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PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 255
BOARD OF PAROLE AND POST-PRISON SUPERVISION

FILING CAPTION: Amending to create maximum time for hearing testimony with exceptions

EFFECTIVE DATE: 09/16/2025

AGENCY APPROVED DATE: 09/15/2025

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RULES:
255-032-0025, 255-033-0040

AMEND: 255-032-0025

RULE TITLE: Manner of Review Hearing

NOTICE FILED DATE: 06/26/2025

RULE SUMMARY: Modernize language, set maximum time for testimony with allowed additional time.

RULE TEXT:
(1) The proceedings shall be governed by the procedures for records, disclosure, and notice outlined in Divisions 15 and 30.
(2) At the hearing, the AIC has:
(a) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time;
(b) If the AIC is without sufficient funds to be represented by an attorney at the hearing, the Board shall appoint legal counsel. The Board will make payment to the attorney according to rules posted on the Board website: http://www.oregon.gov/boppps/; and
(c) The right to a subpoena issued by the Board upon a showing of the general relevance and reasonable scope of the evidence sought, and pursuant to Board rules.
(3) The initial testimony of each witness, excluding any initial testimony by the AIC, shall not exceed 10 minutes. The total length of initial witness testimony, including any initial testimony of the AIC, shall not exceed 2 hours. The presiding Board member may grant additional time for initial witness testimony, at the time of the hearing, upon a finding that further testimony is likely to be relevant and material to the Board's decision. The presiding Board member may exclude or limit irrelevant, immaterial, or unduly repetitious testimony and evidence.
(a) The AIC may request the Board allow additional time for initial witness testimony beyond 2 hours by submitting a written request to the Board no later than 7 days prior to the hearing. The request shall contain the following information:
(A) the amount of additional time requested;
(B) the reason for why additional time is being requested; and

(C) the nature of the information that will be provided during witness testimony requiring additional time.
(b) The Board may grant the request if the Board determines the additional witness testimony is likely to be relevant and material to the Board's decision.
(4) Pursuant to ORS 144.120, crime victims have a right to appear at the hearing, or to submit a written statement concerning the crime and the person responsible. "Victim" is defined in OAR 255-05-0005(78). The victim may be represented by counsel or a designee. If a victim chooses to speak, their statement should be concluded within 15 minutes. The Board may allow the victim to exceed that period when additional time is needed.
(5) Pursuant to ORS 144.120, the district attorney from the committing jurisdiction has the right to appear at the hearing, or to submit a written statement concerning the crime and the AIC. The district attorney may be represented by a designee. The district attorney's statement should be concluded within 15 minutes. The Board may allow the statement to exceed that period when additional time is needed.
(6) If upon hearing all the evidence, the full Board, upon a unanimous vote of all members, or by such other vote as is specified in statute, finds that the AIC is capable of rehabilitation and that the terms of the AIC's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the AIC's confinement to life imprisonment with the possibility of parole or work release and may set a parole release date. Otherwise, the Board shall deny the relief sought in the petition. The Board's final order granting or denying relief shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Board's order.
(7) When an AIC has a consecutive sentence for a crime other than Aggravated Murder or Murder as described in OAR 255-032-0005, the Board shall determine the prison term for the consecutive sentences pursuant to ORS 144.120. The prison term for the consecutive sentences will not begin to run until and unless the Board orders a release date on the Aggravated Murder sentence established pursuant to ORS 163.105, or the Murder sentence established pursuant to ORS 163.115.

STATUTORY/OTHER AUTHORITY: ORS 144.120, 163.105, 163.115

STATUTES/OTHER IMPLEMENTED: ORS 144.120

AMEND: 255-033-0040

RULE TITLE: Hearing Protocols

NOTICE FILED DATE: 06/26/2025

RULE SUMMARY: Modernize language, set maximum time for testimony with allowed additional time.

RULE TEXT:

Manner of Hearing

(1) The proceedings shall be governed by the hearings procedures outlined in Oregon Administrative Rule 255, Division 30; 255-030-0013, 255-030-0021, 255-030-0023, 255-030-0025, 255-030-0026, 255-030-0027, 255-030-0032, 255-030-0040, and 255-030-0046.

(2) Nothing in this OAR is to be construed as limiting a right a victim would have at this hearing under the United States and Oregon Constitutions, any Oregon statute, including ORS 144.750, or any Oregon administrative rule.

(3) The Board shall provide notice of the hearing to:

(a) the district attorney of the county in which the person was convicted; and

(b) the victim of any offense for which the person is serving a sentence if the victim requests to be notified and furnishes the Board with current contact information.

(4) At the hearing, the AIC has:

(a) the burden of proving by a preponderance of the evidence that the person has demonstrated maturity and rehabilitation based on consideration of the age and immaturity of the person at the time of the offense, and the person's behavior thereafter; and

(b) the right to counsel, including counsel appointed at Board expense, at a hearing.

(5) The initial testimony of each witness, excluding the initial testimony of the AIC, shall not exceed 10 minutes. The total length of initial witness testimony, including any initial testimony of the AIC, shall not exceed 2 hours. The presiding Board member may grant additional time for initial witness testimony, at the time of the hearing, upon a finding that further testimony is likely to be relevant and material to the Board's decision. The presiding Board member may exclude or limit irrelevant, immaterial or unduly repetitious testimony and evidence.

(a) The AIC may request the Board allow additional time for initial witness testimony beyond 2 hours by submitting a written request to the Board no later than 7 days prior to the hearing. The request shall contain the following information:

(A) the amount of additional time requested;

(B) the reason for why additional time is being requested; and

(C) the nature of the information that will be provided during witness testimony requiring additional time.

(b) The Board may grant the request if the Board determines the additional witness testimony is likely to be relevant and material to the Board's decision.

STATUTORY/OTHER AUTHORITY: ORS 144.397

STATUTES/OTHER IMPLEMENTED: ORS 144.397

Oregon
Governor Kate Brown

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Exhibit NOR-4JC

NOTICE OF RIGHTS FOR RELEASE HEARING FOR PERSON WHOSE OFFENSE WAS COMMITTED AS JUVENILE

Adult in Custody: _____ SID Number: _____

Hearing Date & Time: _____ Hearing Location: _____

ORS 144.397 provides that an Adult in Custody (AIC) who was under 18 years of age at time of committing an offense is eligible for a hearing after serving 15 years of imprisonment. The hearing shall provide a meaningful opportunity to be released on parole or post-prison supervision if certain findings are made.

Preparing for the hearing:

1. Read all information thoroughly before the hearing.
2. Bring your hearing packet and all necessary documents to the hearing.
3. If you need an interpreter or other assistance, contact your institutional counselor immediately.
4. Any information you wish to have the Board consider at your hearing should be provided in writing and received by the Board at least one week prior to the hearing and should clearly state “FOR HEARING.”
5. If you paid restitution, bring your receipts to the hearing.
6. Copies of Board Administrative Rules are available in the institution’s legal library.

If an attorney is going to represent you at your hearing, please notify them that the hearing date should be verified at least one day prior to the scheduled date by calling the Board at 503-945-0902. Please instruct your attorney or any visitors that they must also contact the Board in advance to receive information about attending or participating in the hearing.

Please read the attached *Notice of Rights and Procedures* carefully.

BOARD OF PAROLE AND POST-PRISON SUPERVISION
NOTICE OF RIGHTS AND PROCEDURES FOR
RELEASE HEARINGS FOR PERSONS WHOSE OFFENSE WAS COMMITTED AS JUVENILE
OREGON ADMINISTRATIVE RULE (OAR) 255-033

This is an informal summary of your rights at the hearing; please obtain and refer to the statutes and administrative rules that govern the Board's hearings for more information.

Laws that Apply

1) Oregon Revised Statute (ORS) 144.397 provides that an Adult in Custody (AIC) who was under 18 years of age at time of committing an offense is eligible for release on parole or post-prison supervision after serving 15 years of imprisonment. ORS 144.397 further provides for a hearing before the State Board of Parole and Post-Prison Supervision that must provide a meaningful opportunity to be released on parole or post-prison supervision, and which would authorize the release of such person on parole or post-prison supervision if certain findings are made. The Board rules governing these hearings are found in OAR 255-033, *Release Hearings for Persons Whose Offense was Committed as Juvenile.*

2) The issue to be considered at the hearing is whether the Board finds that, based on the consideration of the age and immaturity of the person at the time of the offense and the person's behavior thereafter, if the person has demonstrated maturity and rehabilitation, the Board shall release the person.

3) The hearing will be conducted in the manner prescribed by 255-033-0040 Hearing Protocols.

4) OAR 255-033-0030 specifies that during a hearing, the Board shall consider and give substantial weight to the fact that a person under 18 years of age is incapable of the same reasoning and impulse control as an adult and the diminished culpability of minors as compared to that of adults. The Board shall also consider the following circumstances, if relevant to the specific person and offense:
   (a) the age and immaturity of the person at the time of the offense;
   (b) whether and to what extent an adult was involved in the offense;
   (c) the person's family and community circumstances at the time of the offense, including any history of abuse, trauma, and involvement in the juvenile dependency system;
   (d) the person's subsequent emotional growth and increased maturity during the person's imprisonment;
   (e) the person's participation in rehabilitative and educational programs while in custody if such programs have been made available to the person and use of self-study for self-improvement;
   (f) a mental health diagnosis; and
   (g) any other mitigating factors or circumstances presented by the person.

5) Other factors the Board may consider in determining maturity and rehabilitation include:
   (a) the person's involvement in correctional treatment, medical care, educational, vocational, or other training in the institution which will substantially enhance the person's capacity to lead a law-abiding life when released;
   (b) the person's institutional employment history;
   (c) the person's institutional disciplinary conduct;
   (d) the adequacy of the person's release plan including community support from family, friends, treatment providers, and others in the community; type of residence, neighborhood, or community in which the person plans to live;
   (e) the person's ability to demonstrate remorse and understanding of the impact the person's crime had on the victims and the community;
   (f) the person's attitude and evidence of behavioral change;
   (g) the extent the person takes personal responsibility for their actions;

(h) any psychiatrist or psychologist's assessment of the person's current risk of re-offending, risk of harm, and suitability for community supervision;
(i) the person understands long-term consequences;
(j) the person can delay impulses and identify alternative actions;
(k) the degree of premeditation or deviancy involved in the commission of the crime and the ability to understand, address, and mitigate those underlying risk factors; and
(l) any other relevant factors.

Right to an Attorney

You may hire an attorney to represent you. It is your responsibility to notify the attorney of the date of your hearing. If a person is without sufficient funds to employ an attorney for a hearing the Board shall appoint legal counsel and pay for an attorney. You may represent yourself at the hearing.

Who May Attend the Hearing

At the chairperson's discretion, the Board or its designated representative may conduct any hearing in person, by teleconference call, videoconference call, live stream, or other electronic medium as long as it ensures the AIC, the Board, and other participants the opportunity to hear and be heard.

The hearing is public, and persons who wish to observe or support you may attend in person (if in-person hearing), by telephone or by video conference, subject to Board of Parole and Department of Corrections rules found in OAR 255-028. Instruct your support persons and attorney to contact the Board at least two weeks in advance to arrange to attend the hearing.

Also attending the hearing, pursuant to statute and rule, may be victims of your crimes and their supporters, and a representative of the District Attorney's (DA) office from the county where you were sentenced. The identified victims and the DA representative have the right to make statements at the hearing. You will have an opportunity to respond.

Because Board hearings are public, representatives of the press may attend. You will not receive notice if press representatives intend to be present at a hearing.

Information Considered at the Hearing

All material relevant and pertinent to issues before the Board will be made a part of the record. Exhibits not available prior to the hearing will be made available to you or your attorney at the hearing. Any material considered but not made part of the public record shall be separated and a statement to that effect shall be placed in the record. The Board shall follow the criteria for denial or disclosure of records set out in OAR 255-030.

Discovery is not permitted. Requests that the Board research and obtain information you want considered cannot be honored. It is your responsibility to provide that information.

You must make your own arrangements for calling and presenting witnesses. Witnesses may participate via phone or teleconference. Instruct your attorney, witnesses, or any other visitors that they must contact the Board in advance to receive information about attending or participating in the hearing. Testimony of each witness will ordinarily be limited to 10 minutes.

In general, information that you want the Board to consider should be provided in writing at least one week prior to the hearing and you should write clearly on it: "FOR HEARING." The Board, at its discretion, may accept limited amounts of information during the hearing. Please be aware that information you submitted for previous hearings **will not automatically be considered by the Board for this hearing. You must resubmit any such information.** You and your representative may make oral statements to the Board.

Notice and Waiver

You should receive your parole packet and a notice of your hearing at least 14 days before your hearing date. You should bring your copy of the parole packet to your hearing. If you do not receive these materials at least 14 days prior to your hearing, you may either waive the notice period or have your hearing rescheduled.

Hearing Procedure

The Board's task at any hearing is to gather information to make the best possible decision with the available information while assuring a fair and full hearing to all persons entitled to participate. A Board hearing is less formal than a court appearance. Generally, it is short, so be prepared to speak concisely.

You should bring your copy of the parole packet to your hearing. You may want to call the Board's attention to one or more documents, or the Board may refer to various documents and may want to discuss them with you. The Board will have reviewed the documents in your Board Review Packet, which will usually include the Presentence Report or a report of similar content, as well as any additional information provided by the police, counsel, the victim, or the district attorney, any Department of Corrections reports, and any recent psychological or psychiatric evaluations, as well as materials you have submitted.

Please remember that under statute you have the responsibility (the "burden") of proving, by a preponderance of the evidence that you have demonstrated maturity and rehabilitation based on consideration of your age and immaturity at the time of the offense, and your behavior thereafter. Be prepared to present your evidence. The Board may also ask you questions about the crimes you committed, about your programming, prison adjustment or parole performance, efforts to deal with the factors that led to your criminal behavior, your release planning, etc. If you have prepared a written statement, the Board prefers that you submit the statement for review and not plan to read aloud from it during the hearing. However, you can bring any notes that you want to remind yourself of what you want to tell the Board.

Relevant evidence of a type of commonly relied upon by reasonably prudent persons in the conduct of their serious affairs is admissible and will be received. Hearsay evidence is not automatically excluded, but the fact that it is hearsay will affect how much reliance the Board will place on it in reaching a decision.

If you object to the admissibility of evidence you must state your objection at the time the evidence is offered.

You should be aware that irrelevant, immaterial, or unduly repetitious evidence will be excluded, and you should plan your witness list and your own testimony with that in mind.

(If you successfully appeal your conviction or sentence in a court of law, any comments made to the Board during the hearing can be used upon retrial or resentencing.)

Continuances & Cancellation

There are no continuances granted at the end of a hearing. You should be prepared to finish what you want to say or submit it in writing at the time of the hearing. However, if you can show that the record should remain open for additional evidence, or upon the Board's own motion, the presiding Board member may, at their sole discretion, continue the hearing for a period of time not to exceed 60 days, to obtain additional information required to assist the Board in its decision.

If you ask for cancellation of a hearing, it must be for good cause, in writing, and with 7 days' advance notice. If the Board finds the cancellation request does not fulfill these requirements, an AIC shall not be eligible to request another hearing for 90 days from the date of the scheduled hearing.

The Board's Decision

At the end of the hearing the Board will close the testimony and adjourn the hearing. It will then deliberate and in most cases will issue its final order in writing. The Board may also issue its decision orally on the record at the hearing. Please be aware that because of the Board's careful consideration of your case, you may not receive an immediate decision.

If the Board finds that, based on the consideration of the age and immaturity of the person at the time of the offense and the person's behavior thereafter, the person has demonstrated maturity and rehabilitation proven by a preponderance of the evidence, the Board shall release the person as follows: (a) For a person sentenced under ORS 163.105, 163.115 or 163.155, the Board shall set a release date that is not more than 60 days from the date of the hearing and, notwithstanding section 28, chapter 790, Oregon Laws 1989, the person shall be released on parole in accordance with ORS 144.125, 144.260 and 144.270. (b) A person sentenced to a term of imprisonment under a provision of law other than ORS 163.105, 163.115 or 163.155 shall be released on post-prison supervision in accordance with ORS 144.096 and 144.098 within 60 days of the date of the hearing.

If the Board determines that the person has not demonstrated maturity and rehabilitation under OAR 255-033-0030, the Board may deny release and postpone a subsequent hearing to a date that is at least two years but no more than 10 years from the date of the hearing.

Exceptions to Order

After the hearing, you will be sent a final order reflecting the Board's decisions in your case. This final order will be captioned "Board Action Form." If you disagree with the final order, you may seek reconsideration of the order by means of an Administrative Review. See *Administrative Reviews and Appeals* below and Division 80 of the Board's rules. If you disagree with the administrative review response, you may appeal to the Oregon Court of Appeals pursuant to ORS 144.335. There will not be an opportunity after the Board issues its final order for re-arguments or objections.

Record

An audio recording will be made of the entire hearing to preserve the testimony and other evidence for future reference. The hearing record will not be transcribed by the Board unless requested by the Department of Justice to prepare a response for judicial appeal. AICs may purchase a copy of the audio recording of the hearing. The Board only retains hearing recordings for four years from the date of the hearing. After four years, the record is destroyed.

Administrative Reviews and Appeals

You must exhaust your administrative review remedies before you may appeal to the Court of Appeals (see ORS 144.335 and OAR 255-80-0001). You may request administrative review from the Board if you have evidence that:

1. The Board action is not supported by evidence in the record;
2. Pertinent information was available at the time of the hearing which through no fault of yours, was not considered;
3. Pertinent information was not available at the time of the hearing, e.g., information concerning convictions from other jurisdictions;
4. The Board acted inconsistently with its rules, policies, and procedures and the inconsistency is not explained;
5. The Board acted in violation of a constitutional or statutory provision; or
6. The Board acted outside the range of discretion delegated to the agency by law.

In order to request a review, please use the form *Administrative Review Request Form* (Exhibit O). The form is available at the AIC law library and the Board's website: https://www.oregon.gov/boppps/Documents/Exhibits/ExhibitO.pdf. If you cannot get this form, please type or print your request in ink on white paper. The request for review must be received by the Board within 45 days after the date the Board Action Form is mailed (see OAR 255-080-0005). Do not use this form to make inquiries or to request corrections of obvious clerical errors.

After you receive the Board response to your request, if you still believe that the Board erred, and you can show that the order “adversely affects or aggrieves” you, you may then request judicial review from the Oregon Court of Appeals (see ORS 144.335). You must file a Petition for Review with the Oregon Court of Appeals within 60 days after the final administrative review response is mailed (see OAR 255-080-0001 to 0015).

Pay attention to the time requirements for your administrative review request and your petition for review so that they will not be too late to be considered.