

**I-A.4.5**  
**Rights of Relatives**

**413-010-0300**

**Purpose**

The Department recognizes the importance of preserving the family ties and relationships of a child who has been placed in the legal custody of the Department. These rules describe the rights of relatives and the responsibilities of the Department regarding involvement of a child's relatives in child welfare cases.

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## 413-010-0310

### Definitions

- (1) “Department” means the Department of Human Services, Child Welfare.
- (2) “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.
- (3) “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.
- (4) "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.
- (5) “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.
- (6) “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.

## **413-010-0320**

### **Relative involvement in case planning and court hearings**

- (1) The Department may involve a relative as a safety service provider after the assessment that determines the individual is a safe and appropriate resource for involvement in managing a child's safety.
- (2) The Department must consider a family decision-making meeting as described in ORS 417.365. The Department may include any family member [ORS 417.371(a)] or relative in this meeting.
- (3) The Department must provide notice of a hearing when:
  - a) A relative is currently providing substitute care for a child in the legal custody of the Department per ORS 419B.875(6); and
  - b) A legal grandparent requests notice in writing and provides a mailing address per ORS 419B.875(7).
- (4) A relative who expresses an interest in a child has a right to provide information about the child's background and to provide input on the safety, attachment and permanency needs of the child.
- (5) A relative may file a motion for intervention in juvenile court when the individual believes a caregiver relationship as defined in ORS 419B.116 exists.
- (6) A relative may file a motion for limited participation in juvenile court under ORS 419B.116 (7).
- (7) A birth relative may enter into an agreement approved by the court, for continued contact between the birth relatives and the child and adoptive parents as set forth under ORS 109.305

**413-010-0330**

**Communication and Visitation**

A relative has a right to communicate and visit with a child or young adult in the Department's legal custody as determined by:

- (1) The child or young adult's visitation plan described in Child Welfare policy I-E.3.5, "Visits and other types of child and family contact" (OAR 413-070-0800 through 413-070-0880);
- (2) Opportunities for ongoing connection and support described in Child Welfare policy I-E.3.3.1, "Search for and Engagement of Relatives" (OAR 413-070-0060 to 413-070-0087); and
- (3) The order of the court.

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**413-010-0340**

**Department Responsibility to make diligent efforts to place with relatives**

The Department must:

- (1) Exercise due diligence to identify and provide notice to a child's adult relatives when a child has been removed from the legal custody of the child's parent as required by federal law and OAR 413-070-0072.
- (2) Make diligent efforts to place a child or young adult in substitute care with his or her siblings and to place children with a relative or person with a caregiver relationship per ORS 419B.192 and following the assessment described in Child Welfare Policies I-E.3.3.1, "Search for and Engagement of Relatives, (OAR 413-070-0060 to 413-070-0087) and II-B.1.1, Responsibilities for Certification and supervision of Relative Caregivers, Foster Parents, and Pre-adoptive Parents, (OAR 413-200-0270 through 413-200-0296).

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