

OREGON ADMINISTRATIVE RULES
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 11

VITAL STATISTICS

333-011-0265

Amending Birth Records

(1) All amendments. Unless otherwise provided in these rules or in statute, all amendments to vital records shall be supported by:

(a) An affidavit setting forth:

(A) Information to identify the record;

(B) The incorrect data as it is listed on the record; and

(C) The correct data as it should appear.

(b) One or more original items of documentary evidence which support the alleged facts and which were established at least five years prior to the date of application for amendment or within seven years of the date of the event and one year prior to the date of the requested amendment.

(2) The state registrar shall evaluate the evidence submitted in support of any amendment, and when the state registrar finds reason to doubt its validity or adequacy the amendment may be rejected and the applicant advised of the reasons for this action.

(3) Who may apply:

(a) To change the date of birth, time of birth or sex of the registrant, only the facility where the birth occurred or the individual who submitted the report of birth may apply to amend unless the medical record is no longer available at the facility. If the medical record is no longer available, other individuals, including the parents and the registrant, shall submit an application for amendment under section (1) of this rule. If the evidence is not sufficient, the applicant must present a certified copy of a court order ordering such amendment.

(b) To amend a record of live birth for items other than date of birth, time of birth or sex, application may be made by one of the parents, the legal guardian, the registrant if 18 years of age or over, or the individual responsible for filing the report of live birth.

(c) To amend the sex of a registrant on a record of live birth by court order or administrative request to affirm gender identity, an individual must submit documentation under OAR 333-011-0272 or OAR 333-011-0275.

(4) Amendment of registrant's first, middle or last names on records of live birth within the first year. Until the registrant reaches the age of one year, first, middle, or last names of the registrant may be amended upon written request of:

(a) Both parents; or

(b) One parent if only one parent appears on the record or if the other parent is deceased or incapacitated; or

(c) The legal guardian or agency having legal custody of the registrant.

(5) Amendment of registrant's first, middle or last names on records of live birth after the first year:

- (a) After one year from the date of birth the provisions of section (1) of this rule must be followed to amend a first, middle or last name if the name was misspelled on the birth record.
- (b) A legal change of name order must be submitted from a court of competent jurisdiction to change a first, middle or last name that appears on the birth record after one year from date of birth unless the change of name is made for gender identity purposes under OAR 333-011-0271.
- (6) Addition of first, middle or last name of a registrant on a record of live birth:
- (a) Until the registrant's seventh birthday, first, middle and last names, for a child whose birth was registered without such names, may be added to the record of live birth upon written request of:
- (A) Both parents; or
- (B) One parent if only one parent appears on the record or if the other parent is deceased or incapacitated; or
- (C) The legal guardian or agency having legal custody of the registrant.
- (b) After seven years the provisions of section (1) of this rule must be followed to add a first, middle or last name.
- (7) Amendment of parents' information on birth records. When a requested amendment to an item, in combination with previous amendments or concurrent requests for amendment, would appear to change the identity of the parent through cumulative changes to name, date of birth, or place of birth, the state registrar shall only make such an amendment upon receipt of a court order from a court of competent jurisdiction.
- (8) Original evidence documents submitted to correct errors in the spelling of a parent name, parent date of birth, or parent place of birth must be dated prior to the birth of the child.
- (9) Birthing facilities may correct typographical errors on birth records within the first year. After one year, only errors in the child's date of birth, time of birth or sex will be accepted directly from the birthing facility. The birthing facility must have access to the medical record when submitting the correction.
- (10) For births occurring outside a birthing facility, medical certifiers may only correct typographical errors within the first year with evidence from the medical record or the birth worksheet.
- (11) Amendment of minor errors on birth records. Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions may be made by the state registrar either upon the state registrar's observation or upon request of one of the parents, the legal guardian, or the birthing facility or by the individual responsible for filing the report of live birth. The record shall not be marked "Amended". Corrections to names will not be considered minor errors.
- (12) In all cases where the record is amended, there shall be inserted on the record a statement identifying the affidavit or documentary evidence used as proof of the correct facts, the date the amendment was made, and the initials of the person making the change. As required by statute or rule, the record shall be marked "Amended".

Stat. Auth: ORS 432.235

Stats. Implemented: ORS 432.235

333-011-0271

Application to Change the Name on a Record of Live Birth to Support Gender Identity

(1)(a) An applicant may request an administrative change to the registrant's name on the record of live birth when the sex on the record of live birth does not match the gender identity of the registrant.

- (b) Change of name for gender identity may be requested by:
- (A) The registrant, if the registrant is age 18 or older or an emancipated minor; or
 - (B) If the registrant is less than 18 years of age:
 - (i) A parent; or
 - (ii) The registrant's legal guardian; or
 - (C) The legal representative of the persons listed in paragraphs (A) or (B) of this subsection with a notarized statement from the person stating that the legal representative is authorized to act for them in this matter.
- (2) A registrant may not request an administrative name change under this rule if the registrant's name on the record of live birth has previously been amended, except for clerical or typographical errors.
- (3)(a) The administrative request shall be supported by a form prescribed by the state registrar of the Center for Health Statistics that provides the information needed to:
- (A) Establish the identity of the applicant;
 - (B) Establish the relationship between the applicant and the registrant;
 - (C) Identify the record of live birth to be amended; and
 - (D) Specify the changes requested.
- (b) Information required on the application to identify the correct record of live birth to amend shall be the same information required to purchase a certified copy of a vital record in OAR 333-011-0273.
- (c) The form must clearly identify the current name on the record of the live birth and the new name as it will appear on the record.
- (A) If a new first name is not specified, the first name will remain unchanged on the record of live birth.
 - (B) If a new middle name is not specified, the middle name will remain unchanged on the record of live birth.
 - (C) If a new last name is not specified, the last name, including suffix if any, will remain unchanged on the record of live birth.
- (d) The applicant must affirm before a notary that the change is requested because the sex currently appearing on the record of live birth is different than the registrant's gender identity and the name requested supports the registrant's gender identity.
- Stat. Auth.: ORS 432.015 & 432.235
Stats. Implemented: ORS 432.235

333-011-0272

Application to Change the Sex on a Record of Live Birth to Support Gender Identity

- (1)(a) An applicant may request an administrative change to the sex of a registrant on the record of live birth when the sex on the record of live birth does not match the gender identity of the registrant.
- (b) The change of sex may be requested by:
- (A) The registrant if the registrant is age 18 or older or an emancipated minor; or
 - (B) If the registrant is less than 18 years of age:
 - (i) A parent; or
 - (ii) The registrant's legal guardian; or

(C) The legal representative of the persons listed in paragraphs (A) or (B) of this subsection with a notarized statement from the person stating that the legal representative is authorized to act for them in this matter.

(2) An applicant may not request an administrative change to the sex of the registrant on the record of live birth if the registrant's sex on the record of live birth has previously been amended, except for clerical and typographical errors.

(3)(a) The administrative request shall be supported by a form prescribed by the state registrar of the Center for Health Statistics that provides the information needed to:

(A) Establish the identity of the applicant;

(B) Establish the relationship between the applicant and the registrant;

(C) Identify the record of live birth to be amended; and

(D) Specify the changes requested.

(b) Information required on the application to identify the correct record of live birth to amend shall be the same information required to purchase a certified copy of a vital record in OAR 333-011-0273.

(c) The form must clearly identify the current sex on the record of live birth and the new sex to appear on the record.

(d) The applicant must affirm before a notary that the change is requested because the sex currently appearing on the record of live birth is different than the registrant's gender identity and the sex designation requested supports the registrant's gender identity.

Stat. Auth.: ORS 432.015, 432.235 & 432.245

Stats. Implemented: ORS 432.235 & 432.245

333-011-0273

Amended Records in Support of Gender Identity

(1) Upon receipt of an application to change the name of a registrant under OAR 333-011-0271 or to change the sex of a registrant under OAR 333-011-0272, including documentation required and payment of the amendment fee, the application will be reviewed by the Center for Health Statistics to determine if the record can be changed administratively. The record shall be changed administratively if all of the following are true:

(a) Applicant is qualified by their relationship to the registrant on the record of live birth;

(b) Registrant is born in Oregon;

(c) The record of live birth has been identified;

(d) All required documentation under OAR 333-011-0271 and 333-011-0272 has been submitted; and

(e) No amendment has previously occurred to the items requested to be changed under OAR 333-011-0271 or OAR 333-011-0272.

(2) If the request is only to change the name and the record can be changed administratively, the record of live birth will be amended to show the new name and a notation of the amendment will be placed on certified copies of the record of live birth. The notation will include what item was changed, that the change was made by administrative request, the date the change was made, and the name of the state registrar authorizing the amendment.

(3) If change of sex is requested, alone or in combination with change of name, and the record can be changed administratively, a new record of live birth will be created that includes the new sex and the new name if applicable. No notation of the change will appear on certified copies of the record of live birth.

(4) The applicant will be notified of the approval by correspondence that includes the previous information, the new information and the date of birth of the registrant. A copy of the application form used to request the change will be included with the correspondence prior to the file being sealed for use by the registrant in documenting the change in identity.

(5) All supporting documentation including the application form used to request the change and correspondence sent to the applicant will be placed in a sealed file. If a new record of live birth has been created, the previous record of live birth will also be placed in the sealed file.

(6) If eligibility is not confirmed, the applicant will receive written notice that the application is denied, the reason for the denial and the process to contest the agency decision.

Stat. Auth.: ORS 432.015, 432.235 & 432.245

Stats. Implemented: ORS 432.235 & 432.245

333-011-0275

New Record of Birth Following Adoption, Legitimation, Paternity Determination, and Paternity Acknowledgement or Change of Sex

(1) The state registrar shall amend a record of live birth and establish a replacement record of live birth for a person born in this state upon receipt of the following:

(a) Legitimation. If the mother is unmarried at the time of birth and the biological parents marry after the birth of a child, a new record of live birth shall be prepared by the state registrar for a child born in this state upon receipt of a sworn acknowledgement of paternity signed by the biological parents of said child together with a certified copy of the parents' marriage record. The mother's legal name can be amended to the name taken at marriage on the child's record of live birth if requested.

(b) Determination of paternity. A new record of live birth shall be prepared by the State Registrar for a child born in this state upon receipt of a certified copy of a court determination of paternity. If the birth mother's marital status was not unmarried at the time of birth or if another person is listed as the second parent, the court order must disestablish paternity as well as establish the new parent. If the surname of the child is not decreed by the court, the request for the new record received with the certified copy of the court determination shall specify the surname requested by both parents to be placed on the record.

(c) Acknowledgement of paternity. A new record of live birth shall be prepared by the state registrar for a child born to an unmarried birth mother in this state upon acceptance of a notarized voluntary acknowledgement of paternity signed by both parents if no second parent appears on the record. The child's surname may be changed through the voluntary acknowledgment of paternity.

(d) Adoption. A certified copy of a report of adoption as provided in ORS 432.223 or a certified copy of the decree of adoption, together with the information necessary to identify the original record of live birth and to establish a replacement record of live birth, except that a replacement record of live birth shall not be established if so requested by the court decreeing the adoption.

(e) Change of sex. A certified copy of an order of a court of competent jurisdiction indicating that an individual born in this state shall be changed or an accepted administrative request to change sex in support of gender identity under OAR 333-011-0272.

(2) The birth mother's marital status is unmarried at the time of birth if she was not married at conception, at birth, or within 300 days prior to the birth.

(3) New record:

(a) The new record of live birth prepared after adoption, legitimation, determination of paternity, or acknowledgment of paternity, or change of sex shall be on the form in use at the time of its preparation and shall include the following items and such other information necessary to complete the certification:

- (A) The name of the child;
- (B) The date and place of birth as transcribed from the original record;
- (C) The full names, dates of birth and places of birth of the adoptive parents or the biological parents whichever is appropriate;
- (D) The name of the attendant;
- (E) The state file number assigned to the original birth record; and
- (F) The original filing date.

(b) The information necessary to locate the existing record and to complete the new record shall be submitted to the state registrar on forms prescribed or approved by the state registrar.

(4) Existing record to be placed in a special file. After preparation of the new record, the existing record and the evidence upon which the new record was based are to be placed in a special file. Such file shall not be subject to inspection except upon order of a court of competent jurisdiction or by the state registrar for purposes of properly administering the vital statistics program.

(a) A court order is not required before the release of a Voluntary Acknowledgment of Paternity form to any government agency responsible for the administration of child support enforcement programs created under Title IV-D of the Social Security Act, to a parent who signed the form or to the registrant if age 18 or older.

(b) A court order is not required before the release of the request to change name under OAR 333-011-0271 or to change sex under OAR 333-011-0272 to the applicant or to the registrant if age 18 or older.

Stat. Auth.: ORS 432.098, 432.245 & 432.289

Stats. Implemented: ORS 432.098, 432.245 & 432.289

333-011-0327

Acceptable Documentation to Establish Identity of Applicant and Relationship to Registrant

(1) Information required to identify the correct record of live birth includes:

- (a) The registrant's full name as it appears on the record;
- (b) The full names of both parents as they appear on the record of live birth;
- (c) The date of birth of the registrant;
- (d) The city or county where the birth occurred; and
- (e) The sex of the registrant as it appears on the current record of live birth.

(2) The relationship between the applicant and the registrant may be established by:

- (a) Comparing the name of the applicant to the registrant and parents listed on the current record of live birth;
- (b) Letter of guardianship issued by a court that documents the legal guardianship of registrant by applicant;
- (c) A written statement by an attorney accompanied with a notarized statement confirming the legal representation signed by:
 - (A) The registrant if age 18 or older or emancipated; or
 - (B) The registrant's parents or legal guardian if the registrant is under age 18.
- (d) Review of other documents determined by the state registrar.

(3) If the applicant is the registrant and the name of the applicant on identity documents does not match the name of the registrant on the record of live birth, additional evidence about the relationship of the applicant to the registrant will be required. Acceptable evidence includes:

- (a) A certified copy of an order of name change from a court within the United States;
- (b) A certified document from the government agency issuing drivers' license or identification that documents the change of name on the agency's record;
- (c) A certified Numident Report from the Social Security Administration that documents the change of name;
- (d) Two sequential passports issued by the United States with photographs of the same person and the same date of birth that shows the two names; or
- (e) Other documents as determined by the state registrar.

(4) An emancipated minor must provide a court-certified copy of the order of emancipation to the state registrar.

Stat. Auth.: ORS 432.015 & 432.380

Stats. Implemented: ORS 432.380