

Search for and Engagement of Relatives

413-070-0060

Purpose

The purpose of these rules (OAR 413-070-0060 to 413-070-0087) is to describe the Department's responsibility to search for and engage a child or young adult's relatives and persons with a caregiver relationship. The Department seeks to identify a child or young adult's relatives and persons with a caregiver relationship for one or more of the following purposes:

- (1) Engaging in managing the child or young adult's safety;
- (2) Providing a substitute care resource;
- (3) Providing a permanent placement resource;
- (4) Developing and maintaining family relationships and cultural connections with the child or young adult in substitute care; or
- (5) Gathering family information and family history in order to plan for meeting the child or young adult's needs.

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413-070-0063

Definitions

- (1) “Caregiver relationship” means a relationship between a person and a child that has existed:
 - (a) For the 12 months immediately preceding the initiation of a dependency proceeding;
 - (b) For at least six months during a dependency proceeding; or
 - (c) For half of the child's life if the child is less than six months of age; and
 - (d) The person had physical custody of the child or resided in the same household as the child;
 - (e) The person provided the child on a daily basis with the love, nurturing and other necessities required to meet the child's psychological and physical needs; and
 - (f) The child depended on the relationship to meet the child's needs.
 - (g) Caregiver relationship does not include a relationship between a child and a person who is an unrelated foster parent of the child unless the relationship continued for a period of at least twelve consecutive months.
- (2) “Certificate of Approval” means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.
- (3) “Child” means a person under 18 years of age.
- (4) “Department” means the Department of Human Services, Child Welfare.
- (5) “Foster parent” means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.
- (6) “Indian child” is any unmarried person under age eighteen who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
- (7) "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 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "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.

(8) "Relative" means:

- (a) An individual with one of the following relationships to the *child* through the child's *parent*:
 - (A) Any blood *relative* or half-blood *relative* of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological *parent* are half-blood relatives).
 - (B) A *sibling*.
 - (C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.
 - (D) A spouse of anyone listed in paragraphs (A-C), even if the marriage is terminated by death or divorce.
 - (E) To be considered a relative under paragraph (D), when a marriage has been terminated by death or divorce, the child must have had a relationship with the spouse prior to the child or young adult entering substitute care.
 - (F) For the purposes of an international adoption, relative means an individual described in paragraphs (A – C) of this subsection.
- (b) An individual with one of the following relationships to the *child*:
 - (A) A stepparent described in OAR 413-100-0020(27)(c), stepbrother, or stepsister.
 - (B) For the purposes of the Guardianship Assistance Program described in OAR 413-070-0900 through 413-070-0974, a stepparent is considered a parent and is not a relative under these rules unless the marriage to the child's biological parent has been terminated by legal separation, divorce, or death.
 - (C) The adoptive *parent* of a child's *sibling*.
 - (D) The unrelated legal or biological father or mother of a child's half-*sibling* when the child's half-sibling is living with the unrelated legal or biological father or mother.

- (E) An individual defined as a *relative* by the law or custom of the child's *tribe* if the *child* is an Indian *child* under the Indian Child Welfare Act or in the legal custody of a tribe.
 - (F) An individual defined as a relative of a refugee *child* under OAR 413-070-0300 to OAR 413-070-0380.
 - (G) The registered domestic partner of the child's *parent* or a former registered domestic partner of the child's parent if the child had a relationship with the former domestic partner prior to the child or young adult entering substitute care.
- (c) An individual identified by the *child* or the child's family, or an individual who self-identifies, related to the *child* through the child's parent by blood, adoption, or marriage to a degree other than an individual specified as a *relative* in subsection (a), paragraphs (A – C).
 - (d) An individual presented by the *child* or the child's family, not related by blood, marriage or adoption, as an individual with an emotionally significant relationship with the *child* or the child's family.
- (9) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.
 - (10) "Relative search" means the efforts of the Department to identify, locate, and document the contact with a child's relatives.
 - (11) "Registered Domestic Partner" means an individual joined in a domestic partnership that has been registered by a county clerk in accordance with the Oregon Family Fairness Act.
 - (12) "Safety service provider" means a participant in a protective action or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.
 - (13) "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.
 - (14) "Sibling" means one of two or more children or young adults related:
 - (a) By blood or adoption through a common legal parent;
 - (b) Through the marriage of the children's or young adult's legal or biological parents; or
 - (c) Through a legal or biological parent who is the registered domestic partner of the child's legal or biological parent.

- (15) “Young adult” means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department’s Independent Living Subsidy Program.

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413-070-0066

Legal obligations regarding placement preference

- (1) The Department must conduct a search for a child or young adult's relatives to assess the availability as a placement resource and make diligent efforts to place a child or young adult with a relative or person with a caregiver relationship.
- (2) When a child or young adult must be placed in substitute care and the Department is unable to place with a relative at the time of initial placement, the Department must determine the substitute care placement in order of preference using the placement matching criteria set forth in Child Welfare Policy I-E.3.1, Placement Matching, OAR 413-070-0600 through 413-070-0645.

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413-070-0069

Responsibility to identify relatives and persons with a caregiver relationship

- (1) The Department must begin the search for a child or young adult's relatives or persons with a caregiver relationship:
 - (a) During the CPS assessment when it has been determined that a child is unsafe and individuals other than the parent or guardian are required to manage a child's safety, or
 - (b) When a parent or guardian:
 - (A) Is requesting the voluntary placement of the child; or
 - (B) Is voluntarily giving custody of the child to the Department.
- (2) The Department must communicate with the following individuals to identify the child or young adult's relatives or a person with a caregiver relationship:
 - (a) The child or young adult's parents or legal guardians;
 - (b) The child or young adult, whenever possible;
 - (c) Other individuals identified in Child Welfare Policy I-E.2.2. Placement of Refugee Children, OAR 413-070-0320, when the child is a refugee; and
 - (d) The tribe, when the child is an Indian Child.
- (3) The Department may use the following resources to identify or locate a child or young adult's relatives or a person with a caregiver relationship:
 - (a) An individual identified as a relative by the child or the child's family;
 - (b) An individual thought or known by the Department to be a relative of the child.
 - (c) Oregon data information systems available to the Department;
 - (d) Internet search engines;
 - (e) Collateral contacts; and
 - (f) Other community resources available to search for the identity and contact information of relatives or a person with a caregiver relationship.

413-070-0072

Contact with relatives or a person with a caregiver relationship

- (1) The Department must make diligent efforts to contact individuals identified through the efforts described in OAR 413-070-0004 as soon as reasonably possible and within 15 business days of a child's removal from the custody of the parent or guardian or within 15 business days of a child's placement in substitute care through a voluntary placement agreement or voluntary custody agreement unless a child welfare program manager approves not contacting an identified individual due to:
 - (a) Family or domestic violence; or
 - (b) The contact may compromise a child or young adult's or another individual's safety.
- (2) During the contact required in section (1) of this rule, the Department must:
 - (a) Provide the individual with notice in the individual's primary language that specifies:
 - (A) Whether the child or young adult has been removed from the custody of the parent or guardian to manage child safety or has been placed in substitute care through a voluntary placement agreement or voluntary custody agreement;
 - (B) Whether the child or young adult is currently residing with a relative;
 - (C) The opportunities and requirements associated with assessment as a safe and appropriate safety service provider;
 - (D) The opportunities and requirements associated with assessment as a relative caregiver; and
 - (E) The rights of relatives set forth in Child Welfare Policy, I-A.4.5, "Rights of Relatives" (OAR 413-010-0300 through 413-010-0340).
 - (b) Request the names of other relatives not previously identified.
- (3) The Department must document in the Department's information system:
 - (a) The name of each individual with whom the Department attempted contact;
 - (b) The relationship to the child or young adult;
 - (c) The type of contact;

- (d) Each individual's response to the notice required in subsection (2)(a) of this rule when a response is received; and
 - (e) The individual's contact information.
- (4) The Department may make a decision to engage an individual as a safety service provider or may place a child in substitute care with a relative prior to contacting all known relatives.
 - (5) The Department must respond to inquiries from a relative in person or by telephone as soon as reasonably possible and no longer than within 15 business days, if a contact telephone number has been provided or discovered, or, when a telephone number has not been provided, contact them by other means, including by mail or email if no other means of contact was identified by the relative.
 - (6) The caseworker may utilize any meeting or other contact with the family to identify and engage relatives for the purposes set forth in OAR 413-070-0067.
 - (7) Whenever the Department is provided the name of a relative or person with a caregiver relationship not previously known to the Department through the diligent search efforts, the Department must:
 - (a) Document the name and contact information in the Department's information system;
 - (b) Contact the individual as soon as reasonably possible and no longer than within 15 business days; and
 - (c) Provide notice as set forth in the requirements and limitations of sections (1) and (2) of this rule.
 - (8) When the Department is unable to locate contact information for an identified relative or person with a caregiver relationship, the Department must document the efforts to obtain contact information in the Department's information system.

413-070-0075

Assessment of a relative or person with a caregiver relationship for involvement in safety management

- (1) The Department must assess an individual identified as a child or young adult's relative or person with a caregiver relationship prior to engaging the individual to assist in safety management as a safety service provider.
- (2) The Department must document each decision regarding the involvement of a relative or person with a caregiver relationship as a safety service provider in the Department's information system.

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413-070-0078

Consideration of a relative or person with a caregiver relationship as a substitute caregiver

- (1) The Department is responsible for selecting and placing a child or young adult with the substitute caregiver who best meets the safety, permanency, and well being needs of the child or young adult.
- (2) Whenever possible, the Department must seek the input of the child or young adult and the child or young adult's parents or guardians' regarding preferences of relatives to assess for the purposes of placement.
- (3) When a relative or person with a caregiver relationship has been identified for consideration as a substitute caregiver, Department must consider:
 - (a) The individual's ability to provide safety for the child, including willingness to cooperate with restrictions on contact between the child and others and to prevent anyone from influencing the child or young adult on the allegations of the case;
 - (b) The individual's ability to support the Department implementation of the permanent plan;
 - (c) The individual's ability to meet the child or young adult's physical, emotional and educational needs, including the need to continue in the same school or educational placement;
 - (d) Which individual has the closest existing relationship with the child or young adult when more than one individual requests to have the child or young adult placed with them; and
 - (e) The individual's ability to provide substitute care for siblings when a child or young adult's siblings are also in need of substitute care or continuation in substitute care.
- (4) The Department must consider relatives described in OAR 413-070-0063 (8) (a)-(c) prior to consideration of relatives described in OAR 413-070-0063(d).
- (5) The Department has the discretion to use an expedited certification process described in Child Welfare Policy II-B.1.1, Responsibilities for Certification and supervision of Relative Caregivers, Foster Parents, and Pre-adoptive Parents, OAR 413-200-0274 to place the child or young adult with a relative or person with a caregiver relationship prior to contacting all known relatives or persons with a caregiver relationship.
- (6) To assess a relative or person with a caregiver relationship for the purpose of placement, the Department must complete the following actions in sequential order:

- (a) Explain the requirements of certification, the certification process, and the Department's responsibility to select a substitute care resource best able to meet the child or young adult's needs for safety, permanency and well being;
- (b) Obtain a signed application and consent for a fingerprint-based criminal offender records check of national crime information when the relative or person with a caregiver relationship has an interest in providing substitute care;
- (c) Complete a review of the applicant's records in the Department's information system for any record of child abuse or neglect, and criminal history as required in OAR 413-200-0274 (2)(i) and (j); and
- (d) Assess the applicant's ability to meet the Department's certification standards as described in Child Welfare Policy II-B.1, Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents, OAR 413-200-0301 through 413-200-0396, unless, based on the assessment of the applicant's criminal history or child abuse and neglect history, the Department determines:
 - (A) The applicant has committed a crime for which approval cannot be granted as described in Child Welfare Policy I-G.1.4, OAR 413-120-0450(4); or
 - (B) An exception to the applicant's criminal history described in Child Welfare Policy I-G.1.4, OAR 413-120-0450 (7), will not be granted; or
 - (C) Based on the applicant's child abuse and neglect history, the applicant would not be a safe placement for the child or young adult; and
 - (D) The Department has determined intent to deny a certificate of approval based on the applicant's criminal history or child abuse or neglect history.
- (7) The Department may contact other individuals identified in the search efforts described in OAR 413-070-0004 for the purposes of assessment as a substitute caregiver when the efforts described in section(4) did not result in the identification and certification of a relative caregiver for the child or young adult.
- (8) The Department must report to the court the diligent efforts the Department has made to place a child or young adult with relatives at each court hearing.

413-070-0081

Review of a child or young adult's substitute care placement

- (1) The Department must review the diligent efforts to place with a relative or person with a caregiver relationship and determine:
 - (a) Whether a child or young adult and his or her siblings, if the siblings are also in substitute care, have been placed with a relative or person with a caregiver relationship;
 - (b) Current efforts to identify a relative or person with a caregiver relationship able and willing to provide substitute care if placement has not already occurred; and
 - (c) The additional contact with and assessment of identified relatives necessary to achieve placement with a relative.
- (2) The Department review of the efforts in section (1) must occur:
 - (a) Within 30 days of the child or young adult's first placement in substitute care;
 - (b) When the child or young adult's family, through a family meeting, has recommended substitute care, permanency, or concurrent permanency relative resources other than the current substitute caregiver, those relative resources have not yet been assessed;
 - (c) When it appears that a child or young adult is likely to experience or experiences a change in substitute caregiver;
 - (d) When the child or young adult's substitute caregiver does not meet the child or young adult's needs for safety, permanency and well being;
 - (e) During every regular case review described in Child Welfare Policy I-B.3.1, Developing and Managing the Case Plan, OAR 413-040-0000 thru 0032; and
 - (f) Within 30 days of a court or administrative review hearing.
- (3) When a child is placed with a relative or person with a caregiver relationship, review whether the substitute caregiver is able to best meet the child or young adult's needs for safety and well being as described in I-E.3.1 Placement Matching, OAR 413-070-0613 through 413-070-0640.
- (4) The caseworker must document in the Department's information system:
 - (a) The date of the review;
 - (b) The names of each individual who participated in the review:

- (c) Recommended actions; and
- (d) Any additional actions to place a child or young adult, and his or her siblings, if the siblings are also in substitute care, with a relative or person with a caregiver relationship.

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413-070-0087

Opportunity for ongoing connection and support

- (1) The caseworker must assess a relative's interest and appropriateness in maintaining family relationships and cultural connections with a child or young adult based on the relative's ability:
 - (a) To meet the safety, permanency and well being needs of the child or young adult; and
 - (b) To provide appropriate ongoing support.
- (2) When a relative or person with a caregiver relationship meets the criteria described in section (1), the caseworker must provide a child or young adult's relative, including relatives who live outside of the state of Oregon, with ongoing opportunities to develop and maintain family relationships and cultural connections with a child or young adult in substitute care.

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