

(a) Develop and implement written policies and procedures addressing all of the following:

(A) Emergency medical intervention.

(B) Treatment and documentation of illness and health care concerns.

(C) Administering, storing, and disposing of prescription and non-prescription drugs, including self-administration.

(D) Emergency medical procedures, including the handling of bodily fluids.

(E) Confidentiality of medical records.

(b) Maintain a current written record for each individual receiving assistance with meeting health and medical needs that includes all of the following:

(A) Health status as known.

(B) Changes in health status observed during hours of service.

(C) Any remedial and corrective action required and when such actions were taken if occurring during hours of service.

(D) A description of any known restrictions on activities due to medical limitations.

(c) If providing medication administration when an individual is unable to self-administer medications and there is no other responsible person present who may lawfully direct administration of medications, the agency must:

(A) Have a written order or copy of the current written order, signed by a physician or physician designee, before any medication, prescription or non-prescription, is administered;

- (B) Administer medications per written orders;
- (C) Administer medications from containers labeled as specified per physician written order;
- (D) Keep medications secure and unavailable to any other individual and stored as prescribed;
- (E) Record administration on an individualized Medication Administration Record (MAR), including treatments and PRN, or "as needed", orders;
- (F) Not administer unused, discontinued, outdated, or recalled drugs; and
- (G) Not administer PRN psychotropic medication. PRN orders may not be accepted for psychotropic medication.

(d) Maintain a MAR (if required). The MAR must include all of the following:

- (A) The name of the individual.
- (B) The brand name or generic name of the medication, including the prescribed dosage and frequency of administration as contained on physician order and medication.
- (C) Times and dates the administration or self-administration of the medication occurs.
- (D) The signature of the staff administering the medication or monitoring the self-administration of the medication.
- (E) Method of administration.
- (F) Documentation of any known allergies or adverse reactions to a medication.

(G) Documentation and an explanation of why a PRN, or "as needed", medication was administered and the results of such administration.

(H) An explanation of any medication administration irregularity with documentation of a review by the provider agency's executive director or their designee.

(e) Provide safeguards to prevent adverse medication reactions including, but not limited to, all of the following:

(A) Maintaining information about the effects and side-effects of medications the provider agency has agreed to administer.

(B) Communicating any concerns regarding any medication usage, effectiveness, or effects to the individual or the individual's legal or designated representative (as applicable).

(C) Prohibiting the use of one individual's medications by another individual or person.

(12) TRANSPORTATION. A provider agency that owns or operates vehicles that transport individuals must:

(a) Maintain the vehicles in safe operating condition;

(b) Comply with the laws of the Department of Motor Vehicles;

(c) Maintain insurance coverage on the vehicles and all authorized drivers;

(d) Carry a first aid kit in each vehicle; and

(e) Assign drivers who meet the applicable requirements of the Department of Motor Vehicles to operate vehicles that transport individuals.

(13) MANAGEMENT OF FUNDS. If assisting with management of funds, a provider agency must have and implement written policies and procedures

related to the oversight of the individual's financial resources that includes the following:

(a) Procedures that prohibit inappropriately expending an individual's personal funds, theft of an individual's personal funds, using an individual's funds for staff's own benefit, commingling an individual's personal funds with the provider agency's or another individual's funds, or the provider agency becoming an individual's legal or designated representative.

(b) The provider agency's reimbursement to an individual of any funds that are missing due to theft or mismanagement on the part of any staff of the provider agency, or of any funds within the custody of the provider agency that are missing. Such reimbursement must be made within 10 business days of the verification that funds are missing.

(14) PROFESSIONAL BEHAVIOR SERVICES. A provider agency must have and implement written policies and procedures to assure professional behavior services are delivered by a qualified behavior professional in accordance with OAR chapter 411, division 304.

(15) BEHAVIOR SUPPORTS. Behavior supports must be provided in accordance with OAR 411-345-0170.

Stat. Auth.: ORS 409.050, 427.007, [427.104](#)

Stats. Implemented: ORS 427.007, 427.104, 427.154

411-345-0090 Variances for Agency Service Providers

(1) The Department may grant a variance to these rules based upon a demonstration by the agency service provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, safety, or rights of individuals or violate state or federal laws.

(2) The agency service provider requesting a variance must submit a written application to the CDDP [or the Department](#) that contains the following:

- (a) The section of the rule from which the variance is sought;
- (b) The reason for the proposed variance;
- (c) The alternative practice, service, method, concept, or procedure proposed; and
- (d) If the variance applies to the services of an individual, evidence that the variance is consistent with the currently authorized ISP for the individual.

(3) The CDDP must forward the signed variance request form to the Department within 30 calendar days from the receipt of the request indicating the position of the CDDP on the proposed variance.

(4) The request for a variance is approved or denied by the Department. The decision of the Department is sent to the agency service provider, the CDDP, and to all relevant Department programs or offices within 30 calendar days from the receipt of the variance request.

(5) The agency service provider may request an administrative review of the denial of a variance. The Department must receive a written request for an administrative review within 10 business days from the receipt of the denial. The agency service provider must send a copy of the written request for an administrative review to the CDDP or the Department. The decision of the Director is the final response from the Department.

(6) The duration of the variance is determined by the Department.

(7) The agency service provider may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 409.050, 427.007, 427.104 ~~430.662~~

Stats. Implemented: ORS 427.007, 427.104, 427.154 ~~430.610, 430.662, 430.670~~

411-345-0130 Complaints, Notification of Planned Action, and Hearings

(1) INDIVIDUAL COMPLAINTS.

(a) A provider agency must have and implement written policies and procedures for individual complaints in accordance with OAR 411-318-0015.

(b) Individual complaints by, or on behalf of, an individual must be addressed in accordance with OAR 411-318-0015.

(c) Within 30 calendar days of beginning employment services with a new provider, upon request, and annually thereafter, the policy and procedures for complaints must be explained and provided to an individual and their legal or designated representative (as applicable).

(2) NOTIFICATION OF PLANNED ACTION. In the event a developmental disability-disabilities service is denied, reduced, suspended, or terminated or voluntarily reduced, suspended, or terminated, either by the Department or a case management entity, a written advance Notification of Planned Action (form SDS-0947) must be provided as described in OAR 411-318-0020.

(3) HEARINGS.

(a) An individual may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025 for if the Department or a case management entity issues a denial, reduction, suspension, or termination of a developmental disability-disabilities service, then an individual may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025.

(b) Hearings must be addressed in accordance with ORS chapter 183 and OAR 411-318-0025.

Stat. Auth.: ORS 409.050, 427.007, 427.104, ~~430.662~~

Stats. Implemented: ORS 427.007, 427.104, 427.154, 430.610, 430.662, 430.670

411-345-0140 Exit and Transfer Requirements for a Provider Agency

(1) VOLUNTARY TRANSFERS AND EXITS.

(a) A provider agency must promptly notify an individual's case manager if the individual gives notice of the intent to exit services or abruptly exits services.

(b) A provider agency must notify an individual's case manager prior to the voluntary transfer or exit of an individual from services.

(c) Notification and authorization of an individual's voluntary transfer or exit must be documented in the individual's record.

(2) INVOLUNTARY REDUCTIONS, TRANSFERS, AND EXITS.

(a) A provider agency ~~may~~ must only reduce, transfer, or exit an individual or group of individuals involuntarily for one or more of the following reasons:

(A) The behavior of the individual poses an imminent risk of danger to self or others.

(B) The individual experiences a medical emergency.

(C) The provider agency is not willing or able to meet the service needs of the individual ~~exceed the ability of the provider agency.~~

(D) The provider agency cannot provide the services needed to meet the individual's goals associated with the service.

~~(E)~~ (E) The site closes or the provider agency makes a programmatic change.

~~(F)~~ (F) The certification or endorsement for the provider agency described in OAR chapter 411, division 323 is suspended, revoked, not renewed, or voluntarily surrendered.

~~(b) A notice of involuntary reduction, transfer, or exit is not required~~

~~when an employment relationship between a community or general employer terminates, or when the agreed to terms of an individual's ISP or Service Agreement ends. Notice requirements must be met if the job or work experience is in a provider owned, controlled, or operated setting or facility.~~

(b) A provider agency may give less than 30 calendar days advance written notice only in a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others. The notice must be provided to the individual and the individual's legal or designated representative (as applicable) and case manager, immediately upon determination of the need for a reduction, transfer, or exit.

(c) A Notice of Involuntary Reduction, Transfer, or Exit is not required when:

(A) An individual requests the reduction or exit.

(B) A general community employer terminates the employment relationship with the individual.

(C) When the agreed to terms of an individual's ISP or Service Agreement end. A provider agency must give an individual and the individual's case management entity written notification if, under the terms of a new ISP or Service Agreement, the provider agency is unwilling or unable to continue providing the same amount of employment services provided under the terminating ISP or Service Agreement.

~~(ed) NOTICE OF INVOLUNTARY INDIVIDUAL REDUCTION, TRANSFER, OR EXIT. (A) A provider agency must not reduce services, transfer, or exit an individual involuntarily without 30 calendar days advance written notice to the individual and the individual's legal or designated representative (as applicable) and case manager, except in the case of a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others as described in subsection (Bb) of this section. (i) The written notice must be provided on the Notice of Involuntary~~

Reduction, Transfer, or Exit form approved by the Department and include all of the following:

~~(A)~~ The reason for the reduction, transfer, or exit.

~~(B) The right of individuals receiving employment services to submit a complaint to the Department.~~

~~(C) The individual's right to a hearing as described in subsection (e) of this section, if the individual is not satisfied with the outcome of the complaint process.~~

~~(ii) A Notice of Involuntary Reduction, Transfer, or Exit is not required when an individual requests the reduction, transfer, or exit.~~

~~(B) A provider agency may give less than 30 calendar days advance written notice only in a medical emergency or when an individual is engaging in behavior that poses an imminent danger to self or others. The notice must be provided to the individual and the individual's legal or designated representative (as applicable) and case manager, immediately upon determination of the need for a reduction, transfer, or exit.~~

~~(ed) NOTICE OF INVOLUNTARY GROUP REDUCTION, TRANSFER, OR EXIT. If a provider agency reduces, transfers, or exits more than 10 individuals within any 30_ calendar day period, the provider agency must provide written notice 60 calendar days in advance to the individuals and their legal or designated representatives (as applicable), the Department, and their case manager. (A) The written notice must be provided on the Notice of Involuntary Reduction, Transfer, or Exit form approved by the Department and include all of the following:~~

~~(A) The reason for the reduction, transfer, or exit.~~

~~(B) The right of individuals receiving employment services to submit a complaint to the Department.~~

~~(C#)~~ The right of the individual to a hearing as described in subsection ~~(fe)~~ of this section, if the individual is not satisfied with the outcome of the complaint process.

~~(B) A Notice of Involuntary Reduction, Transfer, or Exit is not required when an individual requests the reduction, transfer, or exit.~~

~~(fe)~~ HEARING RIGHTS. An individual must be given the opportunity for a hearing under ORS chapter 183 and OAR 411-318-0030 to dispute an involuntary reduction, transfer, or exit, if the individual is not satisfied with the complaint resolution. If an individual requests a hearing, the individual must receive the same services until the hearing is resolved, unless the provider is no longer providing that service to any individual. When an individual has been given written notice of a reduction, transfer, or exit as described in subsection ~~(be)~~ of this section less than 30 calendar days in advance and the individual has requested a hearing, the provider agency must reserve service availability for the individual until receipt of the Final Order.

(3) EXIT MEETING.

(a) The ISP team for an individual must meet before any decision is made to exit the individual from services. An exit meeting must be held within 10 business days if requested by the individual, the provider, or anyone on the ISP team. Findings of the exit meeting must be recorded in the individual's file and include, at a minimum, all of the following:

(A) The name of the individual considered for exit.

(B) The date of the exit meeting.

(C) The participants included in the exit meeting.

(D) The circumstances leading to the proposed exit.

(E) The strategies to prevent the exit of the individual from services (unless the individual is requesting the exit);

(F) The decision regarding the exit of the individual, including verification of the voluntary decision to exit or a copy of the Notice of Involuntary Reduction, Transfer, or Exit.

(G) Documentation of the proposed plan for services after the exit.

(b) Requirements for an exit meeting may be waived if an individual is immediately removed from services under any of the following conditions:

(A) The individual requests an immediate removal from services.

(B) The individual is removed by legal authority acting pursuant to civil or criminal proceedings.

(4) TRANSFER MEETING. An ISP team must meet to discuss any proposed transfer of an individual from one site to another site before any decision to transfer is made. Findings of the transfer meeting must be recorded in the individual's file and include, at a minimum, all of the following:

(a) The name of the individual considered for transfer.

(b) The date of the transfer meeting.

(c) The participants included in the transfer meeting.

(d) Circumstances leading to the proposed transfer.

(e) The alternatives considered instead of a transfer.

(f) The reasons any preferences of the individual, or as applicable their legal or designated representative or family members, may not be honored.

(g) The decision regarding the transfer of the individual, including verification of the voluntary decision to transfer or exit or a copy of the Notice of Involuntary Reduction, Transfer, or Exit.

(h) The written plan for services after the transfer.

Stat. Auth.: ORS 409.050, 427.007, 427.104, ~~430.662~~

Stats. Implemented: ORS 427.007, 427.104, 427.154, ~~430.610, 430.662, 430.670~~

411-345-0145 Entry Requirements for a Provider Agency

(1) An entry meeting must occur, upon request from an individual, the individual's provider agency, or any member of the individual's ISP team, when the individual begins employment services with a new provider.

(2) Prior to the delivery of employment services, or at the entry meeting, a provider agency must acquire or demonstrate efforts to acquire, and maintain the following information related to the delivery of employment services so long as the individual has agreed to share the information with the provider agency:

(a) A copy of the individual's Career Development Plan and either a Service Agreement or relevant portions of the ISP, including the following:

(A) Information regarding identified relevant risks. The risks are relevant when they may reasonably be expected to threaten the health and safety of the individual, the provider, or the community at large without appropriate precautions during the delivery of the employment service authorized. If an individual refuses to disclose the information, the case management entity must disclose the refusal to the provider, who may choose to refuse to deliver the services.

(B) Relevant protocols or mitigation strategies.

(C) Any existing information from the person-centered information document or one-page profile that is relevant for

employment services.

(DG) Any other employment related information in the Career Development Plan.

(b) All information related to the individual's employment goals and interests including, but not limited to, the following (if available):

(A) Resume or work history information.

(B) Progress notes or outcome documents from Department-funded employment services.

(C) Documentation available through Vocational Rehabilitation or the local education authority or transition program.

(D) Discovery Profile (if applicable).

(E) Any other information related to the individual's skills and interests related to employment.

(c) For an agency provider, any of the following documents if related to an identified relevant risk:

(A) A document indicating safety skills, including the ability of the individual to evacuate from a building when warned by a signal device and adjust water temperature for washing;

(B) A brief written history of any behavioral challenges, including supervision and support needs;

(C) A copy of the most recent Behavior Support Plan and assessment, Nursing Plan, and mental health treatment plan (if applicable);

(D) Copies of protocols, the risk tracking record or risk identification tool, and any support documentation (if applicable);

(E) Copies of documents relating to court orders, probation and parole information, or any other legal restrictions on the rights of the individual (if applicable);

(F) A copy of any completed and signed forms documenting consent to an individually-based limitation described in OAR 411-004-0040. The form must be signed by the individual, and, if applicable the legal representative of the individual;

(G) Copies of documents relating to health care representation;

(H) Emergency contact information;

(I) Records describing medication taken by the individual that emergency medical personnel must be aware of in the event of an emergency; and

(J) A list that describes any allergies that emergency medical personnel must be aware of in the event of any emergency.

(d) Any other documentation the individual has agreed needs to be shared for the delivery of employment services.

(3) A provider agency must develop and share the following information with an individual and the individual's case manager ~~within the 60 days following an entry meeting:~~

(a) A written plan or implementation strategies for each employment service. The plan or strategies ~~may~~ become part of an individual's Career Development Plan as well as the Service Agreement or Job Description. The written strategies for service implementation must be given to an individual and individual's case manager within 60 calendar days of providing services for the ISP year.

(b) A mitigation strategy or protocol that addresses each identified relevant risk. Risk mitigation strategies or protocols must be given to the individual and individual's case manager before services begin for the ISP year.

(c) Other documents ~~required~~ requested by the ISP team.

Stat. Auth.: ORS 409.050, 427.007, 427.104, ~~430.662~~

Stats. Implemented: ORS 427.007, 427.104, 427.154, ~~430.610, 430.662,~~
~~430.670~~

411-345-0160 Individual Support Plan and Career Development Planning

(1) A Career Development Plan must be completed as part of an individual's ISP consistent with the case management requirements outlined under OAR chapter 411, division 415.

(2) A provider must implement an individual's Service Agreement or ISP, Career Development Plan, provider implementation strategies, and any other related documents.

(3) A provider must comply with Department rules and policies regarding the Service Agreement or ISP and Career Development Plan.

(4) A provider agency must train each employment specialist to understand an individual's Service Agreement or ISP, Career Development Plan, and supporting documents for each individual the employment specialist supports and to provide individual services.

(5) A provider agency must assign a staff member to participate as a team member in the development of an individual's ISP and Career Development Plan, and, when invited by the individual, participate in a face-to-face meeting annually with the ISP team.

(6) In preparation for an annual ISP meeting, a provider agency must complete all of the following, regardless of whether the provider agency participates in the meeting:

(a) Gather-Organize person-centered information the provider agency holds regarding a supported individual's preferences, interests, and desires, and contribute the information to the person-centered information document.-

(b) Review the services and supports identified in an individual's current Service Agreement or ISP and Career Development Plan to determine the ongoing appropriateness and adequacy and any needed updates.

(c) Develop a preliminary written plan or provider implementation strategies including measurable goals to support an individual to achieve the career goals and outcomes outlined in their Career Development Plan.

(d) Share all materials gathered and written in preparation for the ISP meeting with an individual's ISP team one week prior to the ISP meeting.

(7) Following an annual ISP meeting, and upon agreement from an individual, a provider agency must acquire or demonstrate efforts to acquire, and maintain the following information related to the delivery of employment services:

(a) A copy of the individual's Career Development Plan and either a Service Agreement or relevant portions of the ISP, including the following:

(A) Information regarding identified relevant risks. The risks are relevant when they may reasonably be expected to threaten the health and safety of the individual, the provider, or the community at large without appropriate precautions during the delivery of the employment service authorized. If an individual refuses to disclose the information, the case management entity must disclose the refusal to the provider, who may choose to refuse to deliver the services.

(B) Protocols or other mitigation strategies.

(C) Any existing information from the person-centered information document or one-page profile that is relevant for employment services.

(D) Any other employment related information in the Career

Development Plan.

(b) All information related to the individual's employment goals and interests including, but not limited to all of the following:

(A) Resume or work history information.

(B) Progress notes or outcome documents from Department-funded employment services.

(C) Documentation available through Vocational Rehabilitation or the local education authority or transition program.

(D) Discovery Profile (if applicable).

(E) Any other information related to the individual's skills and interests related to employment.

(c) For an agency provider, any of the following documents if related to an identified relevant risk:

(A) A document indicating safety skills, including the ability of the individual to evacuate from a building when warned by a signal device and adjust water temperature for washing;^{7.2}

(B) A brief written history of any behavioral challenges, including supervision and support needs;^{7.2}

(C) A copy of the most recent Behavior Support Plan and assessment, Nursing Plan, and mental health treatment plan (if applicable);^{7.2}

(D) Copies of protocols, the risk tracking record or risk identification tool, and any support documentation (if applicable);^{7.2}

(E) Copies of documents relating to court orders, probation and parole information, or any other legal restrictions on the rights of the individual (if applicable);^{7.2}

(F) A copy of any completed and signed forms documenting consent to an individually-based limitation described in OAR 411-004-0040. The form must be signed by the individual, and, if applicable the legal representative of the individual;

(G) Copies of documents relating to health care representation; ~~and.~~

(H) Emergency contact information.

(I) Records describing medication taken by the individual that emergency medical personnel must be aware of in the event of an emergency.

(J) A list that describes any allergies that emergency medical personnel must be aware of in the event of any emergency.

(d) Any other documentation the individual has agreed needs to be shared for the delivery of employment services.

(8) A provider must develop or update and share the following information with an individual and ~~his or her the individual's~~ case manager ~~within 60 calendar days following the individual's annual ISP meeting:~~

(a) The written plan or implementation strategies for each employment service including updates from the individual's ISP team meeting and updates to the individual's Career Development Plan. The plan or strategies ~~may~~ become part of the ISP or Service Agreement or job description. The written strategies for service implementation must be given to an individual and the individual's case manager within 60 calendar days of providing services for the ISP year.

(b) A mitigation strategy or protocol that addresses each identified relevant risk. The risk mitigation strategies or protocols must be given to an individual and the individual's case manager before services begin for the ISP year.

(c) Other documents ~~required~~ requested by the individual's ISP team.

Stat. Auth.: ORS 409.050, 427.007, 427.104, ~~430.662~~

Stats. Implemented: ORS 427.007, 427.104, 427.154, ~~430.610, 430.662,~~
~~430.670~~

411-345-0170 Behavior Supports and Physical Restraints

For the purpose of this rule, a designated person is the person implementing the behavior supports identified in an individual's Positive Behavior Support Plan.

(1) BEHAVIOR SUPPORTS. Professional behavior services and behavior supports must be delivered in accordance with OAR chapter 411, division 304, OAR 411-323-0060, and OAR 411-345-0035.

(2) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT.

(a) A designated person must only utilize a safeguarding intervention or safeguarding equipment when---

(A) BEHAVIOR. Used to address an individual's challenging behavior, the safeguarding intervention or safeguarding equipment is included in the individual's Positive Behavior Support Plan written by a qualified behavior professional as described in OAR 411-304-0150 and implemented consistent with the individual's Positive Behavior Support Plan.

(B) MEDICAL. Used to address an individual's medical condition or medical support need, the safeguarding intervention or safeguarding equipment is included in a medical order written by the individual's licensed health care provider and implemented consistent with the medical order.

(b) The individual, or as applicable their legal representative, must provide consent for the safeguarding intervention or safeguarding equipment through an individually-based limitation in accordance with OAR 411-345-0110.

(c) Prior to utilizing a safeguarding intervention or safeguarding equipment, a designated person must be trained.

(A) For a safeguarding intervention, the designated person must be trained in intervention techniques using an ODDS-approved behavior intervention curriculum and trained to the individual's specific needs. Training must be conducted by a person who is appropriately certified in an ODDS-approved behavior intervention curriculum.

(B) For safeguarding equipment, the designated person must be trained on the use of the identified safeguarding equipment.

(d) A designated person must not utilize any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule even when the use is directed by the individual or their legal or designated representative, regardless of the individual's age.

(3) EMERGENCY PHYSICAL RESTRAINTS.

(a) The use of an emergency physical restraint when not written into a Positive Behavior Support Plan, not authorized in an individual's ISP, and not consented to by the individual in an individually-based limitation, must only be used when all of the following conditions are met:

(A) In situations when there is imminent risk of harm to the individual or others or when the individual's behavior has a probability of leading to engagement with the legal or justice system;

(B) Only as a measure of last resort; and

(C) Only for as long as the situation presents imminent danger to the health or safety of the individual or others.

(b) The use of emergency physical restraints must not include any of

the following characteristics:

- (A) Abusive.
- (B) Aversive.
- (C) Coercive.
- (D) For convenience.
- (E) Disciplinary.
- (F) Demeaning.
- (G) Mechanical.
- (H) Prone or supine restraint.
- (I) Pain compliance.
- (J) Punishment.
- (K) Retaliatory.

~~(4) INCIDENT REPORTING. A provider must ensure the notification of the use of a safeguarding intervention, safeguarding equipment not as prescribed, or an emergency physical restraint as described in OAR 411-345-0035.~~

Stat. Auth.: ORS 409.050, 427.007, 427.104, ~~430.662~~

Stats. Implemented: ORS 427.007, 427.104, 427.154, ~~430.610, 430.662,~~
~~430.670~~