

413-040-0005 Purpose (Amended 11/15/2019) The purpose of OAR 413-040-0000 to 413-040-0032 is to describe the activities required to: (1) Complete a protective capacity assessment; (2) Use the Family Engagement Meeting; (3) Develop a case plan; (4) Develop an action agreement; (5) Monitor the case plan; (6) Review and revise the case plan; (7) Determine when conditions for return have been met; and (8) Close the ongoing safety plan and close the case. Stat. Auth.: ORS 409.050, 418.005 Stats. Implemented: ORS 409.010, 418.005

413-040-0006 Requirements for the Conditions for Return and the Protective Capacity Assessment (Amended 11/15/2019) (1) The caseworker must determine conditions for return during the development of the ongoing safety plan. (2) The conditions for return are documented in the ongoing safety plan and the case plan, and must describe: DEVELOPING AND MANAGING THE CASE PLAN OAR 413-040-0005 to 413-040-0032 (a) The specific behaviors, conditions, or circumstances that must exist before the Department may develop an in-home ongoing safety plan that assures a child's safety, as described in OAR 413-015-0450(2)(b)(A)(i) - (iii); and (b) The actions, services, and time requirements of all participants in the in-home ongoing safety plan. (3) The Department uses the protective capacity assessment to engage the parents or guardians of the child or young adult in a collaborative process to -- (a) Examine and understand the behaviors, conditions, or circumstances that made the child unsafe and the strengths of the parent or guardian that build protective capacity; (b) Examine and understand how the behavioral, cognitive and emotional characteristics of the parents or guardians impact their ability to care for and keep the child safe; (c) Determine the expected outcomes related to the behaviors, conditions, or circumstances of the parents or guardians that may increase protective capacity and reduce or eliminate the identified impending danger safety threat; and (d) Identify services or activities that are likely to achieve the expected outcomes. (4) Whenever possible, the Department and the parents or guardians should come to agreement on expected outcomes and the actions, services, and activities to achieve the expected outcomes. (5) The caseworker must: (a) Complete the following activities within five days of assignment to the caseworker during the CPS assessment or after replacing or adding an impending danger safety threat during ongoing case management: (A) Review the Child Welfare case history, case documentation, and the actions and decisions of the most recent CPS assessment; (B) Review and update as necessary the ongoing safety plan by contacting all participants in the safety plan to determine whether the ongoing safety plan assures the safety of the child; (C) Review and update as necessary the conditions for return; and DEVELOPING AND MANAGING THE CASE PLAN OAR 413-040-0005 to 413-040-0032 (D) Document the review of the ongoing safety plan and conditions for return in the Department's electronic information system. (b) Complete the following activities: (A) Conduct reasonable inquiries for the purpose of identifying individuals who may contribute to the caseworker's understanding of the protective capacity of the parents or guardians

and the safety of the child. Such individuals may include parents or guardians, grandparents, extended family, an Indian child's tribe, and any other family members, persons with significant attachments to the child, other professionals, substitute caregivers, neighbors, and friends of the family. Reasonable inquiries mean, as defined in ORS 417.371(4)(b), efforts that include reviewing the case file for relevant information, contacting the parents or guardians, and contacting additional sources of information for the purpose of ascertaining the whereabouts of family members, if necessary. (B) Gather information from these individuals through individual interviews or meetings for the purpose of identifying and understanding the needs, concerns, strengths, and limitations associated with the protective capacity of parents or guardians and assessing the impact on the child's safety. (C) Evaluate the relationship between -- (i) The existing protective capacities of parents or guardians that contribute to child safety; (ii) The diminished protective capacities of parents or guardians that must change for the parents or guardians to care for and keep the child safe; and (iii) The parents' or guardians' readiness to change. (D) Whenever possible, collaboratively identify with the parents or guardians: (i) Other family members, persons with significant attachments to the child, community members, and members of an Indian child's tribe who may contribute to meeting the conditions for return and actively participate in an ongoing safety plan or enhancing the protective capacity of the parents or guardians; and DEVELOPING AND MANAGING THE CASE PLAN OAR 413-040-0005 to 413-040-0032 (ii) Actions and services that may reduce or eliminate identified safety threats or enhance the protective capacity of the parents or guardians. (E) Inform the parents or guardians of the Department's actions and decisions regarding identified impending danger safety threats, conditions for return, protective capacity, and the ongoing safety plan. (F) Enter the findings of the protective capacity assessment, the information obtained by conducting the activities required in paragraphs (A) to (D) of this subsection, and the conditions for return in the Department's information system. (6) The caseworker must document the findings of the protective capacity assessment and the conditions for return in the case plan.

(3) Contact collateral sources. (a) The CPS worker must contact collateral sources who can clarify or supplement the information in the referral and in records already reviewed. (A) The CPS worker must contact the assigned Self-Sufficiency worker, if any.

(f) To make arrangements for the medical examination, the CPS worker must do the following, unless completing the action would delay medical treatment: (A) Discuss with the parent or caregiver the need for medical examination or treatment. (B) Ask the parent or caregiver to take the child or young adult to a medical facility for a medical examination or treatment. (C) Request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Information." (D) Contact an LEA immediately and seek a juvenile court order to obtain protective custody for the purpose of obtaining a medical examination or treatment when: (i) The parent or caregiver refuses to obtain needed medical examination or treatment; CPS ASSESSMENT OAR 413-015-0400 to 413-015-0485 (ii) The parent or caregiver may flee with the child or young adult; or (iii) Delaying medical examination or treatment could result in severe harm

- (1) When the CPS worker determines an impending danger safety threat is present, the CPS worker must identify how the impending danger safety threat is occurring in the family to determine the necessary level of safety intervention required to assure child safety. The CPS worker must use the information gathered to determine: CPS ASSESSMENT OAR 413-015-0400 to 413-015-0485 (a) Who. Who is creating or allowing the threat; (b) What. What are they doing or not doing; (c) To whom. Which children are affected; (d) When. Specific times during the day or week, if any, that requires special attention due to the way the family behaviors, conditions, or circumstances are occurring; (e) Precipitants or family conditions. What contributes to the threat; (f) Frequency. How often does the precipitant, family condition, or threat occur; (g) Duration. How long has the family condition been occurring; and (h) Persistent. How pervasive is the family condition or threat
- (2) Documentation of how the impending danger safety threat is occurring. The CPS worker must document how each impending danger safety threat is occurring in the Child Welfare electronic information system
- (1) When a present danger safety threat or impending danger safety threat is identified, a CPS worker must put a safety plan in place to manage the threat. There are three types of safety plans: the protective action plan which manages present danger safety threats, and the initial safety plan and the ongoing safety plan, which manage impending danger safety threats

B) An in-home initial safety plan or in-home ongoing safety plan is required when all of the following in-home safety plan criteria are met: (i) There is a home-like setting where the parent and child live. (ii) There are no barriers in the home to allowing safety service

providers and activities to occur. (iii) At least one parent is willing to cooperate with the plan. (iv) The necessary safety activities and resources are available to implement the plan

Oregon Child Protective Services (CPS) follows a systematic safety intervention model for identifying and managing safety threats.

If, after collecting information from the reporter and collateral, concern persists for the safety of the child about potential suicide and there is not a clear allegation of abuse, staff the report with a supervisor who can then escalate the decision about assignment to a Program Manager or District Manager at ORCAH.

Child Behaviors:

- What behaviors does the child exhibit?
- If the report involves “self-injury”, does the reporter know if this is a coping mechanism unrelated to suicidal thoughts or harm reduction that is related to suicidal thoughts to keep the child from attempting suicide?
- Has the child said why they are harming and/or suicidal?
- Does the reporter know the child’s triggers for self-harming behaviors or suicidal ideation/behaviors?
- Has this child or family experienced a recent loss or substantial change in circumstances?
- Is there a history of suicide attempt or death by suicide in this child’s family?
- Is there a context behind behavioral changes or mental health issues?
- Do they have a mental or behavioral health diagnosis?
- How/from who did the diagnosis come about?
- Is there a current behavioral or mental health provider involved?
- If so, does the reporter know the service engagement status of the child?

- Has the child experienced suicidal ideation or past attempts? What did that look like? What was/is the safety plan? Are the individuals involved in the plan following through?
- Does the child have a current plan to end their life? Are the parent's aware of this plan? Have the parents responded to knowledge of the plan with protective actions?
- Does the child have access to lethal means and have the parent/caregivers taken steps to prevent access or remove?

Caregiver Knowledge:

- Are the parents aware of the mental health and/or behavioral concerns?
- • Are the parent/caregivers supportive of or engaged in the interventions, supports or services? What have they said or done to convey this support?
- What has the family already tried in supporting the child?
- Are the parents or caregivers willing and able to restrict access to lethal means?
- Are there any barriers to getting support or services (formal or informal) for this child?
 - What services and/or supports is the family or child receiving, from whom and are the services effective?
 - What does the school know about the child's mental health and/or behavioral concerns? Are there any formal supports or plans in place to support the youth in an educational setting?
 - What types of peer support does the child have access to through social media or other services?
 - If the child is refusing services or not attending services already established, does the reporter know why?

Unique Characteristics of the Family:

- What does help and support look like in this family? What does this family find supportive and where do they go for help? If none, what are the barriers to accessing or receiving support for this family?
- What are the impact factors for this child?
- Do they live in a rural community?
- Are they and/or their family subjected to oppressive systems and/or communities?

- Does this child and/or family identify with a historically marginalized or oppressed community?
- Do they/their family have any belief systems that are influencing or mitigating their suicidal thoughts?
- **Are based on early support services** at a time when small interventions can make an enormous difference in people's lives, prevent a crisis and provide appropriate resources if a crisis occurs.
- **Use a multi-generational approach** to meet families' needs and address factors that contribute to risk, trauma and safety concerns and the cycles of child abuse and neglect.
- **Focus on strengthening and preserving connections to family and community** by keeping children and young adults safely in their own homes and communities whenever possible; maintaining connections to family, culture and community when temporary substitute care is needed; and making permanency the priority, starting with safely reunifying families.
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- **Engage with the community** by integrating the voices of children, young adults, parents, families, Oregon Tribal Nations and partners to be more responsive to the needs of families and community partners.
- **Honor and support** the self-determination of communities of color and other marginalized communities and aim to build their power.
- **Are culturally responsive** by embracing the communities' lived experiences and the cultures of children and young adults in decision-making that affects their safety, health and well-being; as a result, delivering services aligned with the cultural context of children, young adults, family and community so they can live their lives with dignity, autonomy and equality.
- **Are trauma-informed** to recognize the impact of trauma, including historical trauma, and promote a culture of safety, empowerment and healing.
- **Strength-based** to support families and individuals with the tools to better handle mental health, substance use, domestic violence issues, and other factors that can contribute to child abuse and neglect.
- **A commitment** to fairness, equity, inclusion, accessibility, transparency and diversity.

To center the needs of the entire family, the statewide CARA Planning Team is shifting to using the term 'Family Care Plan', rather than 'Plan of Care'. Until rules, procedures, and forms are updated the term Plan of Care will be used for clarity and consistency. As Oregon moves toward statewide implementation, the opportunity exists to revise the Plan of Care template and instructions to ensure it supports families as intended and is user friendly for providers.

CFPRP conducted system mapping in fall 2023 to better understand barriers to engaging noncustodial caregivers in child welfare practice

(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

(15) provides that—

(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child's health and safety shall be the paramount concern;

(B) except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families—

(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

(ii) to make it possible for a child to safely return to the child's home;

(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan (including, if appropriate, through an interstate placement) and to complete whatever steps are necessary to finalize the permanent placement of the child;

The situation described involves several critical Oregon legal considerations for your daughter's safety, your parental rights as a non-custodial parent, and DHS's obligations in a shelter hearing given the charges against the father and your active warrant.

Key legal points under Oregon law:

- DHS must make reasonable efforts to avoid removal and must consider family placement options first, including placement with you as the non-custodial parent or known relatives like your uncle. Pushback claiming your uncle is "a random person" contradicts this principle if he is a known family member (see ORS 418.705 and DHS placement policies).
- A child expressing suicidal ideation concerning placement requires careful mental health evaluation, but abrupt cessation of communication and reliance on unverified statements to block placement options may violate procedural fairness and adequate investigation duties by DHS.
- You have fundamental parental rights as a non-custodial parent in Oregon, including the right to be notified of and participate in hearings about your child, to seek placement, and to object to removal or placement decisions (ORS 107.154, ORS 419B.150, and related custody statutes).
- Your inability to physically attend due to an active warrant does not eliminate your right to participate; you should appear by filing motions, requesting counsel, or using virtual participation where allowed. Addressing that warrant strategically with legal counsel is critical to avoid jeopardizing your custody rights.
- Shelter hearings require DHS to document efforts made to place the child with family and to justify non-relative foster care only when no suitable relative placement exists. Failure to exhaust or document this may be challenged as procedural error or denial of parental rights (ORS 419B.300 and protective custody procedures).
- The father's criminal charges, including prior and new allegations of criminal mistreatment and strangulation, weigh heavily on DHS and the court's custody and placement decisions, prioritizing the child's safety and best interests.

Recommended actions:

1. Engage an Oregon family law/criminal law attorney with child welfare expertise immediately to represent your interests at the shelter hearing and to advise on warrant-related risks.

2. File a formal motion or objection asserting your right as a non-custodial parent to be considered as a placement option, emphasizing DHS's duty to exhaust reasonable efforts for family placement.
3. Request court oversight or advocacy to ensure DHS follows proper procedures evaluating your daughter's mental health statements and the reliability of the alleged suicidal ideations.
4. Explore options with counsel to manage your active warrant so that it does not preclude effective participation in custody proceedings.

This framework reflects Oregon statutes and procedures governing child welfare, custody rights, and parental participation in contested shelter hearings under urgent circumstances