



## PERMANENT ADMINISTRATIVE ORDER

### CWP 134-2020

CHAPTER 413  
DEPARTMENT OF HUMAN SERVICES  
CHILD WELFARE PROGRAMS

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#### RULES:

413-070-0514, 413-070-0518, 413-070-0645, 413-070-0670

AMEND: 413-070-0514

NOTICE FILED DATE: 05/29/2020

RULE SUMMARY: OAR 413-070-0514 sets forth the requirements for the use of a permanency committee and is being amended to clarify when the rule does not apply.

#### CHANGES TO RULE:

413-070-0514

Use of Permanency Committee ¶

A permanency committee must be scheduled when any of the following applies:¶

(1) A caseworker recommends a change in permanency plan to guardianship, fit and willing relative, or APPLA. This rule does not apply to a permanency plan of guardianship under OAR 413-070-0668 unless the Department determines that it must make a recommendation to change the permanency plan for a child to guardianship prior to a resource having been identified pursuant to OAR 413-070-0518(1)(b).¶

(2) A caseworker is considering a separation of siblings in adoption under OAR 413-110-0132.¶

(3) A caseworker requests a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption under OAR 413-120-0750.

Statutory/Other Authority: ORS 418.005

Statutes/Other Implemented: ORS 418.005

RULE SUMMARY: OAR 413-070-0518 sets forth requirements for approving a permanency plan prior to a resource being identified and is being amended to add references to a new section, 413-070-0668, Consideration of a Relative as the Legal Potential Guardian when the Relative is not the Current Substitute Caregiver.

CHANGES TO RULE:

413-070-0518

Approving a Permanency Plan Prior to a Resource Being Identified ¶¶

(1) A permanency plan may be changed to guardianship or placement with a fit and willing relative prior to a resource having been identified when:¶¶

(a) The court changes a permanency plan for a child or young adult before the Department makes a recommendation pursuant to OAR 413-070-0512 to 413-070-0516; or¶¶

(b) The Department must make a recommendation to change the permanency plan for a child or young adult to guardianship or placement with a fit and willing relative because a child or young adult's current permanency plan is no longer in the best interest of the child or young adult.¶¶

(2) When subsection (1)(a) of this rule applies, the caseworker does the following:¶¶

(a) If the new permanency plan for the child or young adult is guardianship:¶¶

(A) Change the permanency plan to guardianship;¶¶

(B) Diligently recruit and identify a potential guardian resource for the child or young adult; and¶¶

(C) Approve the guardian for the child or young adult as outlined in OAR 413-070-0665 ~~and~~, 413-070-0670 or OAR 413-070-0668.¶¶

(b) If the new permanency plan for a child or young adult is placement with a fit and willing relative:¶¶

(A) Change the permanency plan to placement with a fit and willing relative;¶¶

(B) Diligently recruit and identify a potential relative resource for the child or young adult; and¶¶

(C) Approve the relative for placement with a fit and willing relative as outlined in OAR 413-070-1020.¶¶

(3) After complying with OAR 413-070-0512 to 413-070-0516, if the Department recommendation is something other than the court-approved permanency plan, the Department must schedule a judicial review of the permanency plan of the child or young adult.¶¶

(4) When subsection (1)(b) of this rule applies, the caseworker must comply with the following requirements:¶¶

(a) If the recommendation is to change the permanency plan to guardianship:¶¶

(A) Comply with OAR 413-070-0660;¶¶

(B) Schedule a permanency committee and comply with the sections of OAR 413-070-0670 that pertain to approving the permanency plan of guardianship;¶¶

(C) Diligently recruit and identify the substitute caregiver as a potential guardian as outlined in OAR 413-070-0665; and¶¶

(D) Schedule a second permanency committee and comply with the sections of OAR 413-070-0670 that pertain to approving the substitute caregiver as a guardian.¶¶

(E) Schedule a Central Office Guardianship Committee and comply with OAR 413-070-0668 that pertain to approving a relative as a guardian while the child's placement remains with the substitute caregiver.¶¶

(b) If the recommendation is to change the permanency plan to placement with a fit and willing relative:¶¶

(A) Comply with the sections of OAR 413-070-1000 that pertain to considering the permanency plan of placement with a fit and willing relative;¶¶

(B) Schedule a permanency committee and comply with the sections of OAR 413-070-1020 that pertain to approving the permanency plan of placement with a fit and willing relative;¶¶

(C) Diligently recruit and identify the proposed fit and willing relative resource that meets the eligibility as outlined in OAR 413-070-1010; and¶¶

(D) Schedule a second permanency committee and comply with the sections of OAR 413-070-1020 that pertain to approving the proposed resource as a fit and willing relative.

Statutory/Other Authority: ORS 418.005

Statutes/Other Implemented: ORS 418.005

AMEND: 413-070-0645

NOTICE FILED DATE: 05/29/2020

RULE SUMMARY: OAR 413-070-0645 sets forth the requirements for involving the substitute caregiver in the concurrent permanency plan and is being amended for clarity and consistency by replacing language with the defined term "substitute caregiver".

CHANGES TO RULE:

413-070-0645

Involving the Substitute Caregiver in the Concurrent Permanency Plan ¶

The caseworker must:¶

(1) Determine whether the ~~relative caregiver, foster parent, or provide~~substitute caregiver is willing to continue as the placement resource, has the skills and abilities to meet the need of the child or young adult for safety and well-being, and is willing to work with the Department while the concurrent permanent plan for the child or young adult is implemented by the Department; and¶

(2) Provide the ~~relative caregiver, foster parent, or provide~~substitute caregiver with the opportunity to have input into a permanency plan.

Statutory/Other Authority: ORS 418.005

Statutes/Other Implemented: ORS 418.005, 419B.192

AMEND: 413-070-0670

NOTICE FILED DATE: 05/29/2020

RULE SUMMARY: OAR 413-070-0670 sets forth the requirements for approval and implementation of a guardianship permanency plan and is being amended to add "This does not apply to a guardianship under OAR 413-070-0668" in subsection (1) for clarification.

CHANGES TO RULE:

413-070-0670

Approval and Implementation of a Guardianship Permanency Plan ¶¶

(1) Subject to OAR 413-070-0518, when the Department is considering a change in a child's permanency plan, the Department makes the determination pursuant to OAR 413-070-0500 to 413-070-0519, and the child's caseworker schedules a permanency committee. This does not apply to a guardianship under OAR 413-070-0668.

¶¶

(2) The permanency committee must review all of the information presented to the committee and make recommendations to the Child Welfare Program Manager or designee regarding:¶¶

(a) Whether guardianship is an appropriate permanency plan for the child; and¶¶

(b) Whether the substitute caregiver can meet the child's needs as described in subsection (3)(c) of this rule and should be considered as a potential guardian.¶¶

(3) The Child Welfare Program Manager or designee must decide whether guardianship is the appropriate permanency plan for the child based upon:¶¶

(a) How a permanency plan of guardianship meets the child's needs, and the requirements of OAR 413-070-0660(1) and (2) and OAR 413-070-0665(2) and (3);¶¶

(b) Whether the Department has provided the child and the child's parents an opportunity to identify available permanency; and¶¶

(c) Whether the substitute caregiver being considered as the potential guardian is able to meet the child's needs pursuant to OAR 413-070-0640.¶¶

(4) Following the Child Welfare Program Manager or designee decision to approve guardianship as a permanency plan, the caseworker must:¶¶

(a) Request a permanency hearing before the court within 30 days of the decision.¶¶

(b) Prior to the court hearing, provide the court with supporting written documentation regarding the Department's position that:¶¶

(A) Guardianship is in the child's best interest; and¶¶

(B) Neither placement with parents nor adoption is an appropriate plan.¶¶

(5) At the court hearing, the caseworker must:¶¶

(a) Recommend that the court approve changing the child's permanency plan to guardianship;¶¶

(b) Inform the court whether or not the potential guardian is applying for guardianship assistance; and¶¶

(c) When guardianship assistance is being requested, inform the court that after the Department has negotiated the amount or type of guardianship assistance with the potential guardian, a subsequent court hearing will be requested to allow the order of guardianship to be entered.¶¶

(6) Prior to the court hearing to request the final order of guardianship, the Department must document in the case record that the caseworker, supervising worker, if any, and the certifier for the potential guardian recommends the finalization of the guardianship.

Statutory/Other Authority: ORS 418.005

Statutes/Other Implemented: ORS 418.005