

In response to 2/11/21 Senate Committee on Human Services, Mental Health and Recovery Meeting

SB386 (Relevant Rules on Parental notice)

ODHS Rule:

413-015-0420

(1) The CPS worker must make an initial contact within the assigned response time line.

(2) The following outlines contacts the CPS worker is required to attempt and, when possible, complete at initial contact. The CPS worker must:

(a) Have face-to-face contact with and interview the alleged victim, his or her siblings, and any children living in the home except as provided in OAR 413-015-0606 and 413-015-0540. The purpose of the face-to-face contact and interview with the alleged victim, his or her siblings, and any children living in the home is to gather information regarding possible abuse, gather information about functioning and vulnerability, and assess immediate safety.

(A) Interview and observe the alleged victim and any children as follows:

(i) The CPS worker must notify parents of the intent to interview, unless notification could compromise safety.

(ii) The CPS worker must make diligent efforts to make contact at home, school, day care, or any other place where the worker believes the child or young adult may be found. If the CPS worker is unsuccessful, the CPS worker must document in the Child Welfare electronic information system all attempted contacts and the dates of those attempted contacts.

(iii) When the CPS worker makes contact at home and the parent or caregiver is not present:

(I) The CPS worker must consult with a CPS supervisor and seek assistance from LEA if the referral indicates there is reasonable cause to believe the alleged victim or any child's health or safety is endangered by the conditions of the dwelling; or supervision is inadequate and there is an immediate need to evaluate health and safety.

(II) The CPS worker must wait until the parent is present in the home to complete an interview in the home if there is not reasonable cause to believe health or safety is endangered by the conditions of the dwelling or that supervision is inadequate.

(iv) When the CPS worker is denied access to the alleged victim or to the alleged victim's residence, the CPS worker must, if the referral indicates the alleged victim may be unsafe, request assistance from LEA in assessing the situation and in taking protective custody if needed. If the referral indicates that the alleged victim is presently safe, the CPS worker must consider the following:

(I) Attempting to contact other persons who may have relevant information regarding the referral;

(II) Persisting in attempts to gain cooperation from the family or caregivers, depending on the known safety information;

(III) Seeking LEA assistance;

(IV) Consulting with the CPS supervisor, the district attorney, assistant attorney general, or the county juvenile department to discuss possible juvenile court action;
or

(V) Seeking a protective custody order from the juvenile court.

(v) The CPS worker must conduct interviews in a manner that assures privacy.

(vi) If the parent or caregiver is the alleged perpetrator or if the presence of the parent or caregiver might impede the interview, the CPS worker must attempt to interview outside the presence of their parents or caregivers.

(vii) A CPS worker must allow a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the abuse to have a personal representative be present during an interview. If a CPS worker believes that the personal representative would compromise the CPS assessment, the CPS worker may prohibit a personal representative from being present during the interview.

(viii) The CPS worker must observe injuries or signs of abuse. The CPS worker may need to remove the alleged victim's clothing to make adequate observations. In that event, the CPS worker must:

(I) Use discretion and make the alleged victim as comfortable as possible.

(II) Seek parental consent and assistance, when possible and appropriate.

(III) Consider requesting a worker or other support person, who is the same gender as the alleged victim, be present to serve as a witness and provide comfort.

(ix) The CPS worker may observe injuries to the anal or genital region if the alleged victim is not school aged and if the injury can be observed without the CPS worker touching the anal or genital region.

(B) The CPS worker must notify the parents or caregivers the same day the interview occurred. If the same day notification could make a child or adult unsafe, a CPS supervisor may authorize an extension for one day to allow a planned notification that is less likely to compromise safety. The CPS worker must document in the Child Welfare electronic information system the supervisory approval and an explanation describing the basis for the approval.

(b) Have face-to-face contact with and interview the non-offending parent or caregiver and all adults living in the home except as provided in OAR 413-015-0540. The purpose of this face-to-face contact and interview is to find out what the non-offending parent or caregiver and other adults living in the home know about the alleged abuse, gather safety related information , including parent and caregiver functioning, and gather information to determine if the parent or caregiver can or cannot and will or will not protect the alleged victim.

(A) Whenever practicable, the CPS worker must interview both parents and caregivers in person, as outlined in OAR 413-015-0422.

(B) Provide all adults living in the home with a written notice that a criminal records check may be conducted on them.

(C) The CPS worker must provide each parent or caregiver with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and caregiver.

(D) The CPS worker must interview the non-custodial legal parent during the CPS assessment. This is not required during the initial contact, but must be completed as part of the assessment process because the non-custodial parent may have essential information or be a placement resource. If the interview of the non-

custodial legal parent may make a child or adult unsafe, a CPS supervisor may authorize an exception to this requirement based on written documentation that supports the conclusion that an interview with a non-custodial legal parent should not be conducted.

(c) Have face-to-face contact with and interview the alleged perpetrator. Except as provided in this subsection, the CPS worker must make face-to-face contact with and interview the alleged perpetrator during the initial contact when he or she is the custodial parent, caregiver, any person living in the home, or is present in the home when the CPS worker makes contact. The purpose of this interview is to evaluate the alleged perpetrator's reaction to allegations of abuse as well as to the alleged victim and his or her condition, and to gather further information about the alleged perpetrator and the family in relation to the safety of the alleged victim. When the alleged perpetrator is a minor parent, the purpose is also to determine if the minor parent is an alleged victim of abuse (under paragraph (D) of this subsection).

(A) The CPS worker is not required to make face-to-face contact with or interview the alleged perpetrator during the initial contact if:

(i) The alleged perpetrator is not a custodial parent, caregiver, anyone living in the home, or is not present in the home when the CPS worker makes contact and delaying contact will not compromise child safety. The CPS worker still must interview the alleged perpetrator, but may complete the interview during the course of the CPS assessment; or

(ii) There is a criminal investigation and the interview cannot be coordinated with an LEA within the time lines for initial contact.

(B) The decision to delay interview of an alleged perpetrator as provided in subparagraphs (A)(i) or (ii) of this subsection must be approved by a CPS supervisor, and the CPS worker must document in the Child Welfare electronic information system both the approval and the reason for delaying the interview.

(C) When interviewing the alleged perpetrator, the CPS worker must:

(i) Coordinate the interviews of the alleged perpetrator with LEA when law enforcement is conducting an investigation;

(ii) Consult with a CPS supervisor if an interview with the alleged perpetrator could make a child or adult unsafe;

(iii) Provide the alleged perpetrator with a written notice that a criminal records check may be conducted on them; and

(iv) Make inquiries about the employment status of the alleged perpetrator. If the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department of Human Services (DHS) or OYA, the CPS worker must notify a CPS supervisor. The CPS supervisor must notify the DHS Office of Human Resources at the time of the assessment and at the time the assessment is reviewed as required in OAR 413-015-0475. The CPS supervisor must document the notifications in the Child Welfare electronic information system.

(D) When interviewing the alleged perpetrator who is a minor and the parent of the alleged victim, the CPS worker must ask questions to determine if there is an allegation of abuse with the minor parent as an alleged victim. If it is determined that there is an allegation of abuse with the minor parent as an alleged victim, the information must be reported to a screener.

(E) When interviewing an alleged perpetrator who is the parent or caregiver, the CPS worker must provide the parent or caregiver with a "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and caregiver.

(3) Gather safety related information through interviews and observation. The CPS worker must begin to gather safety related information through interviews and observation as outlined in OAR 413-015-0422.

(4) Determine if there is a present danger safety threat or impending danger safety threat. During the initial contact, the CPS worker must determine, based on the information obtained at that time, if there is a present danger safety threat or impending danger safety threat as outlined in OAR 413-015-0425.

(5) Documentation of the Initial Contact. The CPS worker must document the dates of attempted and successful contacts in the Child Welfare electronic information system. If it was not possible during the initial contact for the CPS worker to successfully complete a required contact, the CPS worker must document why contact was not made and must complete the face-to-face contact and interview as soon as possible.

Statutory/Other Authority: ORS 418.005

Statutes/Other Implemented: ORS 418.005, ORS 147.425, ORS 409.185, ORS 418.015, ORS 418.747, ORS 418.785 & ORS 419B.005 - 419B.050

History:

[CWP 116-2018, minor correction filed 11/21/2018, effective 11/21/2018](#)

[CWP 73-2018, minor correction filed 07/05/2018, effective 07/05/2018](#)

[CWP 51-2018, amend filed 06/29/2018, effective 06/29/2018](#)

[CWP 24-2017, temporary amend filed 12/29/2017, effective 01/01/2018 through 06/29/2018](#)

CWP 23-2016, f. & cert. ef. 12-1-16

CWP 11-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16

CWP 17-2014, f. & cert. ef. 12-24-14

CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14

CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14

CWP 4-2010, f. & cert. ef. 4-2-10

CWP 2-2010(Temp), f. & cert. ef. 2-12-10 thru 8-11-10

CWP 15-2009, f. & cert. ef. 11-3-09

CWP 2-2008, f. & cert. ef. 4-1-08

CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08

CWP 3-2007, f. & cert. ef. 3-20-07