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DIVISION 1

PROCEDURAL RULES

291-001-0020

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of a permanent rule, the Department of Corrections shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule;

(2) By mailing a copy of the notice to persons on the department's mailing list established pursuant to ORS 183.335(7) at least 28 days prior to the effective date of the rule;

(3) By mailing a copy of the notice to the legislators specified in ORS 183.335(14) at least 49 days before the effective date of the rule; and

(4) By furnishing or mailing a copy of the notice to the following at least 28 days prior to the effective date of the rule:

(a) Capitol Press Room;

(b) Associated Press (AP);

(c) American Federation of State-County and Municipal Employees (AFSCME);

(d) Oregon Public Employees Union (OPEU);

(e) American Civil Liberties Union (ACLU);

(f) Public Defender's Office, Marion County;

(g) Oregon State Bar Association;

(h) Crime Victims United;

(i) Department of Corrections — Institution Legal Libraries; and

(j) Department of Corrections — Inmate Newsletters.

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: CD 34-1980, f. & ef. 11-7-80; CD 3-1985(Temp), f. & ef. 4-26-85; CD 9-1985, f. & ef. 7-26-85; CD 2-1986(Temp), f. & ef. 1-31-86; CD 9-1986, f. & ef. 4-18-86; CD 1-1991, f. & cert. ef. 1-9-91; CD 5-1995, f. 2-22-95, cert. ef. 3-1-95; DOC 18-1999(Temp), f. & cert. ef. 10-28-99 thru 4-25-00; DOC 9-2000, f. & cert. ef. 4-14-00; DOC 17-2003, f. & cert. ef. 12-12-03; DOC 4-2007, f. & cert. ef. 7-20-07

291-001-0025

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341 the Department of Corrections adopts the Attorney General's Model Rules of Procedure Under the Administrative Procedures Act effective January 1, 2006.

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: CD 34-1980, f. & ef. 11-7-80; CD 3-1985(Temp), f. & ef. 4-26-85; CD 9-1985, f. & ef. 7-26-85; CD 2-1986(Temp), f. & ef. 1-31-86; CD 9-1986, f. & ef. 4-18-86; CD 1-1991, f. & cert. ef. 1-9-91; CD 5-1995, f. 2-22-95, cert. ef. 3-1-95; DOC 18-1999(Temp), f. & cert. ef. 10-28-99 thru 4-25-00; DOC 9-2000, f. & cert. ef. 4-14-00; DOC 17-2003, f. & cert. ef. 12-12-03; DOC 4-2007, f. & cert. ef. 7-20-07

291-001-0051

Inmate Written Submissions on Proposed Rules

In accordance with ORS 183.335(3)(b) and 1999 Oregon Laws, Chapter 123, inmate participation to provide comments on the proposed adoption, amendment or repeal of any Department of Corrections administrative rule is limited to written submissions.

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: DOC 18-1999(Temp), f. & cert. ef. 10-28-99 thru 4-25-00; DOC 9-2000, f. & cert. ef. 4-14-00

291-001-0060

Mailing List Fees

(1) Any individual, organization representing more than ten individuals, or agency may request to be included in the department's mailing list for notification of any proposed adoption, amendment, or repeal of any department rule. The subscription fee to be on the mailing list is \$35 annually. The fee established under this rule does not apply to any federal, state, county, or local government entity. Mailings are created for interested persons who want to

receive notice of administrative rules promulgated by the Department of Corrections. The request must be sent to the Department of Corrections, Rules Coordinator, 2575 Center St. NE, Salem, OR 97301-4667.

(2) Mail List Subscription Renewal: One annual billing will be sent in July of each year. Subscriptions fees must be paid by September 1 of each year. Government agencies or entities will be sent a confirmation notice and an opportunity to renew their subscription. Anyone not requesting renewal of subscription will be removed at the end of October.

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: CD 5-1995, f. 2-22-95, cert. ef. 3-1-95; DOC 18-1999(Temp), f. & cert. ef. 10-28-99 thru 4-25-00; DOC 9-2000, f. & cert. ef. 4-14-00

291-001-0080

Copies of Department Permanent and Temporary Rules, and Fees

(1) Individuals or organizations requesting copies of the department's permanent or temporary rules, who are not on the department's mailing list, shall be required to prepay to the department a fee of \$.50 per page in accordance with the department's rule on Release of Public Record. Requests for copies of department temporary or permanently adopted rules must be in writing and directed to the Rules Coordinator, Oregon Department of Corrections, 2575 Center Street NE, Salem, OR 97301-4667.

(2) The department's notices of intended rulemaking and permanent and temporary rules will be available for review by inmates in manual set(s) located in facility law libraries. If necessary, copies of the department's notices of intended rulemaking will be available to inmates upon request.

(3) Inmates may obtain copies of department permanent or temporary rules in facility law libraries in those facilities with photocopying machines designated for inmate use. Inmates will use their copy cards purchased through the canteen to obtain such copies.

(4) Inmates may also obtain copies of department's permanent or temporary rules by submitting a written request to the department's Rules Coordinator, together with a completed Withdrawal Request form (CD 28). Inmates will be required to pay a fee of \$.50 per page, in accordance with the department's rule on Release of Public Records, and must have sufficient funds in their department trust account to cover the photocopying fee at the time of the request. The fee will be debited from the trust account of the inmate to whom the copies are provided.

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: CD 5-1995, f. 2-22-95, cert. ef. 3-1-95; DOC 18-1999(Temp), f. & cert. ef. 10-28-99 thru 4-25-00; DOC 9-2000, f. & cert. ef. 4-14-00

291-001-0110

Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications

(1) This rule applies to workplace interpersonal disputes, which are disputes involving the interpersonal relationships between Department of Corrections' (department) employees, officials or employees and officials. This rule does not apply to disputes involving the negotiation of labor contracts or matters about which a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed.

(2) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(3) Nothing in this rule affects any confidentiality created by other law.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Disclosures by Mediator: A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into

evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) or (h)-(j) of section (7) of this rule.

(6) Confidentiality and Inadmissibility of Mediation Communications: Except as provided in section (7) of this rule, mediation communications in mediations involving workplace interpersonal disputes are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced into evidence by the parties or the mediator in any subsequent proceeding so long as:

(a) The parties to the mediation and the department have agreed in writing to the confidentiality of the mediation; and

(b) The person agreeing to the confidentiality of the mediation on behalf of the department:

(A) Is neither a party to the dispute nor the mediator, and

(B) Is designated by the department to authorize confidentiality for the mediation; and

(C) Is at the same or higher level in the department than any of the parties to the mediation or who is a person with responsibility for human resources or personnel matters in the department, unless the Director or Deputy Director is one of the persons involved in the interpersonal dispute, in which case the Governor or the Governor's designee.

(7) Exceptions to confidentiality and inadmissibility:

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records; as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law;

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person;

(d) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law;

(e) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree;

(f) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure;

(g) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation

communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement;

(h) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements;

(i) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute;

(j) The mediator may report the disposition of a mediation to the department at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The department or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(8) The terms of any agreement arising out of the mediation of a workplace interpersonal dispute are confidential so long as the parties and the agency so agree in writing. Any term of an agreement that requires an expenditure of public funds, other than expenditures of \$1,000 or less for employee training, employee counseling or purchases of equipment that remain the property of the agency, may not be made confidential.

(9) When a mediation is subject to section (6) of this rule, the department will provide to all parties to the mediation and to the mediator a copy of this rule or an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.224, 36.230(4)

Hist.: DOC 4-2007, f. & cert. ef. 7-20-07

DIVISION 5

NETWORK INFORMATION SYSTEM ACCESS AND SECURITY

291-005-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose:

(a) The purpose of this rule is to establish policies, procedures and guidelines for security of Department of Corrections (DOC) information systems. Any information system operated by the Department of Corrections or connected to the department's network and information contained in DOC information networked computer systems shall be protected by the security guidelines established in this rule.

(b) The Department of Corrections intends to operate all of its automation resources, including multi-user computer systems, terminal devices, personal computers (PCS), work stations, networks and communications devices, in such a manner as to ensure:

(A) The accuracy and reliability of the department's information, regardless of whether it is stored and processed on the department's information systems or on other computer systems, including employee-owned personal computers or information systems operated by other agencies and organizations;

(B) The protection of each individual's rights of privacy concerning information about that person which may be stored on DOC information systems;

(C) Accessibility to the information by authorized users of DOC information systems;

(D) Denial of access to DOC information systems and information for all other unauthorized persons; and

(E) Detection of and intervention in attempted or actual system break-ins, information tampering and destruction, and all other forms of misuse of DOC information systems, computer equipment, computer networks and information.

(3) Policy: It is the policy of the Department of Corrections that computerized information shall be made secure from unauthorized access. Accepted supervision and management practices shall be required of employees to provide adequate security which restricts unauthorized access. Any external organization granted access to DOC information systems shall be required to follow and enforce the security guidelines of these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1978, f. 2-15-78, ef. 2-16-78; CD 7-1981, f. & ef. 4-17-81; CD 38-1985, f. & ef. 8-16-85; CD 12-1986, f. & ef. 6-30-86; CD 24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99

291-005-0011

Definitions

(1) Account/User Profile: A data record which is associated with each authorized user of a computer system and/or network. This record specifies the user's real name, log-on or sign-on name, secret password, identification numbers or codes, and other operating parameters (such as limitations on the use of system resources, access permissions, etc.). This record is created and maintained for each user by the DOC network security officer or his/her designee. The record is used by the computer or network operating system software to permit or deny use of or access to system resources for a given user.

(2) Application(s): Any computer program or group of related computer programs which perform specific operations to support or execute information processing required by the user or department.

(3) Authorized User: An individual who holds explicit permission to use an information systems resource. An authorized user is distinguished by ownership of an active user account/user profile and a fully executed security agreement.

(4) Communications Devices: Any equipment which supports the connection of an information processing component (for example, a terminal, PC, or host computer) to another information processing component for the purpose of data transmission and reception.

(5) Computer Equipment: Automation resources including, but not limited to, terminals, personal computers, work stations, controllers, printers, and communications devices.

(6) Dial-up: Access to a computer system or network which uses communications devices. For instance, a user might use a PC and modem from home to review a department report which is stored on a minicomputer; a user who is traveling can use a laptop PC with a modem to send and receive electronic mail from his/her hotel room.

(7) DOC Network Security Officer: A person(s) appointed by the Assistant Director for Information Systems and Services Division (ISSD) to perform security functions for the DOC information systems.

(8) External organization: Any non-Department of Corrections department, agency, corporation or other groups of individuals who are not under the authority of the Director of the Department of Corrections. This includes, but is not limited to, national, state, county and municipal government agencies and departments, service providers and consultants, product and services vendors, appointed or ad hoc committees, advisory groups and the public at large.

(9) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of program services or coordination of program operations.

(10) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, the Deputy Director, an Assistant Director, or an administrator and has respon-

sibility for delivery of program services or coordination of program operations.

(11) Information System: Any automated system which supports storage, processing of and access to information (data). An information system includes the physical equipment, software, and data.

(12) Inmate: Any person under the supervision of the Department of Corrections or other corrections agency who is not on parole, probation, or post-prison supervision status.

(13) Offender: Any person under the supervision of local community corrections who is on parole, probation, or post-prison supervision status.

(14) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(15) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

(16) Stand-alone Personal Computer Equipment: Computer equipment not connected to the Department of Corrections network or any other network.

(17) Terminals: Input/output devices that are used for data entry and display of entered or processed information. A terminal consists of a display screen and some form of input device, usually a keyboard or scanner.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1981, f. & ef. 4-17-81; CD 38-1985, f. & ef. 8-16-85; CD 24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 23-1999(Temp), f. 7 cert ef. 12-22-99 thru 6-19-00; DOC 11-2000, f. & cert. ef. 6-19-00

291-005-0015

General

(1) These rules cover the following assets of the department:

(a) Any and all information regarding or related to the department's business and mission, where that information is stored as data contained in or on any information system, or produced for display and review by that system.

(A) Such data may be recorded on a number of different media, such as magnetic tapes, magnetic or optical disks, hard or floppy disks, CD ROM, and a variety of printed forms on paper, etc.

(B) This data may be stored, processed, accessed, and displayed on any number of computer systems including, but not limited to, those owned and operated by the department, its employees, contractors, and consultants.

(b) The information systems equipment, specifically the computer hardware and software, peripheral devices, network components, data communications devices, terminals, personal computers, and printers which are owned, leased and/or operated by the department to store, process, and display information.

(c) Access to and use of the department's information systems.

(2) These rules specify the means to detect and prevent misuse and/or loss of any of these assets. It covers the range of misuse from innocent accidents which cause little or no damage to malicious actions which cause data corruption, loss of information, and denial of services.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1981, f. & ef. 4-17-81; CD 38-1985, f. & ef. 8-16-85; CD 12-1986, f. & ef. 6-30-86; CD 24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99

291-005-0025

Access Authorization

(1) Only authorized users shall be allowed access to DOC information systems.

(2) Authorized users shall be granted access to DOC information systems on a need-to-use basis. Such access will be controlled by use of a password.

(3) Requests for user access and termination of user access shall be accepted by the DOC network security officer or designee from functional unit managers or their designees only. These personnel shall handle all requests for access and termination for their functional unit. Letters of agreement with external organizations for access to DOC information systems shall clearly indicate the process and authority for user access authorization. Users from external organizations must comply with this rule.

(4) No person presently or previously under the custody, control, or supervision of the Department of Corrections or its agents shall be granted access to any computers or systems which contain data or are connected to any DOC information system unless the request for access has been reviewed, approved and recommended by the functional unit manager. Final approval for such access will be determined by the Assistant Director for ISSD.

(5) Functional unit managers or their designees shall identify their staff who have a need to use DOC information systems and shall be responsible for the following process for authorization:

(a) Functional unit managers or their designees are responsible to ensure that criminal history checks have been done on all persons for whom they request authorization to access DOC information systems. This includes contractors, volunteers, temporary staff, regular employees, and OCE employees.

(b) Security Agreement:

(A) All persons requesting access to DOC information systems must sign a security agreement which indicates that they understand they are responsible to protect agency assets, including computers and information in accordance with the provisions of the Department of Corrections rules on Release of Public Information; Files, Records, and Detainers; and Network and Information System Access and Security.

(B) The DOC network security officer or designee shall maintain a file of security agreements.

(c) Authorization Form:

(A) The user's functional unit manager or designee shall complete an authorization form requesting access to the DOC network and the DOC applications.

(B) A separate request form shall be completed if the user is requesting dial-up access to DOC information systems.

(C) Authorization forms shall be signed by the functional unit manager or designee for the functional unit or external organization and shall be forwarded to the DOC network security officer who shall generate a user identification and a user account allowing the access requested.

(d) Training: The user shall be required to complete a training module on password management before access to the system is authorized. Notification of completion of training shall be forwarded to the DOC network security officer or designee, who shall then activate the user's profile. The DOC network security officer shall notify the user when the profile is activated and access is authorized.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1981, f. & ef. 4-17-81; CD 38-1985, f. & ef. 8-16-85; CD 12-1986, f. & ef. 6-30-86; CD 24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 23-1999(Temp), f. 7 cert ef. 12-22-99 thru 6-19-00; DOC 11-2000, f. & cert. ef. 6-19-00

291-005-0035

Termination of Access

(1) Notice of termination of employment or a transfer to a position not requiring access under these rules shall result in retirement of the individual's user identification. Prompt notice of termination or transfer shall be sent to the DOC network security officer

by the functional unit manager or designee who handles user authorization. This procedure also applies to users from external organizations and Oregon Corrections Enterprises.

(2) Functional unit managers or their designees shall review annually for accuracy a list of users from their respective units. The Information Systems and Services Division (ISSD) shall provide the list.

(3) Managers of external users shall review a list of users annually and confirm those needing continued access. ISSD shall provide the list.

(4) Newly-created user profiles that are not used within three weeks will be disabled.

(5) Owners of existing profiles that are not used for a period of three months will be sent a letter by the DOC network security officer to confirm continued need for access. If there is no response, the profile will be disabled after six months of inactivity.

(6) Passwords that have been disabled for a period of three months will be deleted.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1981, f. & ef. 4-17-81; CD 38-1985, f. & ef. 8-16-85; CD 12-1986, f. & ef. 6-30-86; CD 24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 23-1999(Temp), f. 7 cert ef. 12-22-99 thru 6-19-00; DOC 11-2000, f. & cert. ef. 6-19-00

291-005-0045

Dial-Up Access

(1) Authorized persons may be granted access to DOC information systems by means of dial-up connection on a need-to-use basis. Such access shall be via the same user identification and password issued for non-dial-up access.

(2) Dial-up access is permitted by means of user identification and password only. The use of open user accounts and automatic sign-on are not permitted.

(3) No inmate/offender shall be permitted to access DOC information systems by means of dial-up connection.

(4) The ISSD standards and guidelines require additional security controls to be used whenever dial-up access is authorized.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD-24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99

291-005-0055

User Password Management and Responsibilities

(1) Authorized users shall comply with the following rules to create and manage their passwords:

(a) All user accounts shall be protected by use of a password. This password shall be generated by and known only to the individual user.

(b) The DOC network security officer shall determine password characteristics.

(2) Password Duration: All user passwords shall be subject to automatic retirement at a maximum set in the standards and guidelines. Authorized users may change passwords as often as they wish during this period and are encouraged to do so.

(3) Password Violation: Violation of these rules is a disciplinary matter, up to and including dismissal as a consequence.

(4) A user account shall be automatically disabled when there have been more than three successive unsuccessful attempts at sign-on.

(5) The DOC network security officer or designee may re-enable a disabled password.

(6) Personal Computer Network Access: Personal computers (PCs) which connect to the local or wide area network for the purpose of accessing and using file, disk, application, and printer services must be treated with the same care and diligence accorded to terminals connected directly to a computer system. Such PC connections must be mediated by the user's log-on name and password.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD-24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99

291-005-0065

Information Systems and Services Division (ISSD) Responsibilities for User Identification

To implement user accountability, the following rules shall be strictly enforced by ISSD:

(1) The same user identification (numeric value and/or user name) shall not be assigned to more than one user.

(2) Group accounts are not allowed. A group account is a log-on or sign-on user name and password which is shared by more than one person.

(3) Open user accounts are not allowed. An open user account is a log-on user name for which there is no password, or for which the password is publicly known.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD-24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99

291-005-0075

Physical Security Guidelines

(1) Computer equipment shall be protected from unnecessary risk of access, damage or theft.

(2) An annual evaluation of physical security for AS400 computer sites shall be conducted by AS400 system operators. The findings of this evaluation shall be reported by the system operators to the work group.

(3) An annual evaluation of physical security for computer equipment used by their respective staff shall be conducted by the functional unit managers or their designees, who are in charge of user authorization.

(4) Physical security guidelines for AS400 sites and computer equipment shall be developed by ISSD and reviewed and approved by the automation security officer.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD-24-1992, f. 11-24-92, cert. ef. 12-1-92; CD 10-1997, f. & cert. ef. 6-20-97; DOC 16-1999, f. 9-24-99, cert. ef. 10-1-99

DIVISION 6

DISCRIMINATION COMPLAINTS (INMATE)

291-006-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish Department of Corrections policy and procedures for inmates to obtain internal review, investigation, and resolution of perceived instances of unfair discriminatory practices and action by the department based on race, gender, color, national origin, religion, age, marital status or disability.

(3) Policy: Within the inherent limitations of resources and the need to maintain internal security, good order, and discipline in Department of Corrections facilities, the health and safety of inmates, staff and volunteers, and to promote inmate rehabilitation, it is the policy of the Department of Corrections:

(a) That all inmates are treated fairly, equitably, and that staff actions and decisions be consistent with the rules, policies, and procedures of the department.

(b) To permit and encourage inmates to seek resolution of issues or disputes related to perceived instances of discriminatory practices or actions using the department's internal discrimination complaint system established in these rules.

(c) To promptly and thoroughly investigate any complaint alleging perceived discrimination and, if appropriate, take measures to resolve the issue.

(d) No person shall be discriminated against, intimidated, threatened, coerced, or suffer any form of retaliation or reprisals,

because the person has opposed unlawful discrimination, filed a complaint, testified, assisted, or participated in any manner, in any proceeding regarding unlawful discrimination or has attempted to do so.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 22-1986(Temp), f. 7-25-86, ef. 9-1-86; CD 40-1986, f. & ef. 10-17-86; CD 12-1995, f. & cert. ef. 7-7-95; CD 19-1997, f. 10-27-97, cert. ef. 11-1-97; DOC 2-2011, f. 2-23-11, cert. ef. 3-1-11

291-006-0011

Definitions

(1) Contractor: Any person under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department sanctioned assignment to provide services or support to department programs.

(2) Department of Corrections (DOC) Employee: Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections.

(3) Disability: With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment.

(4) Discrimination Complaint Coordinator: An employee who is assigned by the functional unit manager to review and investigate incidents of perceived discrimination. In a DOC facility, the discrimination complaint coordinator may also be the grievance coordinator.

(5) Functional Unit Manager: Any person within the Department of Corrections who reports either to the Director, an Assistant Director, or an administrator and has responsibility for the delivery of program services or the coordination of program operations.

(6) Inmate Communication Form: An official Department of Corrections form (CD 214) commonly referred to as a “kyte or kite.” The form is designed for inmate use in communicating with employees, volunteers, or contractors and allows employees, volunteers, or contractors to respond in writing, when appropriate, to the inmate.

(7) Inmate Discrimination Complaint Review Committee: A workgroup chaired by a manager designated by the Inspector General and made up of inmate grievance coordinators, discrimination complaint coordinators, the Chief of Inmate Services, and department subject matter experts. The committee meets monthly to review inmate discrimination complaints, investigations, and responses when a review has been requested by an inmate.

(8) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(9) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises.

(10) Volunteer: An approved person who donates time, knowledge, skill or effort to enhance the mission, activities and programs of the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 2-2011, f. 2-23-11, cert. ef. 3-1-11

291-006-0012

Inmate-Staff Communications (General Principles)

(1) Proper and effective communication between inmates and staff is essential to the safe, secure, and orderly operation of Department of Corrections facilities and to the successful completion of the inmate’s corrections plans.

(a) Inmates and staff communicate with each other not only with their choice of words (oral or written), but also non-verbally through their manner, tone, and approach (commonly referred to as “body language”).

(b) Inmates and staff are jointly responsible for ensuring their choice of words, manner, tone and approach are appropriate to

properly and effectively convey their intended information and ideas to one another.

(2) Inmates shall communicate with staff in a civil and respectful tone and manner.

(3) Staff shall communicate with inmates in a professional manner that fosters respect and confidence. Staff orders directed to inmates should be clear and concise.

(4) Staff shall make every effort to respond to an inmate communication form (CD 214) within seven days of receipt.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 2-2011, f. 2-23-11, cert. ef. 3-1-11

291-006-0015

Internal Complaint Process

(1) General Information:

(a) An inmate that believes he/she has been subjected to discrimination by the department or by an employee, contractor, or volunteer of the department or the Oregon Corrections Enterprises on the basis of race, color, national origin, gender, religion, age, marital status, or disability may seek resolution of his/her complaint or issue through the department’s internal discrimination complaint process by completing the department’s approved discrimination form (CD 1086D) and submitting it to the designated functional unit discrimination complaint coordinator.

(b) If an inmate cannot complete the complaint form due to a language, physical, or competency or capacity barrier, another person may complete the complaint form.

(A) However, the inmate submitting the form must sign the discrimination complaint form.

(B) Translation services or other assistance for submission of an inmate discrimination form for non-English speaking inmates or inmates who have difficulty with reading and writing will be made available upon request.

(c) Inmates who have submitted a discrimination complaint shall be treated in a professional and respectful manner.

(d) Functional unit managers or designees shall ensure the approved inmate discrimination forms are available to inmates in DOC correctional facilities.

(2) An inmate cannot file a discrimination complaint regarding the following:

(a) Complaints relating to actions or decisions not within the authority of the department (as an example, actions by the Board of Parole, county jails or court action);

(b) Incidents or actions for which there exists a separate internal department appeal or review process; for example, rejection or confiscation of mail, visiting, classification issues, etc.

(c) Incidents or actions in which the inmate was not directly involved or affected;

(d) Claims or issues that the inmate is pursuing in pending litigation in state or federal courts; or

(e) Claims or issues for which the inmate has filed a Notice of Tort Claim with the Oregon Department of Administrative Services, Risk Management Division;

(3) An inmate may not file more than one discrimination form on a single incident or issue.

(4) An inmate may not file a discrimination complaint and a grievance regarding the same incident.

(5) An inmate may submit only his/her signature on a single discrimination complaint form.

(6) An inmate may file a discrimination complaint regarding the same issue as previously filed provided there is another incident and new information is available about the issue.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 22-1986(Temp), f. 7-25-86, ef. 9-1-86; CD 40-1986, f. & ef. 10-17-86; CD 12-1995, f. & cert. ef. 7-7-95; CD 19-1997, f. 10-27-97, cert. ef. 11-1-97; DOC 2-2011, f. 2-23-11, cert. ef. 3-1-11

291-006-0031

How and When a Discrimination Complaint is filed

(1) When submitting an inmate discrimination complaint, inmates must include on the approved discrimination complaint form (CD 1086D), a complete description of the incident, action or application of rule that directly impacted the submitting inmate and how the inmate believes it has subjected him/her to discrimination.

(2) The discrimination complaint coordinator must receive the discrimination complaint within 30 calendar days of the last date of the incident giving rise to the discrimination complaint.

(a) The discrimination complaint coordinator will date stamp and log the discrimination form upon receipt.

(b) A discrimination complaint received more than 30 days after the last date of the incident giving rise to the complaint will be rejected as untimely.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 2-2011, f. 2-23-11, cert. ef. 3-1-11

291-006-0035

Processing of Inmate Discrimination Complaints

(1) Upon receiving an inmate discrimination complaint, the discrimination complaint coordinator will assign the complaint a number and record it in a discrimination log.

(2) After the complaint has been logged, the discrimination complaint coordinator will send a receipt to the inmate.

(a) If the discrimination complaint is rejected for failure to comply with the requirements and procedures for submitting discrimination complaints provided in these rules, the discrimination complaint coordinator will provide the inmate with a written statement of the reason(s) for the rejection on the receipt form.

(c) A copy of the denied complaint will be sent to the Director or designee.

(3) If the discrimination complaint is accepted for processing, the discrimination complaint coordinator will investigate the matter or, if more suitable, will coordinate with an appropriate manager to initiate an investigation into the alleged incident or issue. Staff may be required to submit written information for consideration by the discrimination complaint coordinator during the investigation of the incident.

(4) The discrimination complaint coordinator will complete the investigation and brief the functional unit manager.

(a) The functional unit manager or designee will prepare a response.

(b) The discrimination complaint coordinator will send the inmate the response within 60 calendar days from the date of receipt of the discrimination complaint, unless further investigation or review is necessary.

(c) If the discrimination complaint is not processed within this timeframe, the discrimination complaint coordinator will make an effort to notify the inmate of the status of the discrimination complaint.

(d) If the inmate does not receive a response within the allotted timeframe, he/she may contact the discrimination complaint coordinator for information regarding when he/she may expect a response.

(5) A copy of the discrimination complaint, investigative documents and the functional unit manager's response will be sent to the Inspector General or designee.

(6) A copy of the discrimination complaint and functional unit manager's response will be sent to the Director or designee.

(7) Discrimination complaint responses may be consolidated.

(8) If at any time the discrimination complaint coordinator determines that the inmate is pursuing his/her complaint or issue in pending litigation in state or federal courts, including submitting to state officials a Notice of Tort Claim, the discrimination complaint process will cease and the complaint will be returned to the inmate. The discrimination complaint coordinator will retain a copy of the inmate's discrimination complaint and document the date and reason for return of the complaint.

(9) A discrimination complaint that has been returned to the inmate by the discrimination complaint coordinator for procedural

reasons cannot be reviewed. An inmate may elect to resubmit the discrimination complaint if the procedural errors can be corrected.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 2-2011, f. 2-23-11, cert. ef. 3-1-11

291-006-0040

Discrimination Complaint Reviews

(1) An inmate may obtain a review of the department's response to his/her discrimination complaint by sending an inmate communication form to the discrimination complaint coordinator requesting a review. The inmate must attach the original discrimination complaint, original attachments and the department's response.

(a) The scope of the original complaint cannot be expanded. No additional information may be submitted unless it was unavailable to the inmate at the time the original discrimination complaint was filed, and the information is directly related to the alleged incident.

(b) The discrimination complaint coordinator will date stamp and log the review request.

(c) The inmate will be sent a response to the inmate communication form stating the review was forwarded to the Inspector General and the Inmate Discrimination Complaint Review Committee.

(2) Review Timelines:

(a) The discrimination complaint coordinator must receive the inmate's review request within 14 calendar days from the date that the department's discrimination response was sent to the inmate from the discrimination complaint coordinator.

(b) Review requests received more than 14 days from the date that the department's discrimination response was sent to the inmate will be rejected as untimely.

(c) An inmate's review request will be responded to by the Inspector General or designee within 60 calendar days from the date the review was received, unless further investigation is necessary.

(d) If the discrimination complaint review is not processed within this timeframe, the discrimination complaint coordinator will make an effort to notify the inmate of the status of the discrimination complaint. If the inmate does not receive a response within the allotted timeframe, he/she may contact the discrimination complaint coordinator.

(3) The review decisions made by the Inspector General or designee are final and not subject to further review.

(4) A copy of the review decision will be sent to the Director or designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 2-2011, f. 2-23-11, cert. ef. 3-1-11

291-006-0045

Retention and Filing of Inmate Discrimination Complaints

(1) The discrimination complaint coordinator will retain a file copy of discrimination complaints with pertinent documents, including a review, according to the department's approved retention schedule for these records.

(2) Inmate discrimination complaints will not be filed in the inmate's working file.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 2-2011, f. 2-23-11, cert. ef. 3-1-11

DIVISION 9

TOURS

291-009-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

Chapter 291 Department of Corrections

(2) Purpose: This rule provides guidelines and procedures

whereby interested groups and individuals may be allowed tours of

correctional facilities operated by the Department of Corrections.

(3) Policy: One of the goals of the Department of Corrections

is to create partnerships with communities by providing public

information and education, potential expansion of work programs,

professional advice, training and consulting services, and encour-

aging staff participation in professional exchanges of information

about the operation of the Department's facilities. One method of

achieving this goal is through the administration of a tour program.

Tours will be conducted in accordance with staff resource

availability and security requirements.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 33-1978, f. 10-24-78, ef. 10-25-78; CD 27-1982, f. & ef. 12-10-82;

CD 39-1985, f. & ef. 8-16-85; CD 16-1987, f. & ef. 3-5-87; CD 17-1988, f. &

cert. ef. 11-18-88; CD 3-1992, f. 3-13-92, cert. ef. 3-25-92; DOC 5-1999, f. 3-

19-99, cert. ef. 4-1-99; DOC 7-2013, f. & cert. ef. 8-20-13

291-009-0010

Definitions for OAR 291-009-0005 through OAR 291-009-0015

(1) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(2) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations. Whenever the term "functional unit manager" is used in this rule it means functional unit manager or designee.

(3) Inmate: Any person under the supervision of Department of Corrections who is not on parole, post-prison supervision, or probation status.

(4) Tours: Any person or group of persons authorized to be escorted through a Department of Corrections facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 33-1978, f. 10-24-78, ef. 10-25-78; CD 27-1982, f. & ef. 12-10-82; CD 39-1985, f. & ef. 8-16-85; CD 16-1987, f. & ef. 3-5-87; CD 17-1988, f. & cert. ef. 11-18-88; CD 3-1992, f. 3-13-92, cert. ef. 3-25-92; DOC 5-1999, f. 3-19-99, cert. ef. 4-1-99; DOC 7-2013, f. & cert. ef. 8-20-13

291-009-0015

Procedures

(1) Tours may be provided to:

(a) College and high school level students age 16 and over with an academic interest in state government, public services, social science, or criminal justice. Students under 18 years of age must be accompanied by an instructor.

(b) Persons, age 18 and over, ordered by the court to tour a Department of Corrections facility as a deterrent against further criminal activity.

(c) Persons, including representatives of the media that have a professional interest in state government correctional programs.

(d) Representatives from companies or the community who have the potential for expanding work programs, including private partnerships.

(e) Family members or associates of employees or contractors.

(2) The minimum age to participate in a tour is 16 years of age. Unemancipated children between 16 and 18 years of age must provide an informed consent notice signed by their parent or legal guardian prior to taking the tour and be approved for tour participation by the functional unit manager or designee.

(3) Processing tour requests:

(a) All requests for tours, the times, days, length and route of the tour will be coordinated with the functional unit manager or designee.

(b) Each institution functional unit manager will designate staff to be responsible for obtaining approval, scheduling the tour, securing supervision, and notifying appropriate staff, including the functional unit manager's office.

(c) LEDS checks are required unless waived by the facility functional unit manager. Persons are required to submit the necessary information to complete the LEDS check, as outlined in the DOC rule on Facility Access (OAR 291-016).

(d) Tours of designated facilities may be included in the new employee orientation program.

(4) Tour Standards:

(a) Normally, tours will be limited to ten persons or less per tour group; however, each functional unit manager may exceed that number depending upon the size of the facility and staff available to supervise the group.

(b) Tours will normally be conducted by a Department of Corrections employee. The facility functional unit manager may designate contractors to conduct tours. The facility functional unit manager will stipulate eligibility requirements for staff and contractors to become tour guides.

(c) Cameras and tape recorders may be admitted only with approval from the facility functional unit manager. Any inmate who is photographed or filmed for other than DOC purposes must sign the media consent form CD 297 indicating he/she is a

v o l u n t a r y participant.

(d) Former employees of the Department of Corrections are required to have an approved Visitor Authorization form (CD 451C) before entering a Department of Corrections facility.

(e) Any person who is now or has been an inmate of a correctional facility is required to have specific, advance written permission from the facility functional unit manager before entering a Department of Corrections facility.

(f) Tour members are not permitted to wander or leave the group without an assigned escort.

(g) Personal attire of tour members must meet the same minimum standards established in the Department of Corrections rule on Visiting (OAR 291-127).

(h) Inmates and tour members may not exchange any material.

(i) Failure to comply with any standards or security requirements will be reason for termination of the tour.

(j) Designated tour guides will be informed of scheduled tours and provided an approved Visitor Authorization form (CD 451C).

(k) Individuals wishing to tour a correctional facility may be subjected to a search in accordance with the Department of Corrections rule on Searches (Institutions) (OAR 291-041).

(l) Each person listed on the visitor authorization form (CD 451C) must complete the Facility Access Register (CD 52a) and exchange one piece of current photo identification for a visitor pass. Each facility may have additional facility-specific procedures for checking visitors in and out. Acceptable photo identification includes the following:

(A) Drivers license or state identification;

(B) Passport;

(C) State identification card (state employee or Motor Vehicle Division);

(D) Military identification;

(E) Student identification card; or

(F) Other official governmental identification.

(m) At the conclusion of the tour, the visitor pass will be exchanged for the visitor's photo identification and the visitor will sign out on the Facility Access Register.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 33-1978, f. 10-24-78, ef. 10-25-78; CD 27-1982, f. & ef. 12-10-82; CD 39-1985, f. & ef. 8-16-85; CD 16-1987, f. & ef. 3-5-87; CD 17-1988, f. & cert. ef. 11-18-88; CD 3-1992, f. 3-13-92, cert. ef. 3-25-92; DOC 5-1999, f. 3-19-99, cert. ef. 4-1-99; DOC 7-2013, f. & cert. ef. 8-20-13

DIVISION 11

SEGREGATION (DISCIPLINARY)

291-011-0005

Authority, Purpose, and Policy

(1) The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: To establish procedures and standards for the placing and maintenance of inmates in disciplinary segregation. Inmates in violation of rules of prohibited conduct are placed in disciplinary segregation.

(3) Policy: It is the policy of the Department of Corrections to establish and maintain disciplinary segregation operations separate from the main inmate population in Department of Corrections facilities. This rule cannot cover all possible events; it is intended to direct only the relative routine aspects of segregation operations. Inmates in disciplinary segregation status will be treated fairly and impartially with the best interest of staff, inmates, and the institution in mind.

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01

291-011-0010

Definitions

(1) Close Supervision Status: Placement of an inmate so that he/she is more restricted than other inmates in disciplinary segregation status. This status is designated for inmates whose actions disrupt the safe and orderly operation of disciplinary segregation.

(2) Disciplinary Segregation: The placement of an inmate in a housing program status which separates him/her from the main population of the facility in accordance with Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(3) Disciplinary Segregation Supervisor: That person designated by the functional unit manager to oversee the daily operation of the Disciplinary Segregation Unit (DSU).

(4) Dry Cell Status: A visual inspection process which, after reasonable suspicion has been established, allows for the placement of an inmate in a cell for the safe recovery of internally concealed foreign substances, instruments, and other contraband.

(5) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, or Assistant Director, or administrator and has responsibility for the delivery of program services or the coordination of program operations. In a correctional facility, the superintendent is the functional unit manager.

(6) Long-Term Status: Any inmate confined in segregation status or in disciplinary segregation for 30 or more consecutive days.

(7) Mental Health Professional: An individual who by virtue of his/her education, credentials, and experience is permitted to care for the mental health needs of patients. This includes, but is not limited to, psychiatrists, psychologists, psychiatric social workers and psychiatric nurse practitioners.

(8) Officer-in-Charge: That person designated by the functional unit manager to supervise the facility and make operational decisions in accordance with rule or procedure during periods when the functional unit manager or officer-of-the-day are not readily available.

(9) Officer-of-the-Day: That person designated by the functional unit manager and approved by the Assistant Director for Operations or Institutions Administrator to act on behalf of the functional unit manager during non-business hours and other periods when the functional unit manager may be absent.

(10) Oregon Accountability Model: A plan composed of six components that is designed to strengthen the department's ability to hold inmates and offenders accountable for their actions and staff accountable for achieving the mission and vision of the department.

(11) Qualified Health Care Professional: This includes physicians, physician assistants, nurses, nurse practitioners, dentists, mental health professionals and others who by virtue of their education, credentials and experience are permitted by law to evaluate and care for patients.

(12) Reasonable Suspicion: An apparent state of objective facts and rational inferences drawn there from which would permit a reasonable and experienced correctional staff person to conclude that an inmate is possessing contraband or is committing a crime or rule violation or conspiring or attempting the same.

(13) Short-Term Status: Any inmate confined in segregation status or in disciplinary segregation less than 30 consecutive days.

Stat. Auth.: ORS 179.040, 423.020, 423.030, & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06; DOC 6-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; Administrative correction 10-21-08

291-011-0015

Selection of Disciplinary Segregation Unit (DSU) Staff

(1) Selection Criteria: To qualify for a post solely assigned to disciplinary segregation, the employee:

(a) Must have successfully completed trial service;

(b) Must have completed mental health training for working with mentally ill inmates as provided by the Professional Development Unit; and

(c) Must have achieved a satisfactory on the most recent performance appraisal at the time of application and assignment to disciplinary segregation. At a minimum, the staff member must meet the criteria listed in this rule:

(A) Have demonstrated support of the Oregon Accountability Model;

(B) Have demonstrated maturity and tolerance;

(C) Have demonstrated a constructive interest in working with inmates in disciplinary segregation;

(D) Have demonstrated the ability to work with inmates through conflict-reducing and conflict-control skills; and

(E) Have demonstrated the ability to use good judgment.

(2) Assignments to Disciplinary Segregation Posts:

(a) Assignment to disciplinary segregation posts will be made by the functional unit manager or designee and will be reviewed at least semi-annually.

(b) Rotation of staff assigned to disciplinary segregation posts may occur as it is found to be in the best interest of the employee or the facility, upon determination by the functional unit manager or designee.

(c) Staff may not be assigned to a disciplinary segregation post for a period exceeding 24 consecutive months. Any staff having been assigned to a disciplinary segregation post for 24 consecutive months must be reassigned to a post not associated with a special housing unit for a minimum of six months.

(d) Temporary assignment to a fixed disciplinary segregation post will be made by the functional unit manager or designee. Temporary assignments shall be given only to employees who meet the initial qualifications as specified in this rule, unless waived by the Assistant Director for Operations or designee. Whenever possible, temporary assignments will be given only to employees who have successfully completed training specified by the Department of Corrections.

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0020

Handling Disturbances/Officer-in-Charge

(1) Any and all disturbances which involve inmates in disciplinary segregation will be reported immediately to the officer-in-charge who will take any necessary, immediate emergency action. When any disturbance occurs that requires an unusual incident report, the officer-in-charge will immediately notify the appropriate administrative staff. The unusual incident report will be completed as required by the Department of Corrections policy on Unusual Incident Reporting Process (40.1.6).

(2) The officer-in-charge or designee will make the decisions, organize, assign, direct, control and observe, but will not become physically involved in situations where an inmate must be subdued and placed in or removed from a cell, nor in other disturbance situations which require time to organize necessary control action and assemble personnel.

(3) The use of physical force, chemical agents, and/or physical restraints must be in accordance with the Department of Corrections rule on Use of Force (OAR 291-013).

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0025

Assignment and Removal of Inmates

(1) Inmates will be assigned to disciplinary segregation in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-

105). The functional unit manager or designee or the officer-in-charge may order immediate placement of an inmate in disciplinary segregation when it is necessary to protect the inmate or others, or for the safety, security and orderly operation of the facility.

(2) Immediately following any verbal threat of self destruction or act of self-destruction by an inmate, a mental health professional, if readily available or a registered nurse if a mental health professional is not readily available, will be consulted by the officer-in-charge to determine the proper course of action, in accordance with the rule on Suicide Prevention in Correctional Facilities (OAR 291-076).

(3) Dry Cell Status:

(a) An inmate may be placed on dry cell status by the officer-in-charge.

(b) An inmate placed on dry cell status will remain isolated from other inmates for a period not to exceed 72 hours, unless authorized by the functional unit manager.

(c) An inmate shall not be permitted visits while on dry cell status.

(d) There will be no interruption of normal food intake. The inmate will be provided water upon request.

(e) Additional specific procedures for placing an inmate on dry cell status are included in the department's policy on Dry Cell Status (40.1.11).

(4) Inmates assigned to the Disciplinary Segregation Unit may be temporarily assigned to other treatment, program or service units (e.g., infirmary, Administrative Segregation Unit, Special Management Unit) for treatment or programming as deemed necessary and advisable by the department. Once the inmate has been assigned to a unit other than the Disciplinary Segregation Unit, the operating policies of the newly assigned unit will be used to manage the inmate.

(5) Release from disciplinary segregation, other than for emergency medical treatment or for transfer to another agency, will be authorized only upon order of the functional unit manager or designee.

(6) Inmates assigned to disciplinary segregation will be permitted minimally to leave their cell for visits, exercise, showers, medical, dental, mental health or authorized services or activities. An employee designated by the officer-in-charge will assign escort supervision. Disciplinary-segregated inmates will not be permitted to leave their cells without prior approval from the disciplinary segregation supervisor. Routine staff/inmate interviews shall take place at the inmate's cell.

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 13-2005(Temp), f. & cert. ef. 9-27-05 thru 3-26-06; Administrative correction 4-19-06; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0030

Situational Reviews

(1) Inmates assigned to disciplinary segregation shall remain so assigned for only the shortest length of time necessary to achieve the purpose for which assignment was prescribed in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(2) For inmates who have been identified with severe or the highest mental health treatment needs, a clinical interview will be conducted and documented by a qualified mental health professional upon notification of the admission of the inmate into a disciplinary segregation unit. Requests for psychological intervention by a qualified mental health professional may also be initiated by a staff member working in disciplinary segregation, or by an inmate in disciplinary segregation.

(3) An assessment will be made by the Special Needs Inmate Evaluation Committee on each inmate in continuous disciplinary segregation at least every 30 days. Adjustment to segregation and early release from segregation will be considered for recommendation to the functional unit manager.

(4) Close Supervision:

(a) A close supervision status cell may temporarily be used to house an inmate:

(A) Whose behavior is deemed so aggressive or destructive that housing for protection of self, others or property is indicated.

(B) Whose behavior creates a serious disruption to the safety, security or orderly operation of the unit.

(b) An inmate placed on close supervision status must be reviewed and approved by the officer-in-charge or designee.

(c) An inmate on close supervision status will be reviewed daily by the officer-in-charge. If the inmate's behavior warrants, he/she may be removed from close supervision status.

(d) The security manager or Assistant Superintendent of Security will review inmates on close supervision status at least weekly.

(5) Every inmate in disciplinary segregation status will be checked at least once every 30 minutes, but on an irregular basis by a DSU staff member.

(6) Inmates will receive visits from the disciplinary segregation supervisor at least once a shift.

(7) A qualified health care professional will tour the unit daily unless medical or mental health attention is needed more frequently.

(8) The officer-in-charge or designee will tour the Disciplinary Segregation Unit at least once per shift.

(9) The functional unit manager or designee and the security manager or Assistant Superintendent of Security will tour the Disciplinary Segregation Unit weekly.

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0035

Maintaining and Recording Information

(1) Disciplinary segregation logs will be maintained with the following methods:

(a) All entries made with ink.

(b) Mistakes will be lined out and initialed by the person who made the error.

(c) No spaces will be left blank between entries.

(d) No pages will be skipped.

(e) No sheets will be removed.

(f) Sheets may be added for continued or additional information.

(g) All logs will be retained in accordance with archive records retention schedules.

(h) All entries in the log must bear the staff member's signature.

(i) All logs will be reviewed monthly by the Assistant Superintendent of Security or security manager.

(2) Disciplinary segregation logs will record the following minimum information:

(a) All movement in or out or within the Disciplinary Segregation Unit and purpose of the visit.

(b) All cell assignments in the Disciplinary Segregation Unit.

(c) All unusual incidents that occur in the Disciplinary Segregation Unit.

(d) All inmate telephone calls.

(e) All cell searches.

(f) All 30-minute cell checks.

(g) All services and activities deprived or not provided an inmate as required by this rule.

(h) Any non-compliance of a requirement of this rule, which should immediately be reported to the Assistant Superintendent of Security or security manager.

(i) All exercise periods.

(j) All inmates placed on close supervision or dry cell status.

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0040

Security

(1) Door Security:

(a) Entry doors into the Disciplinary Segregation Unit and the entry door to each tier in disciplinary segregation will be locked at all times, except when in use for authorized traffic. If the entry doors to the facility are open, all entry doors to the tiers must be locked.

(b) Cell doors will be closed and locked at all times, except during inspections and when an inmate is entering or leaving the cell. There will be no instances of two occupied cells on individual tiers or two occupied cells in the same section being opened at any given moment, except in case of an emergency (i.e., emergency evacuation).

(c) Two staff members to one inmate must be present at the cell when the door of any occupied single person cell is unlocked.

(d) If the cell houses two inmates and only one inmate is to be removed from the cell, at least three staff members must be present to complete the removal. The cell door will remain secured until the inmate scheduled for removal has been restrained.

(e) At least four staff members must be present at the cell when the door of any cell occupied by two unrestrained inmates is unlocked or opened or when both inmates are removed from the cell at the same time.

(2) Escort Security:

(a) All inmates will be placed in restraints when escorted by staff.

(b) Escort levels in the Disciplinary Segregation Unit will be determined by the Assistant Superintendent of Security or security manager. The escort level will be based on the inmate's behavior while housed in disciplinary segregation.

(c) Minimally, the escort level must be one staff member to one inmate when the inmate is outside the segregation unit. Escort requirements can be adjusted to two staff members to one inmate when deemed appropriate.

(3) Searches:

(a) Every inmate assigned to the Disciplinary Segregation Unit will be skin searched before being placed in a cell. All items of clothing issued or worn by the inmate will be thoroughly examined for contraband. All inmates will be searched in accordance with the Department of Corrections rule on Searches (Institutions) (OAR 291-041).

(b) Inmates entering the Disciplinary Segregation Unit for purposes other than segregation will be minimally frisk searched.

(c) Every item of material or equipment (i.e., book magazine, clothing, etc.) will be carefully searched by the disciplinary segregation staff before acceptance in the Disciplinary Segregation Unit.

(d) All disciplinary segregation cells and cell equipment will be visually inspected daily.

(e) Every disciplinary segregation cell will be searched at least twice monthly and before and after each occupancy.

(A) Any deficiencies noted will be immediately reported to the disciplinary segregation supervisor.

(B) Any unauthorized materials located will be removed and delivered immediately to the disciplinary segregation supervisor and processed in accordance with the rule on Personal Property Control (Inmate) (OAR 291-117).

(C) Sanitation standards will be maintained to ensure the same standards as those required throughout the facility.

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0050

Property

(1) Any personal property, as defined in the Department of Corrections rule on Personal Property Control (Inmate) (OAR 291-117), not permitted in the cell of any disciplinary-segregated inmate will be properly protected in a location designated by the functional unit manager. Upon release from the Disciplinary Segregation Unit, the inmate will check his/her personal property and sign the property sheet.

(2) The following standard items are issued to all inmates in disciplinary segregation:

- (a) Writing utensil;
- (b) Coveralls (orange)/two-piece scrub;
- (c) Shower shoes (one pair);
- (d) Towel;
- (e) Blanket(s) (staff will determine appropriate number issued consistent with general population standards);
- (f) Sheets (two total);
- (g) Mattress;
- (h) Pillow;
- (i) Pillow case;
- (j) Socks (one pair);
- (k) Soap;
- (l) Toothbrush;
- (m) Comb;
- (n) Undergarments;
- (o) Property box;
- (p) Envelopes (two);
- (q) Writing paper; and
- (r) Inmate communication forms (two total).

(3) Inmates classified as short-term status are allowed the standard issued items plus the following personal property:

- (a) Envelopes (20 total);
- (b) Library book (one);
- (c) Newspaper (one);
- (d) Magazines (three total);
- (f) Legal work (pending); and
- (g) Address book.

(4) Those inmates classified as long-term status are allowed the standard issued items, personal property identified for short-term status inmates, plus the following personal property:

- (a) Library books (three total)
- (b) Disciplinary Segregation Unit approved canteen items purchased after admission to DSU;
- (c) Photographs (ten total); and
- (d) Magazines and newspapers which MAY be exchanged if approved by the disciplinary segregation supervisor.

(5) Property for inmates in close supervision status includes the following (unless a specific deprivation order exists as authorized in OAR 291-011-0064):

- (a) Clothing (coveralls, shower shoes, undergarments, socks);
- (b) Bedding/linens (mattress, pillow and pillowcase, two sheets, blankets and towel); and
- (c) Basic hygiene items (toothbrush, comb, toilet paper and soap).

(6) An inmate on close supervision status will not be allowed to maintain personal property in his/her cell. Pen or pencil, paper, envelopes and mail/legal work will be issued daily if requested for a four-hour block of time.

(7) Disciplinary-segregated inmates will be permitted to retain basic personal health items (i.e., dentures, prescribed glasses, hearing aids).

(8) Disciplinary-segregated inmates will be permitted religious items as approved by the chaplain and security manager in accordance with the rule on Religious Activities (OAR 291-143).

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0060

Services and Activities

(1) Canteen: Canteen items may be purchased every other week by those inmates who have available funds in their trust accounts.

(a) Close supervision status and short-term status inmates may ONLY purchase envelopes (maximum of 20).

(b) Long-term status inmates may purchase authorized items from the disciplinary segregation canteen list and additional items as authorized by the functional unit manager.

(2) Food:

(a) Except when under special diet specifically prescribed by the medical officer, each disciplinary-segregated inmate shall receive food prepared in accordance with the sanitation standards specified in the Department of Corrections rule on Food Service Programs (OAR 291-061). Inmates in disciplinary segregation will receive food of the same quality and standard ration as inmates in general population, unless security circumstances dictate otherwise or the inmate has been placed on a special medically approved diet. Partial meals will not be served.

(b) Religious diets must be approved by the facility chaplain.

(c) Food delivery to each inmate in his/her cell will be accomplished by a staff member.

(d) Controlled feeding (nutra loaf) may be substituted for the meal in accordance with the department's rule on Controlled Feeding (OAR 291-083).

(e) Food shall never to be used as a reward or as a punishment.

(3) Clothing: A clean set of outergarments and undergarments will be provided on an exchange basis three times a week.

(4) Linen: A clean towel will be provided when an inmate showers. Clean sheets and pillow cases will be provided on a weekly basis.

(5) Medical/Dental/Mental Health Services:

(a) Each disciplinary-segregated inmate will be visited at least daily by a member of the medical staff. The medical staff member will then process requests for medical, dental, and mental health services to the appropriate staff member.

(b) Health care and mental health services will be provided to inmates in disciplinary segregation according to the Department of Corrections rule on Health Services (Inmate) (OAR 291-124).

(c) If a disciplinary-segregated inmate complains of a medical, dental or psychological problem at other than the time of the medical staff member's visit, the staff member receiving the complaint will notify the disciplinary segregation supervisor who will make the request for service to the appropriate section in a timely manner. The request for service will be documented on the inmate's record.

(d) If the disciplinary-segregated inmate's medical or mental health condition is not treatable in his/her cell, the inmate will be escorted to appropriate facilities. Unless otherwise ordered by the Assistant Superintendent of Security or security manager, security supervision will be maintained throughout the inmate's examination and treatment.

(e) Any disciplinary-segregated inmate transferred from the facility for treatment will, upon his/her return, resume disciplinary segregation assignment unless confinement elsewhere is recommended by facility medical, dental, or mental health professionals and approved by the functional unit manager or the officer-of-the-day.

(6) Personal Hygiene:

(a) Inmates in disciplinary segregation will have the opportunity to shower and shave at least three times weekly.

(b) Arrangements for haircuts will be made by the disciplinary segregation supervisor once a month.

(7) Inmate Communication Form: Each disciplinary-segregated inmate may write to any staff member by submitting an inmate communication form. Inmate communication forms will be made available once per day. Submitted inmate communication forms will be forwarded without undue delay.

(8) Correspondence:

(a) Each disciplinary-segregated inmate will be allowed to correspond in accordance with the Department of Corrections rule on Mail (Inmate) (OAR-291-131).

(b) Disciplinary segregation staff will inspect all incoming mail prior to distributing to inmate. All legal mail must be opened in the presence of the inmate.

(9) Visits: Inmates assigned to disciplinary segregation shall be granted visits in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127).

(10) Legal visits will not be denied to a segregated inmate unless his/her conduct is so disruptive that the safety, security and orderly operation of the facility would be compromised.

(11) Reading:

(a) Reading material will be issued or exchanged at least weekly.

(b) The disciplinary segregation supervisor will coordinate activity with the appropriate staff member to assure adequate availability of books and/or magazines for disciplinary-segregated inmates. All such items entering or leaving disciplinary segregation shall be inspected by the Disciplinary Segregation Unit staff member handling entry/exit for contraband and/or abuse.

(12) Exercise: Inmates in disciplinary segregation will be provided opportunity to exercise a minimum of 40 minutes, which includes shaving and showering, per day, five days a week, in an area and manner specified by the functional unit manager, unless security, staff availability or safety considerations dictate otherwise as authorized by the security manager.

(13) Religious Services:

(a) Religious Services staff will visit each disciplinary-segregated inmate once a week, if the inmate requests.

(b) No inmate will be denied the opportunity to receive religious guidance from staff chaplains or approved religious volunteers while in disciplinary segregation. The practice of his/her religion may be restricted to the inmate's cell.

(14) Work: Inmates in disciplinary segregation will only be permitted work assignments that include maintenance of their own quarters and the disciplinary segregation facilities.

(15) Telephone Services: Telephone calls related to legal matters will be handled in accordance with the Department of Corrections rule on Telephones (Inmate) (OAR 291-130). Telephone calls other than legal calls will be limited to verified emergency situations (death, serious illness, or injury to an immediate family member, etc.) or as authorized by the functional unit manager or designee.

(16) Legal Activities: Inmates assigned to disciplinary segregation shall be permitted to pursue their legal activities according to the procedures prescribed in the Department of Corrections rule on Legal Affairs (Inmate) (OAR 291-139).

Stat. Auth.: ORS 179.040, 421, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1978, f. & ef. 8-29-78; CD 33-1983, f. & ef. 10-14-83; CD 23-1985, f. & ef. 8-16-85; CD 18-1987(Temp), f. & ef. 3-5-87; CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0064

Forfeiture/Deprivation of Service or Activity

(1) A disciplinary-segregated inmate may be required to forfeit or be temporarily deprived of any service or activity when the inmate is using them to destroy or damage property, obstruct security, or threatens physical violence to himself/herself or others. If an inmate is using any service or activity for self-destruction, that service/activity may be temporarily removed upon order of the officer-in-charge or designee. Any item(s) withheld shall be returned at the earliest possible time when the basis for removal has ceased to exist. Deprivation orders will be reviewed every eight hours by the officer-in-charge.

(2) Services and activities may be forfeited or deprived as a result of a disciplinary sanction in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(3) Forfeiture of a service/activity will be reviewed weekly by the Special Needs Inmate Evaluation Committee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 33-1987, f. & ef. 8-28-87; CD 19-1991, f. & cert. ef. 8-21-91; DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

291-011-0080

Disciplinary Segregation Units in Minimum Custody Facilities

(1) Due to their size and available staffing, minimum custody facilities will be exempt from the following provisions of the Department of Corrections rule on Segregation (Disciplinary) (OAR 291-011). These provisions will be modified as described below.

(2) An inmate may be placed on close supervision status under the provisions listed in OAR 291-011-0030 and remain so until terminated by the functional unit manager or transfer to another facility.

(3) Recreation outside of the cell will not be available.

(4) Staff Selection Criteria: Employees regularly assigned to the facility will staff the Disciplinary Segregation Unit.

(5) Inmates in disciplinary segregation requesting psychological intervention will be referred to the facility medical staff.

(6) Inmates in disciplinary segregation will be visited by a qualified health care professional at least daily, unless medical attention is ordered more frequently in specific cases by the facility's physician. Requests for medical attention made to security staff will be referred to the officer-in-charge who will determine the appropriate action to be taken.

(7) Facilities that have five or seven-day-a-week health care available will ensure that inmates in disciplinary segregation are seen by a health care official each day.

(8) Door Security: The outer door to each segregation cell shall remain locked when not in use for authorized traffic.

(9) When possible, staff will restrain all inmates in a cell prior to the unlocking/opening of the cell door. The functional unit manager may waive this requirement based upon facility design and operational requirements.

(10) Property: In addition to authorized issued items, the following property will be authorized in disciplinary segregation:

(a) Personal letters;

(b) Photographs (ten total, will not be retrieved from inmate's personal property);

(c) Paperback books (three total);

(d) Magazines (three total, will not be retrieved from inmate's personal property);

(e) Legal papers requiring immediate action (approved by facility legal librarian);

(f) Pen or pencil;

(g) Paper;

(h) Envelopes; and

(i) Medically approved denture cleanser and denture adhesive.

(11) Canteen will not be available except for the purchase of ten envelopes.

(12) If a disciplinary segregated inmate complains of medical, dental or mental health problems at other than the time of the medical staff member's visit, the officer-in-charge will consider the request and determine if immediate action is warranted. If necessary, the officer-in-charge will utilize the established mental health/medical on-call system.

(13) All requests for religious guidance or counseling will be submitted in writing by the inmate and directed to the chaplain or approved religious volunteer for the facility.

(14) Inmates receiving disciplinary sanctions of 14 days or less may complete their sanctions at these facilities. Any inmate sanctioned to 15 or more consecutive days of disciplinary segregation shall be transferred to a facility capable of housing disciplinary segregated inmates in compliance with OAR 291-011-0015 through 291-011-0064.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075.

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2001, f. & cert. ef. 3-21-01; DOC 11-2006, f. 10-12-06, cert. ef. 10-16-06

DIVISION 13

USE OF FORCE

291-013-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to provide guidance and direction in the use of force and security equipment by Department of Corrections employees in the lawful performance of their duties. The rule is written to minimize risk to the general public associated with the escape of an inmate; minimize the likelihood of injury to employees, members of the general public, and inmates; prevent serious destruction of state property, and meet the mission of the Department.

(3) Policy:

(a) It is the policy of the Department of Corrections to authorize the use of force in circumstances specified in this rule. In such circumstances where force is authorized, the type, amount and manner of use of force authorized are further specified within this rule.

(b) The use of force and security equipment by Department employees is authorized by the Director through the appropriate functional unit manager.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.030

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.030

Hist.: CD 35-1978, f. 11-9-78, ef. 11-13-78; CD 16-1981(Temp), f. & ef. 6-5-81; CD 33-1981, f. & ef. 8-7-81; CD 3-1983, f. & ef. 1-20-83; CD 40-1985, f. & ef. 8-16-85; CD 42-1986, f. & ef. 10-17-86; CD 12-1988, f. & cert. ef. 9-30-88; CD 9-1989, f. & cert. ef. 6-20-89; CD 20-1991, f. & cert. ef. 8-28-91; CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98

291-013-0010

Definitions

(1) Behavioral Health Services (BHS): A Health Services unit with primary responsibility for the assessment and treatment of inmates with mental illness and developmental disabilities.

(2) Carotid Hold: Application of a hold to the neck that restricts deoxygenated blood leaving the brain, which may result in the person to whom it is applied becoming unconscious.

(3) Chemical Agents: Chemical compounds that when deployed are designed to cause sufficient physiological effect to stop, control or temporarily incapacitate an individual.

(4) Choke Hold: Application of physical pressure applied directly to the neck area to restrict air from entering the lungs.

(5) Co-Located Minimum Security Facility/Level 2: A minimum security facility on the grounds of a medium or higher security facility, but not within the fenced perimeter of this higher security facility.

(6) Corporal Punishment: The use of physical force for the purpose of punishment.

(7) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(8) Electronic Control Devices: Security equipment designed to stop, control or temporarily incapacitate through the use of high voltage, low amperage electric stimulation; e.g., conducted electrical weapons, electronic shield, etc.

(9) Excessive Force: A type or amount of force beyond that which is reasonably necessary to control the situation and achieve the correctional objective; or the continued use of force after it is no longer reasonably necessary.

(10) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director or administrator and has responsibility for delivery of program services or coordination of program operations.

(11) Hogtie Method: Binding a person's wrists and ankles together behind the back while in a prone position.

(12) Less Lethal Force: Systems that are explicitly designed and primarily employed so as to incapacitate while minimizing fatalities or permanent injury.

(13) Lethal Force: Physical force that has substantial risk of causing death.

(14) Level of Force: The type of force employed, amount of that type of force employed, and the circumstances within which the force is employed.

(15) Medium or Higher Security Facility/Level 3 or Higher: A medium or higher security facility may house multiple custody classifications of inmates within its secure perimeter, including custody Level 1 and 2 inmates. Medium or higher security facilities will treat all inmates as if they are classified Level 3 or higher custody.

(16) Negligent Discharge: An unintentional discharge caused by an action or event that an employee could and should have foreseen or prevented.

(17) Officer-in-Charge: That person designated by the functional unit manager to supervise and make operational decisions in accordance with department policy, rule or procedure during periods when the functional unit manager or officer-of-the-day is not readily available.

(18) Physical Force: The use of hands, other parts of the body, objects, instruments, chemical devices, electronic devices, firearms or other physical methods used to restrain, subdue, control, intimidate or to compel persons to act in a particular way, or to stop acting in a particular way.

(19) Planned Use of Force: The use of force in situations where time and circumstances allow for consultation and approval with higher ranking employees, and where there is some opportunity to plan the actual use of force.

(20) Prone Restraint: The process of placing an individual "face-down" upon a surface and then securing or limiting the movement of the arms, legs, or trunk from that surface.

(21) Reactive Use of Force: The use of force in situations where time and circumstances do not permit approval by higher ranking employees, or consultation or planning.

(22) Reasonable Force: The use of physical force to achieve a legitimate correctional objective, where the type and amount of force are consistent with the situation and the objective to be achieved; and where alternatives to physical force are unavailable or ineffective; and where the force used is the minimum necessary to control the situation.

(23) Restraint Chair: A restraining device that allows for a person to sit upright in a chair that is designed to immobilize the person.

(24) Secure Custody: Custody exercised upon a person under the jurisdiction of the Department of Corrections by means of physical confinement within a facility of the Department of Corrections, or direct physical supervision of a person with or without use of restraints while outside a Department of Corrections facility.

(25) Security Equipment: Firearms, ammunition, batons, chemical agents, security restraints, electronic control devices, and similar devices.

(26) Security Restraints: Handcuffs, temporary cuffs, leg irons, belly chains, restraining chairs, and other similar equipment designed to restrict and control the person's movement from injuring himself/herself, others, and escape.

(27) Serious Mental Illness (SMI): An MH3 code designation used to identify inmates with the highest mental health treatment needs.

(28) Serious Physical Injury: Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(29) Show of Force: A demonstration of the current ability to use force, such as the massing of officers or tactical squads.

(30) Stand Alone Minimum Security Facility: A minimum security facility that is not on the grounds of a medium or higher security facility.

(31) Specialty Impact Munitions: Munitions designed to incapacitate, distract, and control a subject with less likelihood of life threatening injury.

(32) Therapeutic Restraints: A type of restraint applied to an inmate for medical or mental health purposes, and designed to limit an inmate's movement. The kinds of restraints that may be used for therapeutic purposes include, but are not limited to, leather, rubber or canvas restraints for the arms, legs and upper torso.

(33) Use of Force: Any situation in which an employee uses physical force against an inmate or other person, except those situations in which security restraints are used in a standard manner for arrest, escort, or transport, or in which therapeutic restraints are used.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 35-1978, f. 11-9-78, ef. 11-13-78; CD 7-1982(Temp), f. & ef. 1-29-82; CD 12-1982, f. & ef. 3-19-82; CD 3-1983, f. & ef. 1-20-83; CD 40-1985, f. & ef. 8-16-85; CD 42-1986, f. & ef. 10-17-86; CD 26-1987, f. & ef. 6-5-87; CD 12-1988, f. & cert. ef. 9-30-88; CD 21-1988(Temp), f. & cert. ef. 12-30-88; CD 9-1989, f. & cert. ef. 6-20-89; CD 20-1991, f. & cert. ef. 8-28-91; CD 3-1995, f. & cert. ef. 1-19-95; CD 20-1995, f. 10-26-95, cert. ef. 11-1-95; DOC 14-1998, f. & cert. ef. 6-18-98; DOC 3-2004(Temp), f. & cert. ef. 1-27-04 thru 7-25-04; Administrative correction 8-19-04; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 17-2015, f. & cert. ef. 10-26-15

291-013-0055

Applicability of the Rules

(1) All employees shall be thoroughly familiar with the departmental guidelines of this rule.

(2) Those employees whose duties require them to be in both institutional and community situations shall be thoroughly familiar with all sections of this rule. Parole and probation officers shall follow the department's rule on Use of Force (Community Corrections) (OAR 291-022) to provide guidance and direction in use of force incidents.

(3) If there is any question about specific equipment, procedures, etc., in a use of force situation, an employee shall be directed by the location of the situation, either in an institution or the community, rather than by distinctions concerning where he/she is duty stationed.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 6-2013, f. & cert. ef. 6-21-13

291-013-0065

General Provisions — Use of Force

(1) Employees are authorized to apply physical force when and to the degree that it reasonably appears necessary. Use of force will be authorized to maintain legitimate correctional objectives:

(a) For self defense or defend another person against an inmate by using reasonable force;

(b) To prevent the escape of an inmate from secure custody;

(c) To prevent the escape of an inmate during transportation;

(d) To prevent or stop the serious destruction of property;

(e) To quell a disturbance;

(f) To overcome an inmate's physical resistance to a valid order; or

(g) To prevent an inmate from injuring or killing himself/herself or other persons.

(2) Physical force shall be employed when it reasonably appears that other alternatives are not feasible to the situation. When the use of force is justified, only the amount and type of force that reasonably appears necessary to accomplish the authorized objective shall be used. Force shall be de-escalated or terminated as soon as possible consistent with resuming and maintaining control of the situation.

(a) An employee shall consider all types and amounts of force available and begin with the lowest type and amount that is reasonable given the specifics of the situation.

(b) Non-force alternatives, such as talking an inmate into compliance, giving a warning, verbal command or demonstrating a

show of force, should be used before actual physical force, if time and circumstances permit.

(c) Immediate use of physical force is authorized in circumstances in which warnings and other non-force alternatives, such as talking an inmate into compliance, are not reasonable or available to the employee.

(d) Employees may use physical force, to include control and compliance holds and hand-to-hand physical techniques, to restrict, immobilize, and attain control of the resisting inmate.

(e) Both the carotid hold and choke hold are prohibited except in self-defense or defense of another where there is no reasonable alternative and where the situation is a clear and immediate threat to life.

(3) Prior to the use of force when time and circumstances permit, the employee will warn the inmate that force will be used if he/she does not immediately comply with staff orders.

(4) An employee will exercise caution before the use of force, if time and circumstances permit, by performing the following:

(a) Evaluate the situation for the elements of risk;

(b) Report the situation to master control or a supervisor; and

(c) Work with a backup employee, preferably with the direct observation of a supervisor.

(5) Use of force and subsequent restraints shall be used only for restraint and not for punishment.

(6) Intentional verbal harassment or public humiliation to provoke an inmate into a position that would justify the use of force is prohibited.

(7) Nothing in these rules is intended, or should be interpreted, as preventing an employee from taking reasonable measures to protect himself/herself, to protect the lives of others, stop disturbances or escapes, or prevent serious destruction of state property.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.030

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.030

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; CD 20-1995, f. 10-26-95, cert. ef. 11-1-95; DOC 14-1998, f. & cert. ef. 6-18-98; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 14-2005, f. 10-14-05, cert. ef. 10-24-05

291-013-0070

Planned Use of Force

(1) The functional unit manager or designee will be contacted for authorization of the planned use of force involving firearms, batons, water hoses, electronic control devices, specialty impact munitions, and chemical agents other than aerosol sprays.

(2) Any planned use of force shall be carried out under the personal direction of supervisory or higher level staff, and only after consultation with and approval of the officer-in-charge. The officer-in-charge may be present when the use of force is employed if there is no anticipated danger of becoming a hostage.

(a) Chemical agents, electronic control devices, batons, water force, or specialty impact munitions may be used prior to the arrival of the supervising employee if immediate use is essential to prevent and/or control death, serious injury, major disturbance or substantial destruction of property.

(b) If an employee is assaulted, he/she will not participate in a planned use of force, unless no other option is available; e.g., no other employees are readily available to participate in the planned use of force.

(3) A health care professional shall be contacted, if on duty at the facility, prior to the planned use of force to ensure medical assistance is readily available, if necessary, and to evaluate the inmate if he/she is medically high risk.

(4) Inmates Designated as SMI:

(a) If an inmate has been designated as SMI, the officer-in-charge shall consult with a BHS manager or designee before the planned use of force. If no BHS manager is on-site, the officer-in-charge will contact Medical Services, if available.

(b) Based on the circumstances and if time permits, the BHS manager or designee may evaluate the inmate prior to the application of force.

(5) Every planned use of force situation shall be videotaped provided that time and circumstances permit.

(a) The video recording should include a briefing, the use of force incident, and debriefing. The video recording should not be stopped during the use of force incident.

(b) The original video recording will be stored by the functional unit in accordance with the approved retention schedules from the date of the incident, or the time stored will be extended until the resolution of pending or actual litigation, or as otherwise directed by the department's legal counsel.

(c) A back-up video recording will be made and sent to the Office of the Inspector General. The Office of the Inspector General will store the back-up tape in accordance with the approved retention schedule.

(d) Back-up tapes will be returned to the originating facility for disposition. A use of force video recording may be released with the approval of the functional unit manager or designee.

(6) The commander shall authorize the type and amount of force used during any declared emergency at a facility except for reactive use of force.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; CD 20-1995, f. 10-26-95, cert. ef. 11-1-95; DOC 14-1998, f. & cert. ef. 6-18-98, Renumbered from 291-013-0125; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 17-2015, f. & cert. ef. 10-26-15

291-013-0080

Reactive Use of Force

(1) Reactive use of force will be allowed for situations where time and circumstances do not permit approval by a supervisor or consultation or planning.

(2) Employees may use any available equipment or weapons to prevent the loss of life or serious bodily injury, if no other reasonable alternative or time is available.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.030

Stats. Implemented: ORS 179.040, 423.020 & 423.030

Hist.: DOC 14-1998, f. & cert. ef. 6-18-98; DOC 15-2004, f. & cert. ef. 11-2-04

291-013-0100

Lethal Force

(1) Employees shall consider every reasonable means of control before resorting to the use of lethal force.

(2) Use of Lethal Force in Medium/Level 3 or Higher Security Facilities: Lethal force may be used when and to the extent that an employee reasonably believes it necessary:

(a) To prevent imminent serious bodily injury or death to one's self or another person.

(b) To prevent escape by an inmate from secure custody, whether inside or outside the secure perimeter of a Department of Corrections facility while the inmate is on department grounds.

(c) To prevent or stop a riot or other group disturbance by inmates where there is reason to believe an inmate poses a threat of escape or imminent serious bodily injury or death to another person.

(d) To prevent an unauthorized person(s) or motor vehicle(s) from attempting to breach the secure perimeter of a Department of Corrections facility in order to assist in an escape or insurrection by an inmate(s).

(e) To prevent or stop extensive damage to property if, and only if, its loss or destruction would lead directly to escape or imminent serious bodily injury or death to another person.

(f) To prevent or stop an inmate or other person from setting or spreading fire to or within a building within the secure perimeter of a Department of Corrections facility, where there is reason to believe the fire poses a threat of serious bodily injury or death to another person.

(3) Any inmate moving toward an unauthorized motor vehicle or airborne craft, whether inside or outside the secure perimeter of the facility, shall be considered to be a potential escape attempt. Shots shall not be fired at an airborne craft in a flight over the perimeter, landing, on the ground, or taking off from the facility except in self defense to one's self or another person where the situation is a clear and immediate threat to life.

(4) Use of Lethal Force in Stand Alone Minimum Security Facilities/Level 2: Lethal force may not be used to prevent the escape of an inmate from a stand alone minimum security facility.

(5) Use of Lethal Force in Co-Located Minimum Security Facilities/Level 2: Lethal force may not be used to prevent the escape of an inmate from a co-located minimum security facility if the staff member knows the inmate is classified as minimum custody.

(6) Use of lethal force in community situations; e.g., transport of an inmate, supervision of outside work crews, is covered under OAR 291-013-0215.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98, Renumbered from 291-013-0155; DOC 3-2004(Temp), f. & cert. ef. 1-27-04 thru 7-25-04; Administrative correction 8-19-04; Renumbered from 291-013-0090; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 14-2005, f. 10-14-05, cert. ef. 10-24-05; DOC 19-2008, f. & cert. ef. 8-7-08

291-013-0104

Security Equipment

(1) General Provisions:

(a) The Institutions Administrator will review all security equipment. The Director or designee shall approve all security equipment before it is issued and used as department authorized security equipment.

(b) Only department authorized and/or issued equipment shall be used to apply physical force to individuals.

(c) Security equipment shall not be issued to or used by an employee who has not been trained in the proper use of such devices.

(d) The above three sections (a)–(c) apply to all use of force incidents except for situations that require reactive use of force where there is a clear and imminent threat of death or great bodily injury, and where there is no other reasonable alternative.

(e) The storage and use of security equipment will be authorized by the Director through the appropriate functional unit manager.

(2) Security Restraints — General Use of Restraints:

(a) Security restraints are authorized to restrict, immobilize, and control the movement of an inmate.

(b) The standard routine use of security restraints for escort or transportation of an inmate is not a use of force within the context of these rules. Situations in which an inmate has refused to be placed in security restraints, or has resisted after being placed in restraints, are considered use of force within the context of these rules.

(3) Restricting Movement:

(a) Security restraints may be used to restrain an inmate with the express approval of the officer-in-charge, upon a demonstration that the inmate is out of control and engaged in behavior which, if unrestrained could:

(A) Result in significant destruction of property;

(B) Constitute a serious health or injury hazard to the inmate or others; or

(C) Escalate into a serious disturbance.

(b) Security restraints used to restrain an out-of-control inmate shall be terminated when the inmate has demonstrated behavior which would not result in the above three sections (A)–(C).

(c) Placing an inmate in security restraints or a restraint chair shall be considered a use of force within the context of these rules, except when placing an inmate in handcuffs/restraints for transportation or escort.

(d) Security restraints will not be placed around the neck or head, nor in any manner that restricts blood circulation or breathing.

(e) The hogtie method will not be used as a security restraint.

(f) Employees in general shall ensure that unnecessary pressure is not placed on the inmate's chest, back or neck while applying restraints. Employees shall maintain close observation of a restrained inmate in order to detect breathing difficulties and/or loss of consciousness.

(g) While using the prone restraint position when the correctional objective is met the inmate should be placed on his/her side or moved into a sitting position as soon as feasible. Employees will assess the inmate's physical condition.

(h) Restrained inmates will never be transported on their stomach.

(i) An employee shall check at least every 30 minutes and verify security restraints are not causing obvious injury or an obvious medical problem when an inmate has been placed in restraints as a result of a use of force situation. Each check of the restraints will be documented. A copy of the documentation shall accompany the unusual incident report.

(j) The officer-in-charge shall evaluate the need to restrain an out-of-control inmate every two hours with written documentation for the reason(s) to continue or discontinue security restraints or restraint chair. The documentation shall accompany the use of force review documentation.

(k) The officer-in-charge will notify a health care professional immediately upon the application of security restraints or restraint chair.

(l) The health care professional, when notified, will perform the following:

(A) Evaluate the inmate's condition to verify the security restraints are not causing injury or an obvious medical problem;

(B) Evaluate the inmate's mental status and notify a qualified mental health professional, if necessary;

(C) Consider treatment or intervention as an alternative, or in conjunction with security restraints;

(D) Document the results of the evaluation; and

(E) Physically re-evaluate sections (A)–(D) above every two hours.

(m) Use of security restraints or restraint chair to restrain an out-of-control inmate will be documented and reported by the officer-in-charge to the functional unit manager or designee. The documentation shall accompany the use of force review documentation.

(n) Continued use of security restraints applied for a time period longer than eight hours, and every eight hours thereafter, shall require the written approval of the functional unit manager or designee in addition to the requirements of sections (j), (k) and (l) above.

(o) Continued use of the restraint chair for a time period longer than two hours, and every two hours thereafter, shall require the written or verbal approval of the functional unit manager or designee in addition to the requirements of sections (j), (k) and (l) above. The use of the restraint chair shall not exceed ten consecutive hours.

(p) Continued use of the restraint chair for a time period longer than two hours, and every two hours thereafter, during the transporting of an inmate shall require the verbal approval of the functional unit manager or designee. The use of the restraint chair shall not exceed ten consecutive hours during transport.

(A) The officer-in-charge of the transport shall ensure that observation of the inmate is maintained and documented on the Trip Documentation Sheet every 30 minutes. The officer-in-charge shall ensure that the inmate is evaluated by a health care professional once the final destination is reached.

(B) Placing an inmate in the restraint chair shall be considered a use of force within the context of these rules, except when the restraint chair is being utilized as additional seating for inmates during transfers.

(q) Therapeutic Restraints: The documentation, application, and use of therapeutic restraints will not be considered a use of force situation, but shall be in accordance with the department's rule on Therapeutic Restraints (OAR 291-071). Therapeutic restraints will be:

(A) Applied to an inmate only for medical or mental health treatment to limit the inmate's movement; and

(B) Applied to an inmate only upon the documented verbal or written order of a physician, except in the absence of a physician, a

registered nurse may authorize the application of therapeutic restraints for a period not to exceed one hour.

(4) Chemical Agents, Electronic Control Devices, Batons, Water Force and Specialty Impact Munitions:

(a) The use of chemical agents other than aerosol spray, electronic control devices, batons, water force, and specialty impact munitions shall be authorized only by the functional unit manager or designee. The decision to use chemical agents, electronic control devices, batons, water force, and specialty impact munitions shall be based on the level of force that, in the judgment of the functional unit manager or designee, is most likely to resolve the situation with the least amount of injury to all parties involved.

(b) The use of chemical agents, electronic control devices, batons, water force, and specialty impact munitions may be used to subdue an inmate when the level of physical hands-on force required to subdue the inmate would potentially subject the employee, inmate or others to greater injury than would be incurred through the use of this security equipment.

(5) Use of Chemical Agents:

(a) The amount and type of chemical agent used and the means of dispersal shall be limited to that necessary to achieve the correctional objective and be used in accordance with the manufacturer's instructions and departmental training.

(b) Prior to the use of any chemical agent, and where time and circumstances permit, the inmate against whom it is directed shall be warned chemical agents will be used.

(c) If possible, a chemical agent shall not be used against an inmate known to suffer cardio-vascular, convulsive or respiratory ailments.

(d) An employee recently assaulted by an inmate shall not approve or apply chemical agents to the particular inmate, unless there is no reasonable alternative.

(e) An inmate shall not be restrained or held for the sole purpose of rendering him/her a more stationary target for a chemical agent. If chemical agents are administered to a handcuffed inmate, staff shall document the reason why the removal of the handcuffs was not feasible.

(f) Those affected by a chemical agent shall be permitted to wash their face, eyes, and other exposed skin areas, as soon as possible after the chemical agent has been used.

(g) Those affected by a chemical agent in a closed area shall be permitted to move to an uncontaminated area as soon as possible after the chemical agent has been used.

(h) Clothing exposed to a chemical agent shall be removed as soon as feasible and clean clothing made immediately available.

(i) An employee(s) or inmate(s) affected by a chemical agent shall be examined by a health care professional as soon as feasible after the chemical agent has been used.

(j) An inmate(s) receiving an application of a chemical agent shall be under continuous staff observation for the first ten minutes.

(A) The inmate shall then be observed approximately every ten minutes for the first 30 minutes after receiving the application of a chemical agent.

(B) All observations shall be documented with a date and time reference.

(C) The documentation shall accompany the use of force review documentation.

(6) Use of Electronic Control Devices:

(a) Only agency approved electronic control devices shall be used.

(b) Medical Considerations:

(A) As soon as feasible following each use of an electronic control device, the inmate shall be afforded medical examination and treatment.

(B) An electronic control device shall not be deployed if there is knowledge that the inmate is pregnant.

(C) If the electronic control device utilizes probes that penetrate the skin, the probes shall be removed when the inmate is under control. Medical staff, if on duty at the facility, shall remove the probes. Trained security staff may remove the probes if medical staff are not available.

(D) If probes are embedded in soft tissue areas such as the head, neck, face and groin, removal shall be done by medical staff only.

(c) Electronic control devices will not be used in conjunction with aerosol propelled chemical agents.

(d) Prior to the deployment of an electronic control device, the supervisor and person assigned to be the operator shall have attended the approved departmental training on the operation and protocol associated with its use.

(7) Use of Specialty Impact Weapons:

(a) Specialty impact munitions are intended as a less lethal alternative to the use of deadly force. Use of specialty impact munitions shall be authorized by the functional unit manager or designee prior to deployment.

(b) After each use of specialty impact munitions, exposed inmates shall be examined by Health Services personnel.

(8) Firearms:

(a) The functional unit manager or designee will authorize the location and carrying of a department issued firearm on the grounds of a facility.

(b) A Transportation Unit officer or facility correctional officer may carry a firearm in the performance of his/her duties as authorized by the functional unit manager/designee and in accordance with the department policy.

(c) Prior to resorting to the use of firearms against an inmate or other persons, time and circumstances permitting, an employee shall first issue an appropriate warning to the inmate or other person in a readily understandable fashion. An appropriate warning may include, but is not limited to, one or more of the following:

- (A) Shouting;
- (B) Blowing a whistle;
- (C) Hand signals; or
- (D) Firing a warning shot.

(d) The discharge of a firearm will be handled in accordance with the departmental policy. The State Police or local law enforcement officials shall be notified to investigate any discharge of a firearm except for training or negligent discharge where injury or significant property damage has not occurred. The external law enforcement investigation shall be separate from the full review.

(e) Any employee involved in the discharge of a firearm in a situation on duty shall immediately report the incident to the officer-in-charge.

(f) A warning shot is the least preferred method of warning. It should be used only in situations where other warning methods are not practical or effective, and when there is a target that is sufficiently large to minimize the risk of harm to others from a missed shot or ricochet.

(g) Time and circumstances permitting, an employee shall attempt to warn an inmate that is observed to be:

- (A) Entering or inside a restricted security perimeter zone;
- (B) Tampering with or cutting security perimeter equipment or fence/wall;
- (C) On or climbing a security fence/wall;
- (D) Moving toward any motor vehicle or airborne craft in an obvious attempt to escape;
- (E) Engaged in any other behavior that is a clear or obvious attempt to escape; or
- (F) Engaged in any behavior that poses serious bodily injury or death to oneself or another person.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 14-1998, f. & cert. ef. 6-18-98; Renumbered from 291-013-0090, DOC 15-2004, f. & cert. ef. 11-2-04; DOC 14-2005, f. 10-14-05, cert. ef. 10-24-05; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 17-2015, f. & cert. ef. 10-26-15

291-013-0110

Bloodborne Pathogens

When a person has been exposed to blood or body fluid resulting from the use of force, standard universal precautions shall be implemented.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98, Renumbered from 291-013-0075; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 17-2015, f. & cert. ef. 10-26-15

291-013-0120

Injury, Death or Hostage

(1) Whenever an employee's use of force results in the serious injury or death of another, he/she shall be placed on leave until an investigation of the matter by the Inspector General and/or State Police can be concluded.

(2) Whenever an employee has been taken hostage, he/she shall be placed on leave with pay until medical and psychological clearance has been obtained.

(3) Any employee involved in or immediately exposed to a critical incident involving the serious injury, hostage or death of another shall be provided a critical incident stress debriefing.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.030

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.030

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98, Renumbered from 291-013-0085; DOC 15-2004, f. & cert. ef. 11-2-04

291-013-0130

Notifications

(1) Whenever force is used, a detailed written report shall be prepared. The Unusual Incident Report (CD 115) will be used as the primary document to report all use of force situations.

(2) All employees witnessing or directly involved in a use of force incident shall individually prepare and submit a written memorandum describing their involvement and observation regarding the incident. The memorandum will be attached to the Unusual Incident Report (CD 115).

(3) A Use of Force — Preliminary Review Summary (CD 1346) will accompany the Unusual Incident Report.

(4) Supervisory notification and authorization will be obtained prior to a planned use of force.

(5) The appropriate supervisor shall be notified by the involved employee(s) as soon as possible following a reactive use of force. The functional unit manager or designee will be notified immediately following any use of force incident.

(6) The Unusual Incident Report will be forwarded to the appropriate Institutions Administrator within five working days of the incident.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98, Renumbered from 291-013-0095; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 6-2013, f. & cert. ef. 6-21-13

291-013-0140

Reviews

(1) General:

(a) Whenever staff employs force in response to an incident involving an inmate, a preliminary review of the use of force incident shall be conducted in accordance with the procedures established in these rules.

(b) A full review of a use of force incident shall be conducted by independent departmental review in accordance with the procedures established in these rules when requested by the Inspector General, or when the following circumstances exist:

(A) A person received a serious physical injury in the course of the use of force incident; or

(B) A firearm was discharged during the incident, as defined in the firearms section of OAR 291-013-0105.

(c) The Inspector General may decide if the full review process for the incident requires assembly of a departmental review team to conduct the full review, or order a separate investigation be conducted by a special investigator from the Investigations Unit.

(2) Preliminary Review:

(a) The officer-in-charge shall conduct a preliminary review of all use of force incidents within 48 hours of the incident.

(b) Staff involved in the use of force incident shall prepare, assemble and provide to the officer-in-charge all information and

records that are relevant to the incident, including but not limited to reports, documents, videos, and photographs of involved persons and witnesses. Staff and/or inmates may be interviewed as necessary to clarify or obtain relevant information. The officer-in-charge shall review the information and records to ensure the documentation of the incident is complete.

(c) The officer-in-charge shall review the documentation for compliance with administrative directives and prepare a preliminary review report. The officer-in-charge shall forward the preliminary review report and supporting documentation to the Assistant Superintendent of Security/security manager, with one of the following recommendations:

(A) In compliance with administrative directives, requires only a preliminary review; and

(i) No further action is required; or

(ii) Further corrective action is required by the functional unit manager or designee to address perceived training, security, or other operational issues;

(B) In compliance with administrative directives, but requires a full review; or

(C) Not in compliance with administrative directives, but requires only a preliminary review because appropriate corrective action has been taken by the functional unit manager or designee; or

(D) Not in compliance with administrative directives, and requires a full review.

(d) The Assistant Superintendent of Security/security manager shall review the preliminary review report and all supporting documentation and make any necessary modification or additions he/she deems necessary. The review shall include a preliminary review of the video footage and all associated reports. The preliminary review report and supporting documentation shall be forwarded to the functional unit manager.

(e) The functional unit manager shall review the preliminary review report and all supporting documentation and make any necessary modification or additions he/she deems necessary. The review shall include a preliminary review of the video footage and all associated reports. The functional unit manager shall document all corrective action taken. If the functional unit manager notes signs of excessive force, he/she shall notify the appropriate Institutions Administrator directly and provide necessary documents, so that there is no undue delay in initiating a full review or separate investigation. The functional unit manager shall make his/her recommendation on the preliminary review and forward the preliminary review and supporting documentation to the Institutions Administrator.

(f) The Institutions Administrator shall review the preliminary review report and supporting documentation. The Institutions Administrator may determine no further review is required. If the Institutions Administrator determines a full review is warranted, all relevant information will be forwarded to the Inspector General or designee for further review.

(g) All preliminary review reports and supporting documentation will be forwarded the Office of Inspector General for record retention.

(3) Full Review:

(a) When a full review of a use of force incident is requested by the Institutions Administrator and approved by the Inspector General or otherwise required under these rules, a departmental review team shall be assembled to conduct the full review, or a separate investigation shall be conducted by a special investigator from the Investigations Unit.

(b) The departmental review team shall include, at a minimum, a representative from Special Investigations assigned by the Inspector General and a representative from two separate functional units other than the functional unit in which the incident took place. The functional unit representatives may include a represented employee. The Special Investigations representative shall chair the review team and arrange for the appointment of the review team members in consultation with the functional unit managers.

(c) The departmental review team shall review the final preliminary review report and all supporting documentation for compliance with administrative directives.

(d) If any member of the review team deems it necessary or advisable to have additional staff or inmate interviews conducted, the review team chair shall arrange for an Investigations Unit employee(s) to conduct the interview(s).

(e) If the review team chair determines that a crime may have been committed in the course of the use of force incident, he/she shall contact the State Police or local law enforcement officials before arranging for any additional interview(s), to determine if the law enforcement officials are conducting a criminal investigation regarding the incident, and if so, whether the additional interview(s) would interfere with the investigation.

(f) If advised that the interview(s) would interfere with a pending criminal investigation, the interview(s) shall be postponed until the criminal investigation has been concluded.

(g) Evaluation Report:

(A) After completing the review process, the review team shall prepare and submit its evaluation report to the Inspector General within 30 working days following completion of the full review.

(B) The report shall set forth the departmental review team's determination whether the actions taken were in compliance with Department of Corrections administrative directive(s).

(C) If the review team finds evidence of noncompliance, it shall specify these findings and the rationale upon which the findings have been based in its report.

(D) The Inspector General shall review the report for completeness and forward it to the functional unit manager, appropriate Institutions Administrator, and Assistant Director of Operations for review and any necessary action.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; CD 20-1995, f. 10-26-95, cert. ef. 11-1-95; DOC 14-1998, f. & cert. ef. 6-18-98, Renumbered from 291-013-0105; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 6-2013, f. & cert. ef. 6-21-13

291-013-0185

General Provisions

(1) An employee performing duties in the community will not participate in any planned use of force situations.

(2) An employee performing duties in the community will immediately contact the local law enforcement agency for a crime in progress or anticipated use of force to allow the law enforcement agency to resolve the situation.

(3) The local law enforcement agency will be the primary agency expected to resolve incidents in the community involving the use of force.

(4) An employee's decision to remain at the scene of a potentially dangerous situation in the community, or to become involved with cooperative efforts with the law enforcement agency will be based on safety and tactical judgments that exclude whether he/she is carrying a firearm.

(5) An employee shall always use the minimum force that is reasonably necessary to protect the employee or another person from bodily harm, or restrain or subdue a resistant inmate, or prevent the escape of an inmate.

(6) Escalation to a higher level of force is permitted only when such a higher level of force is warranted by the actions, apparent intentions, and apparent capabilities of the inmate, suspect, or assailant.

(7) The use of force must be objectively reasonable under all the circumstances known to the employees at the time. The use of force may range from verbal commands to the use of lethal force. If the force other than lethal force reasonably appears to be sufficient to achieve the correctional objective, lethal force shall not be used.

(8) Lethal and non-lethal devices shall be concealed from the general public when and where appropriate. A device should not be inspected or handled in view of the public unless for an operational purpose.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.030

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.030

Chapter 291 Department of Corrections

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98;
DOC 15-2004, f. & cert. ef. 11-2-04

291-013-0190

Off-Duty Situations

(1) Off-duty employees who observe a crime in progress or a fugitive should immediately contact the local law enforcement agency and allow the law enforcement agency to resolve the situation.

(2) Employees shall avoid using department issued equipment or role status to intervene in use of force situations when off duty; however, the Department of Corrections recognizes employees have citizen arrest powers and the right to intervene in crimes in progress.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.030

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.030

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98,
Renumbered from 291-013-0115; DOC 15-2004, f. & cert. ef. 11-2-04

291-013-0195

Protective Body Armor

(1) An employee shall wear department-issued body armor whenever the employee is armed, when accompanied by another employee that is armed, or when the employee has a chemical agent spray in the community.

(2) The functional unit manager shall approve any exception to the wearing of body armor.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.030

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.030

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98;
DOC 15-2004, f. & cert. ef. 11-2-04

291-013-0205

Chemical Agents

(1) Authorization to carry a chemical agent shall be authorized by the functional unit manager if a chemical agent is authorized.

(2) Authorization to carry department issued chemical agents shall be limited to the performance of official duties.

(3) Employees authorized to carry a chemical agent shall carry the chemical agent whenever:

(a) Protective body armor is worn; or

(b) A firearm is carried.

(4) An employee shall only discharge a chemical agent for the following:

(a) To defend himself/herself or another person from an animal attack.

(b) To defend himself/herself or another person from imminent danger.

(c) To enforce a valid order(s) to an inmate to submit to the application of restraints.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98;
DOC 15-2004, f. & cert. ef. 11-2-04; DOC 19-2008, f. & cert. ef. 8-7-08

291-013-0206

Electronic Control Devices

(1) Only agency approved electronic control devices shall be used.

(2) Use of an electronic restraint device for court appearances or transportation will be approved by the functional unit manager or designee.

(3) Medical Considerations:

(a) As soon as feasible following each use of an electronic control device, the inmate shall be afforded medical examination and treatment.

(b) An electronic control device shall not be deployed if there is knowledge that the inmate is pregnant.

(c) If the electronic control device utilizes probes that penetrate the skin, they shall be removed when the inmate is under control. If available, medical staff shall remove the probes. Trained security staff may remove the probes if medical staff are not available.

(d) If probes are embedded in soft tissue areas such as the head, neck, face and groin removal shall be done by medical staff only.

(4) Electronic control devices will not be used in conjunction with aerosol propelled chemical agents.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 15-2004, f. & cert. ef. 11-2-04; DOC 19-2008, f. & cert. ef. 8-7-08;
DOC 6-2013, f. & cert. ef. 6-21-13

291-013-0215

Lethal Force

(1) Employees shall consider every reasonable means of control before resorting to the use of lethal force.

(2) Use of Lethal Force During Transporting of Inmates: An employee may use lethal force when transporting an inmate(s) to the extent that an employee reasonably believes it necessary to:

(a) Prevent imminent serious bodily injury or death to the employee or another person.

(b) Prevent the escape of an inmate classified as custody Level 3 or higher, or if the inmate is classified as custody Level 1 and 2 and is being transported with another inmate(s) who has been classified as custody Level 3 or higher.

(3) Use of Lethal Force When Supervising Custody Level 1 and 2 Inmates Engaged in Work Crews or Other Approved Activities in the Community: Supervisors of custody Level 1 and 2 inmates engaged in work crews or other authorized activities in the community are not authorized to use lethal force to prevent an escape. Lethal force may be used to prevent imminent serious bodily injury or death to the supervisor or another person.

(4) Prior to resorting to the use of lethal force against an inmate or other person, if feasible, the employee shall give a verbal warning from the imminent use of lethal force.

(5) A warning shot will not be used in the community before the use of lethal force. Other practical warning methods will be used, if time and circumstances permit, before using lethal force.

(6) Firearms will not be fired at or from a moving vehicle or airborne craft, except in self defense or defense of another from the imminent use of lethal force.

(7) Firearms will not be used if innocent people are in the line of fire.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98;
DOC 3-2004(Temp), f. & cert. ef. 1-27-04 thru 7-25-04; Administrative
correction 8-19-04; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13

291-013-0225

Notifications

(1) Whenever force is used, a detailed written report shall be prepared. The Unusual Incident Report (CD 115) will be used as the primary document to report all use of force situations.

(2) All employees witnessing or directly involved in a use of force incident shall individually prepare and submit a written memorandum describing their involvement and observation regarding the incident. The memorandum will be attached to the Unusual Incident Report.

(3) A Use of Force — Preliminary Review Summary (CD 1346) will accompany the Unusual Incident Report.

(4) Supervisory notification and authorization will be obtained prior to a planned use of force. The involved employee shall notify the appropriate supervisor as soon as possible following a reactive use of force. The functional unit manager or designee will be notified immediately following any use of force incident.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98;
DOC 15-2004, f. & cert. ef. 11-2-04

291-013-0235

Reviews

In addition to the requirements of OAR 291-013-0140, use of force reviews shall be required as follows:

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(1) A preliminary review is required whenever an employee unholsters a firearm, but does not point the firearm at an individual.

(2) A full review is required whenever an employee unholsters a firearm and points the firearm at an individual.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98; DOC 15-2004, f. & cert. ef. 11-2-04

DIVISION 14

ARREST AND TRANSPORT

291-014-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to provide community protection by the apprehension and arrest of offenders who engage in violation behavior or are subject to an arrest warrant. Arrest shall be made in the appropriate manner as prescribed by law (ORS 137.550; 144.331; 144.334, 144.350, 144.360, 144.610 and 144.613) and this rule.

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.545, 144.331, 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 5-2006, f. & cert. ef. 7-24-06; DOC 18-2013, f. & cert. ef. 12-13-13; DOC 1-2014, f. & cert. ef. 1-14-14

291-014-0110

Definitions

(1) Arrest: To place an offender under actual or constructive restraint or to take an offender into custody.

(2) Local State Director: A person within the Department of Corrections who reports to the Assistant Director of Community Corrections and has responsibility for managing a state community corrections office within a particular county.

(3) Offender: Any person under supervision who is on parole, post prison supervision, transitional leave, local control or probation status.

(4) Officer: Any state parole/probation officer certified as such by the Department of Public Safety Standards and Training.

(5) Reasonable Grounds: Exists when facts and circumstances within the officer's knowledge are sufficient to justify a belief that a violation has occurred.

(6) Warrant: A written order made on behalf of the releasing authority, or the court, which commands the officer to arrest the offender.

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.545, 144.331, 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 5-2006, f. & cert. ef. 7-24-06; DOC 18-2013, f. & cert. ef. 12-13-13; DOC 1-2014, f. & cert. ef. 1-14-14; DOC 8-2016, f. & cert. ef. 4-29-16

291-014-0120

Arrest

(1) A parole/probation officer is authorized to make an arrest if the officer participates in a minimum of eight hours annual training in arrest procedures, use of restraints, and defensive tactics.

(a) The local state director shall create annual training requirements, which may exceed the minimum training requirements.

(b) A parole/probation officer shall maintain certification in less than lethal force options.

(2) When a warrant has been issued for an offender by the releasing authority or the court, based on a violation of a release condition, the supervising officer shall cause the execution of any arrest warrant.

(3) In all other arrest cases, at least one of the following criteria must be met:

(a) Reasonable grounds that a violation(s) has occurred and is serious enough to warrant a recommendation of incarceration;

(b) The offender's behavior constitutes a threat or danger to the community or to himself/herself.

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.545, 144.331, 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 5-2006, f. & cert. ef. 7-24-06; DOC 18-2013, f. & cert. ef. 12-13-13; DOC 1-2014, f. & cert. ef. 1-14-14; DOC 8-2016, f. & cert. ef. 4-29-16

291-014-0130

Transport

(1) Transporting officer(s) will use Department of Corrections approved vehicles.

(2) Whenever possible, transports should be conducted in caged vehicles.

(3) When transporting an offender, refer to attachment A for recommended positioning of offender(s) and officer(s).

[ED. NOTE: Attachment referenced are available from the agency.]

Stat. Auth.: ORS 137.545, 144.350, 144.360, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.545, 144.331, 144.334, 144.350, 144.360, 144.610, 144.613, 179.040, 423.020, 423.030, 423.075

Hist.: DOC 5-2006, f. & cert. ef. 7-24-06

DIVISION 15

VOLUNTEER SERVICES/STUDENT INTERNS

291-015-0015

Recruitment

(1) To recruit a volunteer or student intern, a position description proposal will be written and submitted to the appropriate manager for approval.

(2) A position description proposal will be submitted by the manager to the volunteer coordinator who will secure a decision concerning approval.

(3) Volunteers and student interns who best meet program needs will be recruited from all ethnic, cultural, and economic segments of the community.

(4) Any volunteer or student intern who leaves the program will return his/her ID card to the volunteer coordinator.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 16-1978, f. 8-17-78, ef. 8-18-78; CD 29-1980, f. & ef. 9-17-80; CD 26-1986, f. & ef. 8-20-86; CD 2-1996, f. 2-26-96, cert. ef. 3-1-96

291-015-0025

Orientation and Training

(1) Training: Volunteers and student interns will be required to complete the Department of Corrections core training program for volunteers.

(2) Facility orientation(s) will be coordinated by the volunteer coordinator including, but not limited to, the following:

(a) Functional unit safety and security procedures;

(b) Fire safety and emergency evacuation plan;

(c) Responsibilities during any emergency;

(d) Supervisor's name and line of authority;

(e) List of primary rules and procedures associated with services provided;

(f) Time and place to report for service and whom to call when unable to report for duty; and

(g) Walk through the facility for familiarization.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 16-1978, f. 8-17-78, ef. 8-18-78; CD 29-1980, f. & ef. 9-17-80; CD 10-1985, f. & ef. 7-31-85; CD 26-1986, f. & ef. 8-20-86; CD 2-1996, f. 2-26-96, cert. ef. 3-1-96

291-015-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075

(2) Purpose: The purpose of this rule is to establish policy that will help the department fulfill its volunteer goals:

(a) To foster a respected and recognized volunteer community of appropriate size and quality that is capable of serving the rehabilitative, religious/spiritual, and other correctional needs of inmates from incarceration to reentry back to the community; and

(b) Provide support to staff in furtherance of the mission of the department.

(3) Policy:

(a) It is the policy of the Department of Corrections to utilize volunteers and student interns with appropriate training, guidance, and supervision as a means to enhance programs and further the mission of the department.

(b) Volunteers serve at the pleasure of the department and are not considered employees.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04; DOC 8-2010(Temp), f. & cert. ef. 7-14-10 thru 1-10-11; DOC 15-2010, f. & cert. ef. 11-19-10

291-015-0105

Definitions

(1) Affiliation: An organization; such as a school, college, university, agency, faith group, spiritual group, 12-step program, non-profit corporation or foundation, or similar type organizations, that has defined structure and recognition as a legitimate organization in the community.

(2) Department Supervisor: A Department of Corrections employee who is responsible for the activities and programs provided by volunteers.

(3) Endorser: An official of the volunteer's affiliation who has the authority to certify that the volunteer is endorsed by that group to provide services for inmates. If the volunteer is the endorser for his/her affiliation, another official of the affiliation must provide the endorsement.

(4) Functional Unit: Any organizational component within the department responsible for the delivery of services or coordination of programs.

(5) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, Deputy Director, an Assistant Director, or administrator and has responsibility for the delivery of services or coordination of program operations.

(6) LEDS: Law Enforcement Data System.

(7) Local State Director: A person with the Department of Corrections who reports to the Chief of Community Corrections and has responsibility for managing a state community corrections office with a particular county.

(8) Programs: Activities such as religious services, education classes, self-help meetings, treatment programs, and clubs (if any) that are established solely at the discretion of the department to meet its needs and those of the inmates.

(9) Program Manager: A Religious Services management employee assigned to oversee, manage, and conduct the volunteer program of the department.

(10) Student Intern/Practicum: An approved student in a college or university who, as part of an academic program, donates time and effort to enhance the mission, activities and programs of the department and to further his/her professional development. Student interns may be stipend or non-stipend. For purposes of these rules, wherever the term "volunteer" is used, it shall also apply to student interns.

(11) Volunteer: An approved person who donates time, knowledge, skills, and effort to enhance the mission, activities and programs of the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04; DOC 8-2010(Temp), f. & cert. ef. 7-14-10 thru 1-10-11; DOC 15-2010, f. & cert. ef. 11-19-10

291-015-0110

Program Supervision

(1) Religious Services is responsible for the establishment, development and management of the overall structure and operation

of the volunteer program for volunteers working inside department facilities or assisting with transition from prison to the community.

(2) The local state director or designee will designate a volunteer coordinator to oversee volunteers and student interns for Community Corrections.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04; DOC 8-2010(Temp), f. & cert. ef. 7-14-10 thru 1-10-11; DOC 15-2010, f. & cert. ef. 11-19-10

291-015-0115

Recruitment

(1) Prospective volunteers who best meet program needs will be recruited from all ethnic, cultural, gender and economic segments of the community.

(2) Recruitment will be based on the needs of inmates, offenders, functional units, and the availability of staff to supervise volunteers.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04; DOC 8-2010(Temp), f. & cert. ef. 7-14-10 thru 1-10-11; DOC 15-2010, f. & cert. ef. 11-19-10

291-015-0120

Selection

(1) A prospective volunteer must complete an application and undergo a background check. The department holds the ultimate authority to approve or deny a volunteer application. A volunteer must be:

(a) A USA citizen, legal resident, or in the country on a valid visa.

(b) At least 18 years old, unless there will be no interaction between the volunteer and inmates.

(2) Security Clearance: The purpose of clearance is to ensure not only the safety and security of department facilities, but also to ensure that volunteers are appropriate role models for inmates and offenders. To become a volunteer, an individual must clear the following criteria:

(a) LEDS: To clear LEDS, the volunteer must have:

(A) No outstanding warrants or pending criminal charges.

(B) No misdemeanor convictions in the past two years. No felony convictions or incarcerations in the past five years, or two years for certain volunteer programs. The functional unit manager may on a case-by-case basis approve an individual with no felony convictions or incarcerations in the past three years.

(C) No convictions for introduction or supplying contraband as defined in ORS 162.185; or possession, control or delivery of an explosive device or substance; or assisting an inmate to escape or unlawful departure from a correctional facility, including attempt or conspiracy of any of the above.

(D) Current (less than a year old) LEDS clearance is required for all volunteers.

(b) Driving record: The volunteer may not have been convicted of Driving Under the Influence of Intoxicants (DUI) in the past two years or Driving While Suspended (DWS) in the last year. The number and type of other driving offenses or convictions may be considered in determining if the volunteer is a good role model for inmates and offenders.

(c) Persons with Prior Criminal Convictions: Prospective volunteers with prior felony or misdemeanor convictions who meet the above listed criteria may be approved when the following additional criteria have been met:

(A) May be under supervision, but must have no parole or probation violations in the past two years, or one year for certain volunteer programs, and approval of his/her parole officer.

(B) A prospective volunteer with a prior criminal conviction who performs services inside a correctional facility must have the approval of the facility functional unit manager at each facility where the service will be provided.

(d) Additional requirements may be established by department policy.

(3) Prospective volunteers must disclose on their volunteer application any connection to department inmates such as friends,

neighbors, co-defendant, and relatives. If the prospective volunteer is a crime victim, he/she must disclose the name of the inmate or offender who committed the crime.

(4) A prospective volunteer must complete a volunteer/intern application. Failure to provide all requested information or sign all forms included in the application will result in volunteer status being denied.

(5) Employees, ex-employees not terminated for cause, retired employees, other agency staff, and contractors may serve as volunteers with the concurrence of the facility functional unit manager where the volunteer is to provide services. The employee's volunteer activities must be substantially different from the employee's job responsibilities. The differentiation must be noted in the position description.

(6) A prospective volunteer recommended to the department from an endorser will be interviewed by the department supervisor. A prospective volunteer who does not have an affiliation or endorser may be granted volunteer status with the approval of the program manager or designee.

(7) A student intern shall be recommended to the department by the appropriate official of the school, training program, mentorship, apprenticeship, college, or university where the intern is enrolled.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04; DOC 8-2010(Temp), f. & cert. ef. 7-14-10 thru 1-10-11; DOC 15-2010, f. & cert. ef. 11-19-10

291-015-0125

Training and Orientation

(1) Approved volunteer training is required for all volunteers.

(2) Functional unit orientation will be provided by the department supervisor or designee to whom the carded-volunteer has been assigned.

(3) Facility orientation will be provided for those volunteering inside a correctional facility.

(4) In-service training and other training may be offered periodically.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04; DOC 8-2010(Temp), f. & cert. ef. 7-14-10 thru 1-10-11; DOC 15-2010, f. & cert. ef. 11-19-10

291-015-0135

Utilization

(1) Volunteers shall not be placed in positions of authority over department employees or contractors.

(2) Volunteers shall not perform professional services requiring certification or licensing unless the volunteer program manager or designee verifies the validity of the license.

(3) Volunteers shall be treated with the same respect as staff and recognized as having unique roles that differ from, but are complimentary to staff roles.

(4) Volunteers shall follow department rules and policies.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 7-2004, f. & cert. ef. 8-9-04; DOC 8-2010(Temp), f. & cert. ef. 7-14-10 thru 1-10-11; DOC 15-2010, f. & cert. ef. 11-19-10

DIVISION 16

FACILITY ACCESS

291-016-0010

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to specify the security requirements for persons, vehicles, tools, equipment and supplies to gain access to Oregon Department of Corrections facilities.

(3) Policy: It is the policy of the Department of Corrections to control access into and out of facilities which physically house inmates in order to maintain the security, sound order, or discipline of the facility. All persons enter a facility at their own risk and will be required to meet the security and control measures enforced at the facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93

291-016-0020

Definitions

(1) Authorized Staff: Employees of the Department of Corrections, and employees of the State Board of Parole and Post-Prison Supervision and Oregon Corrections Enterprises, who are assigned to work in or at a public building owned or occupied by the department.

(2) Concealed Handgun License (CHL): A current and valid Oregon Concealed Handgun License issued by the employee's county of residence in accordance with ORS 166.291 and 166.292.

(3) Contractor: Any person under contractual arrangement to provide services to the Department of Corrections.

(4) Employee: Any person employed full time, part time or under temporary appointment by the department.

(5) Facility: The building and grounds area operated by a functional unit which physically houses inmates.

(6) Facility Access: The designated location in a facility which is the only authorized entrance (except as authorized by the functional unit manager or designee) and exit for persons desiring access into or out of the perimeter of the facility.

(7) Facility Visitor: Any person authorized access inside the secure perimeter of a facility who is not a department employee, contractor, volunteer, other agency liaison or who is not an inmate visitor at the facility.

(8) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of program services or coordination of program operations. In a correctional facility, the functional unit manager is the superintendent.

(9) Functional Unit Facility: A term used to declare any Department of Corrections facility in which a functional unit person performs his/her duties or services.

(10) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant

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Director or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(11) **Functional Unit Person:** Any employee, contractor, approved carded volunteer, or other agency liaison assigned to work or provide services at a functional unit facility.

(12) **Identification Card (ID Card):** A picture identification card authorized by the Department of Corrections and issued to a department employee, contractor, volunteer or other agency liaison.

(13) **Inmate Visitor:** A person approved by the functional unit manager or designee to visit an inmate who resides in a facility.

(14) **Oregon Corrections Enterprises:** A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(15) **Oregon Corrections Enterprises (OCE) Employee:** Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

(16) **Other Agency Liaison:** Employees from other state and local agencies that have ongoing business needs serving inmates and employees of the department. These employees include, but are not limited to, county parole and probation officers and state police detectives.

(17) **Personal Handgun:** A handgun possessed by an authorized staff member. "Handgun" includes any pistol or revolver using a fixed cartridge containing a propellant charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder.

(18) **Reception Center (Inmate):** The designated location(s) in a facility which is designed for transport officials to deliver or pick up an inmate housed in a functional unit.

(19) **Reception Center (Public):** The designated location(s) in a facility designed to control access for persons to enter the general inmate population area(s).

(20) **Secure Perimeter:** A manufactured structure (usually a fence or wall) that encloses a portion of the grounds and buildings and is designed to control entry or exit within the enclosure. The manufactured structure may use electronic detection for intrusion, doors and/or gates for entry and exit, lighting for visibility, and other physical restrictions such as razor ribbon, no climb fencing, and buried concrete curbing.

(21) **Vehicle:** A vehicle that is self-propelled and commonly known as a passenger car, van, truck or motorcycle.

(22) **Volunteer:** An approved person who donates time, knowledge, skills, and effort to enhance the mission, activities, and programs of the department. A carded volunteer has completed a volunteer application, volunteer training, facility orientation, and functional unit orientation, and has been approved by a functional unit manager or his/her designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93; DOC 24-1999(Temp), f. 7 cert ef. 12-22-99 thru 6-19-00; DOC 12-2000, f. & cert. ef. 6-19-00; DOC 10-2006, f. & cert. ef. 10-9-06; DOC 14-2014(Temp), f. 6-5-14, cert. ef. 6-6-14 thru 12-3-14; DOC 17-2014(Temp), f. & cert. ef. 7-2-14 thru 12-3-14; DOC 23-2014, f. & cert. ef. 12-3-14; DOC 7-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; DOC 15-2015, f. & cert. ef. 10-20-15

291-016-0030

General Guidelines

(1) Access to the facility and its grounds will be controlled to maintain security, sound order, or discipline.

(2) Access to the facility and its grounds will be granted to persons not assigned to the facility for official business, operational necessities, and other activities as approved by department directives or the functional unit manager or designee.

(3) Access to all facilities for persons will be through the facility access location as specified by the functional unit manager or designee.

(4) All persons entering the facility will be required to comply with department directives.

(5) No person will leave or carry onto the grounds of the facility explosive devices, firearms, ammunition, alcoholic beverages, narcotics, dangerous drugs, and objects or material of any kind which might be used to compromise the security, sound order, or discipline of the facility, except as provided in the section (6) below.

(6) Drug detection dog handlers are authorized to possess and use search and training aids (i.e., controlled substances including, but not limited to marijuana, heroin, cocaine, and methamphetamines) within and outside the department's correctional facilities in the course of performing drug searches and training assignments.

(7) Physical welfare cannot be guaranteed since there is an inherent risk for violence in a prison environment.

(8) All persons entering the facility will be subject to screening devices similar to metal detectors. All inmates, employees, volunteers and visitors confined, working or visiting will be subject to search of their persons, living units, work areas, vehicles, possessions and other property as specified in the Department of Corrections rule on Searches (Institutions) (OAR 291-041).

(9) All persons entering the facility will be required to provide sufficient information for the functional unit to review criminal history and background. Any persons may be denied access to a facility if it would compromise the security, sound order, or discipline of the facility.

(10) All persons entering the facility will be required to possess and present on demand adequate identification as defined in the Department of Corrections rule on Visiting (Inmate) (OAR 291-127) or the policy on Identification Cards #20.5.15.

(11) All persons entering the facility, other than the employees assigned to work at that facility or OCE employees assigned to work at that facility, will be required to complete the appropriate facility register.

(12) All persons entering the facility will be required to meet the appropriate dress code as specified in the Department of Corrections rule on Visiting (Inmate) (OAR 291-127) or the policy on Dress Code #20.1.6.

(13) All facility visitors, except department and OCE employees, carded volunteers, contractors, and other agency liaison, will be under the continual supervision of a functional unit person, unless no supervision has been authorized by the functional unit manager or designee or department directive.

(14) No exchange of material or conversation will be permitted between an inmate and a visitor entering the facility or grounds except as authorized by the functional unit manager or designee.

[ED. NOTE: Attachment referenced is available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93; CD 3-1993(Temp), f. & cert. ef. 2-4-93; CD 13-1993, f. 5-12-93, cert. ef. 6-1-93; DOC 24-1999(Temp), f. 7 cert ef. 12-22-99 thru 6-19-00; DOC 12-2000, f. & cert. ef. 6-19-00; DOC 10-2006, f. & cert. ef. 10-9-06

291-016-0040

Employee Access

(1) The Department employee ID card will grant access to its authorized holder to any Department of Corrections functional unit or facility to perform required Department duties.

(2) An employee will be granted unrestricted access to his/her assigned functional unit facility(ies) to perform required Department duties.

(3) An employee will be granted access to a facility other than his/her assigned facility(ies) to perform required Department duties. The employee will perform the following:

(a) Present his/her Department ID card at the facility entrance and/or reception center;

(b) Complete the Facility Access Register (CD 52a);

(c) Display his/her Department ID card on the upper chest area while at the facility; and

(d) Place the time of departure and initial the Facility Access Register before leaving the facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93; DOC 10-2006, f. & cert. ef. 10-9-06

291-016-0045

Oregon Corrections Enterprises Employee Access

(1) The OCE employee ID card will grant access to its authorized holder to any Department of Corrections functional unit or facility to perform required agency duties.

(2) An OCE employee will be granted unrestricted access to his/her assigned functional unit facility(ies) to perform required agency duties.

(3) An OCE employee will be granted access to a facility other than his/her assigned facility(ies) to perform required agency duties. The employee will perform the following:

(a) Present his/her Oregon Corrections Enterprises ID card at the facility entrance and/or reception center;

(b) Complete the Facility Access Register (CD 52a);

(c) Display his/her Oregon Corrections Enterprises ID card on the upper chest area while at the facility; and

(d) Place the time of departure and initial the Facility Access Register before leaving the facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 24-1999(Temp), f. & cert ef. 12-22-99 thru 6-19-00; DOC 12-2000, f. & cert. ef. 6-19-00; DOC 10-2006, f. & cert. ef. 10-9-06

291-016-0050

Contractor, Volunteer, and Other Agency Liaison Access

(1) The department contractor, volunteer, or other agency liaison ID card will grant access to its authorized holder to the assigned functional unit or facility(ies) to perform required Department duties and/or activities.

(2) The contractor, volunteer, or other agency liaison will perform the following:

(a) Proceed through the metal detector or similar device and meet security and dress standards as required by department directives (except police officers and parole and probation officers with proper identification will not be required to proceed through the metal detector;

(b) Present his/her Department ID card at the facility entrance or reception center;

(c) Complete the Facility Access Register (CD 52a);

(d) Present his/her Department ID card on the upper chest area while at the facility; and

(e) Place the time of departure and initial the Facility Access Register before leaving the facility.

(3) Steps (a) through (e) above may be waived individually or collectively by authorization of the facility functional unit manager.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93; DOC 10-2006, f. & cert. ef. 10-9-06

291-016-0060

Facility Visitor Access

(1) The facility reception center will maintain sufficient quantities of "facility visitor" ID cards. The facility visitor ID cards will be red in color and numbered in sequence.

(2) The facility visitor ID card will be worn by the facility visitor entering the secure perimeter.

(3) The Visitor Authorization form (CD 451) will be used to authorize persons for official business for tours, meetings, repair service, estimates, consultation and other operational necessities.

(4) A Visitor Authorization form will be completed to authorize the entry of a facility visitor into the secure perimeter. Names on the form will be listed by last name first, first name last, and in alphabetical order.

(5) The Visitor Authorization form will require the authorization signature of a functional unit manager or designee.

(6) The Visitor Authorization form will be routed to the reception center (public) prior to the designated time of the visit.

(7) The facility visitor will perform the following:

(a) Proceed through the metal detector or similar device and meet security and dress standards as required by the functional unit facility. Police officers and parole officers with proper identification will not be required to pass through the metal detector, however, they will be required to follow all of steps (b) through (g) below;

(b) Complete the Facility Access Register (CD 52a);

(c) Provide his/her drivers license or other suitable photo identification as a deposit to the reception center. Police officers and parole officers will be required to provide their professional police officer and parole officer identification. Police officers and parole officers may be requested to provide a phone number or contact person for verification purposes;

(d) Obtain a facility visitor ID card at the reception center;

(e) Display the facility visitor ID card on the upper chest area while at the facility;

(f) Remain under the supervision of the functional unit person, (escort) authorized by the functional unit manager or designee, while inside the secure perimeter; and

(g) Return the facility visitor ID card to the reception center, obtain his/her deposited photo identification, and place the time of departure and initial the Facility Access Register before leaving the facility.

(8) The use of the metal detector or similar device may be waived individually or collectively by authorization of the facility functional unit manager.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93; DOC 10-2006, f. & cert. ef. 10-9-06

291-016-0070

Inmate Visitor Access

An inmate visitor will be granted access as specified in the Department of Corrections rule on Visiting (Inmate).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93

291-016-0080

Transport Access (Law Enforcement Officials)

(1) Official(s) transporting an inmate(s) will be directed to secure all weapons and ammunition in the weapons locker (usually located outside of buildings) or in his/her transport vehicle if a weapons locker is unavailable.

(2) Official(s) will be given directions for access into the facility reception center (inmate).

(3) The identification of the official(s), if unknown, will be verified. If a problem prevents possible identification of the official(s), direct contact with the official's agency will be made to clarify discrepancies. The officer-in-charge of the facility will be contacted if an identification problem cannot be cleared through the official's agency.

(4) The reception center employee(s) will provide supervision and directions to the official(s) while inside the facility. The directions will include instructions for access out of the facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93

291-016-0090

Vehicle Access

(1) A vehicle(s) not assigned to the facility, but having official business on the grounds or inside the secure perimeter, will be granted access as authorized by the security manager or designee.

(2) A vehicle(s) assigned to the facility will be granted access inside the secure perimeter as required for facility operations and authorized by the security manager or designee.

(3) A vehicle entering or exiting the secure perimeter will be searched prior to actual entry and exit by a functional unit employee for contraband and unauthorized personnel. The vehicle search will be conducted inside a vehicle sally-port if available at the facility.

(4) An emergency vehicle(s) authorized by the security manager or designee that enters or exits the secure perimeter will be expedited by a quick visual search to verify authorized individuals and equipment.

(5) A vehicle log shall be maintained by a facility to record all vehicles that enter and exit the secure perimeter.

(6) A vehicle entering the secure perimeter will be assigned a functional unit employee to provide continual surveillance for the vehicle until exit of the perimeter has been accomplished.

(7) A vehicle will remain inside the secure perimeter only as long as required to accomplish the intended purpose.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93

291-016-0100

Tool and Equipment Access

(1) All tools and equipment that enter or exit the facility's secure perimeter require approval of the security manager or designee.

(2) Electronic Devices:

(a) A person will not be allowed to bring in a *personal* cellular phone, pager, laptop computer, personal digital assistant or other electronic communication device beyond the control point of a correctional facility unless specifically authorized by the security manager or designee. The functional unit manager shall designate the control point of the correctional facility.

(b) Department staff may bring in department-issued electronic two-way communication devices (e.g., pager, cellular phone, personal digital assistant, etc.) beyond the control point of a correctional facility when such devices are necessary for the staff member to perform official duties. Department staff must declare the two-way communication device on the Facility Access Register (CD 52a).

(c) Investigators from the Oregon State Police are permitted to bring state-issued cell phones and pagers beyond the control point of a correctional facility while conducting official business without prior authorization from the security manager or designee.

(d) Any other electronic devices *not* covered in sections (a) through (c) that enter a correctional facility beyond the control point require approval of the security manager or designee.

(3) All tools and equipment will be searched for contraband prior to entry and exit of the secure perimeter.

(4) All tools and equipment that enter the secure perimeter on a temporary basis will be inventoried prior to entry and reinventoried before exit from the facility. Any discrepancies with the reinventory will be immediately reported to the security manager or designee.

(5) All tools and equipment that enter the secure perimeter on a temporary basis will be under continual surveillance by a functional unit employee while inside the facility or locked in a secure area.

(6) Tools and equipment that enter or exit a facility with no secure perimeter will be granted access as authorized by the security manager or designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93; DOC 10-2006, f. & cert. ef. 10-9-06

291-016-0110

Supply Access

(1) All supplies that enter a facility's secure perimeter will require approval of the security manager or designee.

(2) Supplies will be searched for contraband (except sealed containers) prior to entry or exit of the secure perimeter. Sealed containers may be opened for inspection. Any item large enough to conceal a person will be searched before leaving the secure perimeter.

(3) Supplies that enter or exit a facility with no secure perimeter will be granted access as authorized by the security manager or designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93

291-016-0120

Possession and Storage of Personal Handguns at Facilities Owned or Occupied by the Department of Corrections

(1) In accordance with 2015 Or Laws, Ch 246, authorized staff of the Department of Corrections, Oregon Board of Parole and Post-Prison Supervision, and Oregon Corrections Enterprises may possess and store a personal handgun and ammunition in their personal vehicle when the vehicle is parked in a department parking lot at a Department of Corrections facility only if the authorized staff:

(a) Has a valid concealed handgun license issued pursuant to ORS 166.291 and 166.292; and

(b) Has secured the handgun and ammunition in a closed and locked container designed for the storage of a firearm inside a vehicle.

(2) Use of Department Storage Facilities Required Where Provided: If the department has provided a secure and locked location for authorized staff to store their personal handgun and ammunition at a Department of Corrections facility, the authorized staff must promptly store the personal handgun and ammunition in the storage location designated by the department, and not in their personal vehicle.

(3) Ammunition: Authorized staff who bring personal handguns to a Department of Corrections facility in accordance with these rules may possess and store with their personal handgun only that amount of ammunition that the personal handgun is designed to hold plus two additional magazines or speed loaders.

(4) Under no circumstance may an authorized staff member carry a personal handgun within the secure perimeter of the correctional facility, unless authorized by the correctional facility's confidential procedure in order to securely store the staff member's personal handgun.

(5) Personal handguns shall not be carried or used during the performance of official duties.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 14-2014(Temp), f. 6-5-14, cert. ef. 6-6-14 thru 12-3-14; DOC 17-2014(Temp), f. & cert. ef. 7-2-14 thru 12-3-14; DOC 23-2014, f. & cert. ef. 12-3-14; DOC 7-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; DOC 15-2015, f. & cert. ef. 10-20-15

DIVISION 19

TRANSFER (COMMUNITY CORRECTIONS)

291-019-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, 423.075, and 423.525(6).

(2) Purpose: The purpose of this rule is to establish the procedure by which supervision of offenders, is transferred between county community corrections agencies.

(3) Policy: It is the policy of the Department of Corrections that supervision of offenders be provided by the community corrections agency in the offender's county of residence and that offenders shall comply with the standard conditions of supervision requiring them to obtain permission from the supervising officer before moving between counties.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1997, f. & cert. ef. 11-26-97

291-019-0110

Definitions

(1) County of Residence: County in which the offender lives and sleeps.

(2) Emergency Reporting: For sex offender cases, reporting instructions provided by the receiving county when a documented emergency exists requiring an expedited transfer. Parameters for emergency reporting are a documented immediate threat to victim(s) or offender or documented "other" emergency.

(3) EPR: The probation/parole record on the Law Enforcement Data System (LEDS).

(4) Offender: Any person under the supervision of local community corrections who is on parole, post prison supervision, or probation status.

(5) New Case: A new case is any case where the offender has been supervised for less than 30 working days by the county of conviction and where the offender is not being supervised in any other jurisdiction at the time of conviction. This includes offenders who have been sentenced to probation and released from incarceration with no pending criminal issues. New cases that fail to appear for intake and are closed to abscond can only be transferred through formal transfer processes after violation procedures have been initiated and all reports have been submitted.

(6) Officer: A probation and parole officer employed by or under the direction of the court, the county, or the state.

(7) Releasing Authority: Department of Corrections, courts, and Board of Parole and Post Prison Supervision, or supervising authority.

(8) Receiving Office: The county community corrections agency being requested to accept the supervision of an offender.

(9) Sending Office: The county community corrections agency requesting to transfer the supervision of an offender to another jurisdiction.

(10) Residence: For the purposes of this rule, a residence is where the offender is currently residing and where he/she expresses a desire to remain. This includes transient living quarters, fishing boats, and other non-traditional situations, providing that the offender has the ability to remain in those living quarters for a minimum of 30 days.

(11) Transfer: An offender is considered to be transferred when responsibility for his/her supervision is accepted by the receiving county. Assignment of a case to a different parole or probation officer within the same county by administrative action is not a transfer.

(12) Temporary Supervision: The short-term supervision of offenders agreed upon by the two community corrections agencies for the purpose of information gathering or investigation.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1997, f. & cert. ef. 11-26-97; DOC 11-2001, f. & cert. ef. 4-5-01; DOC 13-2011, f. & cert. ef. 7-15-11

291-019-0120

General

(1) Prior to a supervising officer granting an offender permission to move to another county, the offender must present a plan which considers:

(a) Public safety; and

(b) The county which can provide the most effective means of supervising the offender in accordance with conditions as set by the releasing authority (e.g., treatment, stable housing, employment or legitimate source of income).

(2) Nothing in this rule prohibits a county(ies) to engage in an agreement with another county(ies) that is mutually satisfactory regarding the transfer of cases.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1997, f. & cert. ef. 11-26-97

291-019-0130

Transfers of Supervision Between Community Corrections Agencies: Standards for Request and Acceptance

(1) Requests:

(a) Except for sex offender cases, whenever an officer has given an offender permission to relocate to a different county, within 30 days, the officer shall submit a transfer investigation request to the receiving county on all cases including misdemeanors.

(A) If the purpose of the change of residence is for residential treatment and a return is anticipated, no transfer is necessary.

(B) For low and limited supervision and low and limited risk offenders, the county of supervision will notify the county of residence in writing that the offender now resides in their county. The receiving county may review the offender's history in the Corrections Information System to determine whether they wish to assume supervision. The decision to investigate and accept supervision shall be at the discretion of the county of residence.

(C) Under no circumstances shall a probation or parole officer allow a sex offender to move to a new county without first applying for and receiving emergency reporting instructions. If parameters for emergency reporting do not apply, then the offender must remain in the sending county until a full transfer investigation is completed.

(b) Transfer Investigation: In all cases involving the transfer of the supervision responsibility for an offender, the sending county shall assure that the following information is up to date and accurate in the offender's ISIS (computer integrated system) file prior to making the investigation request:

(A) Name: Last, first, and middle;

(B) Date of birth;

(C) SID Number: If none is available, the sending office shall submit a fingerprint card to the State Identification Bureau prior to transfer;

(D) Crime(s);

(E) County(ies);

(F) Sentencing data including county, docket numbers, expiration date, and judge's name for each case;

(G) History/risk score according to the Oregon Case Management System;

(H) Date of request to transfer;

(I) Special Conditions: List all special conditions including specific dollar amounts for restitution, court costs, fines and fees as well as community service hours and any other conditions requiring specificity;

(J) Residence: Provide a complete address; rural addresses should include specific directions on location of the residence as well as a description; and

(K) Conformance: Note any non-compliance with either the general or special conditions of supervision. Reflect the exact amount of any financial obligations owed to date and any other pertinent information.

(c) Sex Offenders: A transfer packet must be sent to the receiving county. The transfer packet shall include:

(A) Court orders/parole or post-prison supervision order;

(B) Sex offender evaluation (if available);

(C) Presentence investigation or police reports;

(D) Completed sex offender risk assessment; and

(E) Most recent treatment progress report or treatment discharge report.

(2) Acceptance/Rejection:

(a) If a sex offender meets the documented parameters for emergency reporting, the sending county must provide emergency reporting information to the receiving county. The receiving county has up to five days to reply. Once the receiving county has accepted the offender on an emergency basis, a rule transfer packet must be sent to the receiving county.

(b) The receiving county must complete the investigation and respond to the sending county within 30 days.

(c) The transfer request must be accepted if the offender has a job or other legitimate source of income, a residence and the means to comply with the special conditions of his/her supervision unless:

(A) The only active supervision is for a misdemeanor and the receiving county is unable to provide supervision based on misdemeanor status, due to county policy and/or resource limitations; or

(B) Public safety would be compromised by the transfer (e.g., a child molester residing in a dwelling where children are present; a proposed residence provider supporting sex offender's denial or noncompliance; a drug offender residing in a known drug house; an arson offender residing in a boarding house); or

(C) The supervision is for a low and limited supervision or low and limited risk offender, whereas the decision to accept supervision is at the discretion of the county of residence.

(d) Neither non-compliance (except for sex offender cases) nor outstanding misdemeanor warrants shall be grounds for rejection. Felony warrants and warrants involving active cases for which an offender is under formal supervision shall be resolved prior to the transfer process.

(e) Supervision of a misdemeanor must be accepted if there is concurrent felony supervision.

(f) Outstanding Warrants and Pending Criminal Charges/Violations: Prior to transfer, the sending office shall:

(A) Make reasonable efforts to resolve any warrants;

(B) Remove any individual county requirements outside of usual practice;

(C) Report all non-compliance/violations to the releasing authority; and

(D) Be responsible for resolving all pending non-compliance/violations. The sending county should collaborate with the receiving county to determine an appropriate response to pending violations.

(g) When a transfer is rejected in the interest of public safety, the offender shall be directed by the receiving county to return to the sending county or to secure a suitable residence elsewhere, except for sex offenders who have been granted emergency reporting instructions, who shall be directed to return to the sending county and to initiate any further transfer requests from the sending county. Failure of the offender to do so is a violation and may be grounds for revocation. The reason for rejection needs to be specified and reviewed by the unit supervisor.

(h) During the transfer investigation, if an officer from the receiving office observes a violation or has reason to believe that a violation has occurred, that officer shall immediately report the alleged violation to the sending office for appropriate response.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1997, f. & cert. ef. 11-26-97; DOC 11-2001, f. & cert. ef. 4-5-01; DOC 6-2009 f. & cert. ef. 5-22-09; DOC 13-2011, f. & cert. ef. 7-15-11

291-019-0140

Notice of Transfer

(1) Notice of Decision on Transfer: The sending office shall be notified by the receiving office of acceptance or rejection or delay in completing the investigation within 30 days of the request.

(2) File Transfer: The sending office shall forward the offender file within five working days of the notice of acceptance of the transfer.

(3) Formal Supervision: Formal supervision of the offender shall begin in the receiving county at the time of notification of acceptance of the transfer.

(4) Law Enforcement Data System (LEDS): The sending office shall modify the EPR record within five working days after notice of transfer acceptance

(5) Corrections Information System (CIS): Upon notification of transfer acceptance, the sending office shall, within five working days, make required changes in the CIS. When the file is received, the receiving office shall assure that the Department's database records and LEDS EPR accurately reflect the county of supervision.

(6) Transfer Chronological Entry: Once a sex offender is accepted for transfer, the parole or probation officer from the sending office shall complete a transfer chronological entry which includes a brief history of violations; record of any community notification; offender's treatment progress; status of polygraphs (when was the last one completed, what were the results); the circumstances under which an offender is allowed contact with

minors (who are the minors, who are the supervisors, when, where).

(7) Sex Offender Registration: The parole or probation officer in the receiving county will assure the sex offender registration is updated by the offender with the designated law enforcement agency.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1997, f. & cert. ef. 11-26-97; DOC 11-2001, f. & cert. ef. 4-5-01

291-019-0150

Dispute Resolution

Dispute Resolution: It is a matter of policy that the offender should be supervised by the agency serving the offender's county of residence and, with exception of sex offenders, regardless of whether or not the offender is in compliance with conditions. However, if the goals of public safety are clearly compromised by the transfer, rejection is appropriate. The Assistant Director of Transitional Services for the Department of Corrections or designee shall be consulted whenever a transfer issue cannot be resolved at the local manager/director level.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1997, f. & cert. ef. 11-26-97; DOC 11-2001, f. & cert. ef. 4-5-01; DOC 13-2011, f. & cert. ef. 7-15-11

291-019-0160

Cases not Requiring Transfer Request and Corresponding Responsibilities

(1) New Cases: New cases are not subject to the transfer process.

(2) If the offender resides in a county other than the county of conviction, the office serving the county of residence shall assume supervision without requiring any transfer investigation from the sending office.

(3) Ninety-day Rule: If an offender, whose residence is in another county, is sentenced by court order to less than 90 days in jail, the case will be transferred to the office in the county of residence. If an offender is sentenced to 90 days or more, the case will be held by the county of conviction until released from jail at which time the case will be handled as a new intake in the county of residence upon verification of residence.

(4) In situations described in sections (2) and (3) above, it is the responsibility of the office for the county in which the conviction occurred to assure that the court order is sent to the office in the county of residence.

(5) Six-Month Rule: In the last six months of supervision, and when an offender is in compliance, other options should be considered (i.e., early termination, bench probation, limited risk, inactive/unsupervised status) before attempting to transfer.

(6) The supervision of an offender's 12 month or less sentence to the legal and physical custody of the supervisory authority of a county is not subject to transfer under this rule.

(7) The supervision of an offender's furlough or release agreement while serving a new sentence, revocation sentence, local sanction or sentence as a condition of supervision is not subject to transfer under this rule.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1997, f. & cert. ef. 11-26-97; DOC 11-2001, f. & cert. ef. 4-5-01

DIVISION 22

USE OF FORCE (COMMUNITY CORRECTIONS)

291-022-0105

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to outline the authority of parole and probation officers in the use of physical force, firearms, and restraints.

(3) Policy: It is the policy of the Department of Corrections to authorize the use of physical force when and to the extent that it is reasonably believed to be necessary as specified in these rules. Parole and probation officers are authorized to use that amount of force that is objectively reasonable to overcome a threat, thereby minimizing the risk of injury to the officer, the threat, and the public.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13

291-022-0115

Definitions

(1) Chemical Agents: Chemical compounds that when deployed are designed to cause sufficient physiological effect to stop, control or temporarily incapacitate an individual.

(2) Deadly Physical Force: Physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

(3) Electronic Control Devices: Security equipment designed to stop, control or temporarily incapacitate through the use of high voltage, low amperage electric stimulation; e.g., conducted electrical weapon, electronic shield, etc.

(4) Level of Force: The type of force employed, the degree of that type of force employed, and the circumstances within which the force is employed.

(5) Local State Director: A person within the Department of Corrections who reports to the Assistant Director of Community Corrections and has responsibility for managing a state community corrections office within a particular county.

(6) Negligent Discharge: An unintentional discharge cause by an action or event that an employee could and should have foreseen or prevented.

(7) Offender: Any person under supervision who is on parole, post prison supervision, transitional leave, local control and/or probation status.

(8) Officer: Any state parole and probation officer certified as such by the Department of Public Safety Standards and Training

(9) Physical Force: The use of hands, other parts of the body, objects, instruments, chemical devices, firearms, or other physical methods, for the purpose of overcoming the resistance to lawful authority.

(10) Physical Injury: Impairment of physical condition or substantial pain.

(11) Reasonable Force: That force, which is objectively reasonable, based upon the totality of the circumstances and the facts known to the officer at the time.

(12) Security Equipment: Firearms, ammunition, batons, chemical agents, security restraints, electronic control devices, and similar devices.

(13) Serious Physical Injury: Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(14) Security Restraints: Handcuffs, temporary cuffs (flexcuffs), and other similar equipment designed to control a person from injuring himself/herself, others, and to prevent escape.

(15) Show of Force: A demonstration of the current ability to use force, such as the massing of parole and probation officers or other officials.

(16) Threat: Any person resisting arrest or resisting being lawfully controlled and/or demonstrating the intent, having the means, and the opportunity to inflict injury, serious physical injury, or death.

(17) Totality of the Circumstances: With respect to use of force, circumstances include, but are not limited to, comparative size; physical, emotional, and mental condition; skill level of combatants; nature of the offense; weapons; and availability of assistance.

(18) Use of Force: Any situation in which an employee uses physical force against a threat, except those situations in which

security restraints are used in a standard manner for arrest, escort, or transport.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 28-2008(Temp), f. & cert. ef. 11-25-08 thru 5-22-09; DOC 7-2009, f. 5-22-09, cert. ef. 5-23-09; DOC 10-2013, f. & cert. ef. 10-23-13

291-022-0125

Applicability of the Rule

(1) All employees who supervise or work around offenders shall be thoroughly familiar with the departmental procedures of this rule for guidance and direction in use of force incidents.

(2) If there is any question about specific equipment, procedures, etc., in a use of force situation, an employee shall be directed by the location of the situation, rather than by distinctions concerning where he/she is duty stationed.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13

291-022-0130

General Provisions — Use of Force

(1) Physical force may be employed when it is reasonable given the situation and the facts known to the officer at the time. The degree and type of force used shall be objectively reasonable based on the totality of the circumstances and the facts known to the officer at the time the force is delivered. Force shall be de-escalated or terminated as soon as practical after the threat is mitigated and it is safe to do so.

(2) A verbal warning, lawful order, or a verbal transfer of the use of force decision to the threat should be made prior to delivering physical force against a threat, if time and circumstances safely permit the officer to do so.

(3) Immediate use of physical force is authorized in circumstances in which warnings and other non-force alternatives are not reasonable or available to the employee.

(4) The goal of any use of force in a given situation must be to attain a legitimate objective. There are only two purposes an officer can have in using force. All justifiable uses of force will fall into one, or both, of these categories:

(a) Defense, and/or

(b) Control.

(5) Provoking a person to justify the use of physical force, or using physical force as punishment or discipline, is prohibited.

(6) First aid and/or medical assistance shall be provided to an injured person as soon as safely possible following any use of force. This action shall be documented in the Use of Force Report.

(7) Photographs shall be taken of the individuals injuries as soon as practical and retained as part of the documentation of the incident.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13

291-022-0150

Deadly Use of Force

(1) Officers should consider other reasonable means of control before resorting to the use of deadly force as time and circumstances safely permit.

(2) Deadly force may be used upon the reasonable belief that an officer's life or safety, or the life or safety of another, is in imminent danger of death or serious bodily injury, given the totality of the circumstances known to the officer at the time of his/her action.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13

291-022-0160

Security Equipment

(1) Security Equipment:

(a) All security equipment requires the approval of the Director or designee before being issued and used as department authorized security equipment.

(b) Security equipment shall not be issued to or used by an employee who has not been trained in the proper use of such devices.

(c) Unless authorized by the Assistant Director for Community Corrections or designee, the carrying or use of personal security equipment is prohibited.

(d) The local state director shall authorize the storage and use of security equipment.

(2) Security Restraints:

(a) The standard routine use of security restraints for arrest, escort or transportation of an offender is not a use of force within the context of this rule.

(b) The use of security restraints is authorized to restrict, immobilize, and control the movement of offenders or for the purpose of officer safety.

(c) An offender shall be placed in security restraints with their hands behind their back, before and during transport. Exceptions may exist due to physical and/or medical conditions, at which point alternative methods may be utilized.

(d) Security restraints shall be applied consistent with the training and experience of the officer. Restraints will be checked for tightness and double locked.

(e) Officers shall ensure that unnecessary pressure is not placed on the offender's chest, back or neck while applying restraints. Officers shall maintain close observation of a restrained offender in order to detect breathing difficulties and/or loss of consciousness.

(f) The officer shall check at least every 30 minutes and verify the security restraints are not causing injury or an obvious medical problem for the restrained offender.

(3) Chemical Agents:

(a) Authorization to carry a chemical agent shall be granted by the local state director.

(b) Authorization to carry department issued chemical agents shall be limited to the performance of official duties.

(c) Officers authorized to carry a chemical agent shall carry the chemical agent or another approved less than lethal force option whenever:

(A) Protective body armor is worn;

(B) A firearm is carried;

(C) An arrest is anticipated or when making an arrest; or

(D) A confrontation with vicious dogs or other dangerous animals is anticipated.

(d) An officer shall only discharge a chemical agent for the following:

(A) To defend the officer or another person from an animal attack;

(B) To defend the officer or another person from imminent danger;

(C) To enforce a valid order(s) to a threat to submit to the application of restraints; or

(D) Other circumstances where it is objectively reasonable given the totality of the circumstances and facts known to the officer at the time.

(e) When feasible, the officer shall provide a verbal warning to the threat prior to the discharge of a chemical agent.

(f) Those affected by a chemical agent shall be permitted to wash their face, eyes and other exposed skin areas, as soon as safely practical after the chemical agent has been used.

(g) Those affected by a chemical agent in a closed area shall be permitted to move to an uncontaminated area as soon as safely possible after the chemical agent has been used.

(h) A threat who has received an application of a chemical agent shall be observed for symptoms of an abnormal reaction while the officer has custody of the threat. Medical assistance shall be summoned as soon as an abnormal reaction is observed.

(4) Electronic Control Device:

(a) Authorization to carry an electronic control device may be granted by the local state director.

(b) Authorization to carry an electronic control device shall be limited to the performance of official duties.

(c) Use of the electronic control device will be in accordance with these rules.

(5) Mandatory Use: Officers shall carry a chemical agent or an electronic control device or another approved less than lethal force option whenever:

(a) Protective body armor is worn;

(b) A firearm is carried;

(c) An arrest is anticipated or when making an arrest; or

(d) A confrontation with vicious dogs or other dangerous animals is anticipated.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 28-2008(Temp), f. & cert. ef. 11-25-08 thru 5-22-09; DOC 7-2009, f. 5-22-09, cert. ef. 5-23-09; DOC 10-2013, f. & cert. ef. 10-23-13; DOC 9-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 16-2015, f. & cert. ef. 10-26-15

291-022-0161

Electronic Control Device Deployment

(1) The electronic control device may be deployed:

(a) To control a dangerous or violent threat when deadly force does not appear to be justified.

(b) On animals, as a deterrent to aggressive behavior, when the officer believes such aggression may cause injury to the officer or another person whom is present.

(2) When feasible, the officer shall provide a verbal warning to the threat prior to deploying the electronic control device.

(3) Once the threat is incapacitated or restrained, continued use of the electronic control device is prohibited, unless the officer believes the threat continues.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 28-2008(Temp), f. & cert. ef. 11-25-08 thru 5-22-09; DOC 7-2009, f. 5-22-09, cert. ef. 5-23-09; DOC 10-2013, f. & cert. ef. 10-23-13

291-022-0162

Treatment of Affected Persons

(1) Immediately after deploying the electronic control device on a threat, the officer shall observe the threat for symptoms of an abnormal reaction or secondary injuries that may have occurred during the incident. Observation shall continue for the time the officer has custody of the individual. Medical assistance shall be summoned as soon as an abnormal reaction or secondary injury is observed.

(2) Probes may be removed by the officer unless embedded in a sensitive area (face, throat, groin, female breasts). A probe embedded in a sensitive area should only be removed by medical personnel.

(3) When custody or care of the individual is transferred, the officer shall inform jail staff or medical personnel of the approximate time the individual was immobilized, the puncture sites of the probes, and the probe size.

(4) Photographs shall be taken of the individual's injuries as soon as practical and retained as part of the documentation of the incident.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 28-2008(Temp), f. & cert. ef. 11-25-08 thru 5-22-09; DOC 7-2009, f. 5-22-09, cert. ef. 5-23-09; DOC 10-2013, f. & cert. ef. 10-23-13

291-022-0170

Firearms

(1) Prior to resorting to the use of firearms against any threat, time and circumstances permitting, an officer shall first issue an appropriate verbal warning.

(2) Any officer involved in the discharge of a firearm in a situation on duty shall immediately report, by the quickest means possible, the incident to the local state director. The employee shall prepare a report as soon as reasonably possible.

(3) The State Police or local law enforcement officials shall be notified to investigate any discharge of a firearm unless the discharge was during training, off duty practice, or negligent discharge where injury or significant property damage did not occur. This investigation shall be separate from the full review.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13;
 DOC 9-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 16-2015, f. & cert. ef. 10-26-15

291-022-0180

Blood Borne Pathogens

When a person has been exposed to a blood or body fluid resulting from the use of force, standard universal precautions shall be implemented.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 9-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 16-2015, f. & cert. ef. 10-26-15

291-022-0190

Injury, Death, or Hostage

(1) Whenever an officer's use of force results in the serious injury or death of another, he/she shall be placed on administrative leave until an investigation of the matter by the Inspector General and/or State Police can be concluded.

(2) Whenever an officer's use of force results in the serious injury or death of another, the officer involved shall be placed on administrative leave until medical and/or psychological clearance has been obtained.

(3) Any officer involved in or immediately exposed to a critical incident involving the serious injury, hostage or death of another shall be provided a critical incident stress debriefing.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13

291-022-0200

Notifications

(1) Any time an officer unholsters and/or points his/her firearm or electronic control device at another, the local state director will be notified according to procedure. The local state director will notify the Assistant Director of Community Corrections of the incident.

(2) Any time an officer is required to use physical or deadly force, the officer shall immediately notify his/her supervisor and/or local state director.

(3) All employees witnessing or directly involved in a use of physical force incident shall individually prepare and submit a use of force report describing their involvement and observation regarding the incident.

(4) All employees witnessing or directly involved in a use of deadly force incident shall report the incident.

(5) The local state director shall make a verbal report to the Assistant Director of Community Corrections.

(6) In cases of serious or life-threatening injury to a person(s) that requires transport to a medical facility or where deadly force has been used:

(a) The appropriate investigatory agency in the jurisdiction shall be immediately contacted by the local state director.

(b) The investigatory agency can include the Attorney General's office if a conflict of interest exists.

(6) Prior to any administrative action, the local state director shall confer with the Assistant Director of Community Corrections.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13;
 DOC 9-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 16-2015, f. & cert. ef. 10-26-15

291-022-0210

Reviews

(1) General:

(a) Whenever staff employs force in response to an incident, a preliminary review of the use of force incident shall be conducted in accordance with the procedures established in these rules.

(b) A full review of a use of force incident shall be conducted by independent departmental review in accordance with the proce-

dures established in these rules when requested by the Inspector General, or when the following circumstances exist:

(A) A person received a serious physical injury in the course of the use of force incident; or

(B) A firearm was discharged during the incident.

(c) The Inspector General may decide if the full review process for the incident requires assembly of a departmental review team to conduct the full review, or order a separate investigation be conducted by a special investigator from the Investigations Unit.

(2) Preliminary Review:

(a) The local state director shall conduct a preliminary review of all use of force incidents within 48 hours of the incident.

(b) Staff involved in the use of force incident shall prepare, assemble, and provide to the local state director all information and records that are relevant to the incident, including but not limited to reports, documents, videos, and photographs of involved persons and witnesses. Staff and/or offenders may be interviewed as necessary to clarify or obtain relevant information. The local state director shall review the information and records to ensure the documentation of the incident is complete.

(c) The local state director shall review the documentation for compliance with administrative directives and prepare a preliminary review report. The local state director shall forward the preliminary review report and supporting documentation to the Assistant Director of Community Corrections with one of the following recommendations:

(A) In compliance with administrative directives, requires only a preliminary review; and

(i) No further action is required; or

(ii) Further corrective action is required by the local state director to address perceived training, security, or other operational issues;

(B) In compliance with administrative directives but requires a full review; or

(C) Not in compliance with administrative directives but requires only a preliminary review because appropriate corrective action has been taken by the local state director; or

(D) Not in compliance with administrative directives and requires a full review.

(d) The Assistant Director of Community Corrections shall review the preliminary report and all supporting documentation and make any necessary modification or additions he/she deems necessary. The review shall include a preliminary review of the video tape(s) and all associated reports. If the Assistant Director of Community Corrections determines a full review is warranted, all relevant information will be forwarded to the Inspector General or designee for further review.

(3) Full Review:

(a) When a full review of a use of force incident is requested by the Assistant Director of Community Corrections or otherwise required under these rules, a departmental review team shall be assembled to conduct the full review or a separate investigation shall be conducted by a special investigator from the Investigations Unit.

(b) The departmental review team shall include, at a minimum, a representative from Special Investigations assigned by the Inspector General and a representative from one separate functional unit other than the functional unit in which the incident took place. The functional unit representative may include a represented employee. The Special Investigations representative shall chair the review team and arrange for the appointment of the review team members in consultation with the functional unit managers.

(c) The departmental review team shall review the final preliminary review report and all supporting documentation for compliance with administrative directives.

(d) If any member of the review team deems it necessary or advisable to have additional staff or offender interviews conducted, the review team chair shall arrange for an Investigations Unit employee(s) to conduct the interview(s).

(e) If the review team chair determines that a crime may have been committed in the course of the use of force incident, he/she

shall contact the State Police or local law enforcement officials before arranging for any additional interview(s) to determine if the law enforcement officials are conducting a criminal investigation regarding the incident, and if so, whether the additional interview(s) would interfere with the investigation.

(f) If advised that the interview(s) would interfere with a pending criminal investigation, the interview(s) shall be postponed until the criminal investigation has been concluded.

(g) Evaluation Report:

(A) After completing the review process, the review team shall prepare and submit its evaluation report to the Inspector General within 30 working days following completion of the full review.

(B) The report shall set forth the departmental review team's determination whether the actions taken were in compliance with a Department of Corrections administrative directive(s).

(C) If the review team finds evidence of noncompliance, it shall specify these findings and the rationale upon which the findings have been based in its report.

(D) The Inspector General shall review the report for completeness and forward it to the Assistant Director of Community Corrections for review and any necessary action.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13

DIVISION 24

CAPITAL PUNISHMENT (DEATH BY LETHAL INJECTION)

291-024-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.463, 137.473, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish specific procedures for administration of capital punishment in accordance with Oregon statutes. In addition, the rule establishes specific procedures for the care, custody and treatment of condemned inmates from the time an inmate is received through execution, and identifies responsibilities for preparation and carrying out of death sentences imposed under Oregon law.

(3) Policy:

(a) It is the policy of the Department of Corrections to discharge its statutory responsibility to carry out death sentences imposed under Oregon law in a manner that is consistent with Oregon statutes, and with the safe, secure and orderly management and operation of the Department of Corrections institution in which the execution takes place, the safety and security of Department staff and other persons directly involved in the execution process, and their families, with due regard for the dignity of the condemned inmate, and within the limitations of space and resources. Consistent with these policies, executions will be conducted in a manner designed to protect as completely as possible the anonymity of Department staff and other persons involved. All executions shall take place within the enclosure of a Department of Corrections institution designated by the Director of the Department of Corrections.

(b) Conscience Clause: Except as provided by statute, no employee of the Department of Corrections shall be required to participate in the execution of an inmate sentenced to death.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0010

Definitions

(1) Basic Visiting: The opportunity for an inmate and approved visitor to see and talk with each other, on a scheduled basis for a reasonable period of time, with no physical contact.

(2) Execution Camera Monitoring System: Non-recording camera installed over execution gurney with monitors for witness viewing of condemned inmate's placement in restraints on the gurney and insertion of IV's.

(3) Execution Room: The location where executions will take place.

(4) Immediate Family of the Victim: The victim's parents, spouse or domestic partner, siblings, children, grandparents, including step relationships.

(5) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(6) Superintendent: Any person within the Department of Corrections who reports to the Assistant Director(s) — Institutions and has the responsibility for the delivery and coordination of programs operations in a specific facility/institution.

(7) Victim: The person or persons for whose murder the inmate was sentenced to death.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030, 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CSD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0015

Reception, Orientation, and Housing

When an inmate is received at an Oregon Department of Corrections institution with a sentence of death, the inmate will be immediately classified as maximum custody. The inmate will be housed in a maximum custody cell or unit at a Department of Corrections institution designated for the housing of inmates sentenced to death.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0016

Receipt of Death Warrant

(1) Notifications:

(a) The Superintendent will personally notify the Director that the execution will commence at 12:01 a.m. or as soon thereafter as possible on the date specified in the warrant ordering execution. Such notification will be followed by a letter from the Superintendent to the Director confirming this information. The Director will subsequently notify the Governor of the date and time of the pending execution.

(b) The Superintendent, with the Assistant Superintendent of Security, will interview the inmate to be executed, provide the inmate with a copy of the death warrant, and document the interview.

(c) The Superintendent will send a letter to the medical examiner indicating the date and time of the scheduled execution, requesting that the medical examiner or his/her representative be present at the execution and be prepared to issue the certificate of death. The letter to the medical examiner will be sent by certified mail with a return receipt requested.

(d) The Superintendent or his/her designee will notify the Oregon State Police Superintendent's Office of the scheduled date and time of the execution, followed by a letter confirming the information.

(2) Assembly of Supplies and Equipment:

(a) The Director shall prepare a written order to purchase the lethal substances as described in ORS 137.473 and attach a

certified copy of the judgment of the court imposing the punishment. The written order and copy of the judgment shall be submitted to any wholesale drug outlet as defined in 689.005, registered with the State Board of Pharmacy under 689.305 at the time the lethal substances are purchased.

(b) The Superintendent or his/her designee will assemble the supplies and prepare the equipment necessary to effect the execution consistent with ORS 137.473.

(c) The Superintendent or his/her designee will ensure the execution camera monitoring system is in place and operational.

(3) Selection of Executioner(s): The selection of the executioner(s) will be the responsibility of the Superintendent. The identity of the executioner(s) will remain confidential.

(4) Arrangement will be made to ensure that the telephone company has installed two dedicated telephone lines, hereafter referred to as the emergency telephone lines, which will ring directly into the execution room. The Director will advise the Governor and the Attorney General of the telephone process.

(5) Special Security Team Preparations:

(a) The Assistant Superintendent of Security, or his/her designee subject to the Superintendent's approval, will select no less than six primary security staff and no less than six alternate security staff from a previously identified pool of security staff to assist in conducting the execution procedure. These selected security staff will be referred to as the special security team.

(b) The Assistant Superintendent of Security or his/her designee will conduct training with the special security team to ensure that all members are fully aware of their roles during the procedure, and that the team is prepared to deal with any disruptive behavior which might be demonstrated by the inmate.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0020

Programming: From Date of Receipt of Death Warrant Until Four Days Prior to the Scheduled Execution Date

(1) Media Contact: Interviews by media representatives with the condemned inmate will be permitted only with the consent of the inmate, and with the prior approval of the Superintendent or his/her designee. Media contacts will be coordinated between the Superintendent (or his/her designee) and the Department of Corrections Communications Manager. If approved, media representatives will be admitted to the appropriate Department of Corrections institution to conduct the interview(s), provided they are properly credentialed and attired. Any interview by a media representative, if permitted, shall be conducted as basic visiting. A camera (i.e., still photography or video) may be used during the interview if its use is approved in advance by the Superintendent or his/her designee.

(2) Visiting: All visits will be basic visiting and arranged by appointment through the institution visiting desk staff. Visitor(s) must be on the approved visiting list.

(3) Invitation to Witness the Execution:

(a) Prior to the scheduled execution date, the Superintendent shall invite the following persons to attend and witness the execution:

(A) One or more physicians;

(B) The Attorney General;

(C) The sheriff of the county in which the judgment was rendered;

(D) The district attorney of the county in which the judgment was rendered;

(E) if requested by the condemned inmate, no more than two religious representatives designated by the inmate;

(F) If requested by a member of the immediate family of the victim, one or more members of the victim's immediate family as determined by the Superintendent; and

(G) Designated media representatives:

(i) The media representatives will consist of two persons selected by the Oregon Association of Broadcasters, two persons selected by the Oregon Newspaper Publisher's Association (one of the two persons will represent a newspaper from the county in which the judgment was rendered), and one person selected by the Associated Press (AP).

(ii) Only designated media representatives who are properly credentialed, and who agree to act as pool reporters for other media present following the execution, will be admitted inside the secure perimeter of the institution to attend and witness the execution.

(b) In addition to those persons listed above, the Superintendent may, in his/her discretion, invite the following persons to attend and witness the execution:

(A) No more than a total of five of the inmate's friends and relatives designated by the inmate, and

(B) Such other persons as the Superintendent thinks expedient, including but not limited to peace officers.

(c) The total number of persons invited to attend and witness the execution shall be determined by the Superintendent, taking into account the limitations of space and resources.

(d) In order to enter the secure perimeter of the institution, all persons witnessing the execution shall:

(A) Be 18 years of age or older;

(B) Undergo and pass a criminal history and security check;

(C) Be properly attired in accordance with the Superintendent's instructions.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0025

Four Days Prior to Scheduled Execution Date

(1) Housing Assignment:

(a) No less than four days prior to the scheduled execution date, the condemned inmate will be moved to the.

(b) Security:

(A) Security staff will be assigned by the Assistant Superintendent of Security or his/her designee to provide a 24-hour watch on the condemned inmate. The assigned security staff will maintain a log of all activities. The log entries must be written in ink, and cross-outs shall be legible and initialed. Copies of the logs will be hand-delivered to the Superintendent daily.

(B) Any unusual incident shall be documented in accordance with the Department of Corrections procedure on Unusual Incident Reports.

(2) Institutional Privileges:

(a) Mail: All incoming mail will be photocopied the last four days to ensure the inmate does not receive drug-infiltrated paper. The original letters will be maintained in the condemned inmate's property and a photocopy sent to the inmate.

(b) Visiting: At the discretion of the Superintendent, there may be daily visits with members of the inmate's family, approved religious representative(s), and such other persons as approved by the Superintendent or his/her designee, if they are on the approved visiting list and requested by the inmate. Visits must be arranged by appointment (i.e., dates, times and durations) through the Superintendent's Office. All visits will be restricted to basic visiting unless otherwise designated by the Superintendent.

(c) Telephone: Telephone privileges will be provided as approved by the Superintendent or his/her designee.

(d) Exercise: The condemned inmate will be permitted to exercise only in his/her cell.

(e) Clothing: New institutional clothing will be issued to the inmate and will be exchanged as needed. Clothing will be maintained in the secure confines of the facility.

(3) Personal Property Disposition: The Assistant Superintendent of Security or his/her designee will assure that a Personal Property Records form (CD 353P) is signed by the inmate for disposition of personal property.

(4) Food Preparations: The inmate will be served the same food as other inmates assigned to the facility. At the discretion of the Superintendent, the inmate may be permitted a last meal of the inmate's choosing.

(5) The Assistant Superintendent of Security or his/her designee will ensure the final preparations are made for the special security team.

(6) The Assistant Director for Institutions or his/her designee and the Assistant Director for Programs or his/her designee will jointly work to ensure that the equipment and supplies for the lethal injection are collected and deposited in secure storage located within the execution room.

(7) The Oregon State Police will be notified by the Assistant Superintendent of Security so that adequate perimeter security will be established around the institution on the evening preceding the execution.

(8) The execution camera monitoring system shall be tested by the physical plant manager or designee.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; Renumbered from 291-024-0030; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0055

Forty-Eight Hours Prior to Execution

(1) The Superintendent or his/her designee will ensure that all arrangements as required by these rules have been accomplished.

(2) The Assistant Superintendent of Security or his/her designee will conduct training with the special security team to ensure that all team members are familiar with their duties and responsibilities.

(3) The Assistant Superintendent of Security or his/her designee will have a process of identifying all witnesses and visitors who will be entering the institution on the evening of the execution.

(4) The Superintendent or his/her designee will ensure that a sufficient number of staff have been scheduled to work the evening preceding the execution.

(5) The Superintendent or his/her designee will ensure the necessary execution documents have been prepared/obtained to include:

(a) An appropriate certificate of death that reflects the cause of death as execution by lethal injection in the manner prescribed in ORS 137.473; and

(b) A form authorizing release of the body to be signed by the mortician (CD 728P).

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075;

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD-20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0060

Final Twenty-Four Hours to Execution

(1) An up-to-date log will be maintained on all execution related events which occur during the final 24 hours.

(2) The Assistant Director for Programs or his/her designee will work with the Assistant Superintendent, Program Services to ensure that a medically trained individual will prepare and secure the necessary syringes with the lethal solutions. The necessary back-up syringes with the lethal solutions will be prepared and secured separately. This equipment and solutions will be provided to the Assistant Superintendent of Security or his/her designee for secure storage.

(3) The Assistant Director for Programs or his/her designee will work with the Assistant Superintendent, Program Services to ensure that a medically trained individual will be available to insert an intravenous catheter(s) into an appropriate vein(s) of the condemned inmate.

(4) The Superintendent will distribute written orders that all employees selected for special assignment duty will report to the institution at the designated time.

(5) The execution camera monitoring system shall be tested by the Physical Plant Manager or designee.

(6) The Assistant Superintendent of Security will ensure that:

(a) All living units will be checked regularly;

(b) All towers will be posted;

(c) The reception desk staff will be provided with a list of the approved visitors and witnesses; and

(d) Escort officers will be identified for moving witnesses and visitors to the execution area.

(7) The emergency telephone lines to the execution room will be checked at 6:00 p.m. and again at 9:00 p.m. Beginning at 9:30 p.m., they will be tested every half-hour until 11:30 p.m.

(8) Approved Witnesses and Designated Media Representatives:

(a) Upon entering institution grounds, approved witnesses will remain in a designated staging area under staff supervision. Designated media representatives will remain in the Media Center until directed by staff to move to their designated staging area.

(b) At the appropriate time, witnesses and media representatives will be properly identified, pass through the metal detector, be frisk searched and have the back of their right hand stamped.

(c) Note pads, and pens or pencils issued by the institution to approved witnesses and media representatives will be the only items/equipment permitted inside the secure perimeter of the institution.

(d) The Department of Corrections Communications Manager will be stationed at the Media Center and will be the Department's contact person with the media.

(9) The Assistant Superintendent of Programs or his/her designee will be assigned to the Administration Building and will be responsible for screening calls to the institution and ensuring that no unauthorized persons enter the institution.

(10) The Assistant Superintendent of Programs or his/her designee will establish radio contact with the officer-in-charge of the unit housing the execution room to ensure that messages can be conveyed in the event that the institutional telephone line or the emergency telephone lines become inoperable.

(11) At 11:30 p.m., the Assistant Superintendent of Security or his/her designee will confirm the accurate time for the clock used to conduct the execution.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0066

Forty Minutes Prior to Execution

The Assistant Superintendent of General Services and/or other assigned personnel will escort the witnesses and all other approved visitors from the designated staging area to the processing station where they will enter the witness area. Two correctional captains will also be stationed in the witness area.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03, Renumbered from 291-024-0070; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0071

Thirty Minutes Prior to Execution

(1) There will be no visits after the inmate has been moved to the execution room.

(2) Witnesses will be taken to the execution witness viewing room at a time coordinated with the Assistant Superintendent Security or his/her designee.

(3) Execution camera monitoring system will be activated.

(4) Movement of Condemned Inmate to Execution Room:

(a) The death watch is suspended. All duties are assumed by the Special Security Team.

(b) The Special Security Team Leader will supervise the activities of the special security team members. The six special security team members will escort the inmate in security restraints from the cell and position and properly restrain the inmate on the gurney in the execution room.

(b) A trained person(s) will connect the heart monitor machine to the inmate.

(c) A medically trained person(s) will insert/connect intravenous catheters for lethal injection.

(3) At the appropriate time, the Superintendent will accompany the executioner(s) to the execution room, and ensure that the confidentiality of the executioner(s) has not been compromised.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03, Renumbered from 291-024-0065; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0080

Execution Procedure

(1) The Assistant Superintendent of Security or his/her designee shall make a final inspection of all straps, and with the assistance of medically trained staff, make final inspection of the intravenous catheters, and the injection equipment. When it is determined all is in order, he/she shall so advise the Superintendent.

(2) Upon receiving a signal from the Superintendent, the Assistant Superintendent of Security or his/her designee shall open the window coverings so that the witnesses can see the inmate in position on the gurney.

(3) At 12:01 a.m. or as soon thereafter as possible, the Superintendent shall signal the executioner(s) to begin injection of lethal solutions by syringe(s) into the injection port of the intravenous catheters. As prescribed by ORS 137.473, the lethal solutions will include an ultra-short acting barbiturate in combination with a chemical paralytic agent and potassium chloride or other equally effective substances sufficient to cause death.

(4) The executioner(s) shall signal the Superintendent when infusion of the lethal injection has been completed. Upon determining death of the inmate and time, the Superintendent will summon a medical professional to certify the inmate's death.

(5) Once the inmate has been pronounced dead, the witnesses will be escorted from the witness area.

(6) The camera monitoring system will be turned off.

(7) The Communications Manager will be notified of the time of the death and will inform the media assembled in the Media Center. Media witnesses will be escorted to the Media Center where they will share information as prearranged.

(8) The Assistant Superintendent, Security, or his/her designee will remain with the body in the execution room and supervise the removal of the body.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; DOC 1-2003, f. & cert. ef. 2-5-03; DOC 9-2011(Temp), f. & cert. ef. 5-31-11 thru 11-27-11; Administrative correction, 12-27-11

291-024-0085

Stay of Execution

If, during any stage of the execution prior to infusion of the lethal injection, the Superintendent is notified that a stay of execution has been ordered, execution procedures shall be halted and the witnesses shall be removed.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93

291-024-0090

Post-Execution Procedure

(1) The medical examiner or representative will process the death certificate and provide it to the Superintendent as soon as reasonably possible following the execution.

(2) The Superintendent or his/her designee will make arrangements with the funeral home for removal of the body. The Assistant Superintendent of Security or his/her designee will properly identify the inmate's body with identification photographs prior to release of the body. The State Police will be notified when the execution is completed and the body is ready for removal.

(3) The Superintendent will submit a final report to the Director.

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1988, f. & cert. ef. 3-21-88; CD 20-1993, f. 7-20-93, cert. ef. 8-1-93; CD 10-1996, f. & cert. ef. 8-23-96; CD 2-1997, f. & cert. ef. 2-7-97

DIVISION 26

CONTRACTS AND GOVERNMENTAL AGREEMENTS

291-026-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 279A.050, 421.438, 423.020, 423.030, and 423.075.

(2) Purpose: To ensure that personal and professional service contracting is carried out in an efficient manner within requirements set by statutes, regulations, policies and standards.

(3) Policy:

(a) It is the policy of the Department of Corrections that legislatively funded Department of Corrections programs may enter into personal or professional contracts for services so long as the required services could not have been performed cost effectively using qualified public resources.

(b) One or more of the following circumstances shall be present to justify entering into a personal or professional service contract:

(A) The specialized skills, knowledge, and resources are not available within the Department;

(B) The work cannot be done in a reasonable time with the Department's own work force;

(C) An independent and impartial evaluation of a situation is required;

(D) There is a grant which requires contracting; or

(E) It is less expensive to contract for the work.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Hist.: CD 9-1987(Temp), f. & ef. 1-22-87; CD 27-1987, f. & ef. 6-5-87; CD 26-1993, f. 10-14-93, cert. ef. 11-1-93; DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

291-026-0010

Definitions

(1) Architectural, Engineering and Land Surveying Services, and Related Services: As defined in ORS 279C.100 and 279C.100(6) and collectively means a special class of personal services that are required to be performed by an architect, engineer or land surveyor and related services.

(2) Competitive Solicitation: A documented process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the contractor's fees or costs, availability, capacity, experience, references, responsiveness to time limitations, responsiveness to solicitation requirements, and quality of previous performance.

(3) Contract Administration: All functions related to a given contract between the Department and a contractor or consultant from the time the contract is executed until the work is completed and accepted or the contract is terminated, payment has been made,

and disputes have been resolved. Contract administration includes amendments.

(4) **Contracts Unit:** The unit within the Department responsible for conducting the procurement process resulting in an executed contract or agreement.

(5) **Contractor or Consultant:** The person or entity with whom the Department enters into a contract.

(6) **Emergency:** Circumstances that:

(a) Could not have been reasonably foreseen;

(b) Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and

(c) Require prompt execution of a contract to remedy the condition. An emergency procurement means a sourcing method pursuant to ORS 279B.080, 279C.335(5) statutes.

(7) **Interagency Agreement:** An agreement between two or more state agencies.

(8) **Intergovernmental Agreement:** An agreement between the Department and a unit of local government, the federal government, or agencies of the federal government.

(9) **Interstate Agreement:** An agreement between a state agency and other public agencies outside the boundaries of the State of Oregon.

(10) **International Agreement:** An agreement between a state agency and any country outside the boundaries of the United States.

(11) **Memorandum of Understanding:** A non-binding agreement or documentation of gifts.

(12) **Notice to Proceed:** A document issued solely by the Contracts Unit directing the commencement of service. Services will not begin prior to issuance of the notice.

(13) **Originating Program:** The program or functional unit within the Department of Corrections which is seeking or soliciting the services of a contractor or other governmental entity.

(14) **Personal Services:** The services performed under a personal services contract in accordance with OAR 125-247 and related rules in 125-246. "Personal services" includes architectural, engineering and land surveying services procured under ORS 279C.105 or 279C.110 and related services procured under 279C.120.

(15) **Sole-Source Procurement:** A sourcing method by which the Department awards a contract without competition to a single source for supplies and services, when written justification demonstrates no other source is available, in accordance with ORS 279B.075 and OAR 125-247-0275.

(16) **Solicitation Document:** An invitation to bid; a request for proposals; a special procurement solicitation; or other document issued to invite offers from prospective contractors in accordance with ORS 279B or 279C. Solicitation document includes related documents, either attached or incorporated by reference, and any changes thereto, issued by the Department.

(17) **Statement of Work:** All provisions of a public contract that specifically describe the services or work to be performed or goods to be delivered by either the contractor, its subcontractor(s), or the Department, as applicable, including any related technical specifications, deadlines, or deliverables. Detailed description of the specific services or tasks a contractor or consultant is required to perform under a contract.

(18) **Tribal Agreements:** An agreement between the Department and any American Indian Tribe.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Hist.: CD 9-1987(Temp), f. & ef. 1-22-87; CD 27-1987, f. & ef. 6-5-87; CD 26-1993, f. 10-14-93, cert. ef. 11-1-93; DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

291-026-0015

Contract Classification

This rule sets forth procedures for programs within the Department of Corrections to follow when entering into the following classification of contract or agreements:

(1) Personal service contracts;

(2) Professional service contracts for architectural, engineering, land surveying services, and related services;

(3) Interagency agreements;

(4) Intergovernmental agreements;

(5) International agreements;

(6) Interstate agreements;

(7) Tribal agreements; or

(8) Memorandum of Understanding.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Hist.: CD 9-1987(Temp), f. & ef. 1-22-87; CD 27-1987, f. & ef. 6-5-87; CD 26-1993, f. 10-14-93, cert. ef. 11-1-93; DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

291-026-0025

Department of Corrections and Other Required Approvals

(1) The Director may delegate signature authority on behalf of the Department of Corrections for contracts and agreements identified in OAR 291-0026-0015.

(2) Pursuant to OAR 137-045-0030, the Department of Justice must review and approve for legal sufficiency certain contracts and agreements and associated solicitation documents based upon the dollar threshold and other considerations. The Contracts Unit will serve as liaison between the Department of Corrections and the Department of Justice for the legal review and approval of documents requiring such review.

(3) Unless exempted or delegated authority has been granted to the Department of Corrections, all contracts shall be approved by the Department of Administrative Services before any service may be performed under the contract.

(4) Approval to commence work:

(a) Work shall not commence until the issuance of a "Notice to Proceed" by the Contracts Unit.

(b) Payments shall not be made to contractors for work performed prior to the date of the "Notice to Proceed" or after the termination date of the contract.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Hist.: CD 9-1987(Temp), f. & ef. 1-22-87; CD 27-1987, f. & ef. 6-5-87; CD 26-1993, f. 10-14-93, cert. ef. 11-1-93; DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

291-026-0050

Contract Administration — General Provisions

(1) **Contract Administrator:** The originating program will appoint, in writing, a contract administrator to represent the Department for each contract and agreement. The contract administrator may delegate in writing a portion of the contract administrator's responsibilities to a technical representative for specific day-to-day administrative activities for each contract.

(2) **Contract Administration Duties:**

(a) **Contract Budget Management:** The contract administrator will work with Department's Budget Office to ensure adequate and appropriate encumbrances are made to the in-house accounting system to manage the budget in relation to contracted expenditures. Although contracts may cross biennia, proper budget management is the responsibility of the contract administrator.

(b) The contract administrator will monitor progress of work and ensure contract deliverables are met in accordance with the schedule.

(c) The contract administrator will take steps to correct and remedy any problems which may interfere with completion of the work. This may include, but is not limited to, initiating amendments, exercising termination provisions, or any other provisions or actions required. The contract administrator will document in writing all such steps taken.

(d) Ramifications of failure to appropriately administer a contract could result in over expenditure of Department funds. Negligent or fraudulent expenditures can result in personal financial responsibility or disciplinary action, up to and including dismissal

pursuant to the Department's policy on Delegation of Expenditure Authority (30.1.4).

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

291-026-0105

Request Forms

(1) The originating program will use the Department's approved request forms to initiate the applicable process.

(2) The Statement of Work will be written to clearly and concisely specify the contract outcome expectations, deliverables, schedule, and responsibilities of the Department and contractor.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: CD 26-1993, f. 10-14-93, cert. ef. 11-1-93; DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

291-026-0115

Amendments

Amendments will be processed solely by the Contracts Unit when an active contract or agreement must be revised, clarified, altered, extended or changed. The contractor administrator will submit the Department's amendment form to the Contracts Unit to initiate the amendment process.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: CD 26-1993, f. 10-14-93, cert. ef. 11-1-93; DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

291-026-0125

Interagency, Intergovernmental, International, Interstate or Tribal Agreements

(1) The Department will consider using agreements with other governmental entities to provide services before using private contractors.

(2) The agreement must be written or reviewed by the Contracts Unit prior to review and approval of the other party. The Contracts Unit will initiate the legal review and signature process as required under applicable rule.

(3) The written agreement shall include the following:

(a) The purpose of the agreement;

(b) The term of the agreement, including specific beginning and ending dates, if applicable;

(c) The total cost of the agreement to each party, including payment terms, if any; and

(d) The methods to terminate the agreement and any other pertinent information.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: CD 26-1993, f. 10-14-93, cert. ef. 11-1-93; DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

291-026-0140

Memorandum of Understanding

(1) Memorandum of Understanding are not legally binding on any party, but are commonly used to document agreements between parties for expectation of performance during emergencies or for mutual assistance.

(2) Funds cannot be obligated through a Memorandum of Understanding.

(3) Contracts Unit is the holder of the file of record. The originating Department section will forward copies of all Memorandum of Understanding to the Contracts Unit.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: DOC 3-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 21-2008, f. & cert. ef. 8-29-08

DIVISION 27

DEATH (INMATE)

291-027-0010

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish uniform guidelines for the proper notification and documentation of an inmate death.

(3) Policy: It is the policy of the Department of Corrections to assure that effective channels of communication exist for prompt and proper reporting and investigation of inmate deaths and for timely and compassionate notification of the emergency contact person.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94

291-027-0020

Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Emergency Contact Person: That individual(s) designated by an inmate to be notified in case of an emergency.

(3) Facility Contact Person: A staff member at each department facility designated by the functional unit manager to be responsible for coordinating contact and communication with the inmate's emergency contact person and other agencies as necessary.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports either to the Director, an assistant director, or administrator and has responsibility for delivery of program services or coordination of program operations.

(5) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(6) Interstate Corrections Compact (ICC) Inmate: An inmate housed in a correctional facility in a state different than the sentencing jurisdiction under rules of the Interstate Correctional Compact.

(7) Officer-in-Charge: That person designated by the functional unit manager to supervise the facility and make operational decisions during periods when the functional unit manager or his/her designee is not readily available.

(8) Officer-of-the-Day: That person designated by the functional unit manager and approved by the Assistant Director for Operations or designee to act on behalf of the functional unit manager during non-business hours and other periods in which the functional unit manager may be absent.

(9) Rental Bed Inmate: An inmate sentenced to the Department of Corrections who is being housed in an Oregon jail.

(10) Trust Funds: Inmate money in the care and custody of the Department of Corrections that is deposited with the State Treasurer and managed by the Department of Corrections.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

291-027-0030

Assessment and Security

(1) The first security employee at the scene of a suspected inmate death who is not involved in any rescue or first aid efforts will secure the scene, ascertain the identities of all those present and disperse all unauthorized individuals.

(a) Identification cards of all inmates present and dispersed will be gathered for positive identification and for later interviews.

(b) The officer-in-charge, facility contact person, and facility Health Services staff, if available, will be immediately notified of the suspected death. If Health Services staff are not on duty, the

Medical Services manager will be notified. Health Services staff will notify the facility Chief Medical Officer.

(2) The officer-in-charge or designee will immediately ensure the emergency preparedness plan is implemented, if applicable.

(3) The officer-in-charge will designate an employee to maintain the security of the suspected death scene until released by State Police investigators. The death scene will be processed as a crime scene.

(a) This employee will initiate a crime scene contamination log (CD 1201D).

(b) The scene will be secured and evidence preserved, in accordance with the emergency preparedness plan, if applicable, and the Department of Corrections policy on Criminal Evidence Handling (70.1.3).

(4) Nothing within the death scene area will be moved or touched by anyone, unless the object needs to be removed because it is an immediate and ongoing threat to security, such as a weapon.

(a) The object will be photographed and diagrammed with relation to the rest of the death scene prior to its removal.

(b) Removal of the item will be in a manner consistent with preservation of evidence, ensuring not to destroy fingerprints, blood and other fragment evidence that might be affixed to the item, documenting who seized the item, who maintained custody of the item, and in what manner the item was secured.

(5) The officer-in-charge will report the incident to the functional unit manager or his/her designee, officer-of-the-day (if applicable), the State Police, and the medical examiner.

(6) The State Police will determine whether or not they should be present at the death scene. If the State Police determine they should be present, they will take charge of the death scene upon arrival.

(7) The State Police will remove and secure all property from the area that may be considered evidence.

(8) The officer-in-charge will designate one employee as the evidence custodian responsible for the handling, marking, packing, and securing of all evidence not removed by the State Police investigator.

(9) Witnesses or suspects will not be interviewed by Department of Corrections employees unless directed to do so by the State Police. Any comments made by suspects or witnesses to Department of Corrections employees will be noted and reported promptly.

(10) The functional unit manager or designee will notify appropriate staff, such as Behavioral Health Services staff or a chaplain, to provide services for inmates affected by the death as needed.

(11) Staff involved in an Inmate death incident will be offered support in accordance with the DOC policy on Employee Staff Services (20.5.2).

(12) The Medical Services manager shall request an autopsy for all inmate deaths.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

291-027-0040

Removal of the Deceased

(1) The deceased and the death scene will be left undisturbed unless authorized under OAR 291-027-0030 (4).

(2) When the medical examiner and the State Police have released the body, the functional unit manager or designee will make arrangements for transportation of the deceased to the designated mortuary in accordance with contracts or local agreements negotiated by the department.

(3) Assigned staff will maintain supervision of the deceased until the appropriate mortuary has taken control of the remains. This includes expected deaths that occur at outside medical facilities. Exceptions may be made by the functional unit manager or designee only after coordination with the assigned State Police investigator.

(4) The State Police will determine the time and place that the deceased inmate will be fingerprinted and coordinate this process with the assigned institution when appropriate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

291-027-0050

Notifications

(1) The officer-in-charge or designee will make the necessary notifications in accordance with this rule, the emergency preparedness plan, and the Department of Corrections policy on Unusual Incidents Reporting Process (40.1.6).

(2) The Department Communications Manager is responsible for reporting the incident to the Director, Deputy Director and appropriate assistant director. This responsibility may be delegated to the functional unit manager.

(3) If the inmate death is from a suspected suicide, the Behavioral Health Services manager will be notified during the initial notifications immediately following the incident.

(4) If the deceased inmate is a citizen of a country other than the United States, Immigration and Customs Enforcement (ICE) and the appropriate consulate will be notified as soon as possible.

(5) If the deceased inmate is an ICC inmate housed by the department, the ICC coordinator will be notified by the functional unit manager or designee. The ICC coordinator will notify the administrator of the sentencing jurisdiction as soon as possible.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

291-027-0055

Duties of the Facility Contact Person

(1) The facility contact person will coordinate contact with the inmate's emergency contact person after the State Police have authorized notification. The staff person notifying the inmate's emergency contact person may be the chaplain, facility contact person, or any other staff designated by the functional unit manager.

(2) The facility contact person is responsible for coordinating the processes associated with disposition of the deceased's inmate's remains and personal property.

(a) No specific details about circumstances surrounding the death will be provided without authorization of the State Police, district attorney, and the functional unit manager or designee.

(b) The notifying staff member shall not engage in speculation concerning the possible cause of death.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

291-027-0065

Disposition of Remains

(1) The inmate's emergency contact person will be given the option of arranging for the final disposition of the inmate's remains. All cost for those arrangements are the responsibility of the emergency contact person or family member that wishes to make those arrangements.

(2) Inmates shall make prior arrangements with their designated emergency contact person concerning any religious or personal preferences that they have regarding the disposition of their remains.

(3) The Department of Corrections is responsible for the final disposition of remains if the emergency contact person or family member of the inmate are unwilling or unable to do so.

(4) If the Department of Corrections becomes the responsible agent in this matter, the authorized mortuary will provide this final service in accordance with contracted services or local agreements.

(5) Trust funds from the deceased inmate's accounts shall not be used to offset expenses incurred by the Department of Corrections related to the inmate's death.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

291-027-0070

Property and Fund Disposition

(1) The officer-in-charge will assure that an inventory is completed of the inmate's personal property and that it is secured for the State Police, if applicable.

(2) After the inmate's property has been released by the State Police, the facility contact person will make arrangements to have the property released to the emergency contact person.

(a) The facility contact person will coordinate the preparation of the property and arrange for disposition of this property with the inmate's emergency contact person. The property will be placed in an appropriately sized container for disposition.

(b) Abandoned property will be disposed of in accordance with OAR 291-117-0140, Disposition of Inmate Property.

(c) All documentation concerning the property will be processed and maintained in accordance with OAR 291-117-0140, Disposition of Inmate Property.

(3) Funds held in a deceased inmate's trust account will be disbursed in accordance with ORS 112 and the department's rule on Central Trust (OAR 291-158).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

291-027-0080

Death Outside the Facility

(1) Prior to Inmate Death: When imminent death can be predicted, Health Services staff will work with the officer-of-the-day to ensure that all appropriate notifications are completed in advance, including the medical examiner.

(2) Outside Work Crews: In the event of an incident involving death or possible death of an inmate assigned to an outside crew, the work crew supervisor will immediately activate local emergency medical services if available. The work crew supervisor will then notify the applicable facility. The officer-in-charge of the facility will be responsible to implement the procedures outlined in OAR 291-027-0030, Assessment and Security.

(3) ICC Inmate sentenced to DOC: The ICC agreement for all inmates sentenced to the department will address the arrangements to be used if the inmate dies while in custody of the receiving jurisdiction. Details of the agreement will include required notifications, transport of the body or remains, and financial responsibility for associated costs.

(4) Rental Bed Inmate: Local jurisdictions will report the death of any department inmate in their custody to the Department of Corrections as soon as possible, and furnish all information requested. The Department of Corrections is responsible for making final disposition of the inmate's body and providing notice to the inmate's emergency contact person. These arrangements will be included in all rental bed agreements.

(5) Outside Medical Facility: When an inmate dies while under the care of an outside medical facility, the staff assigned to the hospital watch or medical trip escort will be responsible for immediately contacting the officer-in-charge at the inmate's assigned institution.

(a) The officer-in-charge of the facility will be responsible to implement the procedures outlined in OAR 291-027-0030, Assessment and Security.

(b) The officer-in-charge will determine if a crime scene log needs to be initiated.

(c) Arrangements for transportation of the deceased inmate from the outside medical facility to the designated mortuary will be made in accordance with contracts or local agreements negotiated by the department.

(d) The staff assigned to hospital watch will remain with the deceased inmate until the designated mortuary has taken control of the remains. Exceptions may be made by the functional unit manager or designee only after coordination with the assigned State Police investigator.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

DIVISION 28

SEARCHES (COMMUNITY CORRECTIONS)

291-028-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 144.404, 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to establish a safe and uniform process for conducting searches whenever a parole and probation officer reasonably believes such search will disclose evidence of a violation of the conditions imposed by the releasing authority.

Stat. Auth.: ORS 144.404, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 144.404 – 144.409, 179.040, 423.020, 423.030, 423.075

Hist.: DOC 7-2006, f. & cert. ef. 7-24-06

291-028-0105

Definitions

(1) Cohabitant: Joint owner, roommate, spouse or any other party who shares a residence or any other type of property with the offender.

(2) Common Dwelling Area: The area inside a shared residence which the offender would normally be expected to use on a daily basis; e.g., bathroom, living room, kitchen. This does not include areas which are under the exclusive control of a cohabitant.

(3) Consent: Obtaining permission from an offender or a cohabitant to allow a search. The offender or cohabitant may give consent verbally, or by conduct which clearly indicates consent.

(4) Contraband: Any item or material which is prohibited by law, or by an order of the releasing authority.

(5) Lead Officer: The lead parole and probation officer designated as being in charge of the search.

(6) Offender: Any person under supervision who is on parole, post-prison supervision, transitional leave, local control and/or probation status.

(7) Officer: Any state parole or probation officer certified as such by the Department Public Safety Standards and Training (DPSST).

(8) Reasonable Grounds: Exists when facts and circumstances within the officer's knowledge are sufficient to justify a belief that a violation has occurred.

(9) Releasing Authority: The Department of Corrections, the Board of Parole and Post-Prison Supervision, local supervisory authority or the court.

(10) Search: A comprehensive inspection of the person premises, possessions and vehicles of an offender with consent from the offender or the cohabitant possessing control over the premises.

(11) Seizure: To take control and custody of an item or material.

Stat. Auth.: ORS 144.404, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 144.404 – 144.409, 179.040, 423.020, 423.030, 423.075

Hist.: DOC 7-2006, f. & cert. ef. 7-24-06

291-028-0110

General Guidelines

(1) Searches of offenders may be conducted only in the reasonable pursuit of correctional objectives for the purposes of officer safety, protection of the public, and reformation of the offender.

(2) An offender shall be given notice at the time of review of his/her conditions of supervision that failure to give consent to a search based upon reasonable grounds may result in arrest and/or revocation.

(3) Consent to search must be given at the time of the search by the offender or cohabitant. Neither the cohabitant nor offender may consent to search property under the exclusive control of the other.

(4) The offender or cohabitant has the right to limit the areas to be searched or to withdraw their consent to search at any time during the search. If that occurs, the scope of the search shall be limited or immediately discontinued. If the offender substantially limits or withdraws consent, he/she may be arrested for violation of the search condition.

(5) A search may be conducted by a parole and probation officer or by a representative of the officer who is assisting at the officer's request.

(6) Additional consent to search vehicles or any unattached buildings must be obtained from the consenting party.

(7) Unless consent is given by the cohabitant, any search of the cohabitant's personal living quarters or vehicle shall be done by a law enforcement officer pursuant to a warrant or an exception to the warrant requirement.

(8) An officer shall direct the offender(s) to remain in an area of limited access while the search is in progress in order to preserve evidence, for the protection of search personnel, and in the event that consent to search is subsequently limited or withdrawn.

(9) Property defined as contraband, things otherwise criminally possessed or possessed in violation of supervision conditions, unclaimed goods or property taken for safekeeping may be seized during the search. Offenders shall be provided with a receipt detailing any property seized pursuant to this rule.

(10) Photographic documentation of a violation may be used as evidence.

(11) The lead officer has authority over the planning, directing and controlling of the search until such time as law enforcement action is warranted.

(12) Contraband observed in plain view during the course of a contact or prior to requesting permission to search, may be seized.

Stat. Auth.: ORS 144.404, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 144.404 – 144.409, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 7-2006, f. & cert. ef. 7-24-06

291-028-0115

Handling and Disposition of Seized Property

The handling, seizure, and disposition of property shall be done in accordance with ORS 144.404–144.409.

Stat. Auth.: ORS 144.404, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 144.404 – 144.409, 179.040, 423.020, 423.030, 423.075
Hist.: DOC 7-2006, f. & cert. ef. 7-24-06

DIVISION 31

COMMUNITY CORRECTIONS PROGRAMS

291-031-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525, and 423.530.

(2) Purpose: The purpose of this rule is to:

(a) Support county community corrections programs that provide appropriate sentencing alternatives and improve local services for persons charged with criminal offenses with the goal of reducing the occurrences of repeat criminal offenses through state/local government cooperative and collaborative efforts;

(b) Provide appropriate sentencing alternatives;

(c) Promote local management of community corrections; and
(d) Promote the use of the most effective criminal sanction necessary to administer punishment to the offender, rehabilitate the offender, and protect public safety.

(3) Policy: In accordance with Section 6 of the Community Corrections Act (ORS 423.525), it is the policy of the Department

of Corrections to support county corrections programs. The Act establishes a legal frame of reference for state/local government cooperative and collaborative efforts in the areas including, but not limited to providing supervision, intermediate sanctioning programs and treatment and habilitation programs for supervised offenders. The Department of Corrections is directed to make grants to county to support local corrections programs authorized under this Act. The county is required to develop a local comprehensive community corrections plan revealing which corrections services are planned to address supervision, sanction and service needs in the community.

(4) This rule is a public document and will be available to all parties interested in the implementation of the Community Corrections Act.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
Hist.: CD 48(Temp), f. 12-28-77, ef. 12-29-77; CD 7-1978, f. 2-24-78, ef. 2-27-78; Renumbered from 291-010-0650, CD 1-1980(Temp), f. & ef. 2-1-80; Renumbered from 291-010-0650, CD 27-1980, f. & ef. 7-28-80; CD 4-1982(Temp), f. & ef. 1-29-82; CD 23-1982, f. & ef. 7-28-82; CD 42-1985, f. & ef. 8-16-85; CD 46-1986(Temp), f. 10-21-86, ef. 11-30-86; CD 3-1987, f. & ef. 1-5-87; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01; DOC 1-2002, f. & cert. ef. 1-10-02

291-031-0009

Definitions

(1) Caseload: Each county's caseload consists of the offenders under the supervision of the county field office who are:

(a) Felony probationers;

(b) Parolees and offenders under post-prison supervision;

(c) Conditional releasees, including those sentenced under the provisions of "second look" (ORS 420A.206), conditional discharges under 475.245, and other forms of felony diversion;

(d) Sentenced to 12 months or less incarceration; and

(e) Sanctioned to 12 months or less incarceration for a violation of condition of supervision;

(f) Abscond cases shall not be included for allocation purposes.

(2) County Population: Those persons projected or counted by the census who permanently reside in a county.

(3) Local Community Corrections Program: Any locally-based public or private organization which provides correctional services and is funded either in whole or in part by grants from the Department of Corrections, excluding programs directly under the administration of the Department of Corrections Community Corrections.

(4) Workload: The number of offenders sentenced to probation or to post-prison supervision/parole in a county, including estimated change in that population for the biennium.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
Hist.: CD 42-1985, f. & ef. 8-16-85; CD 46-1986(Temp), f. 10-21-86, ef. 11-30-86; CD 3-1987, f. & ef. 1-5-87; CD 36-1987, f. & ef. 9-24-87; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01; DOC 17-2001(Temp) f. & cert. ef. 8-7-01 thru 2-3-02; DOC 1-2002, f. & cert. ef. 1-10-02

291-031-0010

Notice

(1) Every county governing body will be given notice when this rule is formally adopted. The notice will include a copy of this rule.

(2) Plans must be submitted between October 1 of each even-numbered year and May 15 of the following year.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
Hist.: CD 48(Temp), f. 12-28-77, ef. 12-29-77; CD 7-1978, f. 2-24-78, ef. 2-27-78, Renumbered from 291-010-0655; CD 1-1980(Temp), f. & ef. 2-1-80; CD 27-1980, f. & ef. 7-28-80; CD 4-1982(Temp), f. & ef. 1-29-82; CD 23-1982, f.

& ef. 7-28-82; CD 42-1985, f. & ef. 8-16-85; CD 46-1986(Temp), f. 10-21-86, ef. 11-30-86; CD 3-1987, f. & ef. 1-5-87; CD 36-1987, f. & ef. 9-24-87; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 1-2002, f. & cert. ef. 1-10-02

291-031-0015

Plan Development

(1) Each county governing body must appoint a local public safety coordinating council in accordance with ORS 423.560. This council will be responsible to develop and recommend to the county board of commissioners a plan for use of state resources to service the local offender population.

(2) The Director of the Department of Corrections will provide, within available resources, consultation and technical assistance to aid counties in the development and implementation of a community corrections plan.

(3) An extension of time may be granted by the Director when necessary to allow completion of local agency negotiation, or to allow additional time to collect data or information necessary to complete the community corrections plan. Requests for this extension shall be submitted to the Director or designee in writing.

(4) Standards for Plan Submission and Evaluation: Community corrections plans shall be submitted to the Director or designee. Each community corrections plan shall be submitted in a format and order as established by the Department of Corrections.

(a) An intergovernmental agreement between the county(s) and the department must be signed by the Department Director or designee prior to any state community corrections funds being expended;

(b) Administrative:

(A) Plans must specify the membership and chair of the local public safety coordinating council. Plans must specify how the membership meets the statutory requirements for committee membership.

(B) Plans must identify a community corrections manager who is responsible for the administration of the community corrections program.

(C) Plans must contain an organizational chart illustrating areas of authority, responsibility, and accountability. The organizational charts will indicate the staffing level and structure in each program.

(c) Offender Programs/Services: Plans must provide descriptions of all offender programs including:

(A) Offender population to be served;

(B) Goals/outcome/purpose of program;

(C) Program slots or beds; and

(D) Community Corrections Act funds that will be used to operate the program.

(d) Fiscal: Plans shall display separate line item accounts for expenditures and revenue for each program/service area.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 423.525

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.525

Hist.: CD 48(Temp), f. 12-28-77, ef. 12-29-77; CD 7-1978, f. 2-24-78, ef. 2-27-78, Renumbered from 291-010-0660; CD 1-1980(Temp), f. & ef. 2-1-80; CD 27-1980, f. & ef. 7-28-80; CD 4-1982(Temp), f. & ef. 1-29-82; CD 23-1982, f. & ef. 7-28-82; CD 42-1985, f. & ef. 8-16-85; CD 46-1986(Temp), f. 10-21-86, ef. 11-30-86; CD 3-1987, f. & ef. 1-5-87; CD 36-1987, f. & ef. 9-24-87; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-25-95, cert. ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01

291-031-0020

Plan Submission Process

(1) The community corrections plan shall be submitted to the Director of the Department of Corrections.

(2) The Director or designee will review the proposed plan within 30 days.

(3) The community corrections plan will become a part of the intergovernmental agreement between the state and the county.

(4) No modifications to an approved plan shall be placed into effect without prior written notification of the Director or designee.

(5) Any county that receives financial aid under this program may terminate its participation if the total state community corrections appropriation is less than the baseline calculated under in

ORS 423.483(2) by written notification to the director 180 days prior to implementation of the change. If a county discontinues participation, the responsibility for correctional services transferred to the county, and the portion of funding made available to the county under 423.530 reverts to the Department of Corrections.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Hist.: CD 48(Temp), f. 12-28-77, ef. 12-29-77; CD 7-1978, f. 2-24-78, ef. 2-27-78, Renumbered from 291-010-0665; CD 27-1980, f. & ef. 7-28-80; CD 4-1982(Temp), f. & ef. 1-29-82; CD 23-1982, f. & ef. 7-28-82; CD 42-1985, f. & ef. 8-16-85; CD 46-1986(Temp), f. 10-21-86, ef. 11-30-86; CD 3-1987, f. & ef. 1-5-87; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01; DOC 1-2002, f. & cert. ef. 1-10-02

291-031-0025

Supervision Fees and Financial Records

(1) Supervision fees collected pursuant to ORS 423.570 must be used for community corrections purposes as outlined in the approved local community corrections plan.

(2) Department of Corrections Funds:

(a) The department shall prepare and distribute to the counties written instructions regarding budget, allotment, and fiscal reporting requirements. Each county shall adhere to the department's budget, allocation, and fiscal reporting requirements.

(b) Reallocation of funds in a county approved plan and budget, within or between budget categories, requires a budget update and the prior notification of the Director or designee.

(c) Proposed fund transfers shall be submitted and processed on forms required by the Department of Corrections.

(d) Each county shall make available to the Department of Corrections the county's annual financial statement and that portion of the county's annual audit that addresses the community corrections program.

(e) Within 120 days following the end of the state's biennial budget period, each county shall submit a closing financial report for the biennium. Any state general funds not expended within the biennial period will be identified. A budget update will be submitted to the Department of Corrections showing how those funds will be expended for community corrections purposed in the next biennium.

(f) If a county ceases to participate, the department may recover title to any transferred property that remains in use at such time. The department shall assume title to any equipment, furnishings, vehicles or property purchased with state funds for the purpose of providing parole and probation services in the county.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.500 - 423.560

Hist.: CD 48(Temp), f. 12-28-77, ef. 12-29-77; CD 7-1978, f. 2-24-78, ef. 2-27-78; Renumbered from 291-010-0670; CD 27-1980, f. & ef. 7-28-80; CD 4-1982(Temp), f. & ef. 1-29-82; CD 23-1982, f. & ef. 7-28-82; CD 42-1985, f. & ef. 8-16-85; CD 46-1986(Temp), f. 10-21-86, ef. 11-30-86; CD 3-1987, f. & ef. 1-5-87; CD 12-1990, f. & cert. ef. 6-28-90; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01; DOC 1-2002, f. & cert. ef. 1-10-02; DOC 2-2012, f. & cert. ef. 1-27-12

291-031-0026

Grant-in-Aid

(1) Community Corrections funds will be allocated based on a formula that considers workload, county population, and the cost per day of managing offenders on probation or parole/post-prison supervision. The formula will be weighted 100% workload and 0% county population.

(2) The Director of the Department of Corrections, after considering recommendations of those listed in ORS 423.530(2), shall determine the method and formula by which funds are allocated to counties.

(3) Prior to July of each odd-numbered year, the Department of Corrections shall determine each county's proposed share of workload and will compute each county's percentage share of the

coming biennial grant-in-aid appropriation. When the total actual appropriation is known, the Department of Corrections will compute the actual amounts indicated.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
 Hist.: CD 48(Temp), f. 12-28-77, ef. 12-29-77; CD 7-1978, f. 2-24-78, ef. 2-27-78; Renumbered from 291-010-0670, CD 27-1980, f. & ef. 7-28-80; CD 4-1982(Temp), f. & ef. 1-29-82; CD 23-1982, f. & ef. 7-28-82; CD 42-1985, f. & ef. 8-16-85; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01; DOC 17-2001(Temp), f. & cert. ef. 8-7-01 thru 2-3-02; DOC 1-2002, f. & cert. ef. 1-10-02

291-031-0051

Funding for Sexually Violent Dangerous Offenders

(1) The department may allocate moneys appropriated under Chapter 924 of Oregon Laws 1999 to local supervisory authorities for the intensive supervision of sexually violent dangerous offenders.

(2) The allocation to a county shall be determined by calculating the incremental cost to move from the high-risk supervision rate to an intensive supervision rate. Payments will be made to a county on a quarterly basis, upon invoicing by the county

(3) Payments to counties for the purpose of intensive supervision of sexually violent dangerous offenders shall not exceed the legislatively approved appropriation for the supervision of sexually violent dangerous offenders.

(4) Once each biennium, the Department of Corrections, the State Board of Parole and Post-Prison Supervision, and local supervisory authorities shall determine the number of offenders expected to be classified as sexually violent dangerous offenders during the following biennium. The department shall use the number in calculating the budget for the community corrections division of the department for the following biennium.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
 Hist.: DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01; DOC 1-2002, f. & cert. ef. 1-10-02

291-031-0061

Construction Funds

(1) Funds received for the acquisition, construction, or renovation of local correctional facilities shall be expended only for those acquisitions, construction, and renovation projects approved by the Director as part of the approved application for local corrections construction projects.

(2) Facilities constructed or acquired by counties where the agreement with the state terminates before 20 years participation shall revert to the state.

(3) At the option of the department, the county may retain ownership in such terminations when the county agrees to continue using the facilities for the corrections purposes originally approved in the local community corrections plan, provided the county agrees to house state inmates/offenders subject to county review and approval of each person so housed.

(4) Budget and Fiscal Reporting:

(a) The department or its designee shall prepare and distribute to the counties written instructions regarding budget, allocation and fiscal reporting requirements. Each county shall adhere to the department's budget, allotment and fiscal reporting requirements.

(b) Each county shall forward to the Department of Corrections a copy of the county's annual financial statement and that portion of the county's annual audit that addresses the community corrections program.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 423.525
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 423.525
 Hist.: CD 48(Temp), f. 12-28-77, ef. 12-29-77; CD 7-1978, f. 2-24-78, ef. 2-27-78; Renumbered from 291-010-0670, CD 27-1980, f. & ef. 7-28-80; CD 4-1982(Temp), f. & ef. 1-29-82; CD 23-1982, f. & ef. 7-28-82; CD 42-1985, f. & ef. 8-16-85; CD 46-1986(Temp), f. 10-21-86, ef. 11-30-86; CD 3-1987, f. & ef. 1-5-87; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-24-95, cert.

ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01, Renumbered from 291-031-0028

291-031-0070

Evaluation

(1) The Department of Corrections shall establish and operate a statewide information system. In order to ensure uniform information, the Department of Corrections shall establish minimum data entry standards for the state information system. Counties are required to provide information to the statewide system as required by the Department of Corrections.

(2) In accordance with ORS 423.565, the department will review each county annually. This review will be a combination of a self review and a review by the department. There may be a compliance plan required if the county is not in compliance with the intergovernmental agreement.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
 Hist.: CD 48(Temp), f. 12-28-77, ef. 12-29-77; CD 7-1978, f. 2-24-78, ef. 2-27-78; Renumbered from 291-010-0675; CD 1-1980(Temp), f. & ef. 2-1-80, CD 27-1980, f. & ef. 7-28-80; CD 4-1982(Temp), f. & ef. 1-29-82; CD 23-1982, f. & ef. 7-28-82; CD 42-1985, f. & ef. 8-16-85; CD 46-1986(Temp), f. 10-21-86, ef. 11-30-86; CD 3-1987, f. & ef. 1-5-87; CD 17-1992, f. 8-12-92, cert. ef. 8-20-92; CD 7-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 5-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 7-2001, f. 2-28-01, cert. ef. 3-1-01, Renumbered from 291-031-0030; DOC 1-2002, f. & cert. ef. 1-10-02

291-031-0085

County Option to Cease Participation in the Community Corrections Act

(1) The Community Corrections Act gives each county the option to transfer responsibility for community corrections to the Department of Corrections if the Legislature fails to fund community corrections at the baseline established in ORS 423.483(1) and (3).

(2) If the total state community corrections allocation is less than the baseline, the county may discontinue participation in the Act by providing written notification to the Director of the Department of Corrections 180 days prior to implementation of the change.

(3) The department can elect to assume responsibility for community corrections sooner than 180 days with concurrence from the county.

(4) A county may transfer responsibility for community corrections to the state no more than one time in a biennium.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560
 Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0095

Responsibility for Community Corrections

(1) The Department of Corrections will assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies who are on parole or post-prison supervision, probation, sentenced or sanctioned to a prison term of 12 months or less, or on conditional release under ORS 420.206.

(2) According to sentencing guidelines, terms of incarceration of 12 months or less are served at the direction of the local supervisory authority rather than in the legal and physical custody of the Department of Corrections (OAR 213-005-0001(2)). The Department of Corrections will perform the duties of the local supervisory authority for terms of incarceration of 12 months or less (local control offenders).

(3) The Department of Corrections will not assume responsibility for the supervision of offenders convicted of misdemeanors.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560
 Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0100

Funding

(1) Department of Corrections funds allocated to provide correctional services by the county will be retained by the state.

(2) County allocations are computed for a 24-month period. If the transfer of responsibility is for a period of less than 24 months, the funds retained by the state for community corrections activities will be prorated to the day of the transfer.

(3) A financial closing statement will be provided to the state within 60 days of the transfer of responsibility. Any state funds distributed but not spent will be returned to the state.

(4) The department, at its option, may choose to operate community corrections in regions consisting of several counties, and to combine funds and staff to operate the region most efficiently.

(5) The department shall retain all supervision fees collected from offenders supervised by state-operated community corrections offices and received subsequent to the state assuming responsibility for operations.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0110

Biennial Community Corrections Plan

(1) The Department of Corrections shall develop a community corrections plan for each county with a state-operated community corrections office.

(2) The department will meet with the local public safety coordinating council to review the county's recommendations as to how state resources will be invested to serve the local offender population. Those recommendations will be included in the plan and/or the department will provide a response to each recommendation.

(3) The department will submit the plan to the county commissioners for information and comments. The commissioners may choose to comment or may simply acknowledge the plan was received.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0120

Transfer of Property

(1) When a county ceases participation in the Community Corrections Act, the state shall assume title to any equipment, furnishings, vehicles or property purchased with community corrections grant funds and used by existing county staff to provide parole and probation services to the county. The county shall provide the Department of Corrections with a list of all such equipment, furnishings, vehicles or property with a value of over \$250 within 30 days of the county's notification to the Director of the Department of Corrections that it will discontinue participation in the Community Corrections Act.

(2) An agreement transferring title of equipment or property to the Department of Corrections shall be written, accompanied by an inventory list signed by the designated representatives of both the county and the department. The agreement shall be subject to all state regulations governing such transfer of title.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0130

Correctional Facilities

When a county ceases participation in the Community Corrections Act, the state and county shall follow the terms of any

applicable lease-sublease agreements regarding any correctional facilities acquired, constructed, or renovated under ORS 423.525(2).

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0140

Employees

(1) County employees in the county community corrections agency and funded through the community corrections grant to that county will be transferred to state employment, to the extent there are funds available. If the county has experienced a reduction in funding, there will be a commensurate reduction in staff positions available for transfer.

(2) County employees transferred to state employment will not suffer any reduction in salary or loss of employee benefits for 12 months because of the transfer. Salary will not be reduced, accrued sick leave will be retained, up to 80 hours of vacation may be transferred, a waiver of waiting period for preexisting conditions will be arranged. The employee may remain with his or her present retirement system for 12 months or may participate in the state retirement system. Following this period, salary, benefits and retirement plan will be based on established state wages and benefits.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 5-2003(Temp), f. & cert. ef. 2-21-03 thru 8-20-03; DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0150

County Option to Participate in the Community Corrections Act

(1) The Community Corrections Act gives each county the option to directly operate community corrections rather than to have the Department of Corrections operate community corrections.

(2) A county that has exercised the option to "opt out" of participation may again participate in the Community Corrections Act by providing written notification to the Director of the Department of Corrections 180 days prior to implementation of the change. A county may make this change no more than one time in a biennium.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0160

Responsibility for Community Corrections

The county will assume responsibility from the Department of Corrections for community-based supervision, sanctions and services for offenders convicted of felonies who are on parole or post-prison supervision, probation, sentenced or sanctioned to a prison term of 12 months or less, or on conditional release under ORS 420A.206.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0170

Funding

(1) Department of Corrections funds formerly used to provide correctional services by the state will be granted to the county under an intergovernmental agreement.

(2) County allocations are computed for a 24-month period. If the transfer of responsibility is for a period less than 24 months, the funds allocated to the county will be prorated to the day of the transfer.

(3) A financial closing statement will be provided to the county by the Department of Corrections within 60 days of the transfer of responsibility. Any state funds allocated to the county but not spent by the state will be appropriated to the county.

(4) The county shall retain all supervision fees collected from offenders supervised by county-operated community corrections offices after the date of transfer.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0180

Biennial Community Corrections Plan

The county will develop a community corrections plan (OAR 291-031-0015) prior to the transfer of responsibility.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0190

Transfer of Property

(1) When a county begins participation in the Community Corrections Act, the county shall assume title to any equipment, furnishings, or property used by existing DOC staff to provide parole and probation services in the county. The Department of Corrections shall provide the county with a list of all such equipment, furnishings, or property with a value of over \$250 within 30 days of the county's notification to the Director of the Department of Corrections that it will participate in the Community Corrections Act.

(2) An agreement transferring title of equipment or property to the county shall be written, accompanied by an inventory list signed by designated representatives of both the county and the department and shall be subject to all state regulations governing such transfer of title.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0200

Correctional Facilities

Correctional facilities acquired, constructed, or renovated under ORS 423.515(2) shall be sub-leased to the county if the county assumes responsibility for probation and parole/post-prison supervision before the lease agreement terminates.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0210

Employees

(1) State employees employed in the county community corrections agency and funded through the community corrections grant to that county will be transferred to county employment, to the extent there are funds available. If the county has experienced a reduction in funding, there will be a commensurate reduction in staff positions available for transfer.

(2) State employees transferred to county employment will not suffer any reduction in salary or loss of employee benefits for 12 months because of the transfer. Salary will not be reduced, accrued sick leave will be retained, up to 80 hours of vacation may be transferred, a waiver of waiting period for preexisting conditions will be arranged. The employee may remain with his or her present retirement system for 12 months. Following this period, salary, benefits and retirement plan will be based on established county wages and benefits.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483, 423.525 & 423.530

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, 423.478, 423.483 & 423.500 - 423.560

Hist.: DOC 12-2003, f. & cert. ef. 8-20-03

291-031-0220

Supplemental Funds for Drug-Addicted Persons

(1) Supplemental funds made available by the legislature for drug-addicted persons shall be distributed by the Department of Corrections to counties. A statewide approach to intervention will be defined, guided by evidence-based practices which are best designed to reduce crime and drug addiction. The approach will include a balance of treatment, supervision, and immediate sanctions.

(2) The Department of Corrections shall make grants to counties to provide supplemental funding for:

(a) The operation of jails;

(b) Treatment services for drug-addicted persons charged with a crime listed in ORS 137.717, convicted of a crime listed in 137.717, or for those who have been convicted of predicate crimes related to 137.717 and who have been placed on community supervision, and scoring as high or medium risk to re-offend on the Oregon Case Management System risk tool, or other validated risk tool approved by the Department; and

(c) Intensive supervision including incarceration for violating the conditions of that supervision for drug-addicted persons charged with a crime listed in ORS 137.717, convicted of a crime listed in 137.717, or for those who have been convicted of predicate crimes related to 137.717 and who have been placed on community supervision, and scoring as high or medium risk to re-offend on the Oregon Case Management System risk tool, or other validated risk tool approved by the Department.

(3) A drug-addicted person means a person who has lost the ability to control the use of drugs or alcohol, or who uses drugs or alcohol in a way that impairs the health or safety of the person or the community, or the where the social or economic function of the person is substantially disrupted.

(4) The Department shall define the standards for performance of programs which shall be included in an intergovernmental agreement.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Hist.: DOC 18-2009, f. & cert. ef. 10-23-09

291-031-0230

Distribution of Supplemental Funds

(1) Supplemental funds will be made available to counties based on a formula that matches the county's percentage share of community corrections grant-in-aid funds. Every county will be eligible for a minimum grant of \$50,000. Counties must submit an application for these funds, as described in OAR 291-031-0240.

(2) The Director, after consulting with the Community Corrections Commission (Commission), shall review the applications and determine the funds to be allocated to each county.

(3) Unallocated funds will be made available as enhancement funding through a competitive process based on scored program proposals.

(4) Prior to July of each odd-numbered year, the Department of Corrections shall compute each county's percentage share of the coming biennial supplemental funds.

(5) An intergovernmental agreement between the county(s) and the Department must be signed by the Director or designee prior to any state supplemental funds being expended.

(6) No modifications to an approved plan shall be placed into effect without prior written notification of the Director or designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Hist.: DOC 18-2009, f. & cert. ef. 10-23-09

291-031-0240

Application Process

(1) Applications for supplemental funding shall be submitted to the Director or designee. Each application shall be submitted in a format and order as established by the Department of Corrections.

(2) Applications may be submitted by a county or a group of counties.

(3) The plan shall be reviewed and approved by the local public safety coordinating council or councils prior to being submitted to the Department of Corrections.

(4) The application will include a plan for the use of the supplemental funding, including:

- (a) Offender population to be served;
- (b) Capacity of the program;
- (c) A description of the program;
- (d) Goals/outcomes/purposes of the program or approach;
- (e) How risk assessment will be used, including the risk assessment tool;

(f) Research supporting the approach, if any;

(g) If the approach has been in operation for at least a year, the outcomes of the approach and any program evaluation data;

(h) If the approach has been in operation for at least a year, how participants rate on the community corrections performance measures (recidivism, successful completion of supervision, employment, benefit from treatment, payment of restitution or community service work); and

(i) A budget showing how state funds and any other funds will be used to operate the program. A county may apply for up to 100% of the funds identified in Subsection (1) of this rule.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Hist.: DOC 18-2009, f. & cert. ef. 10-23-09

291-031-0250

Application Approval Process

(1) The Community Corrections Commission shall review the applications and make recommendations to the Director or designee.

(2) The criteria upon which the advisory board shall base their review will include:

(a) Ability of the proposed approach to reduce crime and drug addiction;

(b) Extent to which the approach is guided by evidence-based practice or research;

(c) Whether the approach is comprehensive, involving a mix of supervision, services, and sanctions; and

(d) Whether the approach is collaborative, engaging local criminal justice system agencies and local service providers working together.

(3) The Commission shall not recommend approval of a plan that does not address the intended populations, has a low probability

of being effective in reducing crime and drug addiction, or is not guided by evidence-based practice. If the plan is not recommended for approval, the Commission will provide recommendations to the jurisdiction submitting the application as to how to improve the plan.

(4) A county may submit a modified plan if the original application is not recommended by the Commission or approved by the Director.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Hist.: DOC 18-2009, f. & cert. ef. 10-23-09

291-031-0260

Financial Records

(1) The Department shall prepare and distribute to the counties written instructions regarding fiscal reporting requirements. Each county shall adhere to the department's budget, allocation, and fiscal reporting requirements.

(2) Within 120 days following the end of the state's biennial budget period, each county shall submit a closing financial report for the biennium. Any state general funds not expended within the biennial period will be identified. A budget update will be submitted to the Department of Corrections showing how those funds will be expended for community corrections purposes in the next biennium.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075, OL 2008 Ch 14, OL 2008 Ch 35

Hist.: DOC 18-2009, f. & cert. ef. 10-23-09

Evidence-Based Programs in Community Corrections

291-031-0300

Purpose, Policy, and Applicability

(1) Purpose: These rules establish a process by which the Department of Corrections determines if community-based programs, on which the agency expends state funds, meet the principles of evidence-based practices.

(2) Policy: It is the policy of the Department of Corrections that state funds received for community-based programs are expended on programs that incorporate significant and relevant practices based on scientifically based research and are cost effective.

(3) Applicability: These rules apply to community based treatment or intervention programs or services that receive state funds and are intended to reduce the likelihood that an individual will commit a crime.

Stat. Auth.: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075

Hist.: DOC 7-2012, f. & cert. ef. 6-19-12

291-031-0310

Definitions for OAR 291-031-0300 through 291-031-0360

(1) Cost Effective: Cost savings realized over a reasonable period of time are greater than costs.

(2) Evidence-Based Program: A program that incorporates significant and relevant practices based on scientifically based research and is cost effective.

(3) Program: A community-based treatment or intervention program or service that is intended to reduce the likelihood that an individual will commit a crime.

Stat. Auth.: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075

Hist.: DOC 7-2012, f. & cert. ef. 6-19-12

291-031-0320

Program Evaluation

(1) The Department of Corrections shall identify and implement the use of a recognized and validated tool to evaluate programs to measure their fidelity to the principles of evidence-based practices.

(2) Programs that receive less than \$5,000 in state funds in a biennium, pursuant to the Community Corrections Act (ORS 423.020), shall not be subject to program evaluation as described in this rule.

(3) After a program has been evaluated using the tool described in subsection (1) of this rule, and it has been determined that the program incorporates significant and relevant practices based on scientifically based research and is cost effective, the program shall be re-evaluated at a minimum of every five years or as circumstances dictate.

(4) After a program has been evaluated using the tool described in subsection (1) of this rule, and it has been determined that the program does not incorporate significant and relevant practices based on scientifically based research and is not cost effective, the program shall be re-evaluated at a minimum of every 18-months until such time the program meets these criteria or state funds are no longer received by the program.

Stat. Auth.: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Hist.: DOC 7-2012, f. & cert. ef. 6-19-12

291-031-0330

Program Non-Compliance

(1) Following an initial evaluation of a program as described in OAR 291-031-0320(4), the Department of Corrections shall provide a detailed report of their findings to the local community corrections director and to the program's executive director.

(2) The report shall include a set of recommendations to assist the program in the process of successfully incorporating the principles of evidence-based practices into their service delivery.

(3) The Department of Corrections shall meet with the local community corrections director or designee and the program executive director or designee to review the recommendations and offer technical assistance in implementation of the recommendations.

(4) The Department of Corrections shall conduct a subsequent program evaluation within the next 18 months.

Stat. Auth.: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Hist.: DOC 7-2012, f. & cert. ef. 6-19-12

291-031-0340

Continued Program Non-Compliance

(1) Following a second evaluation of a program in which the program was evaluated with results as described in OAR 291-031-0320(4), the Department of Corrections shall provide a detailed report of their findings to the local community corrections director and to the program's executive director.

(2) The report shall include an assessment of progress or lack of progress in incorporating the principles of evidence-based practices as recommended in the initial evaluation report.

(3) The report shall also include a set of recommendations to assist the program in the process of successfully incorporating the principles of evidence-based practices into their service delivery.

(4) The Department of Corrections shall meet with the local community corrections director or designee and the program executive director or designee to discuss the level of progress or lack of progress in incorporating the principles of evidence-based practices as recommended in the initial evaluation report and identify any barriers that may exist.

(5) A formal written action plan shall be prepared by the local community corrections director or designee within 90 days of the receipt of the final report as described in subsection (1) of this rule, which incorporates the report's recommendations; specific steps to incorporate the recommendations; and specific timeframes for implementation.

(6) The Department of Corrections shall conduct a subsequent program evaluation within the next 18 months.

Stat. Auth.: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Hist.: DOC 7-2012, f. & cert. ef. 6-19-12

291-031-0350

Termination of Funding

(1) Following a third evaluation of a program in which the program was evaluated with results as described in OAR 291-031-0320(4), the Department of Corrections shall provide a detailed report of their findings to the local community corrections director and to the program's executive director.

(2) State funds shall not be allocated to a program that has been evaluated as unsatisfactory as described in OAR 291-031-0320(4) in three consecutive evaluations.

(3) Upon receipt of the final report, the local community corrections director shall advise the program's executive director that state funds will no longer be allocated to the program to provide services. The local community corrections director shall take the necessary steps to terminate the service contract, if any, with the program; or alternately, the local community corrections director may choose to fund the program with local resources.

Stat. Auth.: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Hist.: DOC 7-2012, f. & cert. ef. 6-19-12

291-031-0360

Appeal Process

(1) A county may appeal the termination of funding as described in OAR 291-031-0350 by submitting reasons for which they believe the termination of funding is not warranted, based upon one or more of the criteria listed in subsection (3) of this rule. The appeal must be submitted in writing to the Department of Corrections.

(2) After state funds have been withdrawn from a program, the program may be reconsidered for state funding upon a finding that they have incorporated significant and relevant practices based on scientifically based research and is cost effective.

(a) In order to be reconsidered, the program shall submit in writing to the Department of Corrections the steps they have taken to incorporate the principles of evidence based practices.

(b) The Department of Correction shall determine whether significant changes have been made to merit a program evaluation as described in OAR 291-031-0320.

(3) Criteria which may be considered in the appeal process:

(a) Scientific basis for the program design and evidence that the program is delivered consistent with research; or,

(b) Outcome study; or,

(c) Demonstrated cost-effectiveness; or,

(d) The program is a single source provider and there are no reasonable alternatives available to provide that service within the county.

(4) Any decision of the Department of Corrections shall be final.

Stat. Auth.: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 182.515, 182.525, 423.020, 423.030 & 423.075
Hist.: DOC 7-2012, f. & cert. ef. 6-19-12

DIVISION 32

LAND USE COORDINATION

291-032-0010

Authority and Purpose

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 197.180, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish the procedures to be used by the Department in implementing the provisions of its State Agency Coordination Program, as required by ORS 197.180 and OAR 660, divisions 30 and 31. The Department's state agency coordination program will assure that the Department's land use programs will comply with the statewide planning goals and be compatible with acknowledged city and county comprehensive plans and land use regulation:

(a) It is the intent of these rules to describe how the Department will carry out its statutory responsibility to site and establish correctional institutions and facilities;

(b) These rules are not intended to apply to the establishment of correctional facilities under any temporary provisions of Oregon law which may authorize the siting of institutions notwithstanding the requirements of ORS 197.180. These rules also are not meant to authorize local governments to prevent the Department from carrying out its statutory responsibility to operate, control, manage or supervise correctional institutions.

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0020

Applicability

(1) The provisions of this division (OAR 291-032) shall apply to the following Department programs and actions:

(a) Strategic plan adoption and site selection for statewide and regional correctional facilities identified in the 1988 “Strategic Correctional Plan for Oregon” or subsequent siting plan adopted by the Department;

(b) Facility construction including new construction and/or major expansion of existing correctional facilities by the Department;

(c) Approval of community correctional grants and loans to local governments where such grants or loans will be used for the construction of new, or the major expansion of existing, correctional facilities; and

(d) Any other programs or actions that:

(A) Are determined to be “programs affecting land use” pursuant to ORS 197.180 and OAR 660-030-0075;

(B) Involve a change or an intensification of land use; or

(C) Take place on property which is an existing non-conforming use.

(2) The provisions of this division (OAR 291-032) do not apply to such Department programs or actions as:

(a) Facility maintenance and rehabilitation;

(b) Replacement of equipment or fixtures;

(c) General capital betterment, repair, and improvement; or

(d) any other similar activities that are determined not to be “programs affecting land use” pursuant to ORS 197.180 and OAR 660-030-0075.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0030

Compliance with the Statewide Planning Goals and Compatibility with Acknowledged Comprehensive Plans and Land Use Regulations

Prior to undertaking any action or program listed in OAR 291-032-0020, the Department shall find that the program or action complies with the statewide planning goals and is compatible with acknowledged comprehensive land use plans and land use regulations. The Department shall make its goal compliance and comprehensive plan compatibility findings in accordance with these rules and the Department’s certified state agency coordination program.

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0040

Compliance with the Statewide Planning Goals — Land Use Program

(1) Except as provided in section (3) of this rule, the Department shall achieve goal compliance for Department land use programs, whenever possible, by taking actions that are compatible with the acknowledged comprehensive plan and land use regulations of the applicable local government(s).

(2) An action within a Department “land use program” shall be considered to be in compliance with statewide planning goals when such action is compatible with the applicable local govern-

ment’s acknowledged comprehensive plan and land use regulations.

(3) In the event that the Department is required to adopt findings to comply with any statewide planning goals, the Department shall adhere to the following procedures:

(a) Confirm that a situation exists pursuant to OAR 660-030-0065(3) which requires the Department to adopt findings of compliance with one or more of the statewide planning goals;

(b) Identify the specific statewide planning goal(s) or goal requirements the Department must address;

(c) Consult directly with the affected city or county;

(d) Request, as necessary, interpretive guidance from the Department of Land Conservation and Development (LCDC) and the Attorney General’s Office;

(e) Rely on any relevant goal interpretations applicable to state agencies adopted by LCDC under OAR 660; and

(f) Adopt any necessary findings to assure compliance with the statewide planning goals.

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0050

Compatibility with Acknowledged Comprehensive Plans and Land Use Regulations

(1) Prior to approving or undertaking an action or project listed in OAR 291-032-0020, the Department shall find that the program or action is compatible with the affected local government’s acknowledged comprehensive plan and land use regulations. To make its plan compatibility findings, the Department shall comply with the following procedures:

(a) For all Department land use programs and actions occurring within the Salem Metropolitan Area which are subject to the jurisdiction of the Capitol Planning Commission (CPC), the Department shall assure compatibility with comprehensive plans by adhering to the CPC’s land use coordination rule in OAR 110, division 10, and the procedures contained in the CPC’s certified State Agency Coordination Program.

(b) For Department land use programs and actions under OAR 291-032-0020(1)(a) and (b) not subject to the jurisdiction of the Capitol Planning Commission or occurring outside the Salem Metropolitan Area, the Department shall assure comprehensive plan compatibility by making application for local government land use approval where necessary.

(2) A Department decision to proceed with a project or action shall not be made until it obtains one or more of the following:

(a) A copy of the local land use permit, building or occupancy permit, or other equivalent documentation from the city or county planning agency, building department or governing body; or

(b) A letter from the local planning agency, building department or governing body stating that the project or action in question is permitted under the jurisdiction’s comprehensive plan, land use regulations, or development codes, but does not require specific approval by the jurisdiction; or

(c) Other information and documentation equivalent to subsection (a) or (b) of this section including, but not limited to, written testimony presented to the Department from an authorized representative from the affected city or county.

(3) In the case of a community correctional grant or loan, the Department shall require the grant or loan applicant to provide the Department with written information documenting the project’s compatibility with applicable comprehensive plan and land use regulations. Such documentation shall include one of the following:

(a) A copy of the local land use permit, building or occupancy permit, or other equivalent documentation from the city or county planning agency, building department or governing body;

(b) A letter from the local planning agency, building department or governing body stating that the project or action in question is permitted under the jurisdiction’s comprehensive plan, land use regulations or development codes, but does not require specific approval by the jurisdiction; or

(c) Other information and documentation equivalent to subsection (a) or (b) of this section including, but not limited to,

written testimony presented to the Department from an authorized representative from the affected city or county.

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0060

Compliance with the Statewide Planning Goals

(1) Except as provided in section (4) of this rule, the Department shall achieve Goal compliance whenever possible by taking actions that are compatible with the acknowledged city and county comprehensive plans and land use regulations.

(2) Where appropriate, the statutory plan amendment and periodic review processes shall be used to obtain local land use approvals for a project or action proposed by the Department which affects land use.

(3) An action within a Department "land use program" is considered to be in compliance when such an action is compatible with the acknowledged comprehensive plan and land use regulations of the applicable local governing body.

(4) When the Department in the process of siting a facility authorized under the 1988 "Strategic Correction Plan for Oregon" or subsequent siting, finds under OAR 660-030-0065(3)(c) that an acknowledged plan does not contain requirements or conditions specifically applicable to the facility that the Department seeks to site, the Department shall comply with the statewide goals by adopting written findings. To adopt such findings the Department may:

(a) Identify the specific statewide goals which must be addressed;

(b) Consult directly with the affected city or county;

(c) Request interpretive guidance from the Department of Land Conservation and Development and the Attorney General's Office; and

(d) Rely on any relevant goal interpretation for state agencies adopted by LCDC under OAR 660.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0070

Dispute Resolution

(1) It is the intent of the Department to achieve compatibility between Department land use programs and acknowledged comprehensive plans and land use regulations, whenever possible. However, a situation may occur where the Department believes its statutory mandates, including but not limited to ORS Chapter 421 (Department of Corrections Institutions) and 423 (Corrections Administration and Programs), may prevent the Department from meeting its land use compatibility responsibility under 197.180.

(2) The Department shall attempt to resolve all land use disputes, including conflicting statutory obligations, by direct contact with the affected cities and counties. Whenever possible, Department efforts to avoid and resolve potential land conflicts concerning a specific use or action shall be conducted prior to and through local government land use proceedings. Such efforts may include Department participation in preapplication meetings and conflict resolution activities, and the provision of technical information and assistance to the affected local government(s).

(3) In the event the Department and a local government do not agree that a Department program or action is compatible with the applicable comprehensive plan and land use regulations, the Department will attempt to resolve the dispute through the following procedures:

(a) Hold direct discussions with the affected local government(s), the Department of Land Conservation and Development, and any other appropriate or affected persons or agencies to identify ways the project or action can be made compatible with the jurisdiction's comprehensive plan and land use regulations;

(b) Examine alternatives to achieving the Department's project or action, including possible modification of the proposed project or action, or withdrawal of the proposal;

(c) Appeal of local government denials of Department of Corrections requests for land use approvals or compatibility determinations when determined to be necessary by the Department; or

(d) If the dispute is not resolved through subsections (a) through (c) of this section, the Department may request informal mediation of a compatibility determination from the Land Conservation and Development Commission in accordance with OAR 660-030-0070.

(4) If the Department's statutory obligation remains in conflict, after exhausting the appropriate procedures in section (3) of this rule, and the Department determines that must act, the Department shall adopt written findings explaining why it cannot act compatibly with applicable city or county comprehensive plans and land use regulation, and then adopt goal findings to assure compliance with statewide planning goals, in accordance with OAR 660-030-0065(3) and these rules.

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0080

Compliance and Compatibility of New or Amended Department Land Use Programs

(1) The Department shall assure that new or amended Department rules and programs affecting land use will comply with the statewide planning goals and be compatible with acknowledged comprehensive plans and land use regulations.

(2) The Department shall submit notice of the proposed amendment of any existing Department rule or program or any new Department rule or program to the Department of Land Conservation and Development in the manner prescribed in OAR 660-030-0075.

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0090

Coordination with Affected State and Federal Agencies and Special Districts

The Department shall coordinate with state and federal agencies and special districts on Department projects or actions affecting land use, when necessary. Additionally, the Department may coordinate with state and federal agencies and special districts on land use issues of concern to the Department.

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

291-032-0100

Cooperation and Technical Assistance to Local Governments

(1) Subject to statutory and budgetary limitations, the Department shall provide technical assistance and information to local governments and other interested persons. Such assistance and information offered shall be for the purpose of implementing Department programs affecting land use and to help cities and counties revise and carry out their comprehensive plans and land use regulations with regard to the siting and development of correctional facilities.

(2) Specific Department involvement with local governments may include participation in preapplication meetings, periodic review, plan and land use regulation amendments and plan updates, and implementation actions of comprehensive plans. Where appropriate, the Department may urge the adoption by local governments of policies which recognize the plans and programs of the Department of Corrections.

(3) In the Salem Metropolitan Area, Department efforts to provide technical assistance and information to local governments will be accomplished principally through the Department's involvement with the Capitol Planning Commission.

Stat. Auth.: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 197.080, 423.020, 423.030 & 423.075

Hist.: CD 25-1992, f. & cert. ef. 12-9-92

DIVISION 34

TRANSFERS (INMATE)

291-034-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish the process and procedures for the orderly commitment and transfer of inmates from one Department of Corrections facility to another. This rule also establishes the process for the approval of those commitments and transfers.

(3) Policy:

(a) In accordance with provisions of ORS 137.124, 421.455, and the administrative rules of the Board of Parole and Post-Prison Supervision, it is the policy of the Department of Corrections that inmates under the jurisdiction of the Department of Corrections may be transferred from one Department of Corrections facility to another.

(b) It is the policy of the Department of Corrections that all non-emergency transfers of inmates between facilities be coordinated and approved by the Office of Population Management and the DOC Transport Unit.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.124, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 25-1991, f. & cert. ef. 12-11-91; DOC 13-2015, f. & cert. ef. 10-20-15

291-034-0010

Definitions

(1) Corrections Information System (CIS): A computer system dedicated to tracking information critical to the management of inmates and offenders under the custody, supervision or both of the Department of Corrections.

(2) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(3) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(4) Intake Facility: A Department of Corrections facility Intake Center where newly committed inmates and parole violators are evaluated as to custody classification, risk and needs assessments, and are assigned to the appropriate facilities within the state prison system.

(5) Office of Population Management: A functional unit of the department that oversees capacity and resource management, the inmate classification system, high risk inmate placements, Interstate Corrections Compact, treatment and program screening, Oregon Youth Authority/ghost caseloads, centralized Static 99R assessments, centralized transfer authority, and staff and inmate conflict reviews.

(6) Transfer: A movement and reassignment of supervision of an offender between Community Services/community corrections offices or an inmate between Department of Corrections facilities.

(7) Transfer Coordinator: The DOC Transport Unit staff member responsible for reviewing approved inmate transfer requests to prioritize and coordinate the logistics, planning, and scheduling of DOC inmate transfers. This position is also the primary DOC liaison with law enforcement, county jails, and courts for coordinating and scheduling inmate transfers for interviews and/or court appearances and return to DOC custody.

(8) Transport: The DOC Transport Unit.

(9) 1206 Transfer Request: A DOC approved electronic process using the Corrections Information Systems (CIS) to initiate a request for inmate transfers.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.124, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 25-1991, f. & cert. ef. 12-11-91; DOC 13-2015, f. & cert. ef. 10-20-15

291-034-0015

Intake Facility Transfers

(1) All transfers from the Coffee Creek Intake Center shall be based upon the inmate's classification score, medical status,

program needs, available bed space, and operational needs of the department.

(2) Staff at the Coffee Creek Intake Center is responsible for:

(a) Compiling the background information on all inmates;

(b) Conducting risk and needs assessments;

(c) Placing appropriate designators;

(d) Initiating inmate classification, and when appropriate, the Work Housing Assessment Level Evaluation (WHALE); and

(e) Making appropriate recommendations for transfer to the Office of Population Management.

(3) If the Office of Population Management determines the recommendation is appropriate and bed space is available, the Office of Population Management shall approve the inmate for transfer.

(4) If the Office of Population Management determines the recommendation cannot be endorsed, the Office of Population Management shall determine the appropriate facility, or refer the transfer request back to intake staff.

(5) After the request has been approved by the Office of Population Management, Transport will schedule the inmate for transportation. Transport may transfer an inmate to an alternate facility when appropriate and necessary for staging purposes or due to current operational needs.

(6) Inmates with special circumstances (i.e., medical services) shall be reviewed by the Office of Population Management and Transport for consideration of special transfer and transport arrangements.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.124, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 25-1991, f. & cert. ef. 12-11-91; DOC 13-2015, f. & cert. ef. 10-20-15

291-034-0020

Routine Transfers

(1) When institution staff becomes aware an inmate's current placement may no longer meet his/her custodial or program needs or is contrary to existing policy, the inmate shall be considered for transfer to another Department of Corrections facility.

(2) Institution staff shall provide information to the Office of Population Management and Transport via the CIS using the 1206 transfer request screen. This information includes the inmate's current classification and/or WHALE, needs assessments, special case considerations, and medical status.

(a) The 1206 transfer request will be reviewed and approved or denied by the Office of Population Management.

(b) If a routine transfer needs to be completed that day and the Office of Population Management staff is unavailable, the Transfer Coordinator may approve the 1206 transfer request. The Transfer Coordinator may deny a 1206 transfer request at the time of the move if the circumstances have changed (i.e. medical restrictions, custody level change, security concerns, etc.).

(3) When transfers are necessary to meet the population management needs of the department, the Office of Population Management will make requests of institution staff to identify appropriate inmates for transfer.

(4) Transport will provide notice to both the sending and receiving facilities of inmates being transported on the following business day, except in emergency cases, or for security reasons.

(5) The sending facility shall ensure the information (e.g., classification, medical, and designators) provided to the Office of Population Management and Transport is accurate before the actual transfer.

(6) The sending facility will ensure all inmates transferred to another facility are transferred with the following: institution file, medical file (including any prescribed medicine), inmate property, and inmate ID card.

(7) If an inmate is removed from a scheduled transfer, the sending facility shall contact the Office of Population Management and Transport.

(8) The Transfer Coordinator may enter and approve 1206 transfer requests for certain moves, including but not limited to, court, law enforcement interviews, staging, and interstate transfers.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.124, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 25-1991, f. & cert. ef. 12-11-91; DOC 13-2015, f. & cert. ef. 10-20-15

291-034-0025**Administrative Transfers**

(1) All administrative transfers will be requested through the use of the 1206 transfer request 1206 screen in the CIS. The 1206 transfer request will be reviewed and approved or denied by the Office of Population Management.

(2) When an inmate's conduct is determined to be a threat to the safety or security of the facility, the inmate may be referred for transfer using a 1206 transfer request.

(3) Transfers for medical or mental health purposes will be coordinated through the Medical Services or Behavioral Health units of both the sending and receiving facilities, and be processed through the Office of Population Management by the sending facility. Upon completion of the needed medical or mental health care, the inmate may be considered for transfer.

(4) Emergency Transfers:

(a) If the conduct or presence of an inmate is an immediate danger to the security of the facility or safety of staff, the inmate, or other inmates, and the facility does not have adequate segregation facilities to contain the behavior or provide the necessary security, an emergency transfer may be made pursuant to the following procedures:

(A) When the functional unit manager or designee determines an emergency transfer is necessary, a telephone or e-mail request shall be directed to the receiving facility, and coordinated with the Office of Population Management and the Transfer Coordinator during business hours, or notice sent to the Office of Population Management and the Transfer Coordinator after business hours;

(B) The request shall include the inmate's name, SID number, and all applicable information, including the reason for the emergency transfer.

(b) The sending facility shall notify the receiving facility of the number of inmates being transferred, including the date and time of the transfer. The transporting officer shall ensure all records and personal property are sent with the inmate. Exceptions to this include, but are not limited to the following, the inmate's personal property is unavailable at the time of transport or there is not enough available vehicle space to move the inmate's property.

(c) If the move occurs outside normal office hours, the Office of Population Management will receive an automatic notification on the next business day and may follow up with the sending facility with the reason for the transfer.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.124, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 25-1991, f. & cert. ef. 12-11-91; DOC 13-2015, f. & cert. ef. 10-20-15

291-034-0030**General — Institutional Instruction**

(1) When an inmate is transferred from one facility to another, the inmate's updated file, including health records, will be transferred to the receiving facility.

(2) Inmates must work with their counselors regarding transfers outside of those that meet basic operational needs of the department, e.g., work assignments, educational, or program needs. The counselor is responsible for ensuring the transfer is consistent with the inmate's case plan, and transfers have been approved by the appropriate stakeholders. Stakeholder approval must be reflected in the 1206 transfer request.

(3) While the department recognizes the importance of family and friends in the rehabilitation of inmates, the department is unable to grant transfer requests for the purpose of hardship or convenience. An inmate may request a temporary transfer for a supervised trip or emergency leave in accordance with the rules on Emergency Leaves and Supervised Trips (OAR 291-063).

(4) Every effort will be made to house an inmate near his/her releasing county within 6-12 months before the inmate's release date.

(5) Each facility shall designate staff responsible for review and approval of transfer requests. These requests will be entered into the 1206 transfer request screens for approval by the Office of Population Management.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.124, 179.040, 423.020, 423.030 & 423.075

DIVISION 35**RESEARCH PROPOSALS****291-035-0005****Authority, Purpose and Policy**

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish a uniform process for review and approval of proposals for research conducted within the Department of Corrections.

(3) Policy: It is the policy of the Department of Corrections to conduct research that will yield information to help the department improve its effectiveness. Research may be conducted by department staff, contract services, or by students and others with interest in correctional services.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1978, f. 9-13-78, ef. 9-15-78; CD 29-1983(Temp), f. & ef. 9-1-83; CD 35-1983, f. & ef. 10-14-83; CD 12-1985, f. & ef. 7-31-85; CD 14-1986, f. & ef. 6-30-86; CD 2-1994, f. 1-13-94, cert. ef. 2-1-94; DOC 14-2011, f. & cert. ef. 7-15-11

291-035-0010**Definitions**

(1) Institutional Review Board: As defined and discussed in 45 CFR Part 46, an independent body whose purpose is to review research proposals that involve human subjects to assure that the rights, safety, and well-being of research subjects are protected, that informed consent for their participation is obtained, and that all benefits of the research are commensurate with or outweigh the risks involved. Institutional review boards are usually associated with universities, colleges, or other agencies that are not affiliated with the department or any of its institutions.

(2) Research: The systematic design and implementation of appropriate methods to collect, analyze, and disseminate data to answer to specific questions or test scientific theory.

(a) Internal Research: Internal research includes, but is not limited to, research that is initiated or conducted by the department's Research and Evaluation Unit or other functional units or department staff.

(b) External Research: External research includes, but is not limited, to research that is initiated or conducted by colleges, universities, government or private agencies and organizations, or other researchers outside the department.

(3) Research Committee: A committee comprised of two or more Department of Corrections employees selected by the Director of Research and Evaluation and one rotating member from the department's Policy Group. The purpose of the Research Committee is to promote, recruit, screen and monitor external research, and guide researchers through the process of conducting research with inmates or department staff.

(4) Researcher(s): Any person or persons who submit one or more proposals to the Research Committee to conduct research with inmates or department staff.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1978, f. 9-13-78, ef. 9-15-78; CD 12-1985, f. & ef. 7-31-85; CD 2-1994, f. 1-13-94, cert. ef. 2-1-94; DOC 14-2011, f. & cert. ef. 7-15-11

291-035-0011**General**

(1) The Department of Corrections will consider proposals to conduct research with inmates, community corrections, or department staff. All research proposals must be reviewed by the Research Committee before they begin.

(2) The purpose of the Research Committee is to promote, screen, and monitor external research, and guide investigators

through the process of conducting research with inmates, community corrections, or department staff.

(a) Note that the Research Committee does not function as an institutional review board for the protection of human subjects.

(b) The role of the Research Committee is to determine whether the goals and design of research proposals are appropriate for a correctional setting and whether they meet the needs of the department.

(c) Researchers should provide evidence of human subjects review from their university or organization institutional review board. Any research involving incarcerated individuals must pass before an institutional review board that includes an inmate representative to insure that the use of inmates as research subjects meets federal guidelines.

(3) The Research Committee is comprised of two or more Department of Corrections employees selected by the Director of Research and Evaluation and one rotating member from the department's Policy Group.

(a) Permanent Research Committee members are trained in research design and methods, as well as ethical issues regarding the inclusion of human subjects in research.

(b) The Research Committee recruits other appropriate stakeholders, content experts, administrators, or functional units within the department on a case-by-case basis to serve as temporary Research Committee advisors depending on the content of each research proposal.

(4) The Research Committee will, if necessary, review research proposals within four weeks of the department's receiving the proposal.

(5) The Research Committee, after consultation with administrators whose units are affected by the research, may directly approve the proposal when all parties have reached mutual understanding regarding the purpose and design of the research as well as the timeline, responsibilities, expectations, data sharing requirements, and dissemination of results.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 14-2011, f. & cert. ef. 7-15-11

291-035-0015

Procedures for Submitting a Research Proposal

(1) The Research Committee will:

(a) Review all external research proposals conducted with inmates, department staff, inmate families, or community corrections where department resources are required, ensuring that:

(A) The proposed research benefits inmates, community corrections, department staff, the Department of Corrections, or the State of Oregon;

(B) The research design is sufficient to test stated hypotheses;

(C) Disruptions to institutions are minimized;

(D) The department's research interests are integrated and considered as enhancements to the proposed research where appropriate; and

(E) The proposed research has been reviewed and approved by an institutional review board including an inmate representative if applicable.

(b) Coordinate research activities conducted within the department and research conducted in cooperation with government or private agencies, individuals, or institutions.

(2) Ordinarily, the Research Committee will be amenable to proposals that:

(a) Cause minimal disruption in department tasks;

(b) Require minimal department resources;

(c) Are of short duration;

(d) Are proposed by a college or university student who is under the supervision of a faculty advisor;

(e) Are proposed by government or private agencies, institutions, and individuals who have training and knowledge in research methods, statistical analysis, and the dissemination of findings;

(f) Benefit inmates, community corrections, the department, the State of Oregon, or adds to the general knowledge; and

(g) Propose a research design that is sufficient to test stated hypotheses.

(3) In its review of each research proposal, the Research Committee will consider:

(a) If the research question is relevant and of importance to inmates, community corrections, department staff, the Department of Corrections, the State of Oregon, or the field of corrections;

(b) If the research is in line with the goals and mission of the department;

(c) If the research proposal presents an adequate background and review of relevant literature;

(d) If the research proposal presents reasonable goals and measurable objectives;

(e) If the research proposal presents an understandable and adequate methodology, including participant selection, identification of experimental variables, data collection, data analysis, and data presentation; and

(f) What expenses or utilization of resources, if any, will be borne by the department; and

(g) If the department resources required to implement the research are balanced with its potential benefits.

(4) Researchers may be asked to make formal presentations to the Research Committee.

(5) Administrators whose units are directly affected by the proposed research will be consulted by the Research Committee before approval of the research proposal.

(6) Functional unit managers will ordinarily arrange for implementation of approved research proposals.

(7) Proposals requiring department policy decisions will be referred to the department Assistant Directors, as appropriate.

(8) Records shall be kept documenting each proposal review, committee decision, and the conditions of proposal acceptance.

(9) Researchers are required to return all data collected as part of the research to the Research Committee in format acceptable to the department unless an exemption is made by the Research Committee. Exemptions must be discussed and finalized prior to the approval of research proposals.

(10) All sensitive data concerning inmates, department staff, inmate families, or community corrections must be protected while in the possession of the researchers. Researchers will be responsible for complying with statutory requirements regarding information security in accordance with ORS 182.122 and 646A.600, and other applicable statutes and laws.

(11) Researchers are required to provide a copy of all research reports and related manuscripts to the Research Committee for their records.

(12) Data collected may be used only for the proposed purpose(s) of the approved proposal. Additional use of the data, including but not limited to additional analyses, reporting, and dissemination must be preapproved by the Research Committee.

(13) While the department does not forbid the researcher from distributing accurate data, the department may insist on including a disclaimer if it believes assumptions about the data or conclusions drawn by the researcher(s) are flawed.

(14) A research proposal may be denied if the proposed research:

(a) Exposes any inmate, offender, or staff member, with or without informed consent, to involvement in medical, genetic, psychiatric, or psychological experimentation or research within the meaning of ORS 421.085 or other applicable statutes and laws;

(b) Requires the disclosure of information protected by the provisions of ORS 192.502, 179.505, or other applicable statutes and laws;

(c) Poses appreciable hazard to the life or health of any human being, to state property, to the security, sound order, or discipline of any institution, or to the mission of the Department of Corrections or any of its functional units;

(d) Is not approved by an institutional review board;

(e) Does not benefit inmates, community corrections, department staff, the Department of Corrections, or the State of Oregon;

(f) Does not consider the integration of the department's research needs where appropriate;

(g) Does not include a research design which is sufficient to test stated hypotheses;

(h) Poses more than minimal disruption to the operation of institutions or offices;

(i) Does not provide a balance between required department resources and the potential benefits of the research; or

(j) Does not align with the goals and mission of the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 27-1978, f. 9-13-78, ef. 9-15-78; CD 29-1983(Temp), f. & ef. 9-1-83; CD 35-1983, f. & ef. 10-14-83; CD 12-1985, f. & ef. 7-31-85; CD 14-1986, f. & ef. 6-30-86; CD 2-1994, f. 1-13-94, cert. ef. 2-1-94; DOC 14-2011, f. & cert. ef. 7-15-11

DIVISION 37

RELEASE OF PUBLIC RECORDS

291-037-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 423.020, 423.075, 192.430, and 192.440.

(2) Purpose: To establish uniform procedures and guidelines for release of Department of Corrections public records.

(3) Policy: It is the policy of the Department of Corrections that public records will be available to all persons, consistent with all laws governing the disclosure of such records and consistent with the need to protect such records, to prevent interference with the regular discharge of duties and to recover fees reasonably calculated to reimburse the Department for its actual cost in making such records available.

Stat. Auth.: ORS 179, 183, 192 & 423

Stats. Implemented: ORS 179.040, 192.430, 192.440, 423.020, 423.030 & 423.075

Hist.: CD 36-1978(Temp), f. & ef. 11-17-78 thru 3-16-79; CD 6-1979, f. 3-2-79, ef. 3-7-79; CD 13-1983, f. & ef. 3-18-83; CD 44-1985, f. & ef. 8-16-85; CD 43-1986, f. & ef. 10-17-86; Suspended by CD 3-1989(Temp), f. & cert. ef. 3-10-89; CD 10-1989(Temp), f. & cert. ef. 6-20-89; CD 18-1989, f. & cert. ef. 9-8-89

291-037-0010

Definition

(1) "Offender": Any person under the supervision of the Department who is on parole or probation status. For purposes of this rule, the term "in custody" as used in ORS 192.502(4) includes persons under the supervision of the Community Services Division.

(2) "Department of Corrections Facility": An institution or its satellite, release service, or office, including the grounds, operated by the Department of Corrections.

(3) "Employee": Any person employed full-time, part-time or under temporary appointment by the Department; any person employed under contractual arrangement to provide services to the Department; any person employed by private or public sector agencies who is serving under Department-sanctioned special assignment to provide service or support to Department programs.

(4) "Functional Unit": Any organizational component within the Department, responsible for the delivery of services or the coordination of programs.

(5) "Functional Unit Manager": Any person within the Department who reports to the Director, an assistant director or an administrator and has day-to-day responsibility for the delivery of services or coordination of programs.

(6) "Government Agency": Any state or local government officer, agency, department, division, bureau, board, commission, and employees of an independent contractors with such agencies.

(7) "Inmate": Any person in the custody of Department who is not on parole or probation status.

Stat. Auth.: ORS 179, 183, 192 & 423

Stats. Implemented: ORS 179.040, 192.430, 192.440, 423.020, 423.030 & 423.075

Hist.: CD 36-1978(Temp), f. & ef. 11-17-78 thru 3-16-79; CD 6-1979, f. 3-2-79, ef. 3-7-79; CD 13-1983, f. & ef. 3-18-83; CD 44-1985, f. & ef. 8-16-85; CD 43-1986, f. & ef. 10-17-86; Suspended by CD 3-1989(Temp), f. & cert. ef. 3-10-89; CD 10-1989(Temp), f. & cert. ef. 6-20-89; CD 18-1989, f. & cert. ef. 9-8-89

291-037-0015

Requests for Release of Department Public Records

(1) Any person may apply for release of public record information.

(2) The request must be in writing, addressed to the Department's functional unit manager where the record(s) is located, and must specify the record(s) from which information is requested, if known. Where applicable, the request must be accompanied by a signed release of information. If the record(s) is not in the location where the request is received, the request will be forwarded to the functional unit manager in the location where the record is situated.

Stat. Auth.: ORS 179, 183, 192 & 423

Stats. Implemented: ORS 179.040, 192.430, 192.440, 423.020, 423.030 & 423.075

Hist.: CD 32, f. & ef. 4-5-76; CD 36-1978(Temp), f. & ef. 11-17-78 thru 3-16-79; CD 6-1979, f. 3-2-79, ef. 3-7-79; Renumbered from 291-010-0100, CD 13-1983, f. & ef. 3-18-83; Suspended by CD 3-1989(Temp), f. & cert. ef. 3-10-89; CD 10-1989(Temp), f. & cert. ef. 6-20-89; CD 18-1989, f. & cert. ef. 9-8-89

291-037-0020

Review of Public Records

(1) The functional unit manager will designate one or more employees to review record(s) for release.

(2) Upon direction from the functional unit manager, the designated staff member(s) will review the record(s) as necessary and will determine whether the record(s) are exempt from disclosure, in accordance with all applicable laws, including but not necessarily limited to the "Public Records Law," now codified at ORS 192.410 to 192.505 and 179.495 to 179.505.

(3) Except as specifically provided for by statute, the designated staff member will advise the person requesting a public record, within a reasonable amount of time, whether the record(s) may be disclosed and the cost of inspection and/or duplication. If the record(s) requested contains information exempt for disclosure, the designated staff member will furnish a copy with the exempt material blanked out:

(a) The cost of duplication will be based upon actual cost, including staff time to locate, review and copy the record(s), all material and first class postage, where applicable:

(A) Unless circumstances warrant a different conclusion, it may be presumed that, if the request is for a specific releasable document, the cost of the duplication is 50 cents a page;

(B) Unless circumstances warrant a different conclusion, it may be presumed that, if the request requires record review and a determination of whether the record can or should be released, the actual cost of such review, determination and duplication is \$1.25 a page;

(C) If requested, the designated staff member will certify the copy as a true copy.

(b) Except as noted below, no inspection and/or duplication of record(s) is authorized until payment has been received;

(c) Payments must be received in the form of a money order, cashier's check, or personal check made payable to the Oregon Department of Corrections. An inmate must submit a signed Inmate Account Withdrawal Form (CD 28D) along with his/her request for records.

(4) Fees for inspection and/or duplication by other government agencies or contractors responsible for the treatment of inmates/parolees or probationers of the Department may be waived.

(5) Indigent inmates need not be charged fees immediately for inspection and/or duplication of an inmate's own records if the request is for the inmate's own medical, dental, or psychiatric records; however, in all such cases inmates' trust accounts will be debited to recover costs when funds become available in the inmates' accounts.

(6) Fees for inspection and/or duplication of record(s) related to litigation may be waived upon advice of legal counsel.

(7) Proper and reasonable opportunity for inspection and/or duplication of record(s) will be provided, consistent with security requirements at each Department facility and functional unit and as the circumstances warrant.

Stat. Auth.: ORS 179.040, 192.430, 192.440, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.495-505, 192.410-505, 423.020, 423.030 & 423.075
 Hist.: CD 32, f. & ef. 4-5-76; CD 36-1978(Temp), f. & ef. 11-17-78 thru 3-16-79; CD 6-1979, f. 3-2-79, ef. 3-7-79; CD 13-1983, f. & ef. 3-18-83; CD 44-1985, f. & ef. 8-16-85; Suspended by CD 3-1989(Temp), f. & cert. ef. 3-10-89; CD 10-1989(Temp), f. & cert. ef. 6-20-89; CD 18-1989, f. & cert. ef. 9-8-89; CD 3-1994, f. 2-17-94, cert. ef. 3-1-94

291-037-0025

Guidelines for Release of Public Records

(1) Public records at all times shall be subject to inspection and duplication in accordance with the laws applicable at the time of the request. In its administrative compilation of these rules, the Department may include photocopies or transcriptions of these laws in such a format as may be appropriate to the administration of these rules.

(2) Requests for information concerning current or former employees will be referred to the functional unit manager of the Department of Corrections Information Systems and Personnel Services Division.

(3) When disclosure or review of records is denied, the functional unit manager or designee will record the reason for the denial and will forward a copy to the assistant director.

Stat. Auth.: ORS 179, 183, 192 & 423
 Stats. Implemented: ORS 179.040, 192.430, 192.440, 423.020, 423.030 & 423.075
 Hist.: CD 32, f. & ef. 4-5-76; CD 36-1978(Temp), f. & ef. 11-17-78 thru 3-16-79; CD 6-1979, f. 3-2-79, ef. 3-7-79; CD 13-1983, f. & ef. 3-18-83; CD 44-1985, f. & ef. 8-16-85; CD 43-1986, f. & ef. 10-17-86; Suspended by CD 3-1989(Temp), f. & cert. ef. 3-10-89; CD 10-1989(Temp), f. & cert. ef. 6-20-89; CD 18-1989, f. & cert. ef. 9-8-89

DIVISION 38

PRE-SENTENCE REPORTS

291-038-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish the criteria for a uniform presentence report format for use by the sentencing court and the Board of Parole and Post-Prison Supervision in accordance with requirements of ORS 144.791. If no presentence report is prepared, the Department of Corrections shall prepare a report of similar content for the Board of Parole and Post-Prison Supervision in accordance with 144.185.

(3) Policy: The Department of Corrections realizes the importance of identifying and reporting current and valid information concerning convicted offenders; further, it is imperative that the preparation and presentation of this information is accomplished in a standard, consistent manner and meets the requirements specified in ORS 144.791. The presentence report shall provide information such that it is a useful tool in the supervision and management of the offender and in reducing future criminal conduct.

Stat. Auth.: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 32-1986, f. & ef. 9-19-86; DOC 9-1998, f. 4-17-98, cert. ef. 5-1-98; DOC 10-2010, f. & cert. ef. 9-8-10

291-038-0010

Definitions

Victim: ORS 137.530 defines a victim as “the person or persons who have suffered financial, social, psychological or physical harm as a result of an offense, and includes, in the case of any

homicide or abuse of corpse in any degree, an appropriate member of the immediate family of the decedent.”

Stat. Auth.: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 32-1986, f. & ef. 9-19-86; DOC 9-1998, f. 4-17-98, cert. ef. 5-1-98

291-038-0015

Procedures

(1) When a person is convicted of a felony and the court requests a presentence report, the county community corrections office shall furnish a presentence report to the sentencing court.

(2) If a presentence report has previously been prepared with respect to the defendant, the local community corrections office shall furnish a copy of that report, and a supplemental report bringing it up to date, to the sentencing court.

(3) The presentence report shall include:

(a) A summary of the factual circumstances of the crime or crimes of conviction and an appropriate classification of each crime of conviction on the crime seriousness scale in accordance with Criminal Justice Commission rules OAR 213-017-000 to 213-017-0011. If the crime of conviction is subclassified in accordance with Criminal Justice Commission rules 291-018-0000 to 291-018-0090 and 213-019-0000 to 213-019-0015, the presentence report shall state the factual circumstances that justify the proposed subclassification.

(b) A listing of all prior adult felony and Class A misdemeanor convictions and all prior juvenile adjudications and an assessment of the appropriate classification of the criminal history on the Criminal History Scale in accordance with Criminal Justice Commission rules OAR 213-004-0006 to 213-004-0013.

(c) An analysis of the disposition that is most likely to reduce the defendant's criminal conduct and why such disposition would have the desired effect.

(d) An assessment of the availability to the defendant of any relevant programs or treatment, both in and out of custody, whether provided by the Department of Corrections or another entity.

(e) A proposed grid block classification for each crime of conviction and the presumptive sentence for each crime of conviction.

(A) If the proposed grid block classification is a grid block above the dispositional line, the presentence report shall state the presumptive prison term range and the presumptive duration of post-prison supervision.

(B) If the proposed grid block classification is grid block 8-G, 8-H, or 8-I, the presentence report shall state whether the offender is eligible for an optional probationary sentence. If the offender is eligible, the presentence report may include a recommendation that an optional probationary sentence be imposed with a further recommendation for the appropriate conditions of probation designed to reduce future criminal conduct.

(C) If the proposed grid block classification is a grid block below the dispositional line, the presentence report shall provide the following information:

(i) The presumptive term of probation;

(ii) The maximum number of custody units that may be imposed and the number of custody units that may be used to impose jail time as part of the probationary sentence;

(iii) A recommendation for the appropriate conditions of probation including both custody and non-custody conditions; and

(iv) Any other information relevant to the imposition of a presumptive sentence as provided by these rules.

(f) Contain a recommendation as to whether a departure from the guidelines is appropriate. If the recommendation is made, the presentence report shall indicate the aggravating or mitigating factors upon which the departure recommendation is made. Such recommendations shall be consistent with the requirements for departures as defined by Criminal Justice Commission rule OAR 213-008-0007.

(g) Contain recommendations with respect to the sentencing of the defendant, including incarceration or alternatives to incar-

ceration, restitution, special conditions, in-custody or community-based treatment programs, and post-prison supervision.

(h) Contain such additional information as the court may request upon consultation with the district attorney and the defendant or defense counsel. All recommendations shall be for the information of the court and shall not limit the sentencing authority of the court.

[ED. NOTE: Attachments referenced are available from the agency.]

Stat. Auth.: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 32-1986, f. & ef. 9-19-86; DOC 9-1998, f. 4-17-98, cert. ef. 5-1-98; DOC 10-2010, f. & cert. ef. 9-8-10

291-038-0030

Presentence Report — Victim Contact

When a presentence report is made, the preparer of the report shall:

(1) Make a reasonable effort to contact the victim and obtain a statement describing the effect of the defendant's offense upon the victim. If contacting the victim directly might be detrimental, and if a statement about the effect of the crime on the victim can be gathered through another method, such as through a victim advocate, the writer may use professional judgment in deciding how to include a victim statement in the report.

(2) If the victim is under 18 years of age, obtain the consent of the victim's parents or guardian before contacting the victim.

(3) Include the statement of the victim in the presentence investigation report.

(4) If unable to contact the victim or if the victim declines to make a statement, report that he/she was unable to contact the victim after making reasonable efforts to do so, or if the contact was made with the victim, that the victim declined to make a statement.

(5) Before taking a statement from the victim, inform the victim that the statement will be made available to the defendant and the defendant's counsel prior to sentencing as required under ORS 137.079. The report shall be recorded in the Corrections Information System to be accessed by authorized personnel.

Stat. Auth.: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 32-1986, f. & ef. 9-19-86; DOC 9-1998, f. 4-17-98, cert. ef. 5-1-98

291-038-0040

Post-Sentence Reports

If the defendant is committed to the custody of the Department of Corrections without a presentence report, the Department shall prepare a report of similar content to the presentence report at the request of and for submission to the Board of Parole and Post-Prison Supervision.

Stat. Auth.: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 32-1986, f. & ef. 9-19-86; DOC 9-1998, f. 4-17-98, cert. ef. 5-1-98

291-038-0050

Presentence Report Disclosure

The presentence report is not a public record and shall be made available only to the court, district attorney, defendant or defendant's counsel, community corrections staff in the county of supervision, and the Board of Parole and Post-Prison Supervision.

Stat. Auth.: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 32-1986, f. & ef. 9-19-86; DOC 9-1998, f. 4-17-98, cert. ef. 5-1-98

291-038-0060

Presentence Report — Format, Content Preparation

(1) The format and content of the presentence report may be found in the Corrections Information System. The report shall be

recorded in the Corrections Information System to be accessed by authorized personnel.

(2) If in the course of conducting the investigation, mental health or substance abuse evaluations or assessment have been completed, results shall be summarized in the report. The full evaluation or assessment may be attached for the court's consideration.

(3) Each community corrections department shall establish a time line for completion of the presentence report. The presentence report will be submitted to the court a minimum of five judicial days in advance of the date set for sentencing.

Stat. Auth.: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.077, 137.079, 144.120, 144.185, 144.791, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 32-1986, f. & ef. 9-19-86; DOC 9-1998, f. 4-17-98, cert. ef. 5-1-98

DIVISION 39

RELEASE OF PUBLIC INFORMATION

291-039-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: It is the purpose of this rule to establish uniform procedures and guidelines for the release of information to all persons including the news media. Information will be released regarding the Department of Corrections programs, services, facilities, and its employees, contractors, volunteers, and in-mates/offenders.

(3) Policy: It is the policy of the Department of Corrections that prompt and accurate responses will be given to inquiries by all persons including the news media. Information released will be consistent with all laws governing the release of public information and the disclosure of public records.

Stat. Auth.: ORS 179.040, 192, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 12-1979, f. & ef. 5-17-79; CD 2-1983, f. & ef. 1-4-83; CD 45-1985, f. & ef. 8-16-85; CD 52-1986, f. & ef. 11-20-86; CD 25-1990, f. & cert. ef. 12-4-90; CD 15-1993, f. 6-7-93, cert. ef. 6-25-93

291-039-0010

Definitions

(1) Correction Information Systems (CIS): A computer system that has information about inmates in prison and offenders on probation, parole and post-prison supervision.

(2) Communications Manager: The employee who is designated by the Director of the Department of Corrections to coordinate media relations and public inquiries concerning policy.

(3) Criminal Justice Agency: An agency as defined in ORS 181.010(8).

(4) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(5) Director: The Director of the Department of Corrections.

(6) Employee: Any person employed full time, part time, or under temporary appointment by the Department of Corrections; any person employed under contractual arrangement to provide services to the Department; any person employed by private or public sector agencies who is serving under Department sanctioned special assignment to provide services or support to Department programs.

(7) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of program operations.

(8) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, assistant director, or administrator and has responsibility for the delivery of services or coordination of program operations.

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(9) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post prison supervision, or probation status.

(10) News Release: An official statement or announcement relating to the Department of Corrections intended for distribution to the news media.

(11) Offender: Any person under the supervision of local Community Corrections who is on parole, post prison supervision, or probation status.

(12) Public Information: All Department of Corrections information that is not exempt from disclosure by statute.

(13) Public Information Officer(s): One or more employees within a functional unit who coordinate the release of information for that unit consistent with Department policy and all laws governing release of public information and disclosure of public records.

(14) Offender Public Information Screen: The screen accessed through CIS which details the following information about an inmate or offender:

(a) Name and State Identification number (SID) of inmate/offender;

(b) Date of birth;

(c) Sentence(s) and beginning dates of sentences (past and present);

(d) Offense(s) (past and present);

(e) County of commitment (past and present);

(f) Institution admission date or field admission date;

(g) Location of incarceration or supervision;

(h) Earliest release date;

(i) Discharge date (past and present); and

(j) Physical description;

(k) Name of institution counselor or Community Corrections parole or probation officer.

(15) Volunteer: An approved person who donates time, knowledge, skills, and effort to enhance the mission, activities and programs of the Department. Volunteers serve at the pleasure of the Department and are not considered employees.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 12-1979, f. & ef. 5-17-79; CD 2-1983, f. & ef. 1-4-83; CD 45-1985, f. & ef. 8-16-85; CD 52-1986, f. & ef. 11-20-86; CD 25-1990, f. & cert. ef. 12-4-90; CD 15-1993, f. 6-7-93, cert. ef. 6-25-93; CD 1-1998, f. 1-23-98, cert. ef. 2-1-98; DOC 29-2008(Temp), f. & cert. ef. 12-16-08 thru 6-12-09; Administrative correction 6-22-09; DOC 13-2009, f. & cert. ef. 7-14-09

291-039-0015

Request for Release of Information

(1) Any person, including the news media, may request information about Department programs, services, facilities, employees, volunteers, inmates, and offenders.

(2) Each functional unit manager, in consultation with the Communications Manager, will designate one or more employees to serve as the public information officer(s). The functional unit manager may perform this function if he/she desires.

(3) Upon request, information listed on the Offender Public Information screen regarding inmates and offenders may be released by the designated staff at Department facilities. Staff shall act in their official capacity only when releasing this information.

(4) Inmate/offender photographs may be released when the release will enlist public assistance in apprehending fugitives from justice and/or the release will not interfere with other law enforcement efforts. Employees, contractors, and authorized volunteers have a responsibility to volunteer such inmate/offender related information to an inmate's/offender's employer and other law enforcement agencies when, in their professional judgment, the public's right to know outweighs the individual's right to privacy, because public safety may be in jeopardy based on an analysis of the inmate's/offender's actions or criminal history.

(5) Request for other than the routine information listed above will be referred to the unit's public information officer.

(6) If the information request involves questions of Department policy, major issues or news developments, the unit's public information officer will direct such requests to the Director or the Communications Manager.

(7) If death or serious injury has occurred, the names of inmate(s), offender(s), or victim(s) will not be released until the next of kin have been notified and, where applicable, the cause of death will not be released until the death certificate has been signed.

(8) Inmate/offender presentence reports are not public records. The presentence report, or any reports based on the contents of that report, may be made available to the victim by Department of Corrections employees in accordance with the provisions in ORS 137.077.

(9) Request for information concerning a current or former contractor(s) will be referred to the Department of Corrections Purchasing Unit for response.

(10) Request for information concerning a current or former employee(s) or volunteer(s) will be referred to the Department's Human Resource Section for response. Employment reference checks concerning a current or former employee(s) or volunteer(s) will be referred to the supervisor of the current or former employee(s) or volunteer(s) for response.

(11) Request for release of records and copies of such records will be handled in accordance with the Department's rule on Release of Public Records (OAR 291-037).

(12) No Department employee will issue an official Department of Corrections press release, schedule an official press conference, or hold an official media event without prior approval from the Director or the Communications Manager.

(13) Employees shall not, without written authorization from the Director or the Communications Manager, make written or oral statements, in what he/she gives others reasonable grounds to believe to be an official capacity, where the effect of such statements would be to impair or diminish the security, supervision, discipline, or the orderly and effective operation of any Department facility or program.

(14) Employees desiring to provide DOC public information as defined in these rules that they wish to make public through the news media must notify the functional unit's public information officer or the Communications Manager before contacting news media representative(s).

(15) Employees who are not authorized to make public statements as official Department representatives are not restricted in their access to the news media, but must clearly specify in contacting the media that they are not official Department representatives and are speaking solely on their own behalf rather than on behalf of the Department.

(16) Community Corrections:

(a) Community corrections employees in counties have access to the statewide Corrections Information System. Information listed on the Public Information screen regarding inmates and offenders may be released. Staff shall act in their official capacity only when releasing this information.

(b) If, in the interest of public safety, information other than that listed should be released to an employer or law enforcement agency, then that release of information must be documented in the case file. Documentation must include the information released, the person or agency who received the information, and the public safety reason for the release.

(c) If a county employee wishes to release inmate or offender information other than routine information or information related to the protection of public safety, the county shall receive approval from the Assistant Director for Community Corrections.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 12-1979, f. & ef. 5-17-79; CD 2-1983, f. & ef. 1-4-83; CD 45-1985, f. & ef. 8-16-85; CD 52-1986, f. & ef. 11-20-86; CD 25-1990, f. & cert. ef. 12-4-90; CD 15-1993, f. 6-7-93, cert. ef. 6-25-93; CD 1-1998, f. 1-23-98, cert. ef. 2-

1-98; DOC 29-2008(Temp), f. & cert. ef. 12-16-08 thru 6-12-09; Administrative correction 6-22-09; DOC 13-2009, f. & cert. ef. 7-14-09

291-039-0020

News Media Centers During Major Emergencies

(1) News media centers have been established in the event a major disturbance or emergency situation occurs in a Department of Corrections facility. The news media centers are identified on **Exhibit 1**, "News Media Centers." [Exhibit not included. See ED. NOTE.]

NOTE: An alternate news media center will be established and announced if the disturbance or emergency involves or renders the pre-designated news media center as unusable.

(2) The functional unit manager will designate a news media center and notify the Communications Manager of its location for any facility established after promulgation of this rule.

(3) During times of a major disturbance or emergency, news media representatives will be directed to report to the designated news media center.

(4) The news media centers will be the only areas in which briefings will be held, unless otherwise notified.

(5) The Communications Manager or the public information officer will provide appropriate news briefings consistent with the needs of the Department to maintain or restore order, safety, and security.

(6) If space limitations will not accommodate all media, a "pooling" arrangement will be established by the Communications Manager wherein the functional unit will enable the designated media source to provide sound and visual equipment.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 192, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 12-1979, f. & ef. 5-17-79; CD 2-1983, f. & ef. 1-4-83; CD 45-1985, f. & ef. 8-16-85; CD 52-1986, f. & ef. 11-2-86; CD 25-1990, f. & cert. ef. 12-4-90; CD 15-1993, f. 6-7-93, cert. ef. 6-25-93

291-039-0025

News Media — Reporting of Unusual Incidents

Instructions to Department employees regarding the reporting of unusual incidents are specified in the Department of Corrections policy on Unusual Incident Report Process (40.1.6.)

Stat. Auth.: ORS 179.040, 192, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 12-1979, f. & ef. 5-17-79; CD 2-1983, f. & ef. 1-4-83; CD 45-1985, f. & ef. 8-16-85; CD 25-1990, f. & cert. ef. 12-4-90; CD 15-1993, f. 6-7-93, cert. ef. 6-25-93; DOC 3-2007, f. & cert. ef. 4-16-07

DIVISION 41

SEARCHES (INSTITUTIONS)

291-041-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: To ensure safety and security of the Department of Corrections facilities.

(3) Policy: In order to maintain proper control over persons under its supervision and to ensure the safety and security of its facilities, it is the policy of the Department of Corrections, that any person employed by or volunteering with the department or Oregon Corrections Enterprises, or any person visiting or living in a Department of Corrections facility may be subject to search at any time in accordance with the procedures outlined in this rule.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 10-1981(Temp), f. & ef. 5-5-81; CD 42-1981, f. & ef. 10-30-81; CD 36-1983(Temp), f. & ef. 10-14-83; CD 11-1984, f. & ef. 4-11-84; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00

291-041-0010

Definitions

(1) Authorized Legal Material: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, correspondence, and other necessary documents (including discovery and exhibits), in or directly pertaining to an inmate's own pending and active case(s), lawsuit(s) before the courts or paroling authorities.

(2) Confiscation: To take control of or possession of after the search.

(3) Contraband: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, or which the inmate is not specifically authorized to obtain or possess or which the inmate alters without authorization.

(4) Contractor: Any person under contractual arrangement to provide services to the Department of Corrections.

(4) Department of Corrections (DOC) Employee: Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections.

(5) Emergency: Any condition or situation where life, health, or safety may be threatened or where time frame considerations necessitate an immediate response or remedial action.

(6) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(7) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director, or administrator and has responsibility for delivery of program services or coordination of program operations.

(8) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post prison supervision, or probation status.

(9) Inspection Device: Any device (i.e., metal detector, fluoroscope, cell phone detector, etc.) that is used to detect contraband in the form of metal or other foreign objects.

(10) Non-Intrusive Sensors: Electronic or mechanical devices which do not physically intrude nor permeate human body orifices, manufactured for the purpose of detecting materials or various types which may be considered contraband, i.e., narcotics, narcotic paraphernalia, weapons. (Examples: metal detectors, heartbeat monitor equipment to detect the presence of persons.)

(11) Officer-in-Charge: That person designated by the functional unit manager to supervise the institution and make operational decisions in accordance with policy, rule, or procedure during periods when the functional unit manager or the officer-of-the-day is not readily available.

(12) Officer-of-the-Day: That person designated by the functional unit manager and approved by the Assistant Director for Operations or the Institutions Administrator to act on behalf of the functional unit manager during non-business hours and other periods in which the functional unit manager may be absent.

(13) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(14) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

(15) Other Agency Liaison: Employees from other state and local agencies that have an ongoing business need serving inmates and employees of the department. These employees include, but are not limited to, county parole and probation officers, local law enforcement, and state police.

(16) Reasonable Suspicion: An apparent state of objective facts and rational inferences drawn there from that would permit a

reasonable and experienced correctional staff person to conclude that an individual or set of circumstances poses a threat to the safety, security, health and good order of the facility, or the safety and security of inmates, staff, visitors, volunteers, contractors or the community, including, but not limited to, committing a crime or rule violation or conspiring or attempting the same.

(17) Search: A close inspection, including touching in an impartial manner, of a person, a person's cell or other living unit, vehicle, possessions, or other property, or buildings or premises. For purposes of entering a correctional institution, searches often require the removal and separate inspection of shoes, belts, jackets, and other accessories during processing. Types of searches include the following:

(a) Clothed: To search a person for something by running the hands over the clothed person, through the hair, inspecting pockets and cuffs, and other items in his/her possession.

(b) Consent: Inspections of a person or their property conducted with prior permission of the person being searched or of a person who own or has in his/her possession that property which is searched.

(c) Internal: Digital intrusion of body orifices and interiors of rectum or vagina in search for contraband. Also used to describe more than sight inspection of nostrils, ears, and mouth.

(d) Unclothed: A search procedure wherein the person being searched removes all of his/her clothing and is visually examined and clothing removed is carefully inspected before return and redressing, for the purpose of detecting contraband.

(18) Security Inspection: A distinction is made between search and security inspection. The later is accomplished by means of an inspection device (i.e., metal detector), without the element of a personal contact search, although accompanying property will be subject to a visual or hand examination.

(19) Special Housing: Housing for inmates whose assignment is administrative housing, disciplinary segregation, Intensive Management Unit, Death Row, mental health special housing, or infirmary.

(20) Visitor: Any person, not a DOC or OCE employee, volunteer or other agency liaison who is within the boundaries of Department of Corrections facility property.

(21) Volunteer: An approved person who donates time, knowledge, skills, and effort to enhance the mission, activities, and programs of the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 3-1980(Temp), f. & ef. 3-5-80; CD 24-1980, f. & ef. 7-3-80; CD 10-1981(Temp), f. & ef. 5-5-81; CD 42-1981, f. & ef. 10-30-81; CD 52-1981(Temp), f. & ef. 11-20-81; CD 6-1982, f. & ef. 1-29-82; CD 36-1983(Temp), f. & ef. 10-14-83; CD 11-1984, f. & ef. 4-11-84; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0015

General Guidelines

(1) All inmates, DOC and OCE employees, volunteers and visitors confined, working or visiting in a Department of Corrections facility will be subject to search of their persons, cells or other living units, work areas, vehicles, possessions, and other property in accordance with the procedures provided in this rule.

(a) In addition, all such persons will be subject to security inspection by means of a security device such as a metal detector, if such exists.

(b) Accompanying property brought into, or taken out of a Department of Corrections facility by a visitor or a DOC or OCE employee may also be subject to visual and/or physical examination by staff members assigned to such duty by the functional unit manager or designee, or the Department of Corrections Inspector General or designee.

(c) Drug detection dogs may be used to assist authorized Department of Corrections personnel to detect and control contraband within Department of Corrections facilities and property.

(2) Vehicular Traffic: Careful inspection of all vehicular traffic and supplies coming into or leaving the institution will be conducted. Use of detectors at vehicle gates and entrances to the facility may be used to facilitate searches of all persons, packages, brief cases, etc.

(3) Vehicles brought onto Department of Corrections premises are subject to search.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 42-1981, f. & ef. 10-30-81; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0016

Religious Activity Areas and Religious Items

In accordance with these rules and the rules on Religious Activities (OAR 291-143), searches of inmate religious activity areas and authorized religious or spiritual items (including hair and garments worn) shall be conducted in a manner that reflects an awareness of and sensitivity to individual religious beliefs, practices, and respect for the authorized objects, symbols, and hairstyles used in the religious practice.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 1-1996, f. 1-26-96, cert. ef. 2-1-96; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0017

Inmate Legal Storage Boxes

(1) Storage boxes for inmate legal materials, whether provided by the department or purchased by the inmate, may be inspected by staff at any time for the presence of non-legal materials.

(2) Any material found that fits the definition of contraband will be confiscated, except for material that might also fit the definition of authorized legal material. (Refer to Definitions, OAR 291-041-0010) Staff should not read, copy, or retain any material that might be construed as being authorized legal material (i.e. papers, folders, letters, etc.).

(3) If the inspecting staff member has reason to believe the box contains materials not authorized by the DOC rule on Property (Inmate), OAR 291-117, as authorized legal material, the staff member will seal the box and securely store it.

(a) As soon as possible, a designated staff member will review the contents of the box with the inmate to make a determination about whether or not the materials in question fit the definition of authorized legal materials.

(b) Unless a disciplinary report is issued, any material confiscated will be placed in a sealed envelope, initialed and addressed by the inmate, and sent out of the institution at the inmate's expense to a person of their choosing.

(c) If a disciplinary report is issued, the material will be placed in a sealed envelope, initialed by the inmate, and placed in evidence pending the result of the disciplinary hearing.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08

291-041-0018

Training

The department shall train staff assigned to supervise inmates in how to conduct cross-gender searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 15-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 5-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14; DOC 9-2014, f. & cert. ef. 3-4-14; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0020

Inmates

(1) Search of inmates, living units, work areas, other places they inhabit or frequent, and their property will be conducted regularly on an unannounced and unscheduled basis.

(2) An inspection of each cell, room or dormitory area will occur prior to occupancy by a new inmate.

(3) In conducting searches of an inmate's living unit, place of work, or other places frequented or inhabited, the employee conducting the search will be expected to leave the search area in an orderly and neat condition. Care will be exercised to ensure that authorized property is not damaged or disposed of.

(4) Inmates may be subject to search at any time; but no more frequently than is necessary to control contraband or to recover stolen or missing property. However, all inmates will be subject to a search on each occasion before and after they leave a Department of Corrections facility, and on each occasion before and after visits, entering or exiting special housing units and before or after contact with persons outside the facility.

(5) The type of search administered will avoid unnecessary force, embarrassment, or indignity to the inmate. Non-intrusive sensors and inspection devices may be used when appropriate.

(6) Clothed Searches: Inmates may be searched only by authorized Department of Corrections personnel or a sworn police officer in the performance of his/her official duty. Cross-gender clothed searches of female inmates will not occur unless there is an emergency, and shall be documented.

(7) Unclothed Searches: Unclothed searches conducted by DOC staff will be of the same gender as the inmate, unless there is an emergency. Except in emergencies, inmates undergoing unclothed searches will be removed to a private area for the search.

(a) The facility shall document all unclothed searches to include cross-gender and cross-gender visual body cavity searches.

(b) The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.

(c) If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(8) Visual inspections for security reasons may be conducted by authorized personnel. All internal examinations must be conducted by medical personnel only upon authorization of the functional unit manager or the officer-of-the-day and only when there is reasonable suspicion as defined in OAR 291-041-0010(16) to justify the search. The inmate's written consent will not be required; however, an internal search will not be conducted if it could result in injury to the inmate or the personnel conducting the search.

(9) Hair:

(a) If staff need to conduct a hair search, it may be necessary to require the inmate to unbraid, loosen or cut the hair to complete the search.

(b) The inmate will be given an adequate amount of time to unbraid or loosen the hair.

(c) An inmate who refuses to unbraid or loosen the hair is subject to disciplinary action in accordance with the rule on Prohibited Inmate Conduct and Processing of Disciplinary Actions (OAR 291-105).

(d) If the inmate is unable to unbraid or loosen the hair so a search can be accomplished, staff shall conduct the search if possible in the least intrusive manner (e.g., hand wand, visual inspection, etc.). At no time shall staff cut an inmate's hair to complete a search WITHOUT approval of the functional unit manager or officer-of-the-day.

(e) If an inmate's hair creates a significant security or operational concern, a religious sincerity test may be conducted. Based on the results of the sincerity test, the functional unit manager or designee will determine what further action shall be taken.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 3-1980(Temp), f. & ef. 3-5-80; CD 24-1980, f. & ef. 7-3-80; CD 42-1981, f. & ef. 10-30-81; CD 36-1983(Temp), f. & ef. 10-14-83; CD 11-1984, f. & ef. 4-11-84; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 15-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 5-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14; DOC 9-2014, f. & cert. ef. 3-4-14; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0030

Employees, Volunteers and Other Agency Liaison

(1) When to Search: Except as provided in rule OAR 291-041-0015, a DOC employee, contractor, volunteer or OCE employee may be requested to submit to personal search of his/her person or vehicle or other possessions on Department property only when there is reasonable suspicion that the employee, volunteer or other agency liaison is in possession of unauthorized property or contraband and that the search and confiscation is necessary to substantiate the suspected violation.

(2) Who is Involved in the Search:

(a) Upon reasonable suspicion, a functional unit manager or his/her designee may request the security manager or officer-in-charge to conduct the search of a DOC or OCE employee, volunteer or other agency liaison, his/her vehicle, or other possessions. The employee, volunteer or other agency liaison shall be present during the search of his/her vehicle or other possessions.

(b) DOC or OCE employees, volunteers or other agency liaison will be afforded privacy during the search, which will be conducted in a professional manner so as to avoid any undue embarrassment or indignity to the individual.

(c) Refusal of a DOC or OCE employee to submit to a reasonable suspicion search may constitute grounds for disciplinary action.

(3) Searches conducted by DOC staff shall be the same gender as the employee, contractor, volunteer, or other agency liaison.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 10-1981(Temp), f. & ef. 5-5-81; CD 42-1981, f. & ef. 10-30-81; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

291-041-0035

Visitors

(1) When to Search: A search of a visitor will generally occur only when the visitor consents and there is reasonable suspicion that the visitor is in possession of contraband, and that the search and confiscation is vitally necessary to substantiate the suspected violation.

(a) Consent is not required when a delay or non-consent would constitute a direct and immediate threat to the safety and security of the facility.

(b) Consent is not required when the search is conducted pursuant to an arrest or to protect the safety of staff or other persons.

(2) If a Crime is Suspected: If alleged commission of a criminal offense is involved, the matter will fall within the jurisdiction of appropriate law enforcement agencies, which will be promptly notified.

(3) Conduct the Search: Searches of visitors at a Department of Corrections facility will be conducted at the direction of the functional unit manager or designee, or the Department of Corrections Inspector General or designee, based upon reasonable suspicion that the visitor is in possession of unauthorized property or contraband.

(a) Visitor searches may be conducted by authorized Corrections staff or by an authorized law enforcement officer. If requested, authorized Corrections staff may assist law enforcement officers in conducting any search, investigation, or arrest of a visitor. Searches conducted by DOC staff shall be the same gender as the visitor.

(b) Adequate facilities must be provided for the search which shall be done in a professional manner so as not to cause undue embarrassment to the visitor. The subject of the search will be advised of search procedures (i.e., removal of clothing, visual inspection of cavities, etc.) prior to the search.

(c) If an internal examination is indicated, this shall be done only by competent medical personnel at the direction of the law enforcement official conducting the search.

(4) After Search or Inspection: Those individuals who refuse to be searched or, who after being searched were found to be in possession of unauthorized property or contraband, shall have their visiting status immediately suspended and will be sanctioned as provided in the Department of Corrections rule on Visiting (Inmate) (OAR 291-127).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2016, f. & cert. ef. 3-24-16

DIVISION 42

DRUG URINALYSIS TESTING

291-042-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish methods and criteria by which substance of abuse urinalysis testing will be governed within the Department of Corrections Facilities.

(3) Policy: It is the policy of the Department of Corrections to:

(a) Eliminate the presence and use of illegal drugs and substances of abuse in its facilities (zero tolerance) and to monitor compliance with laws through the use of substance of abuse urinalysis testing that is accurate and reliable; and

(b) Establish criteria for substance of abuse urinalysis testing of inmates incarcerated in Department of Corrections facilities.

(A) The Department has a responsibility to protect the public, to provide a safe environment for staff and inmates, and to enforce the rules governing inmate prohibited conduct. Substance abuse presents a threat to the safety of all staff and inmates. Substance of abuse testing of inmates through selection and for cause testing criteria, combined with appropriate graduated sanctions, is an effective means of suppressing substance abuse, substance trafficking and

violations which are prohibited within Department of Corrections facilities in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(B) These measures are implemented to reduce institution violence, and to the extent feasible, ensure that inmates released from prison are substance abuse free. The testing process further identifies inmates who have continued to have a substance abuse problem while incarcerated, and who could be monitored more closely while on supervision. Substance of abuse testing also provides a mechanism to identify those inmates with substance abuse problems for more frequent testing.

(C) The Department shall use the same gender staff to administer the collection of urine samples.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 1-1986(Temp), f. & ef. 1-16-86; CD 5-1986, f. & ef. 3-14-86; CD 18-1990, f. & cert. ef. 9-21-90; CD 31-1993, f. 12-16-93, cert. ef. 1-3-94; CD 9-1997(Temp), f. & cert. ef. 6-13-97; CD 28-1997, f. & cert. ef. 12-5-97; DOC 24-2000, f. & cert. ef. 11-21-00; DOC 15-2008(Temp), f. & cert. ef. 7-1-08 thru 12-28-08; Administrative correction 1-23-09; DOC 1-2009, f. & cert. ef. 1-22-09

291-042-0010

Definitions

(1) Adulterated or Invalid: A urine sample that has an unauthorized substance added to it that may not be of a sufficient amount to render a "positive" result.

(2) Chain of Custody: The handling of urine specimens in a way which supports legal testimony to prove that the sample integrity and identification of the sample have not been violated, as well as the documentation describing these procedures from specimen collection to final report.

(3) Clinical Laboratory: A facility licensed by Oregon Health Division or the State licensing board of the State in which the laboratory is operating that is certified by the Substance Abuse Mental Health Services Administration (SAMHSA) to perform confirmatory testing for substances of abuse on urine or other body fluid.

(4) Dilute: A urine sample that has been contaminated, or altered in some manner, that has been tested for Creatinine and Specific Gravity and found to be dilute by the laboratory.

(5) Medical Status Report: A report which lists names of inmates who, due to a documented medical condition, may need additional time or medical assistance besides the initial two-hour time period to provide a urine sample.

(6) Substance of Abuse (SOA) Coordinator: An individual appointed by the functional unit manager who is responsible for all aspects of substance of abuse testing in the facility, including quality control, collecting urine specimens, and completion of required forms and reports.

(7) Substituted: A urine sample found, by the clinical laboratory, to not be consistent with normal human urine.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 1-1986(Temp), f. & ef. 1-16-86; CD 5-1986, f. & ef. 3-14-86; CD 18-1990, f. & cert. ef. 9-21-90; CD 31-1993, f. 12-16-93, cert. ef. 1-3-94; CD 9-1997(Temp), f. & cert. ef. 6-13-97; CD 28-1997, f. & cert. ef. 12-5-97; DOC 24-2000, f. & cert. ef. 11-21-00; DOC 15-2008(Temp), f. & cert. ef. 7-1-08 thru 12-28-08; Administrative correction 1-23-09; DOC 1-2009, f. & cert. ef. 1-22-09

291-042-0011

Training Requirements

The functional unit manager of sites which are collecting urine samples for the purpose of urinalysis substance of abuse testing will appoint an SOA coordinator. The SOA coordinator will insure that only those persons who have successfully completed training will collect urine samples for the purpose of urinalysis testing.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 16-1994, f. 8-17-94, cert. ef. 9-1-94; CD 9-1997(Temp), f. & cert. ef. 6-13-97; CD 28-1997, f. & cert. ef. 12-5-97; DOC 24-2000, f. & cert. ef. 11-21-

00; DOC 15-2008(Temp), f. & cert. ef. 7-1-08 thru 12-28-08; Administrative correction 1-23-09; DOC 1-2009, f. & cert. ef. 1-22-09

291-042-0015

Urinalysis Testing

(1) Inmates shall furnish Department of Corrections staff with a urine sample when ordered to do so.

(a) If, after receiving an order to provide a urine sample, an inmate indicates that he or she is presently unable to provide a urine sample, the inmate will be permitted an initial two hours to provide the sample. During this time, staff will place the inmate in an area where he/she can be observed. The inmate may be offered an eight ounce container of water after the first half hour and at 30-minute intervals during this initial two hour period (24 ounces total).

(b) If an inmate has not provided the required sample within this time period and is not listed on the medical status report that he/she should be allowed additional time, staff will proceed in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(2) After the initial two-hour period, inmates listed on the medical status report will be allowed additional time if needed to provide a urine sample. The following will occur:

(a) The inmate will be strip searched, ordered to wash his/her hands, provided alternative clothing and placed in a secure water controlled area that is observable by staff.

(b) The inmate will be ordered to urinate only in the sample bottle and to notify staff before urinating, so the collection can be observed.

(c) At the beginning of the second hour in the water controlled area, the inmate will be offered eight ounces of water and an additional eight ounces of water every hour until the inmate has been given five eight ounce containers (40 ounces total) of water.

(d) The inmate may be held in the water controlled area until the inmate either verbally refuses to supply or supplies the urine sample. Health Services will be notified when an inmate has been held in a water controlled area for 24 hours and has not yet urinated.

(3) If at anytime during either of these processes the inmate refuses to supply a urine sample, staff shall proceed in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(4) Same gender staff should seek to obtain the sample from the inmate in a place and manner that will avoid undue embarrassment to the inmate. Staff shall utilize proper blood and body fluid precautions when taking or processing urine samples.

(5) Before an inmate provides a urine sample, he/she will be ordered to wash his/her hands thoroughly with soap, rinse thoroughly and dry his/her hands with a towel. When providing the sample, the inmate shall lower his/her pants, skirt or other garments to his/her ankles to afford staff an unobstructed view.

(6) If the inmate alters, contaminates or discards a urine sample, staff will proceed in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). The inmate will not be afforded the opportunity to provide another sample at this time.

(7) After a sufficient sample for urinalysis testing has been obtained (minimum of 45 ML), staff, or the inmate under direct observation, shall pour the sample into two vials filling one vial to the 15 ML line and the other to the 30 ML line, secure lids on both vials, rinse the exterior of the vials if necessary, and hand the sample collection vials to staff.

(a) Any remaining urine in the collection cup shall be disposed of into the urinal or toilet and the collection cup shall be disposed of according to established institution bio-hazard protocols.

(b) Staff may ask the inmate to identify any medication he/she is currently taking. If necessary, a separate sheet of paper may be used to list additional medications. This list may be maintained by the SOA coordinator for further use.

(8) Upon taking custody of the vials with the inmate's urine sample, staff shall follow the prescribed procedure for labeling the

sample and send the sample to an approved clinical laboratory for testing.

(9) The SOA coordinator shall ensure that the UA Chain of Custody form is properly completed for each inmate tested, or identified to be tested, and reflects the following information:

(a) The name and SID number of the inmate from whom the urine sample was obtained;

(b) The date and time the sample was obtained;

(c) The name and signature of the staff member that collected the sample;

(d) The specific approved panel test requested; and

(e) The signature of the inmate providing the sample along with the date. If the inmate refuses to sign the Chain of Custody form, staff will write "REFUSED" in the signature block, initial it, and record the date.

(10) It is the responsibility of the laboratory that performs the confirmation testing to maintain a proper chain of custody of the sample.

(11) An inmate whose urine sample tests "positive" for a controlled substance shall be issued a misconduct report in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(12) Any urine sample test which returns as a "dilute - positive," "adulterated," "invalid" or "substitute" will be treated as a "positive" for a substance of abuse. The inmate providing that sample will be issued a misconduct report in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 1-1986(Temp), f. & ef. 1-16-86; CD 5-1986, f. & ef. 3-14-86; CD 18-1990, f. & cert. ef. 9-21-90; CD 31-1993, f. 12-16-93, cert. ef. 1-3-94; CD 9-1997(Temp), f. & cert. ef. 6-13-97; CD 28-1997, f. & cert. ef. 12-5-97; DOC 24-2000, f. & cert. ef. 11-21-00; DOC 15-2008(Temp), f. & cert. ef. 7-1-08 thru 12-28-08; Administrative correction 1-23-09; DOC 1-2009, f. & cert. ef. 1-22-09

291-042-0025

Baseline Test Selection Protocol

(1) A percentage of the inmate population will be selected by the Department's Research Unit each month for urinalysis testing. Selection will be completed by a designated computer program. The Research Unit will forward these lists to the functional unit designees that are authorized to receive and secure these lists until testing.

(2) A copy of these lists will be sent to the Investigations Unit.

(3) The list shall remain "confidential" and be marked as such at all times. Only those staff members designated to receive the list and those designated to perform the collection will view the list. Inmates are strictly prohibited from observing the list at any time. Inmates are strictly prohibited from entering any area where the list is located.

(4) Staff will draw samples from each inmate on the list within 72 hours and forward those samples to the approved laboratory. If a listed inmate or an entire list of inmates is not tested for any reason (transferred, out-to-court, staff shortage, etc.), a chain of custody form will be completed for each inmate not tested and forwarded to the laboratory with the other samples.

(5) Results of baseline testing will be maintained at an approved DOC location or storage medium.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 31-1993, f. 12-16-93, cert. ef. 1-3-94; CD 9-1997(Temp), f. & cert. ef. 6-13-97; CD 28-1997, f. & cert. ef. 12-5-97; DOC 24-2000, f. & cert. ef. 11-21-00; DOC 15-2008(Temp), f. & cert. ef. 7-1-08 thru 12-28-08; Administrative correction 1-23-09; DOC 1-2009, f. & cert. ef. 1-22-09

291-042-0035

Testing Profile Requirements

(1) A urine specimen may be obtained by trained Department staff from any inmate, regardless of the inmate's programming when:

- (a) The inmate has a history of drug use;
 - (b) The inmate is going out on or returning from an authorized, unescorted leave;
 - (c) There is suspicion that the inmate is participating in drug use;
 - (d) The inmate is selected to provide a urine specimen; or
 - (e) The inmate is assigned to a work crew outside the facility.
- (2) **Mandatory Testing:** When there is suspicion that an inmate is participating in drug use, a specimen shall be obtained.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 31-1993, f. 12-16-93, cert. ef. 1-3-94; CD 9-1997(Temp), f. & cert. ef. 6-13-97; CD 28-1997, f. & cert. ef. 12-5-97; DOC 24-2000, f. & cert. ef. 11-21-00; DOC 15-2008(Temp), f. & cert. ef. 7-1-08 thru 12-28-08; Administrative correction 1-23-09; DOC 1-2009, f. & cert. ef. 1-22-09

DIVISION 46

SEGREGATION (ADMINISTRATIVE)

291-046-0005

Authority, Purpose and Policy

(1) The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) **Purpose:** The purpose of this rule is to provide a method to administratively house inmates in Department of Corrections facilities who:

- (a) Constitute a continuing or immediate threat to the safety, security, and orderly operation of the facility; or
- (b) Require protective custody.

(3) **Policy:** It is the policy of the Department of Corrections to administratively house those inmates in Department of Corrections facilities whose notoriety, actions or threats jeopardize the safety, security, and orderly operation of the facility, staff, visitors or other inmates.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 28-1987, f. & ef. 6-5-87; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0010

Definitions

(1) **Administrative Housing:** Housing separate and apart from the general population, including facilities, rooms, or cells for inmates whose actions, or threats jeopardize the safety, security, and orderly operation of the facility, staff, visitors, or other inmates or for those inmates who require protective custody and no other reasonable housing alternative is available.

(2) **Administrative Hold:** An involuntary or voluntary temporary administrative housing assignment not to exceed 30 days by order of the functional unit manager or designee only when he/she determines there is sufficient evidence to believe immediate assignment is necessary to protect the safety, security and orderly operation of the facility.

(3) **Administrative Segregation:** Administrative housing for those inmates whose notoriety, actions, or threats jeopardize the safety, security, and orderly operation of the facility, staff, visitors, or other inmates.

(4) **Department of Corrections Facility:** Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(5) **Inmate:** Any person under the supervision of Department of Corrections who is not on parole, post-prison supervision, or probation status.

(6) **Officer in Charge:** That person designated by the functional unit manager to supervise the facility and make operational decisions in accordance with rule or procedure during periods when the functional unit manager or officer of the day are not readily available.

(7) **Protective Custody:** Administrative housing for those inmates who consent in writing and for which no reasonable

housing alternative is available or for those inmates who are considered by staff to require protective custody but do not volunteer to sign consent for such placement.

(8) **Reasonable Grounds:** Information that is of such credibility that it would induce a reasonably prudent person to use it in the conduct of their serious affairs.

(9) **Special Needs Inmate Evaluation Committee (SNIIEC):** An institution committee that reviews, evaluates, and manages the needs of special population inmates housed in the custody of Department of Corrections facilities.

(10) **Special Population Management Committee (SPM):** A committee that is composed of at least three department staff to include a representative from Institution Operations, Behavioral Health Services, and the Office of Population Management.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 28-1987, f. & ef. 6-5-87; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0014

Administrative Hold

An inmate may be voluntarily or involuntarily assigned to administrative housing for a period not to exceed 30 days without a hearing. Any assignment exceeding 30 days must follow the procedures outlined under OAR 291-046-0020 (Voluntary Administrative Housing) or 291-046-0025 (Involuntary Administrative Housing).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0020

Voluntary Administrative Housing

(1) An inmate may be voluntarily placed in protective custody for a period in excess of 30 days without a hearing only when:

- (a) He/she consents in writing;
- (b) There is substantial evidence that protective custody is warranted and such evidence is documented;
- (c) There is no reasonable alternative available; and
- (d) The functional unit manager or designee authorizes such an assignment.

(2) The voluntary housing packet for protective custody will contain information as outlined in the Department's policy on Administrative Housing (40.3.3).

(3) Once the functional unit manager or designee has signed the voluntary assignment, the functional unit manager or designee will forward the voluntary packet recommending assignments over 30 days to the SPM Committee. Upon receipt of the voluntary packet, the SPM Committee will review the information and determine which administrative housing unit the inmate will be assigned.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0025

Involuntary Administrative Housing

(1) An inmate may be involuntarily placed in administrative segregation or protective custody for a period not to exceed 30 days by order of the functional unit manager or designee only when he/she has sufficient evidence to believe immediate assignment is necessary to protect the safety, security, and orderly operation of the facility.

(2) An inmate may be involuntarily placed in administrative segregation or protective custody for a period in excess of 30 days only when information verified through the hearing process, outlined in these rules, shows the inmate to constitute an immediate and continuing threat to the safety, security, and orderly operation of the facility.

(3) The involuntary administrative housing packet will contain information as outlined in the Department's policy on Administrative Housing (40.3.3).

(4) Each inmate placed in involuntary administrative housing exceeding 30 days will receive a hearing by a hearings officer. The hearing report shall be processed and reviewed by the Institutions Administrator or designee. If the factual allegations support placement in involuntary administrative segregation or protective custody, the packet will be forwarded to the SPM Committee for placement. Upon receipt of the administrative housing packet, the SPM Committee will review the information and determine which administrative housing unit the inmate will be assigned.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0030

Hearings Process

(1) Each inmate placed involuntarily in administrative housing will receive a hearing as described below if the involuntary placement request exceeds 30 days. The hearing shall occur within 30 days, if he/she is placed in administrative housing without a hearing as permitted in OAR 291-046-0025. It is the responsibility of each functional unit manager to notify the hearings officer of the need for a hearing and to provide him/her with a Request for Administrative Housing (CD1482) containing the allegations justifying such action, including a recommendation for length of stay not to exceed 180 days.

(2) The hearing shall be conducted by a hearings officer, or other person trained in the hearings process, in the event the hearings officer is unavailable.

(3) Prior to the hearing, the hearings officer shall review the involuntary housing assignment request to determine if there is sufficient evidence to proceed with a hearing. If the request is not complete, it will be returned to the functional unit manager for resubmission.

(4) The hearings officer shall not have participated in the case as a charging, investigating, or reviewing officer. Further, no person shall serve as a hearings officer who was a witness to the allegations or has personal knowledge of any disputed material fact relating to the case being heard.

(5) The hearings officer may pose questions during the hearing.

(6) The evidence considered by the hearings officer will be of such reliability as would be considered by reasonable persons in the conduct of their serious affairs.

(a) When confidential informant testimony is submitted to the hearings officer, the identity of the informant and the verbatim statement of the informant shall be revealed to the hearings officer in writing, but shall remain confidential.

(b) In order for the hearings officer to rely on the testimony of a confidential informant, information must be submitted to the hearings officer from which the hearings officer can find that the informant is a person who can be believed or that the information provided in the case at issue is truthful.

(7) Behavioral Health Services staff will be notified when inmates with either mental health or developmental disability issues are placed in administrative housing or are scheduled for an involuntary administrative housing hearing.

(8) At the conclusion of the hearing, the hearings officer will decide whether the factual allegations support involuntary placement of the inmate in administrative segregation or protective custody. The hearings officer may postpone the rendering of a decision for a reasonable period of time, not to exceed five days, for the purpose of reviewing the evidence.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0035

Findings

(1) No Justification: The hearings officer may find that the factual allegations do not support involuntary placement in administrative segregation or protective custody, in which case the hearings officer will recommend that the inmate remain in general population status with all rights and privileges of that status.

(a) The report shall be processed with final action subject to review by the Institutions Administrator.

(b) The findings must be on the merits. Technical or clerical errors in the writing or processing of the allegations shall not be grounds for a no justification finding, unless there is substantial prejudice to the inmate.

(2) Justification: The hearings officer may find the factual allegations do support placement in administrative segregation or protective custody, in which case the hearings officer will so inform the inmate, and recommend that he/she be assigned to administrative housing for a specified period of time, as recommended by the functional unit manager, but not to exceed 180 days. The report shall be processed and recorded with final action subject to review by the Institutions Administrator.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 28-1987, f. & ef. 6-5-87; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0040

Inmate Rights

(1) Hearing: An inmate shall be entitled to a hearing when an involuntary request for administrative housing has been filed against him/her.

(2) Waiver of Hearing:

(a) An inmate may waive the right to a hearing. Waiver of the right must be in writing or verbal and must be documented on the record. An inmate's refusal to attend the hearing will constitute a waiver.

(b) An inmate waiving his/her right to a hearing shall have his/her case reviewed on its merits by the hearings officer in accordance with the procedures outlined in this rule.

(3) Notice of Hearing:

(a) The inmate shall be given written notice of the hearing not less than 24 hours prior to the hearing, unless the inmate consents to holding the hearing within 24 hours after the involuntary request for administrative housing has been served on the inmate.

(b) The notice shall include a copy of this rule (OAR 291-046).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0045

Representation

(1) In all cases, the inmate is entitled to:

(a) Speak in his/her own behalf;

(b) Be present at all evidentiary stages of the hearing process, except when the hearings officer finds that to have the charged inmate present would present an immediate threat to the safety, security, and orderly operation of the facility. The reason(s) for the finding shall be part of the record.

(2) Assistance by an employee, inmate, or other person approved by the hearings officer will be ordered upon a finding that assistance is necessary based upon language barriers or competence and capacity of the inmate to prepare a defense, to understand the allegations, or to understand the rights available to him or her.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0050

Investigation

(1) The inmate may request that an investigation be conducted.
 (2) If an investigation is ordered, a designee of the hearings officer shall conduct the investigation. No person shall serve as an investigator who has participated in the case or who was a witness to the allegations or has personal knowledge of any disputed material fact relating to the case being heard.

(3) An investigation shall be conducted upon the inmate's request, if an investigation will assist in the resolution of the proceedings and the information sought is within the ability of the facility to procure.

(4) The hearings officer may order an investigation on his/her own motion.

(5) The hearings officer shall allow the inmate access to the results of the investigation unless disclosure of the investigative results would constitute a threat to the safety, security, and orderly operation of the facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0055

Testimony of Witnesses

The hearings officer shall direct the scheduling and taking of testimony of witnesses at the hearing. Witnesses may include inmates, employees, or other persons. Testimony may be taken in person, by telephone, or by written report or statement.

(1) The inmate may request that the hearings officer schedule witnesses to present testimony at the hearing. The request must be submitted to the hearings officer in writing in advance of the hearing, and include a list of the person(s) the inmate requests be called to testify and the questions to be posed to each person. The hearings officer shall arrange for the taking of testimony from such witnesses as properly requested by the inmate, subject to the exclusions and restrictions provided in these rules.

(2) The inmate shall not have the right to cross examine or directly pose questions to any witness.

(3) The hearings officer may limit testimony when it is cumulative or irrelevant.

(4) The hearings officer may exclude a specific inmate or employee witness upon finding that the witness' testimony would not assist the hearings officer in the resolution of the proceeding, or that the witness' appearance at the hearing would present an immediate undue risk to the safety, security, and orderly operation of the facility. If a witness is excluded, the reason(s) shall be made a part of the record.

(5) The hearings officer may exclude other persons as witnesses upon finding that the witness' testimony would not assist the hearings officer in the resolution of the proceeding, or that the witness' appearance at the hearing would present an undue risk to the safety, security, and orderly operation of the facility. The reason(s) for exclusion shall be made part of the record.

(6) Witnesses requested by the inmate may refuse to testify. Persons, other than inmates or employees, requested as witnesses may refuse to appear or testify.

(7) The hearings officer may, on his/her own motion, call witnesses to testify.

(8) All questions which may assist in the resolution of the proceeding, as determined by the hearings officer, shall be posed. The reason(s) for not posing a question will be made part of the record.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0060

Documents/Physical Evidence

(1) The inmate may present documents and physical evidence during the hearing, subject to the exclusion and restrictions provided in these rules.

(2) The reporting employee or other agents of the Department of Corrections who are knowledgeable of the allegations may submit documents and physical evidence.

(3) The hearings officer may exclude documents and physical evidence upon finding that such evidence would not assist in the resolution of the proceeding, or that such evidence would present an undue risk to the safety, security, and orderly operation of the facility. The reason(s) for exclusion shall be made part of the record.

(4) The hearings officer may classify documents and physical evidence as confidential (and not disclose such evidence to the inmate) upon finding that disclosure would present an undue risk to the safety, security, and orderly operation of the facility. The reason(s) for classifying documents and physical evidence as confidential shall be made part of the record.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0065

Postponement

(1) A hearing may be postponed by the hearings officer for good cause and for reasonable periods of time.

(2) Good cause includes, but is not limited to:

(a) Preparation of defense;

(b) Illness or unavailability of the inmate charged;

(c) Gathering of additional evidence (e.g., calling of witnesses, gathering of witnesses' statements, investigation, acquisition of physical evidence); or

(d) Avoiding interference with ongoing police investigation or pending prosecution.

(3) The reason(s) for the postponement shall be stated on the record.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0070

Hearing Record

(1) A verbatim recording of the hearing shall be made. Upon completion of the hearing, the hearings officer shall prepare a written hearing record of the decision and the supporting reasons within seven days for transmittal to the Institutions Administrator. The hearing decision shall be documented in the Correctional Information System.

(2) The record of the formal hearing shall include:

(a) Request for Administrative Housing form (CD 1482);

(b) Notice of hearing and copy of this rule (OAR 291-046);

(c) Supporting documentation; and

(d) Preliminary Order, Conclusion, and Recommendation of hearings officer.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0075

Institutions Administrator's Review

(1) The results of any hearing held to involuntarily place an inmate in administrative housing will be reviewed and approved by the Institutions Administrator or his/her designee.

(2) The Institutions Administrator or designee shall review the case, using the hearing record described above, in terms of the following factors:

(a) Was there substantial compliance with this rule (OAR 291-046);

(b) Was the decision based on substantial evidence; and

(c) Was the assignment to administrative housing consistent with the provisions of this rule (OAR 291-046).

(3) Within seven days of the receipt of the hearing record, the Institutions Administrator or his/her designee shall review the document and do one of the following:

- (a) Affirm the recommendation;
- (b) Modify the recommendation; or
- (c) Reverse the recommendation.

(4) When the Institutions Administrator takes action to modify or reverses a recommendation, he/she must state in writing, his/her reason(s) and immediately notify the inmate, the hearings officer, and the functional unit manager of his/her action and reason(s).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0080

Provision of Basic Services and Program

(1) Basic services and programs may be denied, or the manner in which they are provided may differ from the manner in which programs or services are provided to those in the general population, if their provision in a routine manner would cause an immediate and continuing threat to the safety, security, and orderly operation of the facility.

(2) The officer-in-immediate-charge may temporarily deny or withhold a basic service or program previously granted to an inmate in administrative housing if there are reasonable grounds to believe there is a threat to the safety, security, and orderly operation of the facility. All such actions must be reported to the functional unit manager and either affirmed or denied by him/her the following work day. No basic program or service will be permanently withheld without the expressed approval of the functional unit manager.

(3) At the discretion of the functional unit manager, inmates in administrative housing may not be permitted out of their assigned cell or room except when in actual custody of an employee. Restraints may be used at the discretion of the functional unit manager.

(4) Inmates in administrative housing will be given basic visiting status in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 28-1987, f. & ef. 6-5-87; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0085

Administrative Housing Release

(1) Voluntary Assignment: Inmates who voluntarily requested to be assigned to administrative housing will be reassigned to the general population upon request, but only after staff have had adequate time to determine proper placement and transfer to general population.

(2) Involuntary Assignment: Inmates involuntarily assigned to administrative segregation or protective custody will be reassigned to the general population once their involuntary timeframe has been completed, but the assignment shall not exceed 180 days without due process.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 47-1985, f. & ef. 8-16-85; CD 28-1987, f. & ef. 6-5-87; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0090

Situational Reviews

(1) Inmates assigned to administrative housing shall remain so assigned for only the shortest length of time necessary to achieve the purpose for which the assignment was prescribed. A review of all inmates' status will be made every 30 days by the institution Special Needs Inmate Evaluation Committee (SNIEC).

(2) An employee in administrative housing may initiate a request for an inmate requesting psychological intervention. All requests will be referred to Behavioral Health Services.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 7-1980(Temp), f. & ef. 4-1-80; CD 19-1980, f. & ef. 5-30-80; CD 28-1987, f. & ef. 6-5-87; CD 30-1997, f. 12-19-97, cert. ef. 1-1-98; DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

291-046-0100

Administrative Review

(1) Petitions for administrative review of involuntary administrative segregation or protective custody must be filed by the inmate with the Assistant Director of Operations within 30 calendar days after the recommendation is signed by the Institutions Administrator. Filing a petition for administrative review shall not stay the imposition of the recommendation. Petitions for administrative review shall minimally state the following:

(a) The date the hearing was completed and the hearings case number.

(b) Sufficient information to show why the finding and subsequent recommendation was not in accordance with the provisions set forth in the rule (OAR 291-046).

(2) Upon receipt of the petition for administrative review, the Assistant Director of Operations shall review the case to determine:

(a) Was there substantial compliance with the rule;

(b) Was the finding and subsequent recommendation based on evidence that was reliable and reasonable; and

(c) Was the recommendation imposed in accordance with the provisions set forth in this rule (OAR 291-046).

(3) If the Assistant Director of Operations determines that there was substantial compliance with the rule (OAR 291-046), the finding was based on reliable and reasonable evidence, and the recommendation imposed was in accordance with the provisions set forth in the rule (OAR 291-046), he/she shall so inform the inmate.

(4) If the Assistant Director of Operations determines that there was not substantial compliance with the rule (OAR 291-046), the finding was not based on reliable and reasonable evidence, or the recommendation imposed was not in accordance with the provisions set forth in the rule (OAR 291-046), he/she shall direct the hearing to be re-opened or vacate all or part of the final recommendation in the case.

(5) The Assistant Director of Operations shall provide the inmate with a written response to the petition for administrative review within 30 days from the date it is received by him or her. Documentation submitted to the Assistant Director of Operations shall not be returned to the inmate.

(6) Petitions that do not meet the requirements as defined by this rule will be returned to the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 18-2008, f. 7-18-08, cert. ef. 7-21-08

DIVISION 47

MENTAL HEALTH TREATMENT PROGRAM (INMATE ASSIGNMENT AND TRANSFER)

291-047-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 179.473, 179.478, 179.479, 179.495, 179.505, 423.020, 423.030, 423.075 and 2005 Or Laws, Ch 439.

(2) Purpose: This rule prescribes procedures by which inmates of Department of Corrections facilities may be transferred to a state mental hospital listed in ORS 426.010.

(3) Policy: It is the policy of the Department of Corrections to establish procedures to provide for the best possible evaluation, treatment and return or release to inmates, to and from a state

mental hospital in accordance with ORS 179.473, 179.478, 179.479 and 2005 Oregon Laws, Ch 439.

Stat. Auth.: ORS 179.040, 179.473, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
 Stats. Implemented: ORS 179.040, 179.473, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
 Hist.: CD 38, f. 1-28-77, ef. 2-1-77; CD 10-1979, f. & ef. 4-23-79; Renumbered from 291-40-250; CD 20-1979(Temp), f. & ef. 10-23-79; CD 9-1980, f. & ef. 4-1-80; CD 1-1983(Temp), f. & ef. 1-4-83; CD 14-1983, f. & ef. 4-1-83; CD 14-1984, f. & ef. 7-20-84; CD 26-1985, f. & ef. 8-16-85; CD 1-1994, f. 1-10-94, cert. ef. 1-18-94; DOC 5-2000, f. & cert. ef. 1-21-00; DOC 8-2005(Temp), f. & cert. ef. 7-7-05 thru 1-3-06; DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0010

Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(3) Mentally Ill Inmate: An inmate who, because of a mental disorder, is one or more of the following:

(a) Dangerous to self or others.

(b) Unable to provide for basic personal needs and is not receiving such care as is necessary for health or safety.

(c) An inmate who:

(A) Is chronically mentally ill, as defined in ORS 426.495;

(B) Within the previous three years, has twice been placed in a hospital or approved inpatient facility by the Department of Human Services under ORS 426.060;

(C) Is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in subparagraph (B) above; and

(D) Unless treated, will continue, to a reasonable medical probability, to physically or mentally deteriorate so that the inmate will become a person described under either or both subparagraph (A) or (B) above.

(4) State Mental Hospital: As defined in ORS 426.010. Except as otherwise ordered by the Department of Human Services pursuant to 179.325, the Oregon State Hospital in Salem, Marion County, and the Blue Mountain Recovery Center in Pendleton, Umatilla County, shall be used as state hospitals for the care and treatment of mentally ill persons who are assigned to the care of such institutions.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 179.473, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
 Stats. Implemented: ORS 179.040, 179.473, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
 Hist.: CD 38, f. 1-28-77, ef. 2-1-77; CD 10-1979, f. & ef. 4-23-79; Renumbered from 291-40-255; CD 20-1979(Temp), f. & ef. 10-23-79; CD 9-1980, f. & ef. 4-1-80; CD 1-1984(Temp), f. & ef. 2-17-84; CD 14-1984, f. & ef. 7-20-84; CD 26-1985, f. & ef. 8-16-85; CD 1-1994, f. 1-10-94, cert. ef. 1-18-94; DOC 5-2000, f. & cert. ef. 1-21-00; DOC 8-2005(Temp), f. & cert. ef. 7-7-05 thru 1-3-06; DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0021

Administrative Transfers (Mentally Ill Inmates)

(1) The Administrator of the Department of Corrections Counseling and Treatment Services Unit/designee may request the Superintendent/designee of a state mental hospital listed in ORS 426.010 to accept a transfer of a mentally ill inmate to a state mental hospital pursuant to these rules.

(2) An inmate may be transferred to a state mental hospital for stabilization and evaluation for mental health treatment for a period not to exceed 30 days unless the transfer is extended pursuant to a hearing conducted in accordance with these rules.

(3) If space is available and the Superintendent/designee of the state mental hospital approves, the inmate shall be transferred.

Stat. Auth.: ORS 179.040, 179.473, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
 Stats. Implemented: ORS 179.040, 179.473, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
 Hist.: DOC 8-2005(Temp), f. & cert. ef. 7-7-05 thru 1-3-06; DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0061

Hearings Process

(1) The Department of Human Services shall provide for an administrative commitment hearing conducted by a hearings officer employed or under contract with the Department of Corrections for administrative commitment or extension of the transfer of the inmate if:

(a) The Department of Human Services determines that administrative commitment for treatment for a mental illness is necessary or advisable or that the Department of Human Services needs more than 30 days to stabilize or evaluate the inmate for treatment; and

(b) The inmate does not consent to the administrative commitment or an extension of the transfer.

(c) Inmates in the legal custody of the Department of Corrections and in the physical custody of the Oregon Youth Authority (OYA) will be administratively committed through an OYA hearing, pursuant to OAR 416-425-0020. Inmates in OYA physical custody will be transferred directly from an OYA facility to a state mental hospital listed in ORS 426.010 or a hospital or facility designated by the Department of Human Services and returned directly to the OYA facility.

(2) It is the responsibility of the Superintendent/designee of the Oregon State Hospital to notify the hearings officer of the need for a hearing and to provide him or her with a transfer request containing the evidence justifying such action.

(3) The hearing shall be conducted by an independent hearings officer.

(4) The hearings officer shall not have participated in any previous way in the assessment process.

(5) The hearings officer may pose questions during the hearing.

(6) The evidence considered by the hearings officer will be of such reliability as would be considered by reasonable persons in the conduct of their serious affairs.

(7) When confidential informant testimony is submitted to the hearings officer, the identity of the informant and the verbatim statement of the informant shall be revealed to the hearings officer in writing, but shall remain confidential.

(8) In order for the hearings officer to rely on the testimony of a confidential informant, information must be submitted to the hearings officer from which the hearings officer can find that the informant is a person who can be believed or that the information provided in the case at issue is truthful.

(9) At the conclusion of the hearing, the hearings officer will deliberate and determine whether by clear and convincing evidence that the inmate is a mentally ill person as defined in ORS 426.005 and will be administratively committed involuntarily to a state mental hospital. The hearings officer may postpone the rendering of a decision for a reasonable period of time, not to exceed three working days from the date of hearing, for the purpose of reviewing the evidence.

(10) An inmate subject to an administrative commitment to a state mental hospital has the rights to which persons are entitled under ORS 179.485.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
 Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
 Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0065

Representation

(1) In all cases, the inmate is entitled to:

(a) Speak in his or her own behalf;

(b) Be present at all stages of the hearing process, except when the hearings officer finds that to have the inmate present would present an immediate threat to facility security or safety of its staff or others. The reason(s) for the finding shall be part of the record.

(2) Assistance by a qualified and independent person approved by the hearings officer will be ordered upon a finding that

assistance is necessary based upon the inmate's financial inability to provide an assistant, language barriers, or competence and capacity of the inmate to prepare a defense, to understand the proceedings, or to understand the rights available to him or her. An inmate subject to an administrative commitment hearing may not receive assistance from another inmate.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0070

Notice of Hearing

(1) The inmate shall be given written notice that an administrative commitment to a state mental hospital listed in ORS 426.010, a hospital or facility designated by the Department of Human Services, or an extension of the transfer is being considered by the Department of Corrections and the Department of Human Services.

(2) The notice will be provided by the hearings officer. Such notice must be provided far enough in advance of the hearing to permit the inmate to prepare for the hearing, but in no case shall notice be provided less than 24 hours prior to the hearing. The hearing shall take place no later than five days from the date of service of the notice.

(3) The notice shall include a copy of this rule.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0075

Investigation

(1) The inmate may request that an investigation be conducted. If an investigation is ordered, a designee of the hearings officer shall conduct the investigation. No person shall serve as an investigator who has participated in any previous way in the process.

(2) An investigation shall be conducted upon the inmate's request, if an investigation will assist in the resolution of the proceedings and the information sought is within the ability of the facility to procure or the inmate to provide with his or her own resources.

(3) The hearings officer may order an investigation on his or her own motion.

(4) The hearings officer shall allow the inmate access to the results of the investigation unless disclosure of the investigative results would constitute a threat to the safety and security of the facility, its staff or others, or to the orderly operation of the facility.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0080

Documents/Reports

(1) An inmate may present documents or reports during the hearing, subject to the exclusion and restrictions provided in these rules.

(2) The reporting employee or other agents of the Department of Corrections or Department of Human Services who are knowledgeable may submit to the hearings officer documents or reports in advance of the hearing that are being relied upon for the administrative commitment or extension of the transfer. Such evidence must be disclosed to the inmate during the hearing.

(3) The hearings officer may exclude documents or other evidence upon finding that such evidence would not assist in the resolution of the proceeding, or that such evidence would present an undue risk to the safety, security, and orderly operation of the facility. The reason(s) for exclusion shall be made part of the record.

(4) Notwithstanding subsection (2) of this rule, the hearings officer may classify documents or other evidence as confidential, and not disclose such evidence to the inmate, upon finding that disclosure of psychiatric or psychological information would constitute a danger to another individual, compromise the privacy of a confidential source, or would constitute an immediate and grave detriment to the treatment of the individual, if medically contraindicated by the treating physician or a licensed health care professional in the written account of the inmate. The reason(s) for classifying documents or other evidence as confidential shall be made part of the record.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0085

Witnesses

(1) The hearings officer shall direct the scheduling and taking of testimony of witnesses at the hearing. Witnesses may include inmates, employees, or other persons. Testimony may be taken in person, by telephone, or by written report or statement.

(2) Except as provided in this subsection, a hearings officer must provide an inmate or his or her representative with the opportunity to call witnesses to testify before the hearings officer and to confront and cross-examine witnesses called by the state. The hearings officer may deny the opportunity provided in this rule upon a finding of good cause. Good cause includes, but is not limited to, an undue risk to the safety, security, or orderly operation of the facility or an immediate and grave detriment to the treatment of the individual due to disclosure of psychiatric or psychological information, if medically contraindicated by the treating physician or a licensed health care professional. The reason(s) for any denial of the opportunity to call witnesses or confront and cross-examine witnesses shall be made part of the record.

(3) If the inmate intends to call witnesses, the inmate must request that the hearings officer schedule witnesses to present testimony at the hearing. The request must be submitted to the hearings officer in writing in advance of the hearing, and include a list of the person(s) the inmate requests to be called to testify and direct examination questions to be posed to each person. The hearings officer shall arrange for the taking of testimony from such witnesses as properly requested by the inmate, subject to the exclusions and restrictions provided in these rules. The hearings officer, rather than the inmate, shall pose questions submitted by the inmate, including questions on cross-examination, if any. The hearings officer may briefly recess the hearing to allow the inmate, the inmate's assistant, or both, an opportunity to prepare cross-examination questions.

(4) The hearings officer may limit testimony when it is cumulative or irrelevant.

(5) All questions which may assist in the resolution of the proceedings, as determined by the hearings officer, shall be posed. The reason(s) for not posing a question will be made part of the record.

(6) The hearings officer may, on his or her own motion, call witnesses to testify.

(7) The hearings officer may exclude a specific inmate or staff witness upon finding that the witness' testimony would not assist in the resolution of the proceeding or presents an immediate undue hazard to facility security. If a witness is excluded, the reason(s) shall be made part of the record.

(8) The hearings officer may exclude other persons as witnesses, after giving reasonable consideration to alternatives available for obtaining witness testimony, upon finding that the witness' testimony would not assist the hearings officer in the resolution of the proceeding, the witness' appearance at the hearing would present an undue risk to the safety, security, or orderly operation of the facility or the safety of the witness or others, or that the witness is not reasonably available. The reason(s) for exclusion shall be made part of the record.

(9) Persons other than staff requested as witnesses may refuse to appear or testify.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0090

Postponement

(1) A hearing may be postponed by the hearings officer for good cause and for reasonable periods of time.

(2) Good cause includes, but is not limited to:

- (a) Illness or unavailability of the inmate;
- (b) Gathering of additional evidence; or
- (c) Gathering of additional documentation.

(3) The reason(s) for the postponement shall be made part of the record.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0095

Findings

(1) No Justification: The hearings officer may find that the evidence does not support placement in a state mental hospital listed in ORS 426.010 or a hospital or facility designated by the Department of Human Services, in which case the hearings officer will recommend that the inmate return to his or her former status with all rights and privileges of that status. The hearing record shall be processed with final action subject to review by the Superintendent/designee of the Oregon State Hospital. The findings must be on the merits. Technical or clerical errors in the writing or processing of the transfer request, or both, shall not be grounds for a no justification finding, unless there is substantial prejudice to the inmate.

(2) Justification: The hearings officer may find the evidence supports the inmate's placement in a state mental hospital listed in ORS 426.010 or a hospital or facility designated by the Department of Human Services, in which case the hearings officer will so inform the inmate and recommend that the inmate's administrative commitment exceed 30 days. The hearing record shall be processed with final action subject to review by the Superintendent/designee of the Oregon State Hospital. An inmate's administrative commitment to a state mental hospital shall not exceed 180 days unless the commitment is renewed in a subsequent administrative hearing in accordance with these rules.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0100

Hearing Record

(1) Upon completion of a hearing, the hearings officer shall prepare and cause to be delivered to the Superintendent/designee of the Oregon State Hospital a hearing record within three days from the date of the hearing.

(2) The record of the formal hearing shall include:

- (a) Examination reports;
- (b) Notice of hearing and rights;
- (c) Recording of hearing;
- (d) Supporting material(s); and
- (e) "Findings-of-Facts, Conclusions, and Recommendation"

of the hearings officer.

(3) The hearings officer will retain the recording and forward to the Superintendent/designee of the Oregon State Hospital items (a), (b), (d), and (e) of this section.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0105

Superintendent's Review

(1) The results of any hearing held to place an inmate in a state mental hospital for administrative commitment will be reviewed and approved by the Superintendent/designee of the Oregon State Hospital.

(2) The Superintendent/designee of the Oregon State Hospital shall review the "Findings-of-Fact, Conclusions, and Recommendation" of the hearings officer, in terms of the following factors:

- (a) Was there substantial compliance with this rule;
- (b) Was the decision based on substantial information; and
- (c) Was the decision proportionate to the information and consistent with the provisions of this rule?

(3) Within three days of the receipt of the hearings officer's report, the Superintendent/designee of the Oregon State Hospital shall enter an "order," which may:

- (a) Affirm the recommendation;
- (b) Modify the recommendation;
- (c) Reverse the recommendation; or
- (d) Reopen the hearing for the introduction and consideration of additional evidence.

(4) When the Superintendent/designee of the Oregon State Hospital takes action to modify or reverse, he or she must state the reason(s) in writing and immediately notify the inmate, hearings officer, and Administrator for Counseling and Treatment Services.

(5) When the Superintendent/designee of the Oregon State Hospital reopens the hearing under this rule, the hearings officer shall, pursuant to these rules, conduct the reopened hearing and prepare an amended hearing record within three days of the reopened hearing. The Superintendent/designee of the Oregon State Hospital shall review the hearing officer's recommendation and enter an amended "order," which may affirm, modify, or reverse the hearing officer's recommendation.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0110

Extension of Transfer

(1) If the Department of Human Services determines that the administrative commitment must exceed 180 days in order to stabilize the inmate, the administrative commitment must be renewed in a subsequent administrative commitment hearing held in accordance with these rules.

(2) Notwithstanding this rule, an administrative commitment may not continue beyond the term of incarceration to which the inmate was sentenced.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439
Hist.: DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0115

Handling of Inmate Money and Personal Property

(1) When an inmate is transferred to a state mental hospital, the Department of Corrections shall send a check for the balance of the inmate's account to the business office of the state mental hospital.

(2) The inmate's personal property shall be transferred from the Department of Corrections facility in accordance with standards and limitations set by the state mental hospital to which the inmate is transferred.

(3) When the inmate is returned to a Department of Corrections facility, the inmate's money and personal property, as allowed by the Department of Corrections rules for Personal Property (Inmate) (OAR 291-117) and Trust Accounts (Inmate) (OAR 291-158), will be returned with the inmate. All property not allowed under the Department of Corrections rules for Personal Property (Inmate) shall be handled, controlled and disposed of in accordance with

Department of Human Services rules (309-108-000 through 309-108-0020).

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: CD 38, f. 1-28-77, ef. 2-1-77; CD 10-1979, f. & ef. 4-23-79, Renumbered from 291-040-0275; CD 20-1979(Temp), f. & ef. 10-23-79; CD 9-1980, f. & ef. 4-1-80; CD 14-1984, f. & ef. 7-20-84; CD 26-1985, f. & ef. 8-16-85; CD 1-1994, f. 1-10-94, cert. ef. 1-18-94; DOC 5-2000, f. & cert. ef. 1-21-00; Renumbered from 291-047-0030, DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0120

Visiting Privileges

(1) When an inmate is transferred to a state mental hospital, the Department of Corrections facility shall provide a copy of the inmate's approved list of visitors.

(2) All visitors shall be approved according to the state mental hospital's procedure.

(3) When an inmate is returned to a Department of Corrections facility, any new names added to the list will be subject to review and approval according to the Department of Corrections rule on Visiting (Inmate) (OAR 291-127) before admission of new visitors will be allowed.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: CD 38, f. 1-28-77, ef. 2-1-77; CD 10-1979, f. & ef. 4-23-79; CD 20-1979(Temp), f. & ef. 10-23-79; CD 9-1980, f. & ef. 4-1-80; CD 26-1985, f. & ef. 8-16-85; CD 1-1994, f. 1-10-94, cert. ef. 1-18-94; DOC 5-2000, f. & cert. ef. 1-21-00; Renumbered from 291-047-0035, DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0125

Short-Term Transitional Leaves, Emergency Leaves, and Supervised Trips

When an inmate is administratively transferred to a state mental hospital, no short-term transitional leaves, emergency leaves, or supervised trips shall be approved by the state mental hospital without approval of the functional unit manager of the Department of Corrections facility.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: CD 10-1979, f. & ef. 4-23-79; CD 20-1979(Temp), f. & ef. 10-23-79; CD 9-1980, f. & ef. 4-1-80; CD 14-1984, f. & ef. 7-20-84; CD 26-1985, f. & ef. 8-16-85; CD 1-1994, f. 1-10-94, cert. ef. 1-18-94; DOC 5-2000, f. & cert. ef. 1-21-00; Renumbered from 291-047-0040, DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0130

Releases From a State Mental Hospital

An inmate who is transferred to a state mental hospital may be discharged and transferred back to a Department of Corrections facility for one of the following reasons:

(1) Completion of treatment;

(2) He/she could receive mental health services within the Department of Corrections, and there was a mutually agreed upon continuity of care place developed by the state mental hospital and the Administrator of the Department of Corrections Counseling and Treatment Services Unit/designee; or

(3) He/she does not meet the requirements to continue treatment at a state mental hospital.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: CD 10-1979, f. & ef. 4-23-79; CD 20-1979(Temp), f. & ef. 10-23-79; CD 9-1980, f. & ef. 4-1-80; CD 1-1983(Temp), f. & ef. 1-4-83; CD 14-1983, f. & ef. 4-1-83; CD 26-1985, f. & ef. 8-16-85; CD 1-1994, f. 1-10-94, cert. ef. 1-18-94; DOC 5-2000, f. & cert. ef. 1-21-00; Renumbered from 291-047-0045, DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0135

Reporting of Unusual Incidents

Reporting of unusual incidents involving inmates administratively transferred to a state mental hospital shall be handled in accordance with the Department of Corrections policy on Unusual Incident Reporting Process.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479,

423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478,

179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: CD 10-1979, f. & ef. 4-23-79; CD 20-1979(Temp), f. & ef. 10-23-79; CD

9-1980, f. & ef. 4-1-80; CD 26-1985, f. & ef. 8-16-85; CD 1-1994, f. 1-10-94,

cert. ef. 1-18-94; DOC 5-2000, f. & cert. ef. 1-21-00; Renumbered from 291-

047-0050, DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

291-047-0140

Confidentiality/Sharing of Information

(1) Department of Corrections records and other inmate information shall not be available to inmates or persons not employed by, nor under contract to, the Department of Human Services.

(2) Department of Human Services records and information shall be handled in accordance with ORS 179.495, 179.505, 192.501, 192.502, 192.505 and 42 CFR Part 2 relating to confidentiality of medical treatment records.

Stat. Auth.: ORS 179.040, 179.473, 179.475, 179.477, 179.478, 179.479,

423.020, 423.030 & 423.075, OL 2005, Ch. 439

Stats. Implemented: ORS 179.040, 179.473, 179.475, 179.477, 179.478,

179.479, 423.020, 423.030 & 423.075, OL 2005, Ch. 439

Hist.: CD 10-1979, f. & ef. 4-23-79; CD 20-1979(Temp), f. & ef. 10-23-79; CD

9-1980, f. & ef. 4-1-80; CD 14-1984, f. & ef. 7-20-84; CD 1-1994, f. 1-10-94,

cert. ef. 1-18-94; DOC 5-2000, f. & cert. ef. 1-21-00; Renumbered from 291-

047-0055, DOC 16-2005, f. 12-30-05, cert. ef. 1-1-06

DIVISION 48

MENTAL HEALTH SPECIAL HOUSING

291-048-0200

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish department policy and procedures for the assignment of inmates to mental health special housing who, because of a mental illness or severe emotional disturbance, are unable to adjust satisfactorily in the general inmate population.

(3) Policy: The department recognizes there are a number of inmates with significant mental health issues. It is the policy of the Department of Corrections to:

(a) Provide an environment oriented to mental health treatment for inmates within the department who, because of mental illness or severe emotional disturbance, are behaving in such a way as to endanger themselves or others or are unable to provide for their basic needs; and

(b) Adopt practices within this environment to safely manage this high risk inmate population where effective treatment and behavior management can occur.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1981, f. & ef. 4-3-81; CD 15-1984, f. & ef. 7-20-1984; CD 20-1984(Temp), f. & ef. 11-6-84; CD 4-1985, f. & ef. 5-16-85; CD 27-1985, f. & ef. 8-16-85; CD 19-1987, f. & ef. 3-5-87; CD 4-1988, f. & cert. ef. 3-21-88; CD 3-1996, f. 4-26-96, cert. ef. 5-1-96; DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99, Renumbered from 291-048-0005; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0100 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0100 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0210

Definitions

(1) Behavior Health Services (BHS): A Health Services unit with primary responsibility for the assessment and treatment of inmates with mental illness and developmental disabilities.

(2) Behavioral Health Unit: An intensive behavioral management and skills training unit for inmates with serious mental illness that have committed violent acts or disruptive behavior.

(3) BHS Program Manager: That person who reports to the Behavior Health Services administrator and has responsibility for delivery of program services or coordination of program operations in a mental health special housing unit. Whenever the term "BHS program manager" is used in this rule it means BHS program manager or designee.

(4) Facility: The building and grounds area operated by the Department of Corrections which physically houses inmates.

(5) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations. Whenever the term "functional unit manager" is used in this rule it means functional unit manager or designee. In these rules for mental health special housing, the "functional unit manager" is the superintendent of the institution.

(6) Intermediate Care Housing (ICH): A mental health special housing unit with a therapeutic environment for mental health step down from a Mental Health Infirmary; a stabilization unit for inmates who cycle in and out of a Mental Health Infirmary.

(7) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(8) Mental Health Infirmary (MHI): A crisis response unit that provides psychiatric care and a therapeutic environment for inmates that require intensive assessment, care, and stabilization.

(9) Mental Health Specialist: Any person who reports to the BHS administrator and has the responsibility for delivery of mental health program services in a facility.

(10) Mental Health Special Housing: A housing assignment separate and apart from the general population, including facilities, rooms, or cells for inmates that are unable to adjust satisfactorily to the general inmate population because of a serious mental illness. Mental health special housing includes a Mental Health Infirmary, Intermediate Care Housing, and Behavioral Health Unit.

(11) Mental Health Special Housing (MHSH) Custody Manager: That person designated by the functional unit manager who is responsible for security in a mental health special housing unit and for making operational decisions in accordance with policy, rule, or procedure. Whenever the term "mental health special housing custody manager" is used in this rule it means the mental health special housing custody manager or designee.

(12) Mental Health Treatment Team: A team that may consist of the unit program manager(s), psychiatrist or nurse practitioner, nurse, mental health specialist, MHSH custody manager, represented custody staff members and other designated staff. The purpose of this group is to:

(a) Assess the mental condition of inmates assigned to a mental health special housing unit;

(b) Establish and update treatment plans for these inmates, and

(c) Coordinate their discharge and mental health follow-up.

(13) Reasonable Grounds: Information that is of such credibility that it would induce a reasonably prudent person to use it in the conduct of their affairs.

(14) Serious Mental Illness: An inmate that, in the judgment of the department, because of a mental disorder is one or more of the following:

(a) Dangerous to self or others;

(b) Unable to provide for basic personal needs and would likely benefit from receiving additional care for the inmate's health or safety;

(c) Chronically mentally ill, as defined in ORS 426.495; or

(d) Will continue, to a reasonable medical probability, to physically or mentally deteriorate so to become a person described in (c) above unless treated.

(15) Special Population Management Committee (SPM): A committee that is composed of at least three department staff to include a representative from institution operations, Behavior Health Services, and the Office of Population Management.

(16) Treating Practitioner: Any Health Services employee who, by licensure, is authorized to prescribe treatment, including but not limited to, physicians, nurse practitioners and physicians assistants.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1981, f. & ef. 4-3-81; CD 15-1984, f. & ef. 7-20-84; CD 20-1984(Temp), f. & ef. 11-6-84; CD 4-1985, f. & ef. 5-16-85; CD 27-1985, f. & ef. 8-16-85; CD 19-1987, f. & ef. 3-5-87; CD 3-1996, f. 4-26-96, cert. ef. 5-1-96; DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99, Renumbered from 291-048-0010; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0110 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0110 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0220

Selection and Training of Staff for Mental Health Special Housing

(1) Selection Criteria: For positions that are solely assigned to mental health special housing:

(a) Custody staff must have successfully completed trial service;

(b) All staff requesting to work in mental health special housing will be reviewed and must receive a satisfactory appraisal by a committee designated the functional unit manager before assignment to the unit. At a minimum, the staff member must meet the following criteria:

(A) Have expressed a constructive interest in working with inmates in mental health special housing;

(B) Have demonstrated the ability to work with inmates through conflict-reducing and conflict-control skills; and

(C) Have demonstrated the ability to use good judgment.

(2) Mental health special housing positions will be made by the functional unit manager and will be reviewed as needed.

(3) Mental Health Special Housing Position Rotations: Rotation of staff may occur as it is found to be in the best interest or well being of the employee, or the operation of the unit, upon determination by a committee designated the functional unit manager.

(4) Training of Assigned Personnel: All employees assigned to work in a mental health special housing unit are required to annually complete a minimum number of 12 training hours specific to mental health special housing, in addition to any other department training requirements.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 15-1984, f. & ef. 7-20-84; CD 4-1985 f. & ef. 5-16-85; CD 27-1985, f. & ef. 8-16-85; CD 19-1987, f. & ef. 3-5-87; CD 37-1987(Temp), f. & ef. 9-24-87; CD 3-1996, f. 4-26-96, cert. ef. 5-1-96; Suspended by DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0115 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0115 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0230

Recommendation and Referral Process to a Mental Health Special Housing Unit

(1) An inmate that, in the judgment of the department, meets one or more of the following conditions because of a mental illness should be considered for assignment to mental health special housing:

- (a) A danger to others;
- (b) A danger to self (including all inmates who are acutely suicidal);
- (c) Unable to care for his/her basic needs;
- (d) In an acute phase of mental or emotional disorder; or
- (e) Needs a diagnostic evaluation or medication adjustment.

(2) If any staff member thinks an inmate is in need of mental health treatment in mental health special housing, the concerned staff member may submit a recommendation for a mental health evaluation.

(3) A mental health specialist shall complete an evaluation of the inmate within five calendar days.

(4) If the mental health specialist recommends placement, he/she will make the appropriate referral.

(5) Upon completion of the evaluation, the inmate will be assigned to a mental health special housing unit or be returned to his/her former status if assignment to mental health special housing is not needed.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist: DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0240

Mental Health Special Housing Assignment

(1) An inmate will be assigned to a mental health special housing unit based on the least restrictive environment that satisfies the needed level of care.

(2) Mental health special housing includes Mental Housing Infirmary, Intermediate Care Housing, and the Behavioral Health Unit. The assignment process varies dependent on the specific unit.

(a) Assignment to a Mental Health Infirmary will be made in accordance with OAR 291-048-0250 to 0260.

(b) Assignment to Intermediate Care Housing will be made in accordance with OAR 291-048-0270

(c) Assignment to a Behavioral Health Unit will be made in accordance with OAR 291-048-0280

(3) Once an inmate has been assigned to a mental health special housing unit, the inmate may be assigned to other mental health special housing units for treatment as deemed necessary or advisable by the mental health treatment team. However, an inmate may only be assigned to a Mental Health Infirmary by order of the treating practitioner.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist: DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; DOC 6-2011, f.

3-31-11, cert. ef. 4-1-11

291-048-0250

Voluntary Assignment to a Mental Health Infirmiry

(1) An inmate may be voluntarily placed in a Mental Health Infirmiry when:

- (a) There is a referral from an institution mental health specialist, nurse, or outside mental health contractor; and
- (b) The mental health treatment team finds that the inmate is in need of mental health treatment; and
- (c) There is reasonable likelihood that treatment can be accomplished in a Mental Health Infirmiry; and
- (d) The inmate consents to admission in writing.

(2) The treating practitioner shall make the final decision whether an inmate is admitted to a Mental Health Infirmiry for treatment.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1981, f. & ef. 4-3-81; CD 15-1984, f. & ef. 7-20-84; CD 20-1984(Temp), f. & ef. 11-6-84; CD 4-1985, f. & ef. 5-16-85; CD 19-1987, f. & ef. 3-5-87; CD 3-1996, f. 4-26-96, cert. ef. 5-1-96; DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99, Renumbered from 291-048-0015; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0130 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0130 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0260

Involuntary Assignment to a Mental Health Infirmiry

(1) Emergency:

(a) An inmate may be involuntarily assigned to a Mental Health Infirmiry for evaluation for a period not to exceed five working days by order of the BHS program manager, treating practitioner, or functional unit manager, only upon a finding of reasonable grounds.

(b) The decision to place an inmate in a Mental Health Infirmiry will be based on the recommendation of the mental health staff, psychologist, the Medical Services manager, or available program staff. Other pertinent staff reports may also be considered.

(c) If the inmate is placed in a Mental Health Infirmiry on an emergency basis, the functional unit manager shall inform the inmate in writing.

(d) Assessment: Within five working days following assignment to a Mental Health Infirmiry, the mental health treatment team will assess the need for treatment. The following mental health data shall be considered by the treating practitioner in making the assessment:

- (A) Existence and type of disorder;
- (B) Potential therapeutic effect of a change in environment;
- (C) Potential for development of a comprehensive program for treatment of the inmate that is available within a Mental Health Infirmiry and is likely to benefit the inmate;
- (D) Ability to function in the general population; and
- (E) Any other factors substantially related to the mental health of the inmate as applicable, including staff observation, individual diagnostic interviews and tests assessing intellect and coping abilities.

(e) Upon completion of the assessment and compilation of the inmate's mental health history:

(A) If the mental health treatment team determines the inmate is not in need of the level of care in a Mental Health Infirmiry, the inmate will be returned to his/her former status or referred to mental health treatment as appropriate.

(B) If the mental health treatment team determines the inmate is in need of the level of care in a Mental Health Infirmiry, an overall treatment plan will be developed with appropriate referral as needed.

(f) The inmate will be given the opportunity to voluntarily admit himself/herself to a Mental Health Infirmiry.

(g) If the inmate is unwilling to be voluntarily admitted, the treating practitioner may admit the inmate on an involuntary basis.

(A) The treating practitioner will notify and deliver a copy of the Notice of Emergency/Involuntary Assignment to Mental Health Special Housing (CD 1567) to the functional unit manager.

(B) The functional unit manager will notify the hearings officer.

(C) The hearings officer will make arrangements to conduct an involuntary assignment hearing as outlined in OAR 291-048-0290 within five working days after completion of the evaluation.

(2) Non-Emergency:

(a) If an inmate is thought by any staff member to be in need of mental health treatment in a Mental Health Infirmiry, the concerned staff member may submit a recommendation for a mental health evaluation as described in OAR 291-048-0230.

(b) If the mental health specialist recommends placement in Mental Health Infirmiry, admission consideration will follow as provided in section (1)(d)(A)-(E) of this rule, with notification to the functional unit manager.

(c) The inmate will be given the opportunity to voluntarily admit himself/herself to a Mental Health Infirmiry. If the inmate is unwilling to be voluntarily admitted, the treating practitioner may admit the inmate on an involuntary basis.

(A) The treating practitioner will notify and deliver a copy of the Notice of Emergency/Involuntary Assignment to Mental Health Special Housing (CD 1567) to the functional unit manager.

(B) The functional unit manager will notify the hearings officer.

(C) The hearings officer will make arrangements to conduct an involuntary assignment hearing as outlined in OAR 291-048-0290 within five working days after completion of the evaluation.

(3) Recommended Length of Stay: In all instances where assignment is recommended, the treating practitioner will include a recommendation for the length of stay in a Mental Health Infirmiry, not to exceed 180 days.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1981, f. & ef. 4-3-81; CD 15-1984, f. & ef. 7-20-84; CD 20-1984(Temp), f. & ef. 11-6-84; CD 4-1985, f. & ef. 5-16-1985; CD 27-1985, f. & ef. 8-16-85; CD 19-1987, f. & ef. 3-5-87; CD 3-1996, f. 4-26-96, cert. ef. 5-1-96; DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99, Renumbered from 291-048-0020; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0140 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0140 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0270

Assignment to Intermediate Care Housing

(1) An inmate may be assigned to Intermediate Care Housing based on a referral from a mental health specialist. An inmate may be referred if:

(a) It is determined at release from an MHI that the inmate requires additional stabilization prior to placement into a less restrictive environment;

(b) It is determined at intake that the inmate does not have the basic coping skills to be placed directly into a less restrictive environment;

(c) It is determined during the inmate's incarceration that he or she will have an increase in symptoms in a less restrictive environment if he or she is not provided a higher level of treatment and support; or

(d) The inmate demonstrates high risk for suicide or frequent self-harm.

(2) An inmate may be placed in Intermediate Care Housing when:

(a) There is a referral from a mental health specialist, nurse, or outside mental health contractor;

(b) The mental health treatment team finds that the inmate is in need of mental health treatment; and

(c) There is a reasonable likelihood that treatment can be accomplished in Intermediate Care Housing.

(d) The BHS program manager shall make the final decision whether an inmate is admitted to Intermediate Care Housing for treatment.

(3) Assessment: Within five working days following assignment to Intermediate Care Housing, the mental health treatment team will assess the need for treatment. The following mental health data shall be considered by the BHS program manager in making the assessment:

- (a) Existence and type of disorder;
- (b) Potential therapeutic effect of a change in environment;

(c) Potential for development of a comprehensive program for treatment of the inmate that is available within Intermediate Care Housing and is likely to benefit the inmate;

(d) Ability to function in the general population; and

(e) Any other factors substantially related to the mental health of the inmate as applicable, including staff observation, individual diagnostic interviews and tests assessing intellect and coping abilities.

(4) Upon completion of the assessment and compilation of the inmate's mental health history:

(a) If the mental health treatment team determines the inmate is not in need of the level of care in Intermediate Care Housing, the inmate will be returned to his/her former status or referred to mental health treatment as appropriate.

(b) If the mental health treatment team determines the inmate is in need of the level of care in Intermediate Care Housing, an overall treatment plan will be developed with appropriate referral as needed.

(c) The inmate will be given the opportunity to voluntarily admit himself/herself to Intermediate Care Housing.

(d) If the inmate is unwilling to be voluntarily admitted, the BHS program manager may admit the inmate on an involuntary basis.

(A) If the inmate has previously been assigned to a mental health special housing unit on an involuntary basis within the last 180 days, the inmate may be assigned to Intermediate Care Housing without any further action.

(B) If the inmate has not previously been assigned to a mental health special housing unit on an involuntary basis, the BHS program manager will notify and deliver a copy of the Notice of Emergency/Involuntary Assignment to Mental Health Special Housing (CD 1567) to the functional unit manager.

(C) The functional unit manager will notify the hearings officer.

(D) The hearings officer will make arrangements to conduct an involuntary assignment hearing as outlined in OAR 291-048-0290 within five working days after completion of the assessment.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist: DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0280

Assignment to a Behavioral Health Unit

(1) An inmate may be assigned to a Behavioral Health Unit if the inmate has committed violent acts or disruptive behavior and is diagnosed with a serious mental illness. An inmate may be referred if:

(a) The inmate has committed violent or disruptive disciplinary actions in either general housing or special housing units and is placed in temporary disciplinary segregation in accordance with OAR 291-105; or

(b) A hearings officer recommends assignment to a Behavioral Health Unit as a diversion to a disciplinary segregation sanction in accordance with OAR 291-105; or

(c) The inmate is being considered for placement in an Intensive Management Unit in accordance with OAR 291-055 and the Special Population Management (SPM) Committee recommends assignment to a Behavioral Health Unit.

(2) An inmate may be placed in a Behavioral Health Unit when:

(a) There is a referral from a mental health specialist, nurse, or outside mental health contractor;

(b) The mental health treatment team finds that the inmate is in need of mental health treatment; and

(c) There is a reasonable likelihood that treatment can be accomplished in a Behavioral Health Unit.

(d) The BHS program manager shall make the final decision whether an inmate is admitted to a Behavioral Health Unit for treatment.

(3) Assessment: Within five working days following assignment to a Behavioral Health Unit, the mental health treatment team

will assess the need for treatment. The following mental health data shall be considered by the BHS program manager in making the assessment:

(a) Existence and type of disorder;

(b) Potential therapeutic effect of a change in environment;

(c) Potential for development of a comprehensive program for treatment of the inmate that is available within a Behavioral Health Unit and is likely to benefit the inmate;

(d) Ability to function in an Intensive Management Unit or disciplinary segregation; and

(e) Any other factors substantially related to the mental health of the inmate as applicable, including staff observation, individual diagnostic interviews and tests assessing intellect and coping abilities.

(4) Upon completion of the assessment and compilation of the inmate's mental health history:

(a) If the mental health treatment team determines the inmate is not in need of the level of care in a Behavioral Health Unit, the inmate will be returned to his/her former status, assigned to an Intensive Management Unit or assigned to disciplinary segregation.

(b) If the mental health treatment team determines the inmate is in need of the level of care in a Behavioral Health Unit, an overall treatment plan will be developed with appropriate referral as needed.

(c) The inmate will be given the opportunity to voluntarily admit himself/herself to a Behavioral Health Unit.

(d) If the inmate is unwilling to be voluntarily admitted, the BHS program manager may admit the inmate on an involuntary basis.

(A) If the inmate has previously been assigned to a mental health special housing unit on an involuntary basis within the last 180 days, the inmate may be assigned to a Behavioral Health Unit without any further action.

(B) If the inmate has not previously been assigned to a mental health special housing unit on an involuntary basis, the BHS program manager will notify and deliver a copy of the Notice of Emergency/Involuntary Assignment to Mental Health Special Housing (CD 1567) to the functional unit manager.

(C) The functional unit manager will notify the hearings officer.

(D) The hearings officer will make arrangements to conduct an involuntary assignment hearing as outlined in OAR 291-048-0290 within five working days after completion of the assessment.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist: DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0290

Involuntary Assignment to Mental Health Special Housing

(1) Notice of Hearing:

(a) The inmate shall be given written notice of the hearing by the hearings officer not less than 24 hours prior to the hearing.

(b) The notice shall include a statement of the inmate's rights with respect to the hearing.

(2) The hearing shall be conducted by a hearings officer or other person trained in the hearings process, in the event the hearings officer is unavailable.

(3) The hearings officer shall not have participated in any previous way in the assessment process.

(4) The hearings officer may pose questions during the hearing.

(5) Representation:

(a) In all cases, the inmate is entitled to:

(A) Speak in his/her own behalf;

(B) Be present at all stages of the hearing process, except when the hearings officer finds that to have the inmate present would present an immediate threat to facility security or safety of its staff or others. The reason(s) for the finding shall be a part of record.

(b) Assistance by a staff member, inmate, or other person approved by the hearings officer will be ordered for those individuals in cases where it is found that assistance is necessary based upon language barriers or competence and capacity of the inmate.

(6) Investigation: The inmate has a right to request that an investigation be conducted. If an investigation is ordered, a designee of the hearings officer shall conduct the investigation. No person shall serve as an investigator who has participated in any previous way in the process.

(a) An investigation shall be conducted upon the inmate's request if an investigation will assist in the resolution of the proceedings and the information sought is within the ability of the facility to procure or the inmate to provide with his/her own resources.

(b) The hearings officer may order an investigation on his/her own motion.

(c) The hearings officer shall allow the inmate access to the results of the investigation unless disclosure of the investigative results would constitute a threat to the safety and security of the facility, its staff or others.

(7) Witnesses: Inmates have the right to call witnesses to testify before the hearings officer. Witnesses may include inmates, staff, or other persons.

(a) If witnesses will be called, the inmate, prior to the hearing, must develop a list of witnesses and questions to be posed to each witness. The inmate shall bring the list of questions and the list of witnesses to the hearing.

(b) The inmate or his/her representative shall not have the right to cross examine or directly pose questions to any witness.

(c) The hearings officer may exclude a specific inmate or staff witness upon finding that the witness' testimony would not assist in the resolution of the proceeding or presents an immediate undue hazard to facility security or the safety of its staff or others. If a witness is excluded, the reason(s) shall be made a part of the record.

(d) The hearings officer may exclude other persons as witnesses upon finding that their testifying is unduly hazardous to facility security or the safety of its staff or others; not reasonably available; or would not assist in the resolution of the action. The reason(s) for exclusion shall be made a part of the record.

(e) An inmate witness shall have the right to refuse to testify.

(f) Persons other than inmates or staff requested as witnesses shall have the right to refuse to appear or testify.

(g) The hearings officer may, on his/her own motion, call witnesses to testify.

(h) All questions which will assist in the resolution of the proceedings, as determined by the hearings officer, shall be posed. The reason(s) for not posing a question will be made a part of the record.

(8) Documentation/Reports:

(a) Inmates shall have the right to present documents/reports during the hearing.

(b) The reporting staff member, or other agents of the facility who are knowledgeable, may submit documents/reports in advance of the hearing.

(c) The hearings officer may exclude documents/reports, making a finding that such would be unduly hazardous to facility security or the safety of its staff or others, or would not assist in the resolution of the proceeding. The reason(s) for exclusion shall be made a part of the record.

(d) The hearings officer may classify documents/reports as confidential upon making a finding that revealing such would constitute a threat to the safety and security of the facility or violate statutory provisions regarding confidentiality. The reason(s) for classifying documents/reports as confidential shall be made a part of the record.

(9) Postponement:

(a) A hearing may be postponed by the hearings officer for "good cause" and for a reasonable period of time, not to exceed three working days.

(b) "Good cause" includes, but is not limited to:

(A) Illness or unavailability of the inmate;

(B) Gathering of additional evidence; or

(C) Gathering of additional documentation.

(c) The reason(s) for the postponement shall be made a part of the record.

(10) At the conclusion of the hearing, the hearings officer will deliberate and determine whether the information supports placement of the inmate in mental health special housing, taking into account any contrary information submitted by the inmate. The hearings officer may postpone the rendering of a decision for a reasonable period of time, not to exceed three working days, for the purpose of reviewing the information.

(a) No Justification: The hearings officer may find that the information does not support placement in mental health special housing, in which case the hearings officer will recommend that the inmate return to his/her former status with all rights and privileges of that status.

(b) Justification: The hearings officer may find the report does support placement in mental health special housing, in which case the hearings officer will so inform the inmate and recommend the inmate be assigned to mental health special housing for a specified period of time as recommended by the treating practitioner and mental health treatment team, not to exceed 180 days.

(11) Hearing Record:

(a) Upon completion of a hearing, the hearings officer shall prepare a hearing record within five days following the conclusion of the hearing.

(b) The record of the formal hearing shall include:

(A) Examination reports;

(B) Notice of hearing and rights;

(C) Recording of hearing;

(D) Supporting material(s); and

(E) "Findings of Fact, Conclusion, and Recommendation" of the hearings officer.

(c) The hearings officer will retain the recording and forward to the Behavior Health Services Administrator items (A), (B), (D), and (E) of this section.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1981, f. & ef. 4-3-81; CD 15-1984, f. & ef. 7-20-84 CD 20-1984(Temp), f. & ef. 11-6-84; CD 4-1985, f. & ef. 5-16-85; CD 19-1987, f. & ef. 3-5-87; CD 3-1996, f. 4-26-96, cert. ef. 5-1-96; DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99, Renumbered from 291-048-0025; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0150 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0150 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0300

Administrative Review

(1) The Behavior Health Administrator or designee shall review the results of any hearing held to involuntarily place an inmate in mental health special housing.

(2) The Behavior Health Administrator or designee shall review the Findings of Fact, Conclusion, and Recommendation of the hearings officer to determine whether:

(a) There was substantial compliance with the procedural requirements of these rules;

(b) The recommended decision was based on substantial information; and

(c) The recommended decision was proportionate to the information and consistent with the provisions of the rule.

(3) Within five days of the receipt of the hearings officer's report, the Behavior Health Administrator or designee shall enter an order to:

(a) Affirm the hearings officer's recommended decision;

(b) Modify the hearings officer's recommended decision; or

(c) Reverse the hearings officer's recommended decision.

(4) If the Behavior Health Administrator or designee modifies or reverses the hearings officer's recommended decision, the Behavior Health Administrator or designee must state the reason(s) in writing and promptly notify the inmate, hearings officer, mental health treatment team and functional unit managers of the action and reason.

(5) A copy of the order shall be returned to the hearings officer and the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1981, f. & ef. 4-3-81; CD 15-1984, f. & ef. 7-20-84; CD 4-1988, f. & cert. ef. 3-21-88; CD 3-1996, f. 4-26-96, cert. ef. 5-1-96; DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99, Renumbered from 291-048-0030; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0160 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0160 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0310

Provision of Basic Services and Programs in Mental Health Special Housing

(1) Mental health special housing shall be under the clinical supervision of the BHS program manager and the operational supervision of the MSHS custody manager.

(2) An inmate in mental health special housing may be given special security housing upon recommendation of the mental health treatment team for a specified period of time, and may not be permitted out of their assigned cell/room except when in actual custody of a custody staff member.

(3) Basic services and programs shall be determined by the mental health treatment team. The manner in which services and programs are provided may differ from the way they are provided to inmates in general population, if providing them in a routine manner would cause an immediate and continuing threat to the security of the facility or the safety of its staff or others.

(4) The mental health treatment team will develop, implement, or modify each individual inmate's treatment. A review of the inmate's treatment plans will occur as clinically indicated.

(a) The plan will have a specific set of objectives to meet in a progression of increasing personal responsibility. The treatment plan must be written, and a copy given to each inmate with whom the treatment plan is developed. A review of treatment plans will occur every 30 days or as clinically indicated.

(b) A treatment plan may include, but is not limited to, a structured daily schedule for that individual inmate different from the unit schedule based on that inmate's individual needs.

(5) Mental health special housing staff may temporarily withhold a basic service previously approved to an inmate in mental health special housing if he/she has sufficient reason to believe the security of the facility, its staff or others is in immediate danger.

(a) The MSHS custody manager shall be informed as soon as is reasonable of any service or program that is withheld.

(b) All such actions directly affecting an inmate's individual treatment must be reported to the BHS program manager by the following work day.

(c) The mental health treatment team must review any basic service or program that is withheld continuously.

(6) Psychiatric treatment or any type of psychotropic drugs administered to an inmate assigned to mental health special housing shall be in accordance with the Department of Corrections rule on Informed Consent to Treatment (OAR 291-064).

(7) All psychotropic medication administered to inmates housed in mental health special housing shall be prescribed by a licensed treating practitioner. All prescribed medication shall be administered by a nurse licensed to administer medication.

(8) Personal Property: Items permitted will, in general, be in accordance with the department's rule on Personal Property (Inmate) (OAR 291-117). Personal property items may be withheld for security and treatment purposes, as determined by the mental health treatment team.

(9) Visits: An inmate in mental health special housing will be permitted visits in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127).

(10) Recreation: An inmate will have an opportunity to participate in an exercise period in accordance with the inmate's individual treatment plan and the operational needs of the unit.

(11) The management of an inmate placed in therapeutic restraints for medical or mental health treatment shall be in accordance with the rule on Therapeutic Restraints (Use of) (OAR 291-071).

(12) Suicide or Crisis:

(a) An inmate assigned to mental health special housing because of suicidal ideation, or attempt, may be placed on suicide precaution as directed by program or custody manager(s) assigned to the unit.

(b) The inmate will maintain this status until the assigned BHS staff determines that the suicide precaution is no longer necessary, in accordance with the Department of Corrections rule on Suicide Prevention in Correctional Facilities (OAR 291-076).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0170 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0170 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0320

Release From Mental Health Special Housing

(1) Upon inmate petition, an inmate assigned to mental health special housing on a voluntary basis will be reassigned to a less restrictive environment within five working days, unless the mental health treatment team determines continued treatment at the current level of care is necessary. In such instances, the mental health treatment team shall follow the procedures for involuntary assignment outlined in OAR 291-048-0290.

(2) An inmate assigned involuntarily to mental health special housing will remain so assigned for only the shortest length of time necessary to achieve the purpose(s) for which the assignment was prescribed. The assignment shall not exceed 180 days unless the assignment is renewed in a subsequent administrative hearing as outlined in OAR 291-048-0290.

(3) When an inmate is released from mental health special housing, the mental health treatment team, in collaboration with the Office of Population Management, will determine the appropriate housing assignment; e.g., general population, Intensive Management Unit, disciplinary segregation, administrative housing, etc.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

291-048-0330

Administrative Hold Assignments

(1) The functional unit manager(s) may temporarily assign an inmate to mental health special housing for other than mental health reasons on administrative hold status if he/she determines that the inmate's assignment is necessary or advisable to protect the safety, security, health, good order and discipline of the facility, its staff, visitors or other inmates, or to further other legitimate correctional objectives.

(2) Assignment to mental health special housing on administrative hold status shall not be an admission to the unit. An inmate assigned to mental health special housing on administrative hold status will be subject to all operational policies and procedures while assigned to the unit.

(3) An inmate may be involuntarily assigned to mental health special housing for a period in excess of 30 days in accordance with the notice and hearings process set forth in the department's rule on Administrative Housing (OAR 291-046).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-1999(Temp), f. 1-27-99, cert. ef. 2-1-99 thru 7-30-99; DOC 10-1999, f. & cert. ef. 7-6-99; Renumbered from 291-048-0190 by DOC 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-11-11; Renumbered from 291-048-0190 by DOC 6-2011, f. 3-31-11, cert. ef. 4-1-11

DIVISION 52

Hist.: Hist.: DOC 14-2015, f. & cert. ef. 10-20-15

**TRANSFERS/RESPONSIBILITIES BETWEEN
OREGON YOUTH AUTHORITY AND
DEPARTMENT OF CORRECTIONS**

291-052-0100**Authority, Purpose and Policy**

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to:

(a) Provide procedures for the administrative transfer of certain inmates under the age of 20 from the Department of Corrections (DOC) to the Oregon Youth Authority (OYA); and

(b) Provide procedures for requesting a court hearing under the provisions of Second Look, establishing a release plan and providing follow-up reports to the court.

(3) It is the policy of DOC that:

(a) An individual under the age of 18 at the time of committing an offense and under 20 years of age at the time of sentencing to a term of incarceration in DOC may be housed at a youth correction facility as follows:

(A) If the individual is under 16 years of age at the time of transfer, the individual shall be delivered directly to a youth correction facility by the county;

(B) If the individual is 16 or 17 years of age and is taken to the Coffee Creek Intake Center, the individual shall be transferred to a youth correction facility the same day;

(C) If the individual is 18 or 19 years of age and is taken to Coffee Creek Intake Center, the individual shall be transferred to a youth correction facility as soon as possible; and

(D) County sheriffs may elect to deliver these individuals directly to a youth correction facility.

(b) Pursuant to federal sight and sound mandates, no one 18 years of age or older at the time of committing the offense shall be transferred to a youth correction facility, and no one under 18 years of age will be housed in a DOC facility within sight or sound of adult DOC inmates.

(4) DOC and OYA concur these transfers best serve the inmates' reformation plans; and inmates may be transferred by OYA to DOC when appropriate, as provided for in ORS 420.011, Subsections 2 and 3, and ORS 137.124.

(5) DOC shall request memorandums of understanding from county sheriff offices pertaining to the direct delivery of qualifying inmates to youth correction facilities.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stats Impl: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: Hist.: DOC 14-2015, f. & cert. ef. 10-20-15

291-052-0110**Definitions**

(1) DOC: Department of Corrections

(2) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(3) OYA: Oregon Youth Authority

(4) Second Look: For crimes committed on or after June 30, 1995, inmates under 18 years of age at the time of committing an offense and sentenced to the Department of Corrections may be eligible for conditional release following completion of half of the Department of Corrections sentence and approval by the sentencing court.

(5) Youth Correction Facility: Any facility used for the confinement of persons committed to the physical custody of the Oregon Youth Authority.

(6) Youth Offender: A person who has been found to be within the jurisdiction of the juvenile court under ORS 416C.005 for an act committed when the person was under 18 years of age.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stats Impl: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

291-052-0120**Transfer to Oregon Youth Authority of Qualifying Inmates**

(1) An inmate shall be considered qualified for transfer to a youth correction facility if the inmate meets the criteria outlined in OAR 291-052-0100(3).

(2) DOC must notify OYA when a qualified inmate is taken to Coffee Creek Intake Center, and make arrangements through the DOC Office of Population Management to transfer the inmate to the appropriate youth correction facility.

(3) DOC staff will coordinate with OYA to complete any intake procedures not completed prior to transfer to a youth correction facility.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stats Impl: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: Hist.: DOC 14-2015, f. & cert. ef. 10-20-15

291-052-0130**Inmates Delivered Directly to the Oregon Youth Authority**

(1) The same day an inmate arrives at a youth correction facility, OYA staff must forward copies of the inmate's judgments, statements of imprisonment, detainers, county misconduct documents, fingerprints, photograph, and any other information received to DOC.

(2) DOC must verify the inmate meets the qualifying criteria to be placed in a youth correction facility as outlined in OAR 291-052-0100(3).

(3) Designated DOC staff must coordinate with designated OYA staff to complete the inmate's DOC intake process.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stats Impl: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: Hist.: DOC 14-2015, f. & cert. ef. 10-20-15

291-052-0140**Return of an Inmate to the Department of Corrections**

(1) To return an inmate to DOC, the OYA Director, or the designee, shall contact the DOC Office of Population Management to request the transfer. The Office of Population Management shall arrange the inmate's transport to DOC.

(2) An inmate cannot remain in the physical custody of the OYA after the inmate is 25 years of age. Before the inmate's 25th birthday, the Office of Population Management shall arrange the transfer of and coordinate with the DOC Transport Unit for the transfer of the inmate to DOC.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stats Impl: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: Hist.: DOC 14-2015, f. & cert. ef. 10-20-15

291-052-0150**Responsibilities**

(1) DOC will:

(a) Retain legal custody of the inmate, regardless of the inmate's physical location;

(b) Designate the functional unit manager/designee of the Office of Population Management as the coordinator of case planning, classification, and all status change decisions concerning each inmate on administrative transfer to a youth correction facility;

(c) Issue all warrants and place All Points Bulletins for inmates who escape from a youth correction facility;

(d) Manage release planning, including Second Look Conditional Release planning and coordination of releases to other agencies holding detainers, for all inmates in OYA physical custody; and

(e) Notify OYA of scheduled Board of Parole and Post-Prison Supervision hearings for inmates in OYA physical custody.

(2) OYA will:

(a) Care for inmates in its physical custody in the same manner as youth offenders;

(b) Provide copies of all regular, at least semi-annual reports, and special reports to the Offender Information and Sentence Computation Unit;

(c) Provide inmates with opportunities for work and self-improvement in the same manner as youth offenders, including compensation when warranted;

(d) Provide programs and treatment for inmates as OYA determines are appropriate;

(e) Not release an inmate from OYA physical custody, including inmates with detainees from other municipal, state or federal agencies, without the express approval of DOC;

(f) Exercise reasonable control of inmates and use security units when warranted. All inmate major behavior violations or circumstances deemed serious by OYA staff must be brought to the attention of the youth correction facility superintendent and the Office of Population Management;

(g) Report to the Office of Population Management an inmate's alleged commission of any crime while in the physical custody of the OYA;

(h) If the inmate escapes from a youth correction facility, the facility shall immediately notify the functional unit manager of Offender Information and Sentence Computation and shall, within 24 hours thereafter, return any and all inmate file material to the Offender Information and Sentence Computation Unit; and

(i) For escapes which occur after regular business hours, OYA must immediately contact the facility designated by DOC.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stats Impl: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: Hist.: DOC 14-2015, f. & cert. ef. 10-20-15

291-052-0160

Release Planning

(1) Post-Prison Supervision:

(a) Not more than 180 days and not less than 150 days before the inmate's projected release date, or at the request of the DOC, OYA will send the inmate's proposed transition worksheet to the DOC release counselor to assist in the development of the DOC release plan.

(b) The DOC release counselor will work with the inmate, OYA, county community corrections, and the Board of Parole and Post-Prison Supervision on the DOC release plan. The release plan must include the following:

(A) Proposed residence plan with occupant's contact information and relationship to the inmate if a private residence. If the inmate is in need of housing, the release plan will include that information;

(B) Any notable issues regarding criminal history, risks and needs, residence plan, necessary police reports, financial obligations including restitution, and supporting documentation for recommended conditions of supervision;

(C) Recommended special conditions of supervision based on the individual risks and needs of the inmate, including any conditions reasonably necessary to further the reform and rehabilitation of the inmate and to ensure compliance with the other conditions imposed; and

(D) Reporting instructions to the county of residence on the day of release.

(c) At approximately 120 days before the inmate's projected release date, the release plan will be forwarded to the appropriate county community corrections agency in the county of residence, as determined by the DOC release counselor. The Board of Parole and Post-Prison Supervision has final authority over county of residence. The release plan shall be investigated by the county and returned to the DOC release counselor within approximately 45 days.

(d) The DOC release counselor will submit the plan to the Board of Parole and Post-Prison Supervision no later than 75 days before the inmate's projected release date.

(e) The DOC release counselor will work with the OYA facility staff to facilitate the signing of the conditions of supervision,

reporting instructions, and any other documents determined to be necessary by DOC.

(f) The DOC release counselor will work with the OYA facility staff to have the inmate transferred to an OYA facility closest to the county of release, and to determine release transportation to the county of release on the day of release.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stats Impl: ORS 137.124, 179.040, 420.011(2) & (3), 423.020, 423.030 & 423.075

Hist.: Hist.: DOC 14-2015, f. & cert. ef. 10-20-15

291-052-0170

Second Look

(1) Not more than 120 days and not less than 60 days before the sentence is one-half served, OYA or DOC, whichever has physical custody of the inmate, shall file with the sentencing court a notice and request for the court to set a time and place for a hearing on all inmates eligible for a second look.

(2) If a request is filed by OYA, OYA shall notify DOC of the request and the date of the hearing. A case summary (Exhibit I) will be prepared by OYA and submitted to DOC prior to the date of the hearing.

(3) If the inmate is in the physical custody of OYA, the OYA Second Look coordinator will immediately notify Offender Information and Sentence Computation and the DOC release counselor of the decision of the court.

(4) If the court decides that a conditional release is appropriate and the inmate is in the physical custody of OYA, DOC will coordinate a release plan with the county community corrections agency and the OYA. DOC will submit the release plan to the court no later than 45 days after the receipt of the court's direction to prepare the plan. The release plan must include:

(a) A description of support services and program opportunities available to the inmate;

(b) The recommended conditions of the release and supervision;

(c) The level of supervision required;

(d) Conditions or requirements that provide for the safety of the victim, the victim's family, and the community;

(e) A payment schedule for inmates whose sentences include a requirement to make restitution or to pay compensatory fines or attorney fees and who have not yet made full payment;

(f) Any conditions reasonably necessary to further the reform and rehabilitation of the inmate and to ensure compliance with the other conditions imposed; and

(g) Any special conditions necessary because of the inmate's individual circumstances.

(5) If the court does not approve the proposed release plan and returns the plan to DOC with recommended modifications and additions, DOC shall submit a revised plan to the court no later than 15 days after the receipt of the court's recommended modifications and additions.

(6) When the court has approved a final plan, DOC shall arrange for the physical release of the inmate and notify OYA of the arrangements.

(7) The final release plan shall require the DOC or designee to submit a report to the court no later than 90 days after the inmate is conditionally released, and at least every 180 days thereafter, informing the court of the inmate's circumstances and progress on conditional release.

(8) While on conditional release, the inmate shall remain under the jurisdiction of the court:

(a) If the inmate violates a condition of release, the inmate may be taken into custody and detained pending a hearing by the court;

(b) No later than 24 hours after an inmate is taken into custody, DOC or DOC's designee shall file a notice and affidavit with the court and serve a copy of the notice and affidavit on the person.

Stat Auth: ORS 179.040, 423.020, 423.030 & 423.075

Stats Impl: ORS 137.124, 179.040, 420.011(2) & (3), 420A.203, 420A.206, 423.020, 423.030 & 423.075

Hist.: DOC 14-2015, f. & cert. ef. 10-20-15

DIVISION 53

EMERGENCY PREPAREDNESS

291-053-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to outline the total approach needed by the Department of Corrections for emergency preparedness. The total approach will:

(a) Design the mechanism to meet the responsibilities for the coordination and planning of emergency preparedness for the Department of Corrections;

(b) Develop the individual phases of the emergency preparedness system to include planning, prevention, prediction, preparation and practice to guarantee a continual and comprehensive approach to emergencies;

(c) Define the role of the Department of Corrections Central Office during emergency situations;

(d) Determine the emergency command structure and the support functions required during emergencies and define essential responsibilities;

(e) Delineate the standardized methodology to resolve designated emergencies.

(3) Policy:

(a) It is the policy of the Department of Corrections that the following risk priorities must be considered upon implementation of emergency plans in its functional units:

(A) The safety of the general public;

(B) Safety and welfare of hostages;

(C) Prevention of death and/or serious injury to employees, volunteers, or visitors;

(D) Inmate welfare;

(E) Protection of property;

(F) Restoration of order; and

(G) Identification, arrest, and legal prosecution of participants.

(b) Inherent Risk:

(A) The acceptance of employment or volunteer assignment in a Department of Corrections facility will be tacit acknowledgment of the risk which may be involved in the employment or volunteer assignment;

(B) Employees or volunteers must be aware that no one retains his/her authority when taken hostage, regardless of his/her rank or position within the organization. Likewise, there is an inherent risk for any person living, working, visiting, or delivering services in a Department of Corrections facility;

(C) Department employees will expend every reasonable security effort to protect the physical welfare of all persons living, working, visiting, or delivering services to a Department of Corrections facility. However, employees will not be intimidated into taking any action not consistent with sound correctional practice;

(D) If any person is taken hostage, sound correctional practice shall include the following:

(i) Riotous or mutinous inmates will not be granted freedom from the confines of a correctional facility;

(ii) Immunity from prosecution or amnesty will not be granted;

(iii) Prosecution will be pursued vigorously in all cases;

(iv) Hostages will have no authority to give orders;

(v) No demands of the hostage taker(s) will be honored;

(vi) Keys or weapons or their use will not be surrendered; and

(vii) Drugs, liquor, or transportation requests from inmates will not be considered. Transportation will not be provided.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 17-1980, f. 5-6-80, ef. 5-7-80; CD 30-1981(Temp), f. & ef. 6-30-81; CD 45-1981, f. & ef. 10-30-81; CD 49-1985, f. & ef. 8-16-85; CD 20-1986(Temp), f. 6-30-86, ef. 8-15-86; CD 44-1986, f. & ef. 10-17-86; CD 19-1988, f. & cert. ef. 11-18-88; CD 2-1992, f. 2-21-92, cert. ef. 3-2-92; CD 20-1996, f. 11-20-96, cert. ef. 12-1-96

291-053-0010

Definitions for OAR 291-053-0005 through OAR 291-053-0135

(1) Department of Corrections (DOC) Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(2) Department Emergency Coordinator: A management employee that has the responsibility to coordinate and monitor emergency preparedness activities throughout the department.

(3) Director: The Director of the Department of Corrections. The highest command employee in the Department of Corrections who assists the facility commander in assessing the emergency, identifying, and providing needed resources for the resolution to an emergency.

(4) Emergency: Any incident which disrupts or substantially impairs the capacity of a DOC facility to conduct routine business, including natural and man made disasters.

(5) Emergency Preparedness: A comprehensive system that requires a continuous department commitment to personnel and resources to ensure a systematic approach to emergencies that will include planning, prevention, prediction, preparation, and practice.

(6) Facility Emergency Coordinator: A management employee that has the responsibility to coordinate and monitor emergency preparedness activities at a DOC facility.

(7) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director, or an administrator and has the responsibility for the delivery or program services or coordination of program operations.

(8) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post prison supervision, or probation status.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 17-1980, f. 5-6-80, ef. 5-7-80; CD 30-1981(Temp), f. & ef. 6-30-81; CD 45-1981, f. & ef. 10-30-81; CD 49-1985, f. & ef. 8-16-85; CD 20-1986(Temp), f. 6-30-86, ef. 8-15-86; CD 44-1986, f. & ef. 10-17-86; CD 19-1988, f. & cert. ef. 11-18-88; CD 2-1992, f. 2-21-92, cert. ef. 3-2-92; CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0075

General Information

(1) Emergency preparedness is a comprehensive system that requires a continuous department commitment to personnel and resources to ensure a systematic and standardized approach to emergencies that includes planning, prevention, prediction, preparation, and practice.

(a) Emergency preparedness is the primary goal for the Department of Corrections in an emergency to effectively regulate and maintain a safe and humane environment for the public, its employees and inmates.

(b) Emergency preparedness is essential in assuring the protection of the public, facility and life.

(c) Emergency preparedness enables employees to maintain and restore humane and professional conditions of incarceration as quickly and safely as possible.

(d) Emergency preparedness requires an emergency response with its primary mission to expediently resolve the situation with the least amount of force, and achieve the correctional objective.

(2) Each DOC facility shall develop emergency plans to respond to emergency situations.

(3) The department shall assign a management employee to perform the duties of the department emergency coordinator.

(4) The functional unit manager shall assign a management employee to perform the duties of the facility emergency coordinator.

(5) Each DOC facility shall network to maintain sufficient resources and preparedness to adequately respond to emergencies.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0085

Planning

(1) Planning develops the mechanism and resources to carry out the prevention and prediction of an emergency and the preparation and practice for an emergency.

(2) The department emergency coordinator is responsible for oversight of all elements of emergency preparedness within the department.

(3) The facility emergency coordinator is responsible for planning all elements of emergency preparedness within a DOC facility.

(4) The department emergency coordinator, facility emergency coordinator, and selected employees and outside agency personnel are responsible for the planning phase. This includes:

(a) The development, distribution, and maintenance of emergency preparedness plans that will resolve emergencies.

(b) The acquisition and maintenance of the essential resources to implement emergency preparedness plans.

(c) The development and maintenance of training standards to satisfactorily execute emergency preparedness plans.

(d) A continual assessment (evaluation) of the five phases (planning, prevention, prediction, preparation, and practice) of emergency preparedness to ensure current information, technology, and techniques have been incorporated into the emergency plans. Emergency plans shall be revised, updated, and distributed to each user.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0095

Prevention

(1) Prevention enables employees to maintain and restore safe, humane, and professional conditions of incarceration.

(2) Prevention requires consistent enforcement of directives to provide effective communications, appropriate inmate programs and services, and adequate safety, security, and sanitation.

(3) Prevention of emergencies is enhanced by requiring the reporting and mitigating disturbance factors (unusual changes/occurrences in the prison environment).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0105

Prediction

(1) Prediction develops the methods to identify the possibility of an emergency, identify the types of emergency, and identify the proper response to an emergency.

(2) Prediction of emergencies requires the identification, reporting and authentication of disturbance factors.

(3) Emergencies can often be predicted if disturbance factors can be properly evaluated. Each DOC facility will utilize a "Risk Assessment" designed to predict the degree of possibility for an emergency.

(4) Each DOC facility shall perform a risk assessment annually to identify the potential for an emergency based on the geographic location, inmate population, facility structure and facility resources. The internal and external factors that would threaten the facility will be listed on a form titled "Risk Assessment by Type of Emergency." This form will be kept current and maintained in the Emergency Preparedness Manual. A copy will be sent to the department emergency coordinator.

(5) Each DOC facility shall develop emergency plans to respond to each predicted emergency identified on the "Risk Assessment by Type of Emergency."

[Publications: Publications & Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0115

Preparation

(1) Preparation develops the emergency plans along with the equipment and resources used in an emergency and provides for an audit procedure to ensure plans have been properly developed, maintained, and distributed.

(2) Each DOC facility shall develop and maintain Emergency Preparedness Manuals — Volumes I, II and III as required by the Director.

(3) Each DOC facility shall implement the appropriate components of the command structure to meet emergency situations.

(4) Each DOC facility will maintain a perpetual equipment list for use in an emergency. The department emergency coordinator will maintain a department-wide list of equipment by consolidating facility lists.

(5) Each DOC facility will perform audits on Emergency Preparedness Manuals annually..

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0125

Practice

(1) Practice develops training standards and curriculum, initiates training for all levels of employees, designs exercises to determine the effectiveness of emergency plans and training, and uses evaluations to provide revised training standards, curriculum, training, and exercises.

(2) Training for emergency preparedness will be provided by certified emergency coordinators to new employees and annually thereafter for all levels of employees.

(3) Emergency Exercises:

(a) Emergency exercises (two major and two minor drills) will be conducted annually at each institution to determine the effectiveness of the emergency preparedness plans. The fundamental purpose of an exercise program is to improve operational readiness. Full scale exercises, (involving non-ODOC agencies) must be pre-approved by the department emergency coordinator. Tabletop exercises may be considered drills.

(b) Non-Institution facilities will conduct a minimum of one tabletop exercise annually.

(4) A thorough evaluation of any application of the emergency preparedness plans will be made to determine effectiveness and deficiencies, recommend the correction of deficiencies, and mediate efficiencies as appropriate.

(5) The emergency coordinators shall review all evaluations and recommendations for emergency preparedness and revise training standards as necessary.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0135

Confidential Procedures

(1) The following confidential procedures will be maintained in the Emergency Preparedness Manual with current information:

(a) Emergency Preparedness;

(b) Tactical Emergency Response Team (TERT); and Crisis Negotiation Team (CNT)

(c) Escape Response.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

DIVISION 55

INTENSIVE MANAGEMENT UNIT

291-055-0005

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to:

(a) Establish Department of Corrections policy and procedures for the assignment of custody Level 5 inmates to special security housing and programs in a designated Intensive Management Unit (IMU) or IMU status cells separate from general population housing in Department of Corrections facilities to provide the maximum level of inmate security, control, and supervision; and

(b) Establish standards for the operation and management of IMU and IMU status cells.

(3) Policy: It is the policy of the Department of Corrections to:

(a) Assign custody Level 5 inmates, or inmates who are under investigation for or who have been charged with the in-custody murder or assault of another inmate or staff, to special security housing and programs in a designated IMU or IMU status cells separate from general population housing in Department of Corrections facilities to provide the maximum level of inmate security, control, and supervision as provided in these rules.

(b) Conduct meaningful periodic reviews of an inmate's status and continued assignment to an IMU or IMU status cell as provided in these rules.

(c) Temporarily reassign inmates assigned to an IMU or IMU status cell to other treatment, program or service units (i.e., infirmary, Administrative Housing, Disciplinary Segregation, mental health special housing) for treatment or programming as deemed necessary or advisable by the department.

(d) Ensure inmates assigned to an IMU or IMU status cells have an opportunity for administrative review of their custody Level 5 classification and assignment to IMU as provided in the department's rule on Classification (Inmate), OAR 291-104.

Stat Auth.: ORS 179.040, 423.020, 423.030, & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, & 423.075

Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 7-2000(Temp), f. 2-24-00, cert. ef. 2-24-00 thru 8-22-00; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 10-2002(Temp), f. & cert. ef. 7-10-02 thru 1-6-03; DOC 14-2002, f. & cert. ef. 11-8-02; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

291-055-0010

Definitions

(1) Intensive Management: The status of a custody Level 5 inmate assigned to special security housing and programs in a designated intensive management unit or cell separate from general population housing units and cells in Department of Corrections facilities.

(2) IMU Inmate Program Committee: An institution committee that reviews an inmate's movement among the program levels. The Assistant Superintendent of Correctional Rehabilitation will chair the committee. The committee will consist of staff from Correctional Rehabilitation, Behavioral Health Services, Security Threat Management, Religious Services, and security. Representatives from the Office of Population Management, Education section, Health Services, and Hearings may also attend.

(3) IMU Shift Supervisor: The person responsible for the daily operation of the IMU in the absence of the IMU manager.

(4) Intensive Management Unit (IMU) Manager: The officer-in-charge or designee responsible for the daily operation of the IMU.

(5) Officer-in-Charge: The person designated by the functional unit manager to supervise the facility and make operational decisions in accordance with rule or procedure during periods when the functional unit manager or officer-of-the-day are not readily available.

(6) Serious Management Concerns: Participation either individually, or in a group, in behavior which poses a significant threat

to the safe and secure operation of the facility, including, but not limited to;

- (a) Threatening or inflicting bodily injury on another person;
- (b) Posing an immediate risk of escape;
- (c) Promoting or engaging in disruptive group behavior;
- (d) Promoting security threat group activities; or
- (e) Being involved in any other activity that could significantly

threaten the safe and secure operation of the facility, and that such behavior poses a sufficient threat that, in the judgment of the department, can only be adequately controlled in appropriate special housing.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 7-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; Administrative correction 10-21-08; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

291-055-0014

Selection of Intensive Management Unit Staff

(1) Selection Criteria:

(a) To qualify for a post that is solely assigned to an Intensive Management Unit, the employee:

(A) Must have successfully completed trial service;

(B) Must have achieved a satisfactory on a special performance appraisal at the time of application and assignment to IMU. At a minimum, the staff member must meet the following criteria:

(i) Have demonstrated maturity and tolerance;

(ii) Have expressed a constructive interest in working with inmates in IMU;

(iii) Have demonstrated the ability to work with inmates through conflict-reducing and conflict-control skills; and

(iv) Have demonstrated the ability to use good judgment.

(2) Assignments to Intensive Management Unit posts:

(a) Assignment to Intensive Management Unit posts will be made by the functional unit manager or designee and will be reviewed at least annually.

(b) Rotation of staff assigned to Intensive Management Unit posts may occur as it is found to be in the best interest of the employee or the facility, upon determination by the functional unit manager.

(c) Temporary assignment to Intensive Management Unit posts will be made by the functional unit manager or designee. Temporary assignments shall be given only to employees who meet the initial qualifications specified in this rule. Whenever possible, temporary assignments will be given only to employees who have successfully completed training specified by the Department of Corrections.

(3) Any exceptions to this rule for staff selection to an Intensive Management Unit post must be approved by the Assistant Director for Operations or designee prior to assignment.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

291-055-0019

IMU Assignments

(1) Custody Level 5 inmates who have received a sentence other than a sentence of death, or who are pending retrial in a case in which a death sentence may be re-imposed, shall be assigned to an IMU or IMU status cell. Inmates who have received a sentence of death (inmates on death row status), or who are under investigation for or who have been charged with the in-custody murder of another inmate or staff, may be assigned housing in an IMU or IMU status cell.

(a) An inmate demonstrates the need for custody Level 5 housing by demonstrating behaviors that in the judgment of the department cause serious management concerns.

(b) Inmates assigned to an IMU or IMU status cell may be temporarily assigned to other housing, treatment, program or service units (i.e., infirmary, Administrative Housing, Disciplinary Segregation, mental health special housing, Death Row) for

housing, treatment or programming as deemed necessary or advisable by the department.

(2) Assignment Request: A request for assignment to an IMU shall be initiated if an inmate scores custody Level 5, or when an override request to custody Level 5 is made.

(a) A Classification Summary, Intensive Management Unit Administrative Action Sheet (CD8a) and all pertinent information that demonstrates the need for IMU assignment shall be sent to the Office of Population Management.

(b) Staff shall indicate the reason for referral and a short statement describing the reason for requesting an IMU assignment. The Office of Population Management will approve or deny the request.

(3) Documentation of Decisions: All decisions by the Office of Population Management Administrator or designee will be documented on the Intensive Management Unit Administrative Action Sheet (CD 8a) and returned to the facility initiating the request. The signed copy of the action sheet shall be filed in the inmate's IMU file at the Office of Population Management.

(4) Notice: Decisions by the Office of Population Management Administrator or designee that assign an inmate to IMU status will be sent to the inmate along with a Classification Summary (CD1120D), Intensive Management Unit Administrative Action Sheet (CD8a), Request for Administrative Review (CD1120aD), and a description of the inmate's review options.

(5) If an inmate is released from prison on IMU status and returns to the department with a new crime of conviction, and is reassigned to IMU housing or an IMU status cell, the inmate shall be re-instituted at the same IMU program level last recorded upon release from prison.

(a) The inmate must be re-assigned to IMU housing or an IMU status cell in the same process as described in subsections (2) through (4) above.

(b) Any acts of misconduct upon return to prison will be reviewed by the IMU Inmate Program Committee upon assignment to an IMU or an IMU status cell for possible demotion.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 7-2000(Temp), f. 2-24-00, cert. ef. 2-24-00 thru 8-22-00; DOC 20-2000, f. & cert. ef. 8-18-00, Renumbered from 291-055-0011; DOC 10-2002(Temp), f. & cert. ef. 7-10-02 thru 1-6-03; DOC 14-2002, f. & cert. ef. 11-8-02; DOC 9-2013(Temp), f. & cert. ef. 10-23-13 thru 4-21-14; DOC 10-2014, f. & cert. ef. 4-22-14; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

291-055-0020

Programming Levels of Intensive Management Unit Inmates

(1) Program Level Criteria:

(a) The Assistant Superintendent of Correctional Rehabilitation or designee will establish criteria for the various program levels.

(b) All inmates assigned to an Intensive Management Unit or IMU status cell will begin on program level two. The IMU Inmate Program Committee will evaluate each inmate's legal or investigative status, conduct, program involvement and behavior periodically.

(c) The initial review will be conducted 150 days after assignment to an IMU or IMU status cell and then at least every 90 days thereafter while on IMU status to determine further and appropriate program level assignment.

(c) Demotions:

(A) An inmate may be demoted one or more program levels for conduct or behavior which threatens the safe, secure and orderly operation of the Intensive Management Unit or failure to participate in programs. An inmate will not be demoted to a program level one strictly for failure to participate in a program. Any demotion to level one shall be based on inmate behavior.

(B) If immediate action is necessary, the IMU shift supervisor may take appropriate action and recommend a reduction in an inmate's program level and submit it to the Intensive Management Unit manager for approval. All demotions will be reviewed by the IMU Inmate Program Committee for final approval.

(d) Inmate Program Committee Guidelines for Level Advancement: The following criteria will be considered when evaluating an inmate's adjustment in IMU for program level advancement:

(A) Level One: One month at level one with no major rule violation and no more than one minor rule violation may earn promotion to:

(B) Level Two: Two months at level two with no major rule violation and no more than one minor rule violation and active participation in prescribed programming may earn promotion to:

(C) Level Three: Three months at level three with no major rule violation and no more than one minor rule violation and a successful completion of prescribed programs may earn promotion to:

(D) Level Four: Maintain level four with no major rule violation and no more than one minor rule violation. Within 30 days of a promotion to level four a decision for promotion to level five or reassignment from IMU will be made.

(E) Level Five: Continue to present a serious management concern and are retained at custody Level 5.

(e) The provisions of this rule apply retroactively to all inmates assigned to an IMU or IMU status cell on or after December 29, 2014.

(2) Program Level Services and Activities: Services, activities, programs, incentives, and property may vary based on the architecture of the facility and individual needs of each assigned inmate. An inmate's adjustment and behavior while housed in the Intensive Management Unit will determine the inmate's service and activities program level. The schedule for programs and services are as follows:

(a) Level One basic services provided to Intensive Management Unit (IMU) inmates:

(A) Correspondence and photos (excluding publications): As received through the mail after assignment to level one.

(B) Commissary: Envelopes ordered every two weeks.

(C) Pen and paper.

(D) Legal services: As required in accordance with the department's rule on Legal Affairs (Inmate), OAR 291-139. Inmates are authorized to possess legal materials for active and pending cases in accordance with OAR 291-117-0100, Authorized Legal Property.

(E) Religious services and materials: As requested and meeting security requirements.

(F) Personal hygiene/shower: Three times per week.

(G) State issued personal care items (soap, tooth powder, toothbrush, comb, toilet paper).

(H) Bedding: One mattress, one pillow, one pillow case, two sheets, one towel, and blanket(s) as needed.

(I) Clothing: One set of undergarments, coverall and footwear.

(J) Address books.

(K) Treatment/Programming/Educational Services: As deemed appropriate to the individual treatment program and meeting security requirements.

(L) Library: Up to three paperback books on a scheduled exchange basis.

(b) Level Two services and activities available to IMU inmates: In addition to level one basic services:

(A) Recreation: 40 minutes per day, five days per week.

(B) Commissary: \$25 worth of commissary items ordered every two weeks.

(C) Radio and headphones.

(D) One approved property storage container.

(E) Personal care items on the IMU commissary list from the inmate's personal property or purchased after placement.

(F) One pair of personal shower shoes.

(G) Educational material, treatment or psychological service program materials: As requested, approved and meeting security requirements.

(c) Level Three services and activities available to IMU inmates: In addition to level two services:

(A) Commissary: \$30 of commissary items ordered every two weeks.

(B) One pair of personal shoes.

- (C) Personal books, stored appropriately.
 - (D) Personal property on the IMU commissary list.
 - (G) One photo album.
 - (F) Telephone access one time per week up to 40 minutes.
 - (G) Work assignments.
 - (d) Level Four services and activities available to IMU inmates: In addition to level three services:
 - (A) Commissary: \$40 worth of commissary items ordered every two weeks.
 - (B) Personal property: No more than two approved storage containers.
 - (e) Level Five services and activities available to IMU inmates in addition to level four services:
 - (A) Commissary: \$50 worth of commissary items ordered every two weeks.
 - (B) Telephone access up to one hour per day.
 - (C) Televisions purchased through commissary or issued from the inmate's personal property.
 - (D) Personal electronic players as approved.
 - (3) Immediately following any action of self destruction, a medical or psychological services staff member will be consulted by the IMU Manager to determine if the inmate should be recommended for transfer to mental health special housing.
 - (4) IMU status inmates will be permitted to leave their cell as appropriate to their program level for visits, exercise, showers, medical, dental, or mental health services, hearings, interviews, or other reasons as authorized by the IMU Manager.
 - (a) The Assistant Superintendent of Security will assign escort supervision as deemed appropriate.
 - (b) IMU inmates will not be permitted to leave their cells without approval from the IMU Manager unless previously scheduled to do so for program participation. The inmate will be in restraints at all times while being escorted inside and outside the unit. Routine staff interviews may be accomplished at the inmate's cell.
 - (5) The IMU Manager or designee will conduct a tour of the Intensive Management Unit at least once per shift. Inmates may address questions to the IMU Manager at this time.
- Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14; DOC 4-2015(Temp), f. & cert. ef. 3-20-15 thru 9-15-15; DOC 11-2015, f. & cert. ef. 8-21-15

291-055-0025

Situational Reviews

Individual inmate assessments may be requested by the Assistant Superintendent of Correctional Rehabilitation or designee or the IMU Inmate Program Committee at any time. Inmates requesting mental health services may be referred to qualified Behavioral Health Services personnel pursuant to recommendation of Behavioral Health Services program staff or the Assistant Superintendent of Correctional Rehabilitation or designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

291-055-0031

Retention/Re-assignment from an IMU or IMU Status Cell

(1) When considering an inmate for re-assignment from an IMU or IMU status cell to other appropriate housing, the IMU Inmate Program Committee will consider the inmate's adjustment within IMU, the nature and severity of the high category misconduct, length of time in IMU, and past history. The committee may also consider the degree of participation in self-improvement programs, mental health counseling, anger management, education, job assignments, alcohol/drug abuse therapy, assessment and evaluation, behavioral contracts, security threat group disassociation, communicable disease counseling, or other institutional management concerns.

(2) Periodic Review:

(a) The IMU Inmate Program Committee shall review each inmate assigned to an IMU or IMU status cell periodically. The initial review will be conducted at 150 days after the initial placement on IMU status or an IMU status cell, and then at least every 90 days, or within 30 days of the inmate obtaining program level four status, to determine if the inmate will be retained in or re-assigned from an IMU or IMU status cell to other appropriate housing.

(b) Prior to the review and recommendation by the IMU Inmate Program Committee, the IMU status inmate will receive notice and be allowed an opportunity to provide written submission to the committee for their consideration.

(c) The IMU Inmate Program Committee shall submit a written recommendation to either retain or reassign an inmate from IMU or an IMU status cell to the Office of Population Management Administrator or designee. A completed IMU 90 Day Review (CD1683) must be sent to the Office of Population Management describing the reason(s) and justification for the inmate to be either retained in or re-assigned from IMU or an IMU status cell.

(d) The Office of Population Management Administrator or designee shall make a decision to retain the inmate in IMU or an IMU status cell or assign the inmate to other appropriate housing. The Office of Population Management Administrator's or designee's decision is final and not subject to further review.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

291-055-0040

Property

(1) Any personal property, as defined in the Department of Corrections rule on Personal Property Control and Disposition (Inmate), OAR 291-117, not permitted in the cell of any Intensive Management Unit inmate will be properly protected in a designated property room. Upon release from IMU, the inmate shall check his/her personal property and sign the property sheet.

(2) Intensive Management Unit inmates will be permitted to retain basic personal health items (dentures, prescribed eye wear, hearing aids and approved prosthetic devices).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

291-055-0045

Services, Programs and Activities

(1) Basic: The following basic programs and services will be provided to all inmates in IMU unless compelling security or safety reasons dictate otherwise.

(a) Food:

(A) Except when under special diet specifically prescribed by the medical officer, each IMU inmate shall receive food prepared in accordance with the Department of Corrections rule on Food Service Programs, OAR 291-061.

(B) Food will be delivered to each inmate in his/her cell by a staff member.

(C) Food shall never be used as punishment.

(D) Intensive Management Unit inmates who intentionally misuse food or eating utensils may be subject to the provisions of the department's rule governing Controlled Feeding, OAR 291-083.

(b) Clothing: A clean set of undergarments and coveralls will be provided on an exchange basis three times a week.

(c) Bedding: Clean sheets and one pillow case will be exchanged on a weekly basis. A clean towel will be provided on an exchange basis at least three times per week.

(d) Personal Hygiene/Shower: Inmates will be allowed to shower, shave and obtain necessary personal care items three times

a week. Arrangements for haircuts will be arranged on a regularly scheduled basis.

(e) IMU inmates shall be provided correspondence privileges in accordance with the Department of Corrections rule on Mail (Inmate), OAR 291-131. Inmates may submit Interview Requests and grievances. Grievances will be handled in a manner prescribed by the Department of Corrections rule on Grievance Review System (Inmate), OAR 291-109.

(f) Legal Services: IMU inmates may pursue their legal activities in accordance with the Department of Corrections rule on Legal Affairs (Inmate), OAR 291-139. Legal material will be provided. Abuse of materials may result in disciplinary action. Attorney visits must be scheduled in advance.

(g) Religious: IMU inmates will be allowed to receive religious guidance if requested. Religious Services staff will visit each Intensive Management Unit once per week. Request for religious material will be reviewed by the Assistant Superintendent of Security or his/her designee prior to issuing to the inmate.

(i) Medical/Dental/Mental Health Services:

(A) Health care and mental health care services will be provided to inmates in IMU in accordance with the Department of Corrections rule on Health Services (Inmate), OAR 291-124.

(B) A member of the Health Services staff shall minimally visit IMU inmates three times weekly. The staff member will provide each inmate an opportunity to talk with him/her and refer requests for medical, dental, or mental health services to the appropriate staff member.

(C) A physician will visit Intensive Management Units as the need arises. Dental services will be provided on a schedule determined between the unit manager or his/her designee and the Health Services Manager.

(D) Mental Health Services:

(i) Behavioral Health Services staff shall perform and supervise mental health services as needed. Services may include crisis intervention, behavioral contracts, anger management, brokering out other mental health services, as well as transitional services.

(ii) While it is recognized some inmates refuse services and are otherwise unamenable to treatment, the accessibility to treatment services remains available during times of assessment, by inmate request, or could be fostered by an inmate's uncontrollable behavior(s).

(2) Services: Depending on unit adjustment and inmate programming level, inmates have opportunities for increased programs and services. These programs and services may include the following:

(a) Visits: Visits will be conducted in accordance with the department's rule on Visiting (Inmate), OAR 291-127. Visits will be conducted in a basic visiting area for IMU status inmates. Visits must be scheduled at least three days in advance of the visit. Two one-hour sessions will be made available monthly. Additional visiting sessions may be made available based on facility architecture and approved by the IMU Manager.

(b) Exercise: Inmates on IMU status shall have the opportunity to exercise out of their cells as outlined by the IMU program level, except for those inmates who receive a conduct order or disciplinary sanction as provided in the department's rule on Prohibited Inmate Conduct (OAR 291-105). Inmates eligible to exercise will receive 40 minutes of exercise per day, five days per week. The 40-minute exercise period will begin when the inmate exits his/her cell.

(c) Library: Paperback books are available for inmate use on an exchange basis. The books may be exchanged on a regularly scheduled basis.

(d) Commissary: As outlined in OAR 291-055-0020, inmates may be eligible to purchase commissary items based upon their IMU program level. Commissary items will be issued every other week to eligible inmates. Authorized commissary items on the approved IMU Commissary List may be purchased.

(e) Education: Education services may be made available to inmates assigned to IMU or to an IMU status cell to assist in developing each inmate's academic needs.

(f) Correctional Counselor Services: A correctional counselor will be assigned to each IMU.

(g) The services listed in sections (a) through (f) above will be provided unless security, staff availability, safety or sanitation considerations dictate otherwise as authorized by the functional unit manager or designee.

(h) Additional incentives may be offered to inmates assigned to double bunk cells.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

291-055-0050

Forfeiture/Deprivation of Service or Activity

(1) An Intensive Management Unit inmate may be required to forfeit or be temporarily deprived of any service or activity when the inmate is using them to destroy or damage property, obstruct security, or threatens physical violence to self or others. If an inmate is using any service or activity for self destruction, that service/activity may be temporarily removed upon order of the IMU manager or designee. Any item(s) withheld shall be returned at the earliest possible time when the basis for removal has ceased to exist. A written report documenting the action will be forwarded to the functional unit manager or designee.

(2) Services and activities may be forfeited or deprived as a result of a disciplinary sanction in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions, OAR 291-105.

(3) Additional programs and services will depend on the inmate's adjustment and adherence to department rules and Intensive Management Unit regulations. Programs and services outlined in this rule denote eligibility only, they do not guarantee program and service delivery. Staff and facility resources may determine frequency and duration of approved inmate activity.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14

DIVISION 58

STRUCTURED, INTERMEDIATE SANCTIONS

291-058-0010

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with 1993 Or Laws, ch 680, 1997 Or Laws, ch 525, ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish a uniform system of administrative sanctions to address violation behavior of offenders under supervision while on probation, parole or post-prison supervision that may be imposed by the Department of Corrections or a county community corrections agency, taking into consideration the severity of the violation behavior, the prior violation history, the severity of the underlying criminal conviction, the criminal history of the offender, protection of the community, deterrence, the effective capacity of the state prisons and local correctional facilities, and the availability of appropriate local sanctions.

(3) Policy: It is the policy of the Department of Corrections to compel compliance with the conditions of supervision by responding to violation(s) with swift, certain and fair interventions. It is the policy of the Department of Corrections that decisions to incarcerate offenders for violation(s) of the conditions of supervision must be made upon a systematic basis that will insure that available custodial space is used to house those offenders who constitute a threat to the public, taking into consideration the availability of custodial space and local resources. It is the policy of the

Department of Corrections to provide, in conjunction with the Board of Parole and Post-Prison Supervision (Board), in accordance with ORS 144.106, 144.346 and Division 75 of Board of Parole and Post-Prison Supervision administrative rules, specific direction for Department and county community corrections agency employees to follow when considering administrative sanctioning options for offenders under supervision.

Stat. Auth.: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075
Hist.: CD 24-1993(Temp), f. 9-20-93, cert. ef. 9-27-93; CD 8-1994, f. 3-18-94, cert. ef. 3-29-94; CD 26-1997(Temp), f. & cert. ef. 11-21-97 thru 5-20-98; DOC 11-1998, f. & cert. ef. 5-19-98; DOC 8-2009, f. & cert. ef. 5-29-09

291-058-0020

Definitions

(1) Administrative Sanctions: Local structured, intermediate sanctions, as those terms are used in ORS 137.592, 137.593, 137.595, 144.106, and 144.346 and in Criminal Justice Commission and Board of Parole and Post-Prison Supervision administrative rules, imposed by the Department of Corrections or a county community corrections agency for violation(s) of conditions of supervision. Administrative sanctions are less than a revocation action and include, but are not limited to local confinement in jails, restitution centers, work release centers, treatment facilities, or similar facilities or community services work, work crew and house arrest.

(2) Administrative Sanctions Sanctioning Grid: The sentencing grid used to determine an offender's presumptive sentencing guidelines sentence established by rules of the Criminal Justice Commission.

(3) Agency: The Department of Corrections or the county community corrections agency responsible for supervising the offender on parole, post-prison supervision or probation.

(4) Compact Offender: An offender who resides in and is being supervised by the State of Oregon, although sentenced in another state. Oregon being given the authority to supervise the offender by the rules of the Interstate Compact for Adult Offender Supervision.

(5) Conditions of Probation, Parole and Post-Prison Supervision: General and specific directives (special conditions) given to an offender placed on probation, parole or post-prison supervision by the sentencing judge, the Board of Parole and Post-Prison Supervision or local supervisory authority as a condition of supervision.

(6) Custody/Sanction Units: Custodial conditions of probation/sanctions imposed as a number of custody/sanction units as established by rules of the Criminal Justice Commission, including but not limited to, jail, restitution centers, work release, house arrest, community service, and inpatient treatment.

(7) Inmate: Any person under the supervision of the Department of Corrections that is not on probation, parole or post-prison supervision status.

(8) Interventions: Interventions imposed by the Department of Corrections or a county community corrections agency for violations of one or more conditions of supervision. Interventions include, but are not limited to, verbal reprimand, written reprimand, job search programming, increased reporting requirements, curfew, day reporting, modification of conditions, and outpatient treatment. Intervention responses are not counted as custody units and may be imposed along with sanctions.

(9) New Criminal Violation: Any conduct constituting a violation of criminal law whether or not it has led to new criminal charge(s) and which has occurred since the offender was placed on community supervision.

(10) Offender: Any person under the supervision of the Department of Corrections or a county community corrections agency that is on probation, parole or post-prison supervision status.

(11) Officer: Any county or state employed parole or probation officer.

(12) Revocation: Termination of supervision as result of violating behavior or a determination by the sentencing court, Board

of Parole and Post-Prison Supervision or local supervisory authority that the purposes of an offender's supervision are not being served.

(13) Releasing Authority: The Department of Corrections, the Court, Board of Parole and Post-Prison Supervision or local supervisory authority.

(14) Risk or Supervision Level: The supervision level assigned to an offender as a result of computation of score utilizing the Oregon Case Management System Risk Instrument.

(15) Short-Term Transitional Leave/Non-Prison Leave: A leave for a period not to exceed 90 days preceding an established release date that allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community. Short-term transitional leave/non-prison leave is granted in accordance with ORS 421.510 and the Department's rule on Short-Term Transitional Leave, Emergency Leaves, and Supervised Trips (OAR 291-163).

(16) Supervisory Authority: The state and local corrections official or officials designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

Stat. Auth.: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075
Hist.: CD 24-1993(Temp), f. 9-20-93, cert. ef. 9-27-93; CD 8-1994, f. 3-18-94, cert. ef. 3-29-94; CD 26-1997(Temp), f. & cert. ef. 11-21-97 thru 5-20-98; DOC 11-1998, f. & cert. ef. 5-19-98; DOC 8-2009, f. & cert. ef. 5-29-09

291-058-0030

Application to Offenders

(1) These rules shall apply to all offenders on probation for a felony committed on or after September 1, 1993, unless the court retained jurisdiction.

(2) These rules shall apply to offenders on probation for a felony committed prior to September 1, 1993, if:

(a) The sentencing judge orders the offender to be subject to the structured, intermediate sanctions sanctioning process; and

(b) The offender consents in writing or on the record to be subject to the structured, intermediate sanctions sanctioning process.

(3) The supervising agency/officer shall present offenders on probation for a felony committed prior to September 1, 1993, with the option of consenting to be subject to the structured, intermediate sanctions sanctioning process for violation(s) of conditions of probation supervision. Offenders may consent in writing to be subject to the structured, intermediate sanctions sanctioning process by signing a Structured, Intermediate Sanctions Sanctioning Process Consent form/order (CD 1274). The supervising agency/officer shall present an offender's written consent to be subject to the structured, intermediate sanctions sanctioning process to the sentencing court for the court's approval and signature.

(4) These rules shall apply to all compact offenders supervised in Oregon and all offenders on parole and post-prison supervision.

(5) These rules apply to all inmates on short-term transitional leave with specific limitations set forth in OAR 291-058-0046

Stat. Auth.: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075
Hist.: CD 24-1993(Temp), f. 9-20-93, cert. ef. 9-27-93; CD 8-1994, f. 3-18-94, cert. ef. 3-29-94; CD 26-1997(Temp), f. & cert. ef. 11-21-97 thru 5-20-98; DOC 11-1998, f. & cert. ef. 5-19-98; DOC 8-2009, f. & cert. ef. 5-29-09

291-058-0040

Identification and Presentation of Violation Behavior

(1) Upon identifying violation behavior, the officer will prepare and present to the offender a copy of the Violation Report/Sanction Reporting form describing the alleged violation behavior.

(2) Notice of Rights/Decisions about Rights:

(a) Probation Cases: Using the Department of Corrections Notice of Rights form (CD 1272), the offender shall be notified of his/her rights to a violation hearing before the court, and to be rep-

resented by an attorney at the hearing and to have an attorney appointed for him/her at state expense if he/she cannot afford one.

(b) Parole and Post-Prison Supervision Cases: Using the Board of Parole and Post-Prison Supervision or local supervisory authority Notice of Rights form for parole and post-prison supervision offenders, the offender shall be notified of his/her rights to a violation hearing before the Board or local supervisory authority.

(c) Compact Cases: Using the Compact Notice of Rights form for compact offenders, the offender shall be notified of his/her rights to a violation hearing before an assigned hearings officer.

(A) All Notice of Rights forms shall include a description of the sanction(s) which will be imposed if the offender chooses to waive his/her right to a violation hearing and right to counsel, and in lieu of a violation hearing elects to participate in the administrative sanctioning process.

(B) A copy of the Notice of Rights form shall be provided to the offender at the time of or after the offender is presented with a copy of the Violation Report/Sanction Reporting form describing the alleged violation behavior, and prior to the imposition of sanction(s). The Notice of Rights may be administered by any agency personnel or other person at the direction of agency personnel.

(d) The person administering the Notice of Rights shall ask the offender if he/she can read and understand the Notice of Rights form printed in the English language. If the offender informs the person administering the Notice of Rights that he/she can not read the form, but can understand the English language, the person shall read the Notice of Rights form to the offender. If the offender informs the person administering the Notice of Rights that he/she cannot read or understand the English language, the person shall provide the offender with a form in the offender's language if available, or when necessary, a language interpreter.

(e) If, after receiving Notice of Rights in writing or orally as necessary, the offender indicates to the person administering the Notice of Rights that he/she understands his/her rights as stated in the Notice of Rights form, the offender shall sign the Notice of Rights form acknowledging that the offender understands his/her rights, and indicate by checking the appropriate box(es) on the form whether he/she wants a violation hearing before the court, Board or local supervisory authority or to accept the administrative sanction(s) listed on the form. If an offender refuses to sign the form acknowledging he/she has read, or has had read to him/her, and understands the Notice of Rights, the person administering the Notice of Rights shall so indicate on the Notice of Rights form, and the officer shall report the violation behavior to the court, Board or local supervisory authority for disposition in lieu of proceeding with the administrative sanctioning process.

(f) If, after receiving Notice of Rights in writing or orally as necessary, the offender indicates to the person administering the Notice of Rights that he/she does not understand his/her rights as stated in the Notice of Rights form, the officer shall report the violation behavior to the court, Board or local supervisory authority for disposition in lieu of proceeding with the administrative sanctioning process. For compact cases, a probable cause hearing shall be scheduled with an assigned hearings officer.

(g) If the offender admits to the alleged violation behavior or does not contest the information regarding the alleged violation behavior and the offender accepts the administrative sanction(s) to be imposed by the sanctioning agent as listed on the form, the sanctioning agent shall impose the administrative sanction(s).

(h) If the offender denies or otherwise contests the alleged violation behavior, or does not accept the administrative sanction(s) to be imposed by the sanctioning agent as listed on the form, the officer shall report the violation behavior to the court, Board or local supervisory authority for disposition in lieu of proceeding with the administrative sanctioning process. For compact cases, a probable cause hearing shall be scheduled with an assigned hearings officer.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

Hist.: CD 24-1993(Temp), f. 9-20-93, cert. ef. 9-27-93; CD 8-1994, f. 3-18-94, cert. ef. 3-29-94; CD 26-1997(Temp), f. & cert. ef. 11-21-97 thru 5-20-98; DOC 11-1998, f. & cert. ef. 5-19-98; DOC 8-2009, f. & cert. ef. 5-29-09

291-058-0045

Imposition of Administrative Sanction(s)/ Intervention(s) on Offenders

(1) The officer shall determine whether the alleged violation behavior is appropriately responded to with intervention(s) or with structured, intermediate sanction(s), or both.

(2) If the officer determines that the alleged violation behavior is appropriately responded to with intervention(s), the officer may direct the offender into appropriate intervention(s) outside of the administrative sanctioning process as authorized by the supervising agency.

(3) If the officer determines that the alleged violation behavior is appropriately responded to with administrative sanctions, the officer shall determine and impose appropriate administrative sanction(s) using the Administrative Sanctions Sanctioning Grid (Attachment A) and the Sanction Equivalency Table (Attachment B), and the following procedures:

(a) Identify the seriousness of the violation behavior using the Administrative Sanctions Sanctioning Grid. For a series of violations, select the violation that fits into the highest behavior level.

(b) If the offender has violated conditions of supervision imposed in more than one case (i.e., multiple cases from a single jurisdiction, cases from multiple jurisdictions, or on supervision for parole/post-prison supervision and probation), determine the grid block section that applies to the criminal conviction(s) in the case to which the administrative sanction(s) will be imposed. An administrative sanction or intervention at the agency level cannot be imposed on more than one case at a time and cases cannot be sanctioned separately for individual violations arising from a series of violations.

(c) If the offender is under supervision for conviction of a felony crime committed on or after November 1, 1989, determine the section that contains the Sentencing Guidelines Grid block assigned to the offender at sentencing. If the offender is under supervision for a felony crime(s) committed prior to November 1, 1989 (pre-sentencing guidelines) or is a compact case being supervised in Oregon, determine the grid block section that would have applied to the underlying felony conviction had the offender been sentenced under sentencing guidelines.

(d) Identify the offender's current supervision level. If the offender's current supervision level is the result of an agency mandated override to a less intensive supervision level because the offender was unavailable for more intensive supervision (i.e., the offender is in custody, on abscond, pending transfer, or in inpatient treatment in excess of 30 days, etc.), use the supervision level that would have been assigned to the offender absent the agency mandated override.

(e) For probation cases, determine the number of jail and non-jail custody/sanction units remaining for use as structured, intermediate sanction(s) applicable to the offender's probationary sentence(s) or order(s). There is no limit to the amount of total sanction time that can be imposed during a period of parole or post prison supervision or on compact cases.

(f) Determine the range of custody/sanction units which may be imposed by cross indexing the violation behavior category, Sentencing Guidelines Grid block, and the offender's supervision level at the time of the violation behavior(s).

(g) Determine the appropriate sanction(s) to impose. Sanction(s) may not exceed the maximum number of custody/sanction units as indicated on the Administrative Sanctions Sanctioning Grid, using the Sanction Equivalency Table.

(h) If the indicated level of sanction response is considered insufficient to address the seriousness of the violation behavior, a higher level of sanction, up to and including returning an offender to court or the Board of Parole and Post-Prison Supervision, may be imposed only after consultation and agreement of the unit supervisor or approval process established by the county agency or local

supervisory authority. For revocation recommendations submitted under this section of rule, an offender may be returned to court or the Board of Parole and Post-Prison Supervision only after consultation with the unit supervisor and the agreement of the local supervisory authority or designee.

(i) Level of Authority for Probation Cases: Determine the level of authority that may impose the sanction(s) (agency or court). Jail confinement imposed as an administrative sanction may not exceed 60 days per violation report. The total number of days of jail confinement for all violation reports per conviction may not exceed the maximum number of available jail custody/sanction units as provided by rules of the Criminal Justice Commission. The officer shall follow agency policy for supervisory review when imposing jail confinement sanction(s).

(A) If the appropriate sanction(s) falls within the agency level designation, the officer shall impose the sanction(s) following agency procedures for consultation with supervisory personnel.

(B) If the appropriate sanction(s) falls within the court level designation, the officer may impose a sanction(s) from the agency level designation or report the violation behavior to the court with a recommendation that the appropriate sanction(s) from the court level designation be imposed.

(C) If the offender has previously served all of the available custody/sanction units applicable to his/her probationary sentence(s) or order(s), the officer may order appropriate interventions or report the violation(s) to the court for disposition.

(j) Level of Authority for Parole and Post-Prison Supervision and Compact Cases: Determine the level of authority that may impose the sanction(s) (i.e., supervising officer, hearings officer or other agency designee, Board of Parole and Post-Prison Supervision, local supervisory authority, or releasing authority for compact cases).

(A) A supervising officer may order local sanctions, including a local confinement sanction not exceeding 30 days.

(B) A hearings officer or agency designee may order local sanctions including a local confinement sanction not exceeding 60 days.

(C) The Board, local supervisory authority, or releasing authority in the state of conviction for compact cases may order administrative sanctions not exceeding 90 days.

(D) Revocation Sanctions: If structured sanctions are not felt sufficient to manage the offender, the local supervisory authority or the Board shall hold a hearing to determine whether incarceration is appropriate and may impose an appropriate revocation term of incarceration in compliance with the Oregon Criminal Justice Commission rules (OAR 213-005-0004) and the Board of Parole and Post-Prison Supervision rules (OAR 255-075).

(E) Revocation Sanctions for Compact Cases: If structured sanctions are not felt sufficient to manage the offender, the supervising officer shall prepare a compact violation report detailing the alleged violation and recommending the offender's return to the sending state to address the violation behavior. A revocation sanction shall never be imposed on a compact offender.

(F) An offender ordered to serve a term of incarceration following revocation for a post-prison supervision or violation is not eligible for earned credit time or transitional leave.

(G) An offender ordered to serve a term of prison incarceration as a sanction for a post-prison supervision violation shall receive credit for time served in a state or local correctional facility on the supervisory violation prior to the Board's imposition of a prison term sanction.

(4) Nothing in these rules shall limit the authority of the officer and supervising agency to direct the offender into appropriate interventions outside of the administrative sanctioning process.

(5) Sanctioning of Offenders Held in Jail on Officer's Detainer for Violation(s) of Probation Conditions:

(a) When an offender is arrested and detained in a county jail on authority of an officer's detainer for a violation(s) of the conditions of probation, the officer shall complete the imposition of administrative sanction(s) within the first 36 hours of the offender's detention, excluding Saturdays, Sundays and holidays, unless later

disposition is authorized by supervisory personnel. Agency supervisory personnel, in consultation with the jail supervisory personnel, may authorize an extension of the 36-hour period for up to five judicial days if the officer is unable to collect the necessary information or meet with the offender within the 36-hour period.

(b) If the imposition of administrative sanctions is not completed within the authorized period, the officer shall notify the jail supervisor and remove his/her detainer lodged with the county jail authority. Nothing in these rules shall prohibit an officer from issuing a new detainer for the offender's arrest and detention for a violation(s) of the conditions of probation upon receipt of the information necessary for the officer to assess the full nature and extent of the violation(s), and impose appropriate administrative sanctions.

(c) If the offender does not consent to administrative sanctions imposed by the officer, the officer, as soon as practicable, but within one judicial day, shall report the arrest or detention to the court that imposed the probation. The officer shall promptly submit to the court a report showing in what manner the offender has violated the conditions of probation.

(6) Sanctioning of offenders held in jail on officer's detainer for violations of parole/post-prison supervision conditions. Within 15 days of the offender's arrest, either a structured sanction must be imposed or violation hearing proceedings initiated.

[ED. NOTE: Attachments referenced are available from the agency.]
Stat. Auth.:ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075
Hist.: CD 26-1997(Temp), f. & cert. ef. 11-21-97 thru 5-20-98; DOC 11-1998, f. & cert. ef. 5-19-98; DOC 6-2001, f. & cert. ef. 2-7-01; DOC 13-2001, f. & cert. ef. 7-11-01; DOC 11-2002, f. & cert. ef. 8-1-02; DOC 8-2009, f. & cert. ef. 5-29-09

291-058-0046

Imposition of Administrative Sanctions/Interventions on Transitional Leave Inmates

(1) The process to impose administrative sanctions or interventions on inmates on short-term transitional leave shall be the same as for offenders on probation, parole, post-prison supervision, and compact cases with the restrictions listed in subsections (2) through (9) below.

(2) Only violations in the "System Response"; "Behavior Level 1"; and "Behavior Level 2" columns on the Administrative Sanctions Sanctioning Grid (Attachment A) shall be addressed with an administrative sanction or intervention response.

(3) Violations found to be in the "Behavior Level 3" of Attachment A shall be addressed in accordance with the Department's rule on Short-Term Transitional Leaves, Emergency Leaves and Supervised Trips, specifically OAR 291-063-0036(2) and (3).

(4) If the indicated level of sanction response is considered to be insufficient to address the seriousness of the violation behavior, a higher level of sanction, up to and including returning the inmate to a Department of Corrections facility, may be imposed only after consultation and agreement of the unit supervisor.

(a) For revocation recommendations under this section, an inmate may be returned to the releasing institution only after consultation with the unit supervisor and the agreement of the institution functional unit manager or designee.

(b) For revocations, supervising officers shall use the process outlined in subsection (3) above.

(5) Section 3 Crime Seriousness/Criminal History Grid (1, 2, 3, 4C-4I, 5G-5I) on Attachment A shall be used for all inmates on short-term transitional leave regardless of where they would be placed on the Sentencing Guidelines Grid.

(6) The maximum number of units available for short-term transitional leave violations shall be determined by the process outlined in 291-058-0045 with the above listed limitations in subsections (2) and (3) above.

(7) Use of jail sanctions for inmates on 90-day transitional leave from an Alternative Incarceration Program (AIP) must be agreed upon by both Department of Corrections and the local county. A jail sanction cannot exceed three days. Credit for sanction units for work crew, community service, restitution or

work release centers, and house arrest shall be distributed according to Attachment B.

(8) Sanction reports shall be forwarded to the releasing institution. The institution functional unit manager or designee shall have the override authority of other releasing authorities. The sanction report shall be submitted via FAX transmittal or electronically the same day the sanction is imposed. The institution functional unit manager or designee may override the given sanction at any time without time limitations.

(9) The Notice of Rights form (CD 1497) developed specifically for violations of short-term transitional leave shall be utilized when serving the Notice of Rights to the inmate.

Stat. Auth.: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2009, f. & cert. ef. 5-29-09; DOC 16-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; DOC 2-2010, f. & cert. ef. 2-24-10

291-058-0050

Reporting of Sanctions for Probation Cases/Role of Court and District Attorney

(1) Whenever administrative sanction(s) are imposed, the sentencing court(s) and the district attorney(s) on probation cases shall be notified utilizing the Department of Corrections Violation Report/Sanction Reporting form. When a probation intervention/sanction involves modifying conditions of probation, the court must sign and return the request before the amended condition(s) is in effect, unless specific authority has been granted to the community corrections agency by the sentencing court.

(2) Notification shall be sent via facsimile where available during the same working day in which a sanction(s) is imposed. Where facsimile is not available, notification shall be mailed the same working day in which the sanction(s) is imposed.

(3) Prior to the imposition of any administrative sanction(s) or within four judicial days after receiving notice that a structured, intermediate sanction(s) has been imposed on a probationer, the court, upon motion of the district attorney or on its own motion, may cause the offender to be brought before the court for a hearing, and may revoke probation or impose such other of additional sanction(s) or modify the conditions of probation as authorized by law. In no case may the sentencing judge cause an offender to be brought before the court for a hearing and revoke probation or impose other or additional sanction(s) after the probationer has completed a structured, intermediate sanction(s) imposed by the Department of Corrections or a county community corrections agency.

Stat. Auth.: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

Hist.: CD 24-1993(Temp), f. 9-20-93, cert. ef. 9-27-93; CD 8-1994, f. 3-18-94, cert. ef. 3-29-94; CD 26-1997(Temp), f. & cert. ef. 11-21-97 thru 5-20-98; DOC 11-1998, f. & cert. ef. 5-19-98; DOC 8-2009, f. & cert. ef. 5-29-09

291-058-0060

Reporting of Sanctions for Parole and Post-Prison Supervision Cases/Role of Supervisory Authority and Board of Parole and Post-Prison Supervision

(1) Whenever administrative sanction(s) are imposed, the supervisory authority or the Board of Parole and Post-Prison Supervision shall be notified utilizing the Department of Corrections Violation Report/Sanction Reporting form.

(2) When custody is imposed or conditions of supervision are modified, a completed Sanction Reporting form and Notice of Rights notification will be submitted to the local supervisory authority or the Board of Parole and Post-Prison Supervision.

(3) Notification shall be sent utilizing the automated structured sanction module within the Corrections Information System whenever possible, or via facsimile where available during the same working day in which a sanction(s) is imposed. Where facsimile is not available, notification shall be mailed the same working day in which the sanction(s) is imposed.

Stat. Auth.: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

Hist.: CD 26-1997(Temp), f. & cert. ef. 11-21-97 thru 5-20-98; DOC 11-1998, f. & cert. ef. 5-19-98; DOC 8-2009, f. & cert. ef. 5-29-09

291-058-0065

Reporting of Sanctions for Compact Cases/Role of the Oregon Interstate Compact Office

(1) Whenever administrative sanctions are imposed, conditions of supervision are modified, or custody is imposed for a significant violation, as defined by the compact rules, the sending state may be notified utilizing the compact violation report form. A completed Sanction Reporting form and Notice of Rights notification may be included with the compact violation report form.

(2) Notification shall be sent within 30 days of the violation to the Oregon Interstate Compact office via facsimile or email where available. Where facsimile or email is not available, notification shall be mailed.

Stat. Auth.: ORS 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

Hist.: DOC 8-2009, f. & cert. ef. 5-29-09

291-058-0070

Misdemeanor Cases

Nothing in these rules shall limit the authority county corrections agency from developing their own structured sanctioning process for misdemeanor cases.

Stat. Auth.: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 26-1997(Temp), f. & cert. ef. 11-21-97 thru 5-20-98; DOC 11-1998, f. & cert. ef. 5-19-98

DIVISION 61

FOOD SERVICES PROGRAMS

291-061-0005

Authority and Purpose

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to establish uniform standards of sanitation and safety in food programs within the Department of Corrections facilities.

(3) Policy: It is the policy of the Department of Corrections that food programs within each unit adhere to the highest standards possible in providing meal service to inmates and staff.

Stat. Auth.: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; CD 18-1996, f. 11-20-96, cert. ef. 12-1-96

291-061-0010

Definitions

(1) "Easily Cleanable": Readily accessible and of such material, finish, and so fabricated that soil may be completely removed by normal cleaning methods. Unsealed concrete floors; broken, cracked, or rough finishes on surfaces; unfinished softwood surfaces; and open stud wall or ceiling construction are examples of uncleanable construction and materials.

(2) "Non-Perishable Food": Food which is not readily perishable and includes beverages including but not limited to soft drinks and fruit juices served in sealed prepackaged containers; sterile pasteurized beverages served in original containers; and coffee or tea.

(3) "Readily Perishable Food or Potentially Hazardous Food": Any food, beverage, or ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry, or any other food capable of supporting rapid and progressive growth of micro-

organisms which can cause food infections of food intoxications. However, "readily perishable food or potentially hazardous food" does not include products in hermetically sealed containers processed by sufficient heat to prevent spoilage; nor food or beverage having a uniform pH of 4.6 or lower; or food having a uniform water activity of 0.85 or lower.

(4) "Sanitary or Clean": Unless the context requires otherwise, free from pollution, depredation, micro-organisms, flies, roaches, rodents, other vermin, dust, soil, filth, leakage, or other contamination.

(5) "Sanitize": To submit to a microbicidal process rendering the article free from undesirable and pathogenic organisms.

(6) "Single Service": Any utensil, container, implement, or wrapper manufactured for use only once in the preparation, storage, display, service or consumption of food or beverage.

(7) "Utensil": Any kitchenware, tableware, glassware, cutlery, container, cleaning brush, or other equipment that comes into contact with food or product contact surfaces during cleaning of equipment or during storage, preparation, serving, dispensing, or consumption of food.

Stat. Auth.: ORS 179 & 423

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87

291-061-0041

Safety

(1) Each functional unit will establish and maintain a safe work environment for staff and inmates. A complete safety program should include instruction on the proper use of equipment, cleaning chemicals, fire suppression equipment, knives and their storage, and a floor care program.

(2) Facilities will comply with the Department of Corrections directive on Occupational Safety and Health as well as state and federal regulations.

Stat. Auth.: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; CD 18-1996, f. 11-20-96, cert. ef. 12-1-96

291-061-0051

Cleanliness of Employees

(1) All staff/inmates shall wear clean outer garments and shall maintain personal cleanliness, grooming, and hygienic practices at all times while engaged in preparing or serving food and drink, or washing and storing utensils and equipment.

(2) No staff/inmate shall resume work after using the toilet room without first washing hands. Except when one handwashing lavatory is allowed under Food Sanitation Rule, OAR 333-150, section 5-203.11(A), after using the toilet facility, food employees shall wash their hands twice, first at a handwashing lavatory in the toilet facility and again at handwashing lavatory in the food preparation area. Hand washing must be thoroughly done before beginning work and must be repeated upon any change of tasks; handling of unwashed or raw foods; after cleaning jobs; or after coughing, sneezing, scratching or other activity that could contaminate the hands.

(3) Effective hair restraints shall be used by all staff/inmates to prevent hair from contacting or falling into food or onto food contact surfaces.

(4) Eating and drinking by staff/inmates shall be prohibited while they are preparing, serving, or handling food.

(5) All inmate workers assigned to the Food Services Section shall shower and change clothes daily.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0150; CD 18-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0061

Medical Clearances

(1) Written documentation will be furnished by the Health Services Section certifying that an inmate is free from communicable

disease and is physically capable of performing the required work in the Food Services Section prior to assignment.

(2) Health Services will prepare and forward medical clearances to the Food Services Section and other designated sections.

(3) Staff supervisors in each area of the Food Services Section shall:

(a) Inform all inmates who apply for a position in food services that a current medical clearance is a requirement;

(b) Visually inspect all inmates assigned to work units for signs or symptoms which could be a health hazard. Those inmates who exhibit symptoms of colds or flu, have cuts, abrasions, or skin rash will not be permitted to work until they have been seen and released for work by Health Services.

(4) Staff supervisors will evaluate and follow up with Health Services any complaints of illness by inmates. Statements about the health of any inmate which could affect the health and well being of staff and inmates will be reported to Health Services and the shift supervisor. The shift supervisor will notify the food services manager if applicable.

Stat. Auth.: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; CD 18-1996, f. 11-20-96, cert. ef. 12-1-96

291-061-0071

Inspections

(1) Annual inspections will be requested of the Oregon Health Division, State Fire Marshal or Occupational Safety and Health Administration. These will be coordinated with the safety and sanitation officer.

(2) Weekly inspections shall be made of all food services areas and equipment.

Stat. Auth.: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; CD 18-1996, f. 11-20-96, cert. ef. 12-1-96

291-061-0095

Additives and Adulterants

Sulfur dioxide, sodium sulfite, sodium bisulfite, potassium bisulfite, sodium metabisulfite, and potassium bisulfite or additives containing one or more of these compounds may not be added to any food or beverage nor kept or stored in any facility. Fresh vegetables, fresh salad items, and fresh fruits to which these chemicals have been added during preparation or handling before delivery to an establishment shall not be served in any facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93

291-061-0096

Wholesomeness of Food and Drink

(1) All food and drink shall be clean, wholesome, free from spoilage, pathogenic organisms, toxic chemicals, and other harmful substances or articles and so prepared, stored, handled, and displayed as to be safe for human consumption. Except as otherwise stated in section (3), all food and beverage products shall be obtained from commercial sources licensed and inspected by the State Health Division, State Department of Agriculture, U.S. Department of Agriculture or U.S. Food and Drug Administration and operating in compliance with requirements of the agency having jurisdiction. Meat product shall be obtained only from plants licensed and inspected under commercial standards by the U.S. Department of Agriculture or the Oregon Department of Agriculture. Except as provided in sections (2) and (3) below, food products obtained from noncommercial sources or other sources not licensed or regularly inspected by the State Department of Agriculture or the State Health Division shall not be received, stored, prepared, or used in institutional food service.

(2) Fresh fruit and vegetables may be purchased directly from growers who are recognized, commercial growers, and such products must meet at least the same standards and tests required if sold to a commercial vendor.

(3) Institution-grown fruit and vegetables may be accepted for use in Department of Corrections facilities provided:

(a) The Food Service Manager finds them to be safe and wholesome;

(b) The growing, harvesting and handling is under the direction, supervision and management of the facility; and

(c) All fertilizers, pesticides, soil additives, treatment substances or other chemicals are applied in accordance with the product label, and residues of such products do not exceed standards of the U. S. Department of Agriculture, Federal Drug Administration and Oregon Department of Agriculture.

(4) All milk, fluid milk products, ice cream, and other frozen desserts served shall be from sources licensed and regularly inspected by the State Department of Agriculture or commercial out-of-state sources subject to the control of U.S. Food and Drug Administration. Milk products shall be pasteurized in facilities inspected and regulated by the State Department of Agriculture or by the FDA requirements for interstate commerce.

(5) Milk and fluid milk products shall be served in the individual original containers in which they were received from the distributor or from a refrigerated bulk container, except where group feeding is practiced and in which a large number of servings of milk are poured at one time and served immediately. In this case, commercial containers larger than 1/2 pint may be used if they are opened immediately before pouring and any unused portions left in the large containers are returned immediately to refrigeration and are used only for cooking. Cream, however, may be dispensed from the original refrigerated container or dispensed from small covered pitchers which are refrigerated or held in ice.

(6) Dehydrated milk and milk products may be used under the following circumstances:

(a) Such products shall be obtained from sources licensed by the Department of Agriculture;

(b) All dehydrated milk products and ingredients shall be made only from pasteurized milk;

(c) Such products shall be stored dry and handled in a manner which precludes contamination;

(d) All reconstituted milk products or rehydrated products containing dried milk products, whether they are instant mixes or cooked after reconstitution, must be rapidly cooled to at least 41 degrees Fahrenheit.

(e) Reconstituted milk must be held at 41 degrees Fahrenheit or colder or at 140 degrees Fahrenheit or warmer at all times until served.

(f) Under no circumstances may any uncooked food or beverage such as "instant" beverages, puddings or fillings or any non-acidified product containing rehydrated milk products which has been held for longer than four hours be served.

(7) All oysters, clams, and mussels shall be from sources licensed and inspected by the State Health Division, State Department of Agriculture, U.S. Food and Drug Administration or U.S. Department of Agriculture. If shucked, they shall be kept until used in the containers in which they were placed at the shucking plant. Shellfish sanitation certificate numbers and dates shall not be defaced, obscured, or removed from the container.

(8) Food additives in form or quantity prohibited by OAR 333-151-0010 shall not be added to, mixed with, or packed in any food served.

(9) Home-canned foods or other foods produced, prepared, or packed in noncompliance with Oregon State Department of Agriculture or applicable federal regulations shall not be used or stored on the premises. Nonhazardous on-site processing of food may be evaluated and authorized in writing by the Health Division.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0090; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0100

Serving of Food and Drink

(1) The premises of all food service and preparation facilities shall be kept clean and free of litter or rubbish and all unused or inoperable equipment and utensils.

(2) All food and drink shall be so stored, displayed, and served as to be protected from grease, dust, dirt, insects, vermin, depredation and pollution by rodents, unnecessary handling, overhead leakage, or any other contamination. Sneeze shields shall be used to effectively protect foods in self-service type operations. Sneeze shields shall be designed and installed to intercept at least the zone between all food items on display and elevation 60 to 54 inches above the edge of the tray rail. All storage shall be at least 12 inches off the floor to permit cleaning of the floor, except where storage is on a wheeled platform permitting ease of movement.

(3) All readily perishable food, except when being prepared and until served, shall be kept at 41 degrees Fahrenheit or below, or 140 degrees Fahrenheit or above.

(4) No animals or fowl shall be kept or allowed in any room in which food or drink is prepared, stored, or served except for guide dogs for the blind and for the deaf which are required to be admitted pursuant to ORS 346.610 through 346.991.

(5) All means necessary for the elimination of flies, roaches, vermin, and rodents shall be used. All poisonous compounds used shall be plainly labeled and shall be so colored to be easily identified. Poisonous compounds and medications shall be stored and used in a manner precluding food contamination. Automatic insecticide dispensers, vaporizers, or fumigants shall not be stored or used in food preparation, storage, and serving areas.

(6) Persons not employed or supervised by the establishment shall be excluded from food preparation and storage areas. Only persons whose services are required for operation of the facility shall be allowed in food preparation, storage, and service areas.

(7) Food may be served family-style only where such serving is a part of a formal education or therapy program designed specifically for developing physical or social skills in enrolled participants. All other construction, operation, and equipment provisions of these rules must be met in family-style operations.

(8) None of the operations connected with food service or preparation shall be conducted in any room used as living or sleeping quarters. Beds or cots shall not be permitted in any food service facility rooms. Toilet facilities serving living quarters shall not be deemed to meet the requirements of these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0105

Food Preparation

Food shall be prepared with the least possible manual contact, using suitable utensils, and on surfaces that prior to use have been cleaned, rinsed, and sanitized to prevent cross-contamination.

Stat. Auth.: ORS 179 & 423

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87

291-061-0110

Raw Fruits and Raw Vegetables

Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

Stat. Auth.: ORS 179 & 423

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87

291-061-0115

Cooking Potentially Hazardous Foods

Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140 degrees Fahrenheit, except that:

(1) Poultry, poultry stuffings, stuffed meats, and stuffings containing meat shall be cooked to heat all parts of the food to at least 165 degrees Fahrenheit with no interruption of the cooking process.

(2) Pork and any food containing pork shall be cooked to heat all parts of the food to at least 150 degrees Fahrenheit. Microwaved pork must be cooked to at least 170 degrees Fahrenheit internally measured temperature.

(3) Microwaved beef must reach an internal measured temperature of 145 degrees Fahrenheit. Conventionally cooked beef must reach an internal temperature of at least 140 degrees Fahrenheit before it is served.

Stat. Auth.: ORS 179 & 423

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87

291-061-0120

Liquid, Frozen, Dry Eggs and Egg Products

Liquid, frozen and dried egg products shall be used only for cooking and baking purposes. Whole shell eggs, reconstituted dry egg products, raw and cooked egg products, and all foods containing egg products shall be refrigerated at 41 degrees Fahrenheit or less or held at or above 140 degrees Fahrenheit at all times. Dried egg products may be stored at room temperature until mixed with other foods and/or rehydrated.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0125

Reheating

(1) Potentially hazardous foods that have been cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees for 15 seconds.

(2) Specified under this section, potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees and the food is rotated or stirred, covered, and allowed to stand covered for two minutes after reheating.

(3) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 140 degree for hot holding.

(4) Reheating for hot holding shall be done rapidly. The time the food is between the temperatures specified under all the above may not exceed two hours. Steam tables, bainmaries, warmers, and similar hot food holding equipment shall not be used for the rapid reheating of potentially hazardous foods.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0126

Ready to Eat, Potentially Hazardous Food, and Date Marking

Refrigerated, ready-to-eat, potentially hazardous food prepared that is held refrigerated for more than 24 hours in a food establishment shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed, which includes the day of preparation. The date marked shall be:

(1) Seven calendar days or less from the day the food is prepared, if the food is maintained at 41 degrees or less as specified.

(2) Four calendar days or less from the day of food is prepared, if the food is maintained at 45 degrees or less as specified.

(3) The day the food is thawed, to indicate that the food shall be consumed within 24 hour.

(4) The date the food is placed into the freezer, to indicate the length of time before freezing that the food is held refrigerated and which includes the day of preparation.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0130

Nondairy Products

Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be placed in shallow, sanitized, covered containers and cooled rapidly to 40 degrees Fahrenheit or below immediately after preparation. After cooling, such products may be stored in larger containers. In no case shall the quantity prepared exceed the amount to be used the same day.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93

291-061-0135

Product Thermometers

Metal stem-type, numerically-scaled indicating thermometers, accurate to plus or minus two degrees Fahrenheit, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93

291-061-0140

Thawing Potentially Hazardous Foods

Potentially hazardous foods shall be thawed:

(1) In refrigerated units at a temperature not to exceed 40 degrees Fahrenheit;

(2) Unwrapped and under potable running water of a temperature of 70 degrees Fahrenheit or below with sufficient water velocity to agitate and float off loose food particles and thawed liquids into the overflow; or

(3) In a microwave oven, but only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the complete cooking process occurs uninterrupted in the microwave oven; or

(4) As part of a conventional cooking process.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93

291-061-0145

Food Transportation

During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged to be protected from contamination. Foods in original individual packages do not need to be over wrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service, food shall meet the requirements of these rules relating to food protection and food storage. Readily perishable foods shall be kept below 40 degrees Fahrenheit or above 140 degrees Fahrenheit during transport and until served.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0170

Construction of Utensils and Equipment

(1) All multi-use utensils and display cases or windows, counters, shelves, tables, refrigeration equipment, sinks, drainboards, dish tables, cutting boards, and other equipment or utensils shall be easily cleanable and shall be kept in good repair. All equipment shall be installed in a manner providing ease of cleaning beneath and behind such unit.

(2) Food contact utensils containing or plated with cadmium or lead shall not be used provided, however, that silver solder or

solder containing less than five percent lead may be used for jointing.

(3) Containers with seams which are not sealed flush with the surface shall not be reused. Single service containers or utensils shall not be reused unless such utensil is durable, easily cleanable, and in good repair.

(4) Chipped, cracked, or crazed graniteware or enamelware shall not be used.

(5) If wooden surfaces or utensils are used, they shall be equal in hardness to rock maple, in good repair, and kept clean.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0055

291-061-0180

Cleaning and Sanitizing Utensils and Equipment

(1) Cleaning frequency:

(a) Tableware shall be washed, rinsed, and sanitized after each use;

(b) Kitchenware (pots, pans, and equipment) and food contact surfaces or equipment shall be washed, rinsed, and sanitized after each use;

(c) All equipment, including display cases or windows, counters, shelves, tables, refrigerators, stoves, hoods and sinks shall be kept clean and free of encrusted grease deposits and dust, dirt, insects, food particles, and other contaminating materials;

(d) Any food contact surface of grills, griddles, and other similar cooking devices shall be cleaned after each use period, and shall be kept free of encrusted grease deposits and dust, dirt, insects, food particles, and other contaminating materials.

(2) Wiping Cloths. Moist cloths or sponges used for cleaning nonfood contact surfaces of equipment counters, dining table tops, and shelves shall be kept clean and used for no other purpose. These cloths and sponges shall be stored in a sanitizing solution as specified in "Manual Cleaning of Utensils and Equipment" (OAR 291-061-0190) between uses.

(3) A food service or food preparation area in which multi-use utensils are never used and which serves only prewrapped items and/or uses only single service utensils, and/or uses only machines or equipment which may be cleaned in place shall not be required to provide a compartmentalized sink or a machine dishwasher.

(4) No substance, article, or chemical compound containing a highly toxic material or imparting a toxic or harmful nature to a utensil shall be used for polishing or cleaning of equipment or utensils.

(5) All soaps, detergents, sanitizers, and other additives used for dishes, utensils, and food contact surfaces must have been manufactured for use on food contact surfaces and labeled as such. Sanitizers must be registered with the U.S. Environmental Protection Agency and used strictly in accordance with the registered label.

(6) All cleaning materials and equipment shall be stored in an adequate storage area. Such storage shall not be permitted with or near food products.

(7) Soiled linens, coats, and aprons shall be kept in containers provided for this purpose.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0060

291-061-0190

Manual Cleaning of Utensils and Equipment

(1) Manual washing and sanitizing may be practiced for small batches of utensils and for equipment that cannot be conveniently or effectively cleaned by mechanical warewashing machines. A three-compartment sink with each compartment of sufficient size to allow immersion of the largest multi-use utensil is required. A two-compartment sink of a size allowing immersion of each utensil is allowed only if hot water is used to sanitize.

(2) Each sink compartment shall be supplied with hot and cold potable running water.

(3) Each dishwashing facility shall be equipped with drainboards or sorting tables, one for soiled utensils and a separate one for clean utensils. They shall be of adequate size to handle peak washing loads in a sanitary manner.

(4) Wooden racks, toweling, absorbent materials, or other materials which are not easily cleanable will not be used on drainboards and dish tables.

(5) Fixed equipment or equipment too large to be cleaned in a sink compartment shall be cleaned and sanitized in place. Cleaning shall be by manual washing or by pressure spray.

(6) Washing, rinsing, and sanitizing shall be in the following sequence when done manually:

(a) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution of at least 120 degrees Fahrenheit;

(b) Equipment and utensils shall be rinsed free of detergents and abrasive with clean hot water in the second compartment;

(c) Equipment and utensils shall be sanitized in accordance with section (7) of this rule. The sanitizers of choice are hot water, chlorine, iodine, or quaternary ammonium compounds formulated and labeled for use on food contact surfaces.

(7) Food contact surfaces of all equipment and utensils shall be sanitized by:

(a) Immersion for at least 1/2 minute in clean, hot water at a temperature of at least 170 degrees Fahrenheit; or

(b) Immersion for at least one minute in a clean solution containing 50 to 100 parts per million of available chlorine as hypochlorite and at a temperature of at least 75 degrees Fahrenheit; or

(c) Immersion for at least one minute in a clean solution containing 12.5 to 25 parts per million of available iodine and having a pH not higher than 5.0 at a temperature of at least 75 degrees Fahrenheit; or

(d) Immersion for at least one minute in a clean solution of quaternary ammonium at a solution strength of 200 parts per million;

(e) Other methods of washing and sanitizing utensils and other sanitizing compounds may be accepted by the Health Division Administrator upon application from the institution or state agency operating the institution. The application must provide proof that the method is consistently effective and safe; that any chemicals used are manufactured for use on food contact surfaces and are registered as such with the U.S. Environmental Protection Agency; and that the label instructions comply with minimum requirements of this rule;

(f) Rinsing or spraying with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under subsection (7)(b) or (c) of this rule in sanitizing of fixed equipment or equipment too large to be sanitized in a sink compartment. Because of its potential toxicity, quaternary ammonium may not be used in excess of 200 parts per million and is, therefore, unsuitable as a spray or rinse for fixed equipment.

(8) When hot water is the method of sanitizing, the following shall be used:

(a) A heating device installed on or under the sanitizing compartment of the sink in a manner which would prevent any direct contact by the operator. The heating device must be able to maintain the water at a temperature of at least 170 degrees Fahrenheit;

(b) A thermometer, accurate to plus or minus three degrees Fahrenheit, shall be kept close to the sink for frequent checks of water temperature; and

(c) Dish baskets shall be large enough to permit complete covering of the tableware, kitchenware, and equipment by the hot water.

(9) Every establishment in which chemical sanitizers are used shall provide a testing kit or device that will accurately measure the concentration in parts per million for each sanitizer used. Dishwashing personnel shall test frequently the level of the sanitizer in solution.

(10) Notwithstanding sections (1) through (8) of this rule, any institutional kitchen having no multi-use utensil or no equipment which comes into contact with readily perishable foods or beverages shall not be required to provide three sink compartments so long as all other requirements of sections (1) through (9) of this rule are followed including the washing, rinsing and sanitizing sequence.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0065

291-061-0200

Mechanical Cleaning and Sanitizing of Utensils and Equipment

(1) All mechanical dishwashing devices must be commercially rated and NSF approved meeting subsections (1) through (3) of this rule.

(a) Machines and devices shall be properly installed and maintained in good repair and shall be operated in accordance with manufacturer's instructions. For all nonconveyor machines, the cycle control switch shall automatically reset to the off position if a cycle is interrupted. Utensils and equipment placed in the machine shall be exposed to all cleaning and sanitizing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(b) The pressure of final sanitizing rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 1/4 inch IPS (Iron Pipe Size) valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(c) Machine or waterline-mounted, numerically-scaled indicating thermometers, accurate to plus or minus three degrees Fahrenheit, shall be provided to indicate the temperature of the final rinse water as it enters the manifold. The temperature of the final rinse will be checked and logged during every meal.

(d) In multi-tank machines, rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper specifications are attached to the machines.

(e) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and cleaning of utensils following sanitization. This does not preclude the use of easily movable dish tables for the storage of cleaned utensils following sanitization. Wooden racks, toweling, absorbent materials or other materials which are not easily cleanable will not be used on drainboards and dish tables.

(f) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine operation unless a prewash cycle is a part of the dishwashing machine. Equipment and utensils shall be placed in racks, trays, baskets, or on conveyors in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and in a way that permits free draining.

(g) Domestic or home-style dishwashers shall not be used unless modified by the manufacturer or factory representative to meet specifications of water pressure, water temperature, and cycling control in subsections (1) through (3) of this rule.

(2) Machines using chemicals for sanitization may be used, provided the following requirements are satisfied in addition to subsection (1) of this rule:

(a) The temperature of the wash water shall not be less than 120 degrees Fahrenheit;

(b) The wash water shall be kept clean;

(c) Chemicals added for sanitization purposes shall be automatically dispensed;

(d) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturer's specifications for the time and concentration. In no case shall the chemical con-

centration be less than 50 parts per million chlorine or 12.5 parts per million iodine;

(e) The chemical sanitizing rinse water temperature shall not be less than the manufacturer's recommended temperature and in no case less than 75 degrees Fahrenheit; and

(f) A test kit or other device that accurately measures the parts per million concentration of the sanitizing solution shall be provided by the institution and shall be used regularly to assure proper concentrations.

(3) Machines using hot water for sanitizing may be used provided the following requirements are satisfied in addition to subsection (1) of this rule:

(a) The wash water and pumped rinse water shall be kept clean.

(b) The water shall be maintained at a minimum of 120 to 140 degrees Fahrenheit for the wash cycle.

(c) The rinse cycle shall be 160 degrees Fahrenheit as measured at the level of the dish rack.

(d) The pressure during the rinse cycle shall be 15 to 25 pounds per square inch.

(4) Drying: After sanitizing, all equipment and utensils shall be air dried. Utensils may not be rinsed after the sanitizing cycle, and towel drying may not be practiced.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0070; DOC 9-2004, f. & cert. ef. 9-28-04

291-061-0210

Storage and Handling of Utensils and Equipment

(1) After sanitizing, utensils shall be stored in a clean, dry place protected from grease, dust, dirt, insects, food particles, and other contamination and shall be handled in such a way to prevent contamination.

(2) Paper cups, plates, forks, spoons, straws, and other single service containers and utensils shall be purchased in sanitary cartons and stored therein in a clean dry place until used. These articles shall be handled in a sanitary manner. Individually-wrapped straws shall be required unless a sanitary dispenser is used.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0075

291-061-0220

Floors

(1) The floors of all rooms in which food or drink is stored, prepared, or served, or in which utensils are washed or stored shall be smooth, easily cleanable, and shall be kept clean and in good repair.

(2) Dustless methods of floor cleaning shall be used during hours of preparing or serving food.

(3) Rugs, mats and runners may not be used on floors of food preparation, storage and service areas, or dishwashing rooms unless such articles are smooth and impervious to moisture and are removed and thoroughly cleaned and dried each day.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0015

291-061-0230

Walls and Ceilings

Walls and ceilings of all rooms shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is prepared or stored shall be finished in a light color. The walls of all rooms in which food or drink is prepared or utensils are washed or stored and all toilet rooms shall have a smooth, washable, easily cleanable surface up to the level reached by splash or spray.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0020

291-061-0240

Doors and Windows — Vermin, Rodent and Insect Control

Flies shall not be present in food preparation storage, dining or serving areas. All openings into the outer air shall be effectively screened and doors shall be self-closing unless other effective means are provided to prevent the entrance of flies, rodents, or other pests.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0025

291-061-0250

Lighting

(1) All rooms in which food or drink is prepared or in which utensils are washed shall be uniformly lighted with a minimum of 30 foot candles on all work surfaces and ten foot candles at floor level. Store rooms shall be uniformly lighted with a minimum of four foot candles at floor level.

(2) Lighting equipment shall be kept clean.

(3) Dining rooms shall be provided with lighting fixtures capable of providing a minimum of ten foot candles of light at floor level and shall be used during cleaning operations.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0030

291-061-0260

Ventilation

(1) All rooms in which food is stored, prepared, or served or in which utensils are washed shall be adequately ventilated to eliminate odors, condensation of water vapor, and the settling of grease residues.

(2) Hoods shall be equipped with filters or other easily cleanable filtering devices.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0035

291-061-0270

Toilet Facilities

(1) Every establishment shall be provided with toilet facilities for its food preparation or service workers. The toilet rooms shall be in or immediately adjacent to the food service or preparation area and shall provide fixtures for employees or workers in the following numbers:

(a) 1–9, minimum toilets 1, minimum lavatories 1;

(b) 10–24, minimum toilets 2*, minimum lavatories 1;

(c) 25–49, minimum toilets 3*, minimum lavatories 2;

(d) 50–74, minimum toilets 4*, minimum lavatories 2;

(e) 75–100, minimum toilets 5*, minimum lavatories 3;

(f) For each 30 addition or fraction thereof of employees or workers add 1* toilet and 1 lavatory.

*Up to 2/3 of toilets may be urinals.

NOTE: In facilities constructed prior to July 1, 1986, toilet facilities located within 500 feet of the work area may be counted in this determination if such facilities are available without assistance to workers during all work periods.

(2) Where there are ten or more employees during any work shift, there must be separate restrooms provided and designated for each sex unless all employees on duty at any given time are of the same sex.

(3) Every toilet room must have at least one lavatory provided with hot and cold or tempered (80–110 degrees F.) water, soap and sanitary towels or hot air blowers.

(4) The doors of all toilet rooms shall be self-closing except where security measures require constant surveillance of residents or inmates.

(5) Toilet rooms shall be kept clean, in good repair, well lighted, free from odors, and well ventilated. Signs requiring handwashing by employees shall be posted in all toilet rooms and by all handwashing sinks used by employees or food workers.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0040

291-061-0280

Water Supply

Running water under at least 20 p.s.i. pressure shall be easily accessible to all rooms in which food is prepared or utensils are washed. The water supply shall be continuous in quantity and from an approved community or public water supply system which is constructed, protected, operated, and maintained in conformance with ORS Chapter 448, and OAR 333 (Health Division), 333-061-0005 to 333-061-0095 and shall be in accordance with the standards of quality set forth in those rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0045

291-061-0290

Lavatory Facilities

(1) Adequate, convenient, clean handwashing facilities for all personnel shall be provided, including hot and cold or tempered (80-120 degrees F.) running water, soap and sanitary towels in each food preparation and food service area.

(2) Sanitary towel dispensers or hot air blowers shall be provided at all times. The use of common towels is prohibited.

(3) Utensil washing and food preparation sinks shall not be used for handwashing, except that prerinse sinks in the dishwashing area may be used to wash hands and shall be equipped with soap and sanitary towels and posted with a handwashing sign.

(4) No employee shall resume work after using the toilet room without first washing hands.

(5) Handwashing must be thoroughly done before beginning work and must be repeated upon any change of tasks; handling of unwashed or raw foods; after cleaning jobs; or after coughing, sneezing, scratching or other activity that could contaminate the hands.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0050

291-061-0300

Plumbing and Disposal of Wastes

(1) All liquid wastes resulting from food preparation, cleaning and rinsing utensils, floors, flush toilets, lavatories, and air conditioners shall be disposed by public sewer systems or by individual disposal system in compliance with ORS Chapter 454 and requirements of the State Department of Environmental Quality.

(2) All plumbing must comply with the **State Plumbing Specialty Code**. It shall be so designed, installed, and maintained as to prevent contamination of:

(a) The water supply through interconnections and back-siphonage from fixtures, including dishwashing and sinks;

(b) The establishment's environment, equipment, and food due to sewer leakage and blockage.

(3) Steam tables, steam kettles, automatic peelers, waste grinders, aspirators, dishwashing machines, chemical injectors, hose bibs, or other devices connected to the water supply system shall be equipped with backflow prevention devices approved by the State Health Division and capable of preventing backflow to the fixture. Backflow devices shall be functional and in good repair at all times. Atmospheric vacuum breakers will be installed at least six inches above the free draining outlet or overflow rim of the fixture. Vacuum breakers serving hose bibs will be located on an elevated tower at least six inches above the highest point at which the hose will be used. Hoses or other equipment having shutoff valves will be protected by airgaps, airbreaks, pressure-type vacuum breakers, reduced pressure devices or equivalent protection.

(4) Drainlines serving steam tables, ice bins, food preparation sinks, dishwashers, and any other equipment containing food, food utensils, or food contact surfaces shall be indirectly drained via air-

breaks or airgaps as necessary to ensure that waste may not be drawn or forced back into the equipment.

(5) All garbage and trash shall be kept in watertight, nonabsorbent, and easily washable receptacles. All receptacles for storage or garbage outside of room protected from fly and rodent entry shall be covered with close-fitting lids pending removal. Removal shall be frequent and the holding area shall be kept clean.

(6) All garbage receptacles shall be washed when emptied, and steamed or treated with a disinfectant, if necessary, to prevent a nuisance.

(7) Equipment sufficient to prevent littering of premises with rubbish, garbage, or other refuse and wastes shall be provided and maintained. All rubbish and garbage storage containers shall be located in hard surfaced area in order to facilitate removal of spillage.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0080

291-061-0310

Refrigeration

(1) All readily perishable food shall be kept at or below 45 degrees Fahrenheit except when being prepared or served. Readily perishable foods shall be placed in shallow containers under refrigeration until cooled below 45 degrees Fahrenheit. When cooled below 45 degrees Fahrenheit, they may be stored in deep containers. Food stored, handled, or otherwise cared for in non-compliance with these regulations shall not be served. Except for rapid cooling processes, all refrigerated foods shall be covered and identified by name and date.

(2) Frozen foods shall be maintained in a frozen state and thawed immediately prior to preparation in a manner that minimizes microbial growth.

(3) Waste water from refrigeration equipment shall be disposed of in a manner that does not create a nuisance.

(4) A dependable spirit stem thermometer shall be affixed to the door or the front edge of the top shelf of each refrigerator. Refrigerators equipped with a gauge visible from the exterior shall be acceptable. Temperatures of all refrigerator units and freezers will be checked and logged twice daily.

(5) All ice used shall be made on site from potable water or obtained from sources licensed and inspected by the State Department of Agriculture. Ice shall be stored and handled in such a way as to prevent contamination. Water used to make ice or to wash ice shall comply with the standards required under Water Supply (OAR 291-061-0280).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 54-1986(Temp), f. 11-20-86, ef. 12-31-86; CD 6-1987, f. & ef. 1-20-87; CD 2-1993, f. 1-25-93, cert. ef. 2-1-93, Renumbered from 291-061-0085

DIVISION 62

ALTERNATIVE INCARCERATION PROGRAMS

291-062-0100

Authority, Purpose and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with 2003 Or Laws, Ch 464, 2008 Or Laws, Ch 35, ORS 179.040, 421.500 to 421.512, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish special alternative incarceration programs and establish Department policy and procedures for the program's operation and management in accordance with ORS 421.500 to 421.512.

(3) Policy: Within the inherent limitations of resources, and the need to maintain facility security, internal order, and discipline, and the health and safety of staff, inmates, and the public, it is the policy of the Department of Corrections to discharge its statutory responsibilities to establish alternative incarceration programs by creating and operating programs that promote inmate rehabilitation

during incarceration and reduce the risk of continuing criminal conduct when the inmate is returned to the community.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075 & 2008 OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09

291-062-0110

Definitions

(1) Alternative Incarceration Program (AIP): A highly structured corrections program that includes intensive interventions, rigorous personal responsibility and accountability, physical labor, and service to the community.

(2) Custody Cycle: The time period during which an offender begins incarceration with the Department of Corrections and is under the supervision of community corrections until discharge from all Department of Corrections and community corrections incarceration and supervision.

(3) Other charges: Any criminal or civil accusatory instrument that alleges wrong doing and for which a person may be imprisoned or incarcerated.

(4) Short-Term Transitional Leave/Non-Prison Leave: A leave for a period not to exceed 90 days preceding an established release date that allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community. Short-term transitional leave/non-prison leave is granted in accordance with ORS 421.148, 421.510 and the Department's rule on Short-Term Transitional Leave, Emergency Leaves and Supervised Trips (OAR 291-063). For purposes of these rules, short-term transitional leave is non-prison leave.

(5) Term of Incarceration: The period of commitment to the legal and physical custody of the Department imposed by a sentencing court in a judgment. For purposes of these administrative rules, "term of Incarceration" includes pre-sentence incarceration credit granted to an inmate by the Department under ORS 137.370(2)(a), as well as any time an inmate spends on short-term transitional/non-prison leave under 421.510.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, and 423.075 & 2008 OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09; DOC 20-2011(Temp), f. & cert. ef. 10-17-11 thru 4-13-12; DOC 4-2012, f. & cert. ef. 3-1-12

291-062-0120

General

(1) The Department of Corrections has established and operates two types of alternative incarceration programs.

(a) One of the alternative incarceration programs is an intensive cognitive program and the other is an intensive addictions program that includes intensive addiction intervention and treatment.

(b) Each alternative incarceration program is a minimum of 270 days duration and includes two components — a structured institution program and a period of structured short-term transitional leave.

(c) Each alternative incarceration program will require its participants to engage in a minimum of 14 hours per day of highly structured routine seven days per week for the duration of the program.

(2) Inmates are required to participate in and successfully complete transition classes offered as a condition of program graduation. The number and frequency of these classes will be determined by each facility.

(3) Short-Term Transitional Leave: The Department in its discretion may grant individual inmates a period of structured, short-term transitional leave as part of their alternative incarceration program assignment if:

(a) The inmate has identified viable self-support options in the community; or

(b) The supervising community corrections agency has approved a temporary subsidy that will allow the inmate to successfully transition in the community.

(c) All expenses must be borne by the inmate unless otherwise specifically authorized.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075 & OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09

291-062-0130

Inmate Eligibility

(1) The Department will identify inmates eligible to participate in alternative incarceration programs. To be eligible to participate in the program an inmate must:

(a) Be sentenced to the legal and physical custody of the Department and be subject to a term of post-prison supervision upon satisfaction of a term of physical confinement in a Department of Corrections facility;

(b) Be at least 18 years of age at the time of entry into the program, or may be under 18 years of age and have been convicted of a crime upon remand from juvenile court; and

(c) Be assigned Level 1 or Level 2 in accordance with the Department's rule on Classification (Inmate) (OAR 291-104) and have no more than 36 months to serve at the time of program entry.

(2) An inmate is not eligible to participate in alternative incarceration programs during service of a sentence for conviction of a crime described in:

- (a) ORS 163.095 (Aggravated Murder);
- (b) ORS 163.115 (Murder);
- (c) ORS 163.118 (Manslaughter I);
- (d) ORS 163.235 (Kidnapping I);
- (e) ORS 163.355 (Rape III);
- (f) ORS 163.365 (Rape II);
- (g) ORS 163.375 (Rape I);
- (h) ORS 163.385 (Sodomy III);
- (i) ORS 163.395 (Sodomy II);
- (j) ORS 163.405 (Sodomy I);
- (k) ORS 163.408 (Unlawful Sexual Penetration II);
- (l) ORS 163.411 (Unlawful Sexual Penetration I);
- (m) ORS 163.415 (Sexual Abuse III);
- (n) ORS 163.425 (Sexual Abuse II);
- (o) ORS 163.427 (Sexual Abuse I);
- (p) ORS 163.435 (Contributing to the Delinquency of a Minor);

- (q) ORS 163.525 (Incest);
- (r) ORS 164.325 (Arson I); or
- (s) ORS 164.415 (Robbery I).

(3) An inmate who is serving a sentence, including a sentence imposed under ORS 137.712, for a crime listed in 137.700, 137.707, 163.095, or 181.594(4) committed on or after January 1, 2009, is not eligible to participate in alternative incarceration programs.

(4) An inmate is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under the provisions of ORS 137.635.

(5) An inmate is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under ORS 161.610 until the inmate completes the minimum incarceration term imposed by the court less earned time under 421.121.

(6) An inmate is not eligible to participate in alternative incarceration programs if the inmate:

(a) Has an adult conviction for felony escape which was committed within three years prior to the time of program entry, or has a conviction for unauthorized departure from the legal and/or physical custody of the Oregon Department of Corrections or its authorized agents which was committed within three years prior to the time of program entry.

(b) Is serving non-sentencing guidelines prison terms (sentences with crime dates prior to November 1, 1989), or has unresolved criminal prosecutions, consecutive county jail terms, or any other circumstances that would conflict with his/her release from prison upon satisfactory completion of an alternative incarceration program.

(c) Has a current detainer.

(A) Inmates who are serving a sentence for a crime committed prior to January 1, 2009, and who have detainers lodged with the Department after they have been selected and assigned to one of the programs, and the detainer is discovered after the inmate has completed approximately one-half of the program may be permitted to continue their participation in the program at the discretion of the functional unit manager or designee based on their program performance to date.

(B) Inmates who are serving a sentence for a crime committed on or after January 1, 2009, and who have a current detainer from any jurisdiction that will not expire prior to the inmate's calculated date of release onto post-prison supervision are not eligible for, and shall not be permitted to continue participation in, an alternative incarceration program.

(d) Is currently assigned to special security housing for reasons of protective custody, and the inmate's assignment to the program is otherwise determined by Department officials to pose a threat to the safe, secure and orderly operation and management of the program, including the safety of Department staff and inmates.

(e) Has less than ten months to serve from the first day of program entry. Inmates that have between nine and ten months to serve may participate in alternative incarceration programs with the functional unit manager's or designee's approval.

(f) Is serving a parole or post-prison supervision violation sanction pursuant to ORS 421.168(1) and 144.108(3)(b).

(7) For sentences imposed for crimes committed prior to January 1, 2009, an inmate is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under the provision of ORS 137.700 or 137.707 until completion of the mandatory minimum incarceration term. For sentences imposed for crimes committed on or after December 5, 1996, the inmate is eligible after completion of the mandatory minimum incarceration term only upon order of the sentencing court as ordered in a judgment pursuant to 137.750.

(8) For sentences imposed for crimes committed prior to January 1, 2009, an inmate is not eligible to participate in alternative incarceration programs if the inmate, on or after April 1, 1995, commits and is convicted of:

(a) Assault II as defined in ORS 163.175(1)(b) (Intentionally or knowingly causes physical injury to another by means of a deadly or dangerous weapon);

(b) Kidnapping II (ORS 163.225); or

(c) Robbery II (ORS 164.405); unless the sentencing court, notwithstanding 137.700 and 137.707, has imposed a lesser sentence pursuant to 137.712 and (for crimes committed on or after December 5, 1996 and prior to January 1, 2009) only upon order of the sentencing court as directed in the judgment pursuant to 137.750.

(9) For sentences imposed for crimes committed prior to January 1, 2009, an inmate is not eligible to participate in alternative incarceration programs if the inmate on or after October 23, 1999, commits and is convicted of Manslaughter II as defined in ORS 163.125, unless the sentencing court, notwithstanding 137.700 and 137.707, has imposed a lesser sentence pursuant to 137.712 and only upon order of the sentencing court as directed in the judgment pursuant to 137.750.

(10) An inmate is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under the provisions of ORS 161.725 or 161.737 (dangerous offenders) for a crime committed on or after November 1, 1989. An inmate shall not be allowed to participate in alternative incarceration programs even after completion of the required minimum incarceration term

(determinate sentence) even if the Board of Parole and Post-Prison Supervision finds that the person is no longer dangerous or finds that the person remains dangerous but can be adequately controlled with supervision and mental health treatment and sets a post-prison supervision release date.

(11) If otherwise eligible under Oregon law, any person sentenced for a crime committed on or after December 5, 1996 and prior to January 1, 2009, may be considered for alternative incarceration programs only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(12) If otherwise eligible under Oregon law, an inmate sentenced for a crime committed on or after January 1, 2009, may be considered for short-term transitional leave and release onto post-prison supervision only upon order of the sentencing court as directed in a judgment pursuant to ORS 421.508(4).

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075 & OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 7-2007, f. & cert. ef. 10-9-07; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09

291-062-0140

Inmate Selection

(1) The Department in its discretion may accept eligible inmates into an alternative incarceration program based on its determination that the inmate's participation in such a program is consistent with the safety of the community, the welfare of the applicant, the program objectives and the rules of the Department.

(2) The functional unit manager or designee of each facility that has an alternative incarceration program shall appoint a committee that is responsible for making recommendations to the functional unit manager or designee on the placement of inmates in the program based on treatment readiness.

(3) An inmate will not be accepted into an alternative incarceration program unless the inmate submits a written request to participate.

(a) The request must contain a statement signed by the inmate applicant providing that he/she:

(A) Is physically and mentally able to withstand the rigors of the program; and

(B) Has reviewed the alternative incarceration program descriptions provided by the Department and agrees to comply with each of the requirements.

(b) Otherwise eligible inmate applicants with a physical or mental disability will be evaluated individually by the Department to determine whether the inmate may successfully participate in the fundamental components of an alternative incarceration program.

(c) The Department shall make the final determination regarding an inmate's physical or mental ability to withstand the rigors of the program.

(4) Inmates who score a six or higher on the Static 99 risk assessment tool (Exhibits AI and AII) will not be accepted into an AIP.

(5) Inmates with a predatory sex offender designation will not be accepted into an AIP.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075 & 2008 OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 7-2007, f. & cert. ef. 10-9-07; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09; DOC 20-2011(Temp), f. & cert. ef. 10-17-11 thru 4-13-12; DOC 4-2012, f. & cert. ef. 3-1-12

291-062-0150

Removal or Suspension From an Alternative Incarceration Program

(1) The functional unit manager or designee in his/her discretion may remove or suspend an inmate from any portion of

an alternative incarceration program, and may reassign the inmate to another Department of Corrections facility to serve the balance of the inmate's court-imposed incarceration term(s), for administrative or disciplinary reasons. The decision to remove or suspend an inmate from the program will be made in consultation with a committee appointed by the functional unit manager or designee that is responsible to review the performance of inmates participating in an alternative incarceration program.

(2) Administrative Removal/Suspension:

(a) The functional unit manager or designee in his/her discretion may immediately remove or suspend an inmate from the program and reassign the inmate to another Department of Corrections facility without a hearing, for administrative reasons.

(b) An inmate who is not available to participate substantially in the program (e.g., physical and mental illness, court appearance(s), disciplinary segregation, etc.) for up to 30 days following placement will have his/her program participation suspended and be evaluated by the committee to determine whether the inmate will be removed from the program or accepted back into the program at the program level deemed appropriate by the functional unit manager or designee.

(c) Any change in status that would cause an inmate to be ineligible to continue participating in the program as described in OAR 291-062-0130 (e.g., discovery of a detainer), may result in a suspension.

(A) If suspended, the inmate will have 30 days to resolve his/her eligibility status with the Department. If the inmate's eligibility status remains unresolved, the inmate will be removed from the program.

(B) An extension may be made by the functional unit manager or designee on a case-by-case basis.

(d) If other charges will result in immediate incarceration upon release to short-term transitional leave, the inmate will have 30 days to resolve his/her eligibility status with the Department. If the inmate's eligibility status remains unresolved, the inmate will be removed from the program. An extension may be made by the functional unit manager or designee on a case-by-case basis.

(e) Inmates are expected to participate in all aspects of their program assignment at a level consistent with the length of time they have been assigned to the program.

(A) The functional unit manager or designee in his/her discretion may suspend an inmate from the program for 30 days or more when, in consultation with the program performance review committee, the functional unit manager or designee determines that the inmate is not making adequate program progress. During the suspension, the inmate will be given an opportunity to come into compliance with established program standards.

(B) If the inmate comes into compliance, he/she will be placed at a program level deemed appropriate by the functional unit manager or designee. If the inmate fails to meet program expectations, he/she may be removed from the program. If the inmate is assigned to an intensive alternative incarceration addiction program, the inmate may have the length of his/her program extended beyond 270 days.

(3) Disciplinary Removal/Suspension: An inmate who after a hearing in accordance with procedures provided in the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) is found to have committed a major disciplinary rule violation may be removed from the program and transferred to another Department of Corrections facility at the discretion of the functional unit manager or designee.

(4) Voluntary Removal: An inmate may elect to remove himself/herself from an alternative incarceration program; however, to do so the inmate must sign a document requesting removal from the program to the functional unit manager or designee. Voluntary removal from the program constitutes a program failure.

(5) Once an inmate has been removed from an alternative incarceration program as a program failure or completes the program and returns to prison on another crime, he/she will be ineligible to participate in another alternative incarceration program during the same custody cycle. If the failure is from an alternative

incarceration addictions program, he/she will be ineligible to participate in any other alcohol and drug treatment program during the same custody cycle (this does not include dual diagnosis programs).

(6) Administrative Review of Removal for Program Failure:

(a) When the functional unit manager or designee removes an inmate from the inmate's program assignment for a program failure, the inmate will be notified in writing of the reason(s) for the removal decision, and the opportunity for administrative review of the decision.

(b) To obtain an administrative review of the removal decision, an inmate must send a request for administrative review in writing to the Assistant Director for Transitional Services or designee, together with any supporting documentation. The Assistant Director for Transitional Services or designee must receive the request within 15 calendar days of the date of the notice of the administrative removal.

(c) The review should be completed within 15 days after receiving an inmate's review request. The Assistant Director for Transitional Services or designee's decision on administrative review shall be final.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075 & 2008 OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 7-2007, f. & cert. ef. 10-9-07; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09

291-062-0160

Alternative Incarceration Program Prison Management

(1) To the extent that other Department of Corrections rules may conflict with provisions in these rules (OAR 291-062-0100 to 291-062-0160), such rules are inapplicable to alternative incarceration programs and are modified as provided below to reflect the purposes of alternative incarceration programs and the relatively short period of confinement.

(2) Modified Rules:

(a) Short-Term Transitional Leave, Emergency Leaves and Supervised **Trips** (OAR 291-063):

(A) An inmate who completes, to the Department's satisfaction, all of the requirements of the structured institution program may be released into the community on short-term transitional leave.

(B) OAR 291-063 is modified with respect to alternative incarceration program participants to provide that violations of short-term transitional leave conditions will be addressed in accordance with Department of Corrections rule on Structured Intermediate Sanctions, OAR 291-058.

(C) Additionally, an inmate's short-term transitional leave agreement will constitute the Department of Corrections expectations for both behavior and programming compliance. Accordingly, if an inmate violates his/her conditions of short-term transitional leave, he/she will not be awarded either institutional conduct or programming compliance credit for the period of time while on short-term transitional leave status.

(b) Hygiene, Grooming and Sanitation (Inmate) (OAR 291-123) and Personal Property (Inmate) (OAR 291-117): The functional unit managers in the facilities where alternative incarceration programs are provided may establish separate and distinct standards for personal grooming and hygiene as a means to support program goals. Commissary operations and purchases, food services and educational requirements for participants may be modified by those facilities where alternative incarceration programs are offered as a means of supporting program goals. Each facility may develop internal processes for staff and inmates outlining the applicable requirements or restrictions specific to these programs.

(c) Performance Recognition and Award System (PRAS) (OAR 291-077): Inmates assigned to an alternative incarceration program will receive a standard number of points for their PRAS award as determined by the Department for work and program participation. Inmates are eligible for special recognition awards pursuant to the Department's rule on Performance Recognition and Award System.

suant to the Department's rule on Performance Recognition and Award System.

(d) Mail (Inmate) (OAR 291-131): Inmates participating in the SUMMIT alternative incarceration program may not be allowed to correspond with inmates participating in the same program and may not be allowed to correspond with other inmates housed in general population at the facility where the program is operating.

(e) Prison Term Modification (OAR 291-097): Inmates who begin an alternative incarceration program will be considered to be participating in their primary program plan. If an inmate fails to complete any portion of the program because of inadequate program performance, disciplinary reasons, or voluntary removal, the inmate will be considered noncompliant with his/her primary program plan, and will not be granted earned time credit for programming during that review period.

(f) Assessment, Assignment, and Supervision of Inmates for Work Assignments and Unfenced Minimum Housing (OAR 291-082): Inmates participating in the SUMMIT alternative incarceration program and who are otherwise ineligible for outside work crews and unfenced minimum housing may participate in outside work crews after reaching red hat status and reside in an unfenced minimum housing so long as the victim of their crime does not reside in the area.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075 & 2008 OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09

291-062-0170

Release onto Post-Prison Supervision

(1) For inmates serving a sentence for a crime committed prior to January 1, 2009, upon successfully conforming to directed activities while participating in the short-term transitional leave component of the program, the inmate shall be released into the community on post-prison supervision.

(2) For inmates serving a sentence for a crime committed on or after January 1, 2009, the inmate shall be released onto post-prison supervision only if all of the following requirements are met:

(a) The sentencing court has issued an order contained in a judgment that authorizes the Department to release the inmate onto post-prison supervision;

(b) The inmate has served at least one year of the term of incarceration imposed by the sentencing court;

(c) The inmate's release does not result in the inmate being released onto post-prison supervision earlier than the length of physical confinement imposed by the sentencing court, including any earned time credits, minus 20 percent; and

(d) The inmate has successfully conformed to directed activities while participating in the short-term transitional leave component of the program.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075 & 2008 OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075

Hist.: DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09

DIVISION 63

**SHORT-TERM TRANSITIONAL LEAVES,
EMERGENCY LEAVES, AND SUPERVISED TRIPS**

291-063-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.166, 421.168, 423.020, 423.030, and 423.075

Chapter 291 Department of Corrections

(2) Purpose: To provide uniform procedures, standards, and guidelines for granting or denying short-term transitional leaves, emergency leaves or supervised trips and to establish supervision standards for such leaves.

(3) Policy: It is the policy of the Department of Corrections, pursuant to ORS 421.166 and 421.168, to allow inmates short-term transitional leaves, emergency leaves or supervised trips from correctional facilities when circumstances indicate a leave or supervised trip would be in accordance with generally accepted correctional and rehabilitation practices.

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030 &

423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-

90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-

03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0010 Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Emergency Leave: A leave of ten days duration or less within the state for the specific purposes listed in 291-063-0050(2)(a) where the inmate is expected to return to the releasing facility.

(3) Employee: Any person employed full-time, part-time or under temporary appointment by the Department of Corrections.

(4) Enter Parole/Probation Record (EPR): A record on the Law Enforcement Data System (LEDS) which identifies an inmate who is in the community on parole, probation, post-prison supervision, short-term transitional leave, or emergency leave exceeding five days.

(5) Immediate Family Member: Spouse, domestic partner, parent, sibling, child, and grandparents including step-relationships of such.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(7) Releasing Authority: The functional unit manager or designee of the correctional facility from which the inmate is to be or has been released on 90-day transitional leave/non-prison leave from an alternative incarceration program, supervised trip, or emergency leave. For short-term transitional leave, the releasing authority is the Assistant Director of Transitional Services or designee.

(8) Short-Term Transitional Leave: A leave for a period not to exceed 30 days preceding an established projected release date which allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community. The department may grant a transitional leave of up to 90 days for inmates participating in an alternative incarceration program in accordance with ORS 421.500 and the department's rule on Alternative Incarceration Programs (OAR 291-062).

(9) Supervised Trip: Any non-routine trip outside a Department of Corrections facility within the State of Oregon which is supervised by an employee of the Department of Corrections or a person authorized to supervise or maintain custody of persons outside of correctional facilities.

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030, 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03; DOC 17-2005, f. 12-30-05, cert. ef. 1-1-06; DOC 17-2010(Temp), f. 11-23-10, cert. ef. 12-1-10 thru 5-30-11; DOC 10-2011, f. & cert. ef. 6-2-11

291-063-0016 Procedures

(1) Eligibility Requirements:

(a) An inmate must be incarcerated for six months, including applicable county jail time credits, before being eligible for short-term transitional leave.

(b) Any person serving a sentence for a crime committed prior to November 1, 1989, shall not be eligible for short-term transitional leave.

(c) Persons incarcerated for parole revocation sanctions are not eligible for short-term transitional leave pursuant to ORS 421.168(1) and 144.108(3)(b).

(d) Persons incarcerated for post-prison supervision revocation sanctions are not eligible for short-term transitional leave pursuant to ORS 421.168(1) and 144.108(3)(b). However, such persons are eligible for emergency leave pursuant to 421.166 and 144.108(3).

(e) Under the provisions of ORS 144.260, any inmate sentenced on or after December 4, 1986, require that a notification be distributed to the sentencing judge, district attorney, and sheriff 30 days prior to unescorted release from physical custody. Upon request, victims will be notified in the same manner.

(f) Any person serving a sentence under the provisions of ORS 137.635 shall not be eligible for short-term transitional leave.

(g) Any person serving a sentence under the provisions of ORS 161.610 shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court less earned time under ORS 421.121.

(h) Any person serving a sentence under the provisions of ORS 163.105 for aggravated murder committed on or after November 1, 1989, shall not be eligible for short-term transitional leave. The person shall not be eligible for short-term transitional leave even after completion of the minimum incarceration term imposed by the court, or if the Board of Parole and Post Prison Supervision converts the sentence to "life with possibility of parole, release to post-prison supervision, or work release."

(i) Any person serving a sentence under the provisions of ORS 163.115 for murder:

(A) Committed on or after November 1, 1989, and prior to April 1, 1995, shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court less earned time under ORS 421.121;

(B) Committed on or after April 1, 1995 and prior to June 30, 1995, shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court; or

(C) Committed on or after June 30, 1995, shall not be eligible for short-term transitional leave. The person shall not be eligible for short-term transitional leave even after completion of the minimum incarceration term imposed by the court, or if the Board of Parole and Post Prison Supervision converts the sentence to "life with possibility of parole, release to post-prison supervision, or work release."

(j) Any person serving a sentence under the provisions of ORS 137.700 or 137.707 for a crime:

(A) Committed prior to December 5, 1996, shall not be allowed short-term transitional leave until completion of the mandatory minimum incarceration term; or

(B) Committed on or after December 5, 1996, shall not be allowed short-term transitional leave until completion of the mandatory minimum incarceration term and only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(k) Any person serving a sentence under the provisions of ORS 137.712 for Robbery II, Kidnapping II, or Assault II committed:

(A) On or after April 1, 1995 and prior to December 5, 1996 is eligible for short-term transitional leave.

(B) On or after December 5, 1996 is eligible for short-term transitional leave only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(l) Any person serving a sentence under the provisions of ORS 137.712 for Manslaughter II committed on or after October 23, 1999 is eligible for short-term transitional leave only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(m) Any person serving a sentence under the provisions of ORS 137.712 for Rape II, Sodomy II, Unlawful Sexual Penetration II, or Sex Abuse I committed on or after January 1, 2002 is eligible for short-term transitional leave only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(n) Any person serving a sentence under the provisions of ORS 161.725 to 161.737 (dangerous offenders) for a crime committed on or after November 1, 1989 shall not be eligible for short-term transitional leave during service of the required minimum term of incarceration (determinate sentence) imposed by the court. The person shall not be eligible for short-term transitional leave even after completion of the required minimum term of incarceration (determinate sentence) even if the Board of Parole and Post Prison Supervision finds that the condition that made the person dangerous is absent or in remission and sets a post-prison supervision release date.

(o) If otherwise eligible under Oregon law, any person serving a sentence for a crime committed on or after December 5, 1996, shall be eligible for short-term transitional leave only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(2) Criteria: In order for an inmate to be approved for any form of leave, he/she must meet the following criteria:

(a) Be classified as minimum custody in accordance with the Department of Corrections rule on Classification (Inmate) (OAR 291-104);

(b) Plan to reside within the State of Oregon;

(c) Does not have a current detainer of other charges that would result in incarceration upon release to transitional leave;

(d) Acceptable performance in the completion of correctional programming to address assessed needs and reduce the risk of future criminal behavior;

(e) Be in suitable physical and mental condition; and

(f) Institution conduct and program compliance warrant leave consideration.

(3) The supervising community corrections office must review and approve any transitional leave release plan.

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03; DOC 17-2005, f. 12-30-05, cert. ef. 1-1-06; DOC 17-2010(Temp), f. 11-23-10, cert. ef. 12-1-10 thru 5-30-11; DOC 10-2011, f. & cert. ef. 6-2-11

291-063-0030

Approval of Short-Term Transitional Leaves

(1) Short-term transitional leaves may be granted from any Department of Corrections facility with proper approval of the releasing authority.

(2) Application:

(a) The inmate may initiate the short-term transitional leave process by filling out the appropriate Short-Term Transitional Leave application and submitting it to the assigned institutional counselor or designated staff member.

(c) Designated staff members will verify the information given and submit the leave recommendation and other relevant information to the releasing authority.

(3) Approval:

(a) The releasing authority or designee may grant a short-term transitional leave up to 30 days prior to the inmate's release to post-prison supervision to allow an inmate to participate in an approved release plan.

(b) No short-term transitional leave will be granted to allow the inmate to reside with a Department of Corrections employee, contractor, or volunteer unless the inmate is an immediate family member of the employee pursuant to ORS 144.108(3)(b).

(c) The releasing authority or designee will stipulate the special conditions necessary to enhance community safety. Short-term transitional leave conditions will replicate as much as possible post-prison supervision conditions. Short-term transitional leave conditions may hold an inmate to a higher standard than post-prison supervision.

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03; DOC 17-2005, f. 12-30-05, cert. ef. 1-1-06; DOC 17-2010(Temp), f. 11-23-10, cert. ef. 12-1-10 thru 5-30-11; DOC 10-2011, f. & cert. ef. 6-2-11

291-063-0036

Violations of Short Term Transitional Leaves

(1) Sanctions may be imposed at the local level if:

(a) The supervising officer determines that the violation can appropriately be addressed; and

(b) The inmate admits the violation and accepts the sanction.

(2) A Misconduct Report shall be submitted any time a violation of short-term transitional leave may result in revocation

of that leave. In such instances it shall be the responsibility of the supervising officer to report the alleged violation in writing to the releasing authority within 5 working days of the infraction. The releasing authority shall ensure that a misconduct report is submitted in accordance with the department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105)

(3) When a misconduct report is submitted, a hearing shall be conducted in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). An inmate found in violation of a rule of prohibited conduct while he/she is on transitional leave, may be subject to a revocation of the leave and be returned to a Department of Corrections facility (291-105-0069(1)(e)) and may be subject to other sanctions in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0040

Supervised Trips

(1) Supervised trips may be granted from any Department of Corrections facilities with proper approval of the releasing authority.

(2) Application:

(a) An inmate may apply for a supervised trip by directing an appropriate supervised trip application to his/her assigned counselor or designated staff member. Except for the purpose of attending a private viewing before or after a funeral or bedside visits, these applications should be submitted no more than fifteen and no less than seven working days in advance of the supervised trip date.

(b) The counselor or designated staff member will verify the information and submit the application and other relevant information to the releasing authority.

(3) Approval:

(a) The releasing authority may grant supervised trips to inmates for the following reasons:

(A) To allow the inmate to visit a seriously ill relative with whom a meaningful relationship exists;

(B) To attend a private viewing before or after the funeral of an immediate family member;

(C) To allow the inmate to obtain medical and/or dental services not provided by the facility; and

(D) For other reasons consistent with accepted correctional and/or rehabilitation practices.

(b) The releasing authority may approve supervised trips for those inmates who do not meet the eligibility criteria for emergency leaves as specified in these rules.

(A) No inmate of the Department of Corrections will be allowed a supervised trip unless the supervision is provided by a Department of Corrections employee or a person authorized to supervise or maintain custody of persons outside of correctional facilities.

(B) No supervised trips will be authorized for social reasons.

(C) Supervised trips may be authorized for civic purposes (i.e., work projects or speaking engagements relative to crime prevention or substance abuse).

(D) Approval for all proposed supervised trips for club projects must be requested of the functional unit manager in writing and staff must verify the request.

(c) Inmates approved for supervised trips will fall into two categories:

(A) When inmates judged by staff to be a threat to the community and/or themselves are granted supervised trips, appropriate protective restraints and escorts will be used.

(B) Inmates who are not considered a threat to the community or themselves must meet the following criteria:

(i) Inmate is in suitable physical and mental condition consistent with the reason for the trip;

(ii) Programming and interests are consistent with trip purposes; and

(iii) Depending upon the reason for the trip, the inmate has demonstrated a level of performance during incarceration indicating a reasonable expectation that the supervised trip will be successful.

(4) Expenses: Unless specific arrangements are approved in advance by the releasing authority, the inmate will pay for any expenses incurred for supervised trips.

(5) Violation:

(a) Failure to return from supervised trip shall be an escape. A warrant will be issued in accordance with the department's policy on Escape Notification.

(b) All rules of prohibited conduct cited in the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) apply to inmates on supervised trips.

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0050

Emergency Leaves

Emergency leaves may be granted by any Department of Corrections facility with proper approval of the releasing authority. The same eligibility requirements that apply to short-term transitional leave in OAR 291-063-0016 also apply to emergency leave, other than persons incarcerated for post-prison supervision revocation sanctions are not eligible for short-term transitional leave pursuant to ORS 421.168(1) and 144.108(3)(b). However, such persons are eligible for emergency leave pursuant to 421.166 and 144.108(3).

(1) Application:

(a) The inmate may apply for a leave by filling out an appropriate application and submitting it to the assigned counselor or designated staff member.

(b) Applications must be submitted in sufficient time for staff to review and verify the information provided.

(c) Counselors or designated staff members will verify the information given and submit the necessary document and/or other relevant information for the releasing authority.

(2) Approval:

(a) Emergency Leaves: Any releasing authority may grant emergency leaves for the following reasons:

(A) To visit a terminally ill family member if the member lives within the state.

(B) To visit a gravely ill child of the inmate if the child lives within the state.

(C) To attend the funeral or view the remains of an immediate family member if in the state.

(b) The duration of the emergency leave shall be restricted to only the time necessary to accomplish the purpose of the leave.

(c) Emergency leave will not be granted in the company of a Department of Corrections employee or volunteer unless the inmate is an immediate family member of the employee or volunteer.

(d) In approving an emergency leave, the releasing authority will stipulate conditions of release necessary for approval of the emergency leave.

(e) Inmates requesting non-emergency medical treatment while on emergency leave shall return to the releasing facility for examination and treatment if necessary.

(3) Expenses: Funds to cover expenses of any leave must be available in the inmate's account before leave may be granted, unless otherwise specifically authorized by the releasing authority. Any funds received designated for this purpose will not be used to reduce any indebtedness.

(4) Community Corrections Monitoring: When an emergency leave exceeds five days, the releasing authority or his/her designee

must arrange with Community Corrections staff for monitoring of the inmate while the inmate is in the community. Upon departure from the facility, an EPR shall be initiated by the releasing facility.

(a) Assigned community corrections staff may, when deemed necessary, request that the releasing authority modify leave stipulations or release plan with written prior notice to the inmate and documentation to the file.

(b) Within ten days of the releasing authority's approval to modify, the inmate may appeal to the Assistant Director of Institutions the changes in leave stipulations or release plan.

(5) Emergency Leave Violations: Violations of the conditions or stipulations of an emergency leave constitute the basis for disciplinary action which will be handled in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(a) Community Corrections staff have the authority to detain any inmate on emergency leave status and lodge him/her in a local jail pending investigation and/or return to a Department of Corrections intake facility.

(b) In the event the decision is made to remove an inmate from emergency leave status and return him/her to the releasing facility, the responsibility for return will be as follows:

(A) Inmates who have been apprehended out-of-state will be returned to a Department of Corrections intake facility.

(B) Inmates who have been removed from emergency leaves will be returned to the releasing facility.

(C) If the inmate fails to report as instructed, the supervising officer will immediately investigate the circumstances and report the incident to the releasing authority or designee in accordance with the Department of Corrections policy on Unusual Incident Reporting Process, #40.1.6.

(D) If the inmate fails to report or return to the releasing facility as instructed, a warrant will be issued in accordance with the Department of Corrections policy on Escape Notification, #70.1.1.

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03, Renumbered from 291-063-0025; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03; DOC 17-2005, f. 12-30-05, cert. ef. 1-1-06

291-063-0060

Warrants

Issuing Warrants:

(1) Supervising officers will notify the releasing authority or designee regarding an inmate's unauthorized departure whenever an inmate makes him/herself unavailable for supervision.

(2) The releasing authority or designee will ensure a warrant is issued in accordance with the Department of Corrections policy on Escape Notification, if the circumstances and facts so justify.

Stat. Auth.: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.166, 421.168, 423.020, 423.030 & 423.075

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

DIVISION 64

INFORMED CONSENT TO TREATMENT WITH PSYCHOTROPIC MEDICATION

291-064-0010

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, 423.075 and 430.021.

(2) Purpose: The purpose of this rule is to establish Department of Corrections policy and procedures for the administration of psychotropic medications to inmates in Department of Corrections facilities.

(3) Policy: When psychotropic medications are recommended for treatment of mental disorders, the prescribing practitioner will

attempt to obtain the inmate's informed consent. In all situations involving involuntary medication, the principles of good professional practice will prevail. For involuntary medication to be approved, it must be demonstrated that the inmate has a mental disorder and as a result of that disorder there exists a likelihood of serious harm to the inmate, others or property; or the inmate is gravely disabled, and that the treatment is in the inmate's medical interest.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0020

Definitions

(1) Department: Oregon Department of Corrections.

(2) Emergency: An immediate and serious danger to life or health.

(3) Facility: Any facility operated by the Department of Corrections in which inmates in the physical custody of the department reside.

(4) Gravely Disabled: A condition in which an inmate, as a result of a mental disorder, manifests a deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over behavior which creates a danger of serious physical and/or psychological harm to the inmate and/or serious physical injury to others.

(5) Guardian: A person appointed by a court of law to act as the guardian of a legally incapacitated person.

(6) Independent Examining Physician: A physician who shall be board certified in psychiatry, shall have been subjected to review by the Health Services Division Clinical Medical Director as to his/her qualifications to make such an examination, and shall have participated in a training program in the meaning and application of the provisions of this rule. The independent examining physician shall not be an employee of the Department of Corrections.

(7) Inmate: Any person under the supervision of the Department of Corrections who is not on parole or post-prison supervision status.

(8) Legally Incapacitated: A person who has been found by a court of law to be unable, without assistance, to properly manage or take care of their personal affairs.

(9) Likelihood of Serious Physical Injury: A substantial risk that an inmate will inflict serious physical injury:

(a) Upon the inmate, as evidenced by recent threats or attempts to commit suicide or self-inflicted physical injury; or

(b) Upon another, as evidenced by recent behavior which has caused such harm or has placed another person in reasonable fear of sustaining such injury; or

(c) Upon self or another by means of damaging property, as evidenced by recent behavior which has caused such injury or has placed another person in reasonable fear of sustaining such injury; or

(d) Upon the inmate, another, or by damage to property, as evidenced by recent behavior or thinking which, in examining the inmate's prior medical history, is associated with a pattern of behaviors leading to such injury or damage.

(10) Material Risk: A risk that may have a substantial adverse effect on the inmate's psychological and/or physical health. For example, tardive dyskinesia is a material risk of neuroleptic medications.

(11) Mental Disorder:

(a) An impaired general medical condition resulting in impaired mental functioning, or impaired emotional health; or

(b) A longstanding, inflexible, pervasive, and enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture (usually constituting a maladaptive set of personality traits), usually of little concern to the person but which causes impaired life adjustment.

(12) Physical Injury: Impairment of physical condition or substantial pain.

(13) Psychotropic Medications: The class of medications that have central nervous system activity and are commonly used for

the treatment of mental disorders. Types of medications within the class of psychotropic medications include, but are not limited to, neuroleptics (antipsychotics), lithium, and antidepressants.

(14) Serious Physical Injury: Injury which creates a substantial risk of death, causes serious and protracted disfigurement, impairment of health, or loss or impairment of the function of any bodily organ.

(15) Treating Practitioner: Any Health Services Division employee or contractor who by licensure is authorized to prescribe treatment specifically, including the administration of psychotropic medications. This includes physicians, nurse practitioners, and physician assistants.

(16) Treatment Plan: The comprehensive plan of medical, psychiatric, psychological, and psychosocial interventions used to guide treatment providers in assisting an inmate to accomplish the inmate's goals for behavioral change. One aspect of a treatment plan may be psychotropic medications.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0030

General Policy on Obtaining Informed Consent for Administration of Psychotropic Medications

Capacity of the Inmate to Give Informed Consent.

(1) Inmates from whom informed consent to treatment with psychotropic medications is being sought shall be presumed competent to give consent unless:

- (a) The inmate has been found to be legally incapacitated; or
- (b) In the clinical opinion of the treating practitioner, the inmate currently demonstrates an inability to comprehend and weigh one or more factors involved in making informed consent as provided in OAR 291-064-0040(1).

(2) In determining the inmate's ability to comprehend and weigh the factors the treating practitioner shall:

(a) Disclose the information required in OAR 291-064-0040(1);

(b) Ask the inmate to repeat the information in the inmate's own words or to explain what the information means; and

(c) Ask the inmate to give a practical example of how the information may affect the inmate's decision.

(3) The inmate's ability to comprehend and weigh the factors in OAR 291-064-0040(1) shall be documented in the inmate's treatment record and supported by specific descriptions of the inmate's statements or behavior.

(4) An inmate shall not be deemed unable to give informed consent to administration of psychotropic medications solely because:

(a) The inmate has been diagnosed as mentally ill or mentally retarded;

(b) The inmate has previously disagreed or now disagrees with his/her diagnosis; or

(c) The inmate has previously disagreed or now disagrees with the recommendation for psychotropic medications.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0040

Procedures for Obtaining Informed Consent and Information to be Provided

(1) An inmate, or the guardian of a legally incapacitated inmate, from whom informed consent to administration of psychotropic medications is sought, shall be given information orally and in writing as follows:

- (a) The nature of the inmate's mental disorder;
- (b) The name and purpose of the recommended medication;
- (c) The material risks of the recommended medication;
- (d) The intended benefits of the medication;
- (e) The alternatives to the recommended medication, if in the opinion of the treating practitioner those alternatives are available and comparable in effectiveness;

(f) The predicted medical/psychiatric consequences of not accepting the recommended medication; and

(g) That consent may be refused, withheld or withdrawn at any time.

(2) The treating practitioner shall ask the inmate or guardian if they would like additional information concerning the recommended medication, and shall provide such information on request.

(3) The treating practitioner recommending administration of a psychotropic medication shall document by notation in the inmate's treatment record:

(a) That the information required in section (1) of this rule was explained; and

(b) Whether the inmate or guardian explicitly consented, refused, or withheld consent; and

(c) Whether the inmate or guardian requested and received additional information.

(4) Psychotropic medications may not be administered to an inmate who has been found legally incapacitated without the consent of the guardian, except in the case of an emergency.

(5) Reports of Progress: Upon request, an inmate or guardian shall be informed of the progress of the inmate during the administration of psychotropic medications.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0050

Consent Options — Exceptions to Informed Consent

(1) Inmates deemed able to consent pursuant to OAR 291-064-0030 may:

(a) Consent to voluntary administration;

(b) Withhold consent for up to 48 hours for the purpose of obtaining additional information;

(c) Refuse consent; or

(d) At any time withdraw consent previously given.

(2) Any consent, refusal, or withholding of consent shall be fully documented in the inmate's treatment record, regardless of the treating practitioner's determination of capacity in OAR 291-064-0030.

(3) Inmates withholding consent for 48 hours shall be considered to have refused consent.

(4) Where consent previously given is withdrawn, the person to whom the inmate's decision is communicated shall document the withdrawal of consent and the reason for withdrawal by notation in the inmate's treatment record.

(5) Psychotropic medications shall be administered to an inmate only after first obtaining written informed consent from the inmate in the manner prescribed in these rules, except as follows:

(a) Administration of psychotropic medications to legally incapacitated inmates as provided in OAR 291-064-0040(4);

(b) Administration of psychotropic medications without informed consent in emergencies as provided in OAR 291-064-0060; and

(c) Involuntary administration of psychotropic medications for good cause as provided in OAR 291-064-0070.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0060

Emergency Administration of Psychotropic Medications without Informed Consent

(1) An emergency that is sufficient to allow the administration of psychotropic medications without informed consent exists, if in the opinion of the treating practitioner, an inmate has a mental disorder and as a result of that disorder:

(a) Immediate administration of psychotropic medication is medically necessary to preserve the life or health of the inmate; or

(b) Immediate administration of psychotropic medication is medically necessary because the inmate's behavior creates a likelihood of serious physical injury to the inmate or others; or

(c) Immediate administration of psychotropic medication is medically necessary because the inmate has:

(A) Recently damaged property and caused physical injury to self or others; or

(B) Recently expressed and acted upon an intent to cause serious physical injury to self or others by damaging property; or

(C) Recently demonstrated behavior or thinking which, in examining the inmate's prior medical history, is associated with a pattern of behavior leading to such property damage or physical injury to self or others.

(2) If an emergency exists, the treating practitioner may administer psychotropic medications to an inmate without first obtaining the inmate's written informed consent provided:

(a) The specific nature of the emergency and all procedures used to cope with the emergency are fully documented in the inmate's treatment record; and

(b) An effort has been made to contact the legal guardian of a legally incapacitated inmate prior to the administration of psychotropic medications.

(c) If the treating practitioner is not a mental health prescriber, consultation with the chief medical officer or his/her designee shall occur within 12 hours of the emergency

(3) Within 72 hours after the emergency administration of psychotropic medications, the treating practitioner shall review the treatment plan and may implement a revised treatment plan.

(4) The administration of psychotropic medications in an emergency situation may not continue for more than 72 hours.

(5) If, in the opinion of the treating practitioner, involuntary administration of psychotropic medications beyond 72 hours is medically necessary, the treating practitioner must:

(a) Obtain the inmate's written informed consent, or

(b) Determine that good cause for recommending involuntary administration exists as provided in OAR 291-064-0070, and

(c) Refer the determination of good cause for review as provided in OAR 291-064-0080.

(6) Within seven days of a determination that good cause exists for involuntary administration of medications subsequent to an emergency, the independent examining physician shall review that determination as provided in OAR 291-064-0090 to 291-064-0120.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95; DOC 9-2003(Temp), f. & cert. ef. 5-19-03 thru 11-15-03; Administrative correction 11-17-03; DOC 16-2003, f. & cert. ef. 12-2-03

291-064-0070

Good Cause for Involuntary Administration of Psychotropic Medications to Inmates

Good cause exists for recommending involuntary administration of psychotropic medications if, in the opinion of the treating practitioner:

(1) The inmate is suffering from a mental disorder and as a result of the disorder:

(a) The inmate is gravely disabled; or

(b) The inmate's behavior creates a likelihood of serious harm to self or others; and

(2) The inmate:

(a) Is deemed not competent to give informed consent to administration of psychotropic medications as provided in OAR 291-064-0030; or

(b) Has refused to give informed consent to the administration of psychotropic medications; and

(3) The use of psychotropic medications is clinically indicated for:

(a) Restoring, or preventing deterioration of the inmate's mental or physical health; or

(b) Alleviating extreme suffering; or

(c) Saving or extending the inmate's life; and

(4) Psychotropic medications are the most appropriate treatment for the inmate's condition according to current clinical practice; and

(5) Other less intrusive procedures have been considered and the reasons for rejecting those procedures have been documented in the inmate's treatment record; and

(6) The treating practitioner attempted to first obtain the inmate's written informed consent.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0080

Review of Treating Practitioner's Determination of Good Cause by an Independent Examining Physician

(1) Prior to the involuntary administration of psychotropic medications for good cause, the treating practitioner shall refer his or her recommendation for review to an independent examining physician who will convene a medication review hearing.

(2) The hearing may be held no more than ten days after the treating practitioner submits a determination that good cause exists.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0090

Notice of Hearing Required

Inmates subject to the involuntary administration process shall be given written notice at least 24 hours in advance of the hearing by the independent examining physician. The notice shall include:

(1) The date and time of the hearing;

(2) The inmate's diagnosis;

(3) A statement of the clinical basis for the diagnosis;

(4) A statement of the clinical basis for the determination that involuntary administration of psychotropic medications is in the inmate's medical interest; and

(5) An explanation of the inmate's rights.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0100

Inmate Rights

(1) Inmate rights during the hearing process include:

(a) The right, upon request, to discontinue emergency medications administered pursuant to OAR 291-064-0060 for 24 hours preceding the hearing and until the hearing adjourns;

(b) The right to be present during the hearing;

(c) The right to be heard in person and to present documentary evidence;

(d) The right to present testimony through witnesses and to cross-examine witnesses that are called by the Department;

(e) The right to an advisor to assist in the articulation and presentation of the inmate's argument at the hearing;

(f) The right to the creation of a record of the hearing;

(g) The right to appeal the decision of the independent examining physician to the chief medical officer as provided in this rule; and

(h) The right to retain counsel for the hearing at his/her own expense.

(2) Assignment of Advisor:

(a) A Health Services staff member shall be assigned to act as the inmate's advisor in the hearing process;

(b) In assisting the inmate to articulate their objection to the recommended medications, the advisor shall:

(A) Inform the inmate of his/her right to retain counsel for the hearing at his/her own expense;

(B) Interview the inmate and discuss the psychiatric issues involved, and the inmate's options;

(C) Assist the inmate in articulating a list of witnesses and questions for witnesses as required in section (3) of this rule;

(D) Review the inmate's treatment record, including records of efforts made to obtain informed consent;

(E) Be provided a copy of administrative rules OAR 291-064-0010 through 291-064-0140;

(F) Be provided an opportunity to review any other evidence presented by the Department upon which the recommendation for involuntary administration of medications is based;

(G) Be competent to understand and interpret the inmate's rights and the hearing process;

(H) Have an understanding of the psychiatric diagnosis and issues that the case may present; and

(I) Appear with the inmate at the hearing before the independent examining physician.

(3) If the inmate wishes to present or cross-examine witnesses, he/she must provide a written request to the independent examining physician prior to the hearing, listing the names of requested witnesses and the questions to be asked of each witness.

(4) The inmate's right to be present at the hearing may be limited because of his/her medical condition or because of other specific reasons relating to the interest of institutional safety and security.

(5) Reasons for the limitation of the right to present and cross-examine witnesses include, but are not limited to:

(a) Irrelevance;

(b) Redundancy;

(c) Other specific reasons relating to the interest of institutional safety and security.

(6) The reasons for any limitation of the inmate's rights shall be specified orally at the hearing and in writing as part of the final decision.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0110

Scope of Review

(1) The independent examining physician shall:

(a) Review the inmate's treatment record, including the records of efforts made to obtain informed consent;

(b) Discuss the matter with the inmate and witnesses;

(c) Review the evidence presented by the Department upon which the recommendation for involuntary administration of medications is based; and

(d) Consider additional information, if any, presented at the time of the review by the inmate, the advisor, the Department, or witnesses.

(2) The record of the hearing shall be the documents and statements relied on by the independent examining physician as noted in his/her report. Copies of all documents shall be made a part of the inmate's treatment record.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0120

Determination of Independent Examining Physician

(1) In each hearing the independent examining physician shall determine:

(a) Whether the treatment record contains a sound medical diagnosis supported by sufficient clinical documentation;

(b) The capacity of the inmate to give informed consent as provided in OAR 291-064-0030;

(c) The reasons for the inmate's refusal or withdrawal of consent, if the inmate has refused or withdrawn consent;

(d) Whether the inmate's behavior constitutes good cause for involuntary administration of psychotropic medications as provided in OAR 291-064-0070;

(e) Whether the reasons given for rejecting less intrusive procedures are medically sound; and

(f) Whether the involuntary administration of psychotropic medication is in the inmate's medical interest.

(2) The independent examining physician shall not approve involuntary administration of psychotropic medications unless it is determined that good cause exists and the involuntary administration of psychotropic medications is in the inmate's medical interest.

(3) The independent examining physician will prepare a written report of his/her decision containing a summary of evidence

presented and specific reasons for approving or disapproving involuntary administration of psychotropic medications. This report will be provided to:

(a) The chief medical officer of the facility;

(b) The inmate for whom involuntary administration of psychotropic medications is recommended; and

(c) The treating practitioner.

(4) A copy of the independent examining physician's report will be made part of the inmate's treatment record.

(5) Approval of the involuntary administration of psychotropic medications shall be effective for 180 days.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0130

Appeal of the Independent Examining Physicians Determination

(1) The inmate may appeal the determination of the independent examining physician in writing to the facility chief medical officer within 24 hours after the determination has been communicated to the inmate.

(2) Upon receipt of the inmate's request for appeal, the chief medical officer shall review the appeal and the report of the independent examining physician.

(3) Except in emergencies as provided in this rule, medications will not be involuntarily administered until the chief medical officer has decided the appeal.

(4) The chief medical officer shall approve or disapprove the independent examining physician's decision within seven days of receiving the inmate's request for appeal.

(5) Written notice of the chief medical officer's decision on appeal shall be provided to the inmate and made part of the inmate's treatment record.

(6) In the absence of the chief medical officer the notice of appeal will be given to the Department's clinical director who shall either decide the appeal or delegate that decision to the chief medical officer of another Department of Corrections facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

291-064-0140

Periodic Review

(1) When psychotropic medications are involuntarily administered pursuant to this rule, the treating practitioner shall:

(a) Submit a progress report to the facility chief medical officer every 30 days; and

(b) Place a copy of the progress report in the inmate's treatment record.

(2) The progress report will document the inmate's response to medications, including the inmate's attitude toward the medication and any changes in medication or side effects, and will indicate the treating practitioner's prognosis of the inmate's need for medications.

(3) Discontinuation of medications or voluntary consent to medications will be included in the progress report.

(4) The facility chief medical officer shall submit to the clinical director an annual report describing all involuntary administration of psychotropic medications.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 430.021

Hist.: CD 8-1995, f. 4-24-95, cert. ef. 5-1-95

DIVISION 65

PAROLE/PROBATION OFFICER DUTIES

291-065-0005

Authority and Purpose

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.610, 137.630, 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to specify the duties of parole and probation officers of Department of Corrections, as required by ORS 137.630

Stat. Auth.: ORS 137.610, 137.630, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.610, 137.630, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1982, f. & cert. ef. 1-15-82; CD 18-1985, f. & cert. ef. 8-2-85; DOC 6-2006, f. & cert. ef. 7-24-06

291-065-0006

Definitions

(1) Offender: Any person under the supervision of the Department of Corrections or a local community corrections office who is on parole, probation or post-prison supervision status.

(2) Parole and Probation Officer: An employee of the Department of Corrections whose duties and responsibilities include the supervision of offenders.

Stat. Auth.: ORS 137.610, 137.630, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.610, 137.630, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18-1985, f. & cert. ef. 8-2-85; DOC 6-2006, f. & cert. ef. 7-24-06

291-065-0007

Duties and Assignments

(1) Among the duties of the Department of Corrections parole and probation officers articulated by statute are:

(a) To make investigation in relation to granting, revoking or modifying parole, post-prison supervision, transitional leave, local control, probation or conditional release as required by the Board of Parole and Post-Prison Supervision, courts or Department of Corrections;

(b) To provide supervisory services and interventions to persons released on parole, post-prison supervision, transitional leave, local control or probation residing in this state with the goal of reducing the probability of continued criminal behavior;

(c) To keep informed concerning conduct and conditions of such persons by visiting, requiring reports, and making collateral contacts;

(d) To make reports to the Board of Parole and Post-Prison Supervision, courts or Department of Corrections as required;

(e) Cause the execution of any arrest warrant on a person who is under supervision on parole, post-prison supervision, transitional leave, local control or probation status; and

(f) To perform such additional duties as the local state director or Department of Corrections Chief of Community Corrections may direct.

(2) The priority of duties and assignments shall be determined by the parole and probation officer's supervisor.

Stat. Auth.: ORS 137.610, 137.630, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.610, 137.630, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18-1985, f. & cert. ef. 8-2-85; DOC 6-2006, f. & cert. ef. 7-24-06

DIVISION 69

SECURITY THREAT MANAGEMENT

291-069-0200

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish department policy and procedures for the identification and management of individual inmates and groups of inmates that in the judgment of the department present an elevated security threat risk based their criminal history, institutional conduct history, present behavior, interstate transfer status, escape history, and based on intelligence.

(3) Policy:

(a) Security threat activity by individual inmates or groups of inmates poses a serious threat to the safe, secure, orderly and efficient operation and management of Department of Corrections facilities, the safety and security of Department employees, inmates,

and the public. For these reasons, it is the policy of the Department of Corrections to maintain zero-tolerance for significant security threat related behavior and activity by inmates under its jurisdiction. In furtherance of this policy, the Department of Corrections will:

(A) Identify and effectively manage inmates and groups of inmates that in the judgment of the Department present an elevated security threat risk based on their criminal history, institutional conduct history, present behavior, interstate transfer status, escape history, and based on intelligence. Effective inmate management may include intensive interaction with the inmates by trained Security Threat Management managers, and the suspension, restriction, or modification of department programs and services on an individualized basis, in accordance with these rules.

(B) Maintain an information network to monitor and control security threat behavior and activity and provide intelligence information to department staff.

(C) Investigate security threat related behavior or activity by inmates in a fair and objective manner.

(b) In cooperation with other criminal justice agencies, the Department of Corrections may share information regarding security threat behavior or activity of inmates or groups of inmates to assist in controlling criminal activity associated with these inmates. Security threat related behavior or activity that may include criminal conduct shall be referred to the Oregon State Police.

(c) Inmates under the jurisdiction of the Department of Corrections shall not encourage, promote, further, assist, or otherwise participate in any security threat behavior or activity as described in these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

291-069-0210

Definitions

(1) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(2) Intelligence File: Those documents maintained by the Department of Corrections for administrative and case management purpose.

(3) Security Threat Activity: Inmate behavior which poses a significant threat to the safe and secure operation of the facility, including, but not limited to, threatening or inflicting bodily injury on another person, posing a high risk of escape, promoting or engaging in disruptive group behavior, distributing a controlled substance, or being involved in any other activity that could significantly threaten the safe and secure operation of the facility.

(4) Security Threat Group (STG): Any group of two or more individuals who:

(a) Have a common group name, identifying symbol, or characteristic which serves to distinguish themselves from others.

(b) Have members, affiliates, and/or associates who individually or collectively engage, or have engaged, in a pattern of illicit activity or acts of misconduct that violates Oregon Department of Corrections rules.

(c) Have the potential to act in concert to present a threat, or potential threat, to staff, public, visitors, inmates, offenders or the secure and orderly operation of the institution.

(5) Security Threat Group Paraphernalia: Any material, document(s) or items evidencing security threat group involvement or activities (e.g., rosters, constitutions, structures, codes, pictures, training material, clothing, communications or other security threat group-related contraband).

(6) Security Threat Management (STM) Assistant Chief: A department Public Services Division, Special Investigations Unit employee assigned to coordinate communication between institution managers and STM lieutenants; monitor, conduct, develop and coordinate employee training; and manage the department's overall security threat management program.

(7) Security Threat Management (STM) Intelligence Analyst: An STM Unit employee with the responsibility of receiving incoming intelligence and data, analyzing information, predicting trends and activity, organizing information into a usable format, documenting information and disseminating intelligence to appropriate stakeholders.

(8) Security Threat Management (STM) Lieutenant: An STM Unit employee assigned to review and investigate suspected security threat activity; maintain and gather intelligence on security threat groups, inmates and their affiliates; directly manage the day-to-day activities of inmates identified as security threats; assist the STM Assistant Chief and his/her team responsible for STM coordination with institution managers; assist in monitoring, conducting, developing, and coordinating employee training; serve as liaison between the department and other local, state and federal law enforcement agencies and correctional institutions; and assist in managing the department's overall security threat management program.

(9) Security Threat Management (STM) Unit: Department of Corrections employees, as assigned, consisting of the department STM Assistant Chief, STM lieutenants and STM intelligence analyst(s).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

291-069-0220

Institution Intelligence Officer(s)

Each functional unit manager shall designate one security manager or Assistant Superintendent of Security, and a designated backup, to act as the institution intelligence officer. This employee will be the direct liaison of STM intelligence information between the STM lieutenant and the institution. The purpose of this is to get intelligence information to the institution at a level capable of making immediate management decisions based on the intelligence received.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

291-069-0230

Identification

(1) The department will identify inmates and groups of inmates that present an elevated security threat risk based on their criminal history, institutional conduct history, interstate transfer status, escape history, present behavior, STM intelligence data base, human intelligence, and other available resources. Inmates identified by the department as presenting an elevated security threat may be managed by the Security Threat Management (STM) Unit.

(2) An inmate may be identified as a "high alert" management inmate based on the criteria listed in Attachment A.

(3) The STM Unit will maintain a record of all inmates identified by intelligence sources as affiliates of a security threat group who are actively supporting, promoting or engaging in behavior which caused an elevated risk to the safety, security and orderly operations of DOC facilities. These records will be kept in a secured area designated by the STM Assistant Chief.

(4) Any department employee who becomes aware of any inmate who may be engaged in or affiliated with security threat behavior or activity shall communicate such information to the appropriate STM lieutenant. Each correctional facility will have an assigned STM lieutenant, who may or may not be housed on-site, but will be responsible for management of STM related activity at their specific institutions.

(5) Upon receipt of security threat information, the STM lieutenant will determine whether the information is valid. If the information is deemed valid, the STM lieutenant will forward the information to the institution intelligence officer and the STM intelligence analyst.

(6) The STM intelligence analyst will use various means to analyze and document the intelligence information. The intelligence analyst will then disseminate any applicable information to the appropriate STM lieutenant, institution intelligence officer, functional unit manager or other internal and external stakeholders.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

291-069-0240

Reporting

The STM Unit will produce a periodic security threat management distribution report and distribute the report to the Director, Deputy Director, Assistant Directors, Inspector General, Institutions Administrator, Chief of Security, institution functional unit managers, and other criminal justice agencies as requested or required by the Director or designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

291-069-0250

Discipline

(1) The hearings officers and adjudicators shall report all disciplinary actions which involve security threat related activity to the STM lieutenant to assist in tracking security threat group activity, trends, etc.

(2) Any inmate found in violation of a rule(s) of prohibited inmate conduct which involved security threat activity may be subject to a review from the STM Unit.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

291-069-0260

Security Threat Group Paraphernalia

All security threat group paraphernalia, as defined in this rule, is unauthorized and considered contraband within Department of Corrections facilities and is subject to confiscation. Security threat group paraphernalia may be used to further document and validate security threat group identification and classification.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

291-069-0270

Management of "High Alert" Inmates

(1) Inmates identified by the department as "high alert" management inmates may be managed by the department's STM Unit.

(2) Inmate Management Plans: The STM lieutenant will develop an approved Inmate Management Plan for each inmate identified by the department as a "high alert" management inmate.

(a) The Inmate Management Plan will be in writing and describe the behavior or other circumstance(s) that resulted in the inmate's identification as "high alert," and the department's corresponding program and behavior expectations for the inmate.

(b) The Inmate Management Plan may direct the denial, removal, suspension, restriction or modification of inmate programs, services or activities for the inmate to encourage an inmate to modify his or her behavior to conform to department rules, standards, and staff expectations, and to advance the inmate towards appropriate pro-social behavior, in accordance with these rules.

(c) The Inmate Management Plan will document any denial, removal, suspension, restriction, or modification of inmate programs, services or activities ordered for the inmate.

(d) The STM lieutenant will provide each high alert inmate with a copy of the inmate's Inmate Management Plan.

(3) Denial, Removal, Suspension, Restriction or Modification of Inmate Programs, Services or Activities:

(a) Facility Programs, Work Assignments, and Clubs: An inmate under the management of the STM Unit may be denied participation in, or may be removed from, any work or program assignment, group activity or club if the inmate's participation is determined to present an undue risk to the safe, secure, orderly or efficient operation and management of the facility or as a part of an approved Inmate Management Plan.

(b) Other Inmate Programs, Services, and Activities: An inmate under the management of the STM Unit may have other inmate programs, services, and activities suspended, restricted or modified by the department. Programs, services, and activities that may be affected include, but are not limited to, recreation yard, housing assignments, work assignments, canteen use, telephone use (except legal calls), visiting (except attorney visits), inmate-to-inmate mail, and television services.

(A) An Inmate Management Plan that directs the suspension, restriction, or modification of programs or services to an inmate requires the approval of the STM Assistant Chief or designee.

(B) An Inmate Management Plan that directs the suspension, restriction, or modification of programs or services to an inmate in excess of 90 days requires the approval of the Inspector General's Chief Investigator.

(C) An Inmate Management Plan that directs the suspension, restriction, or modification of programs or services to an inmate in excess of 120 days requires the approval of the Inspector General.

(D) Any suspension, restriction, or modification of programs or services provided to an inmate will be in accordance with the STM Restriction Scale. (Attachment B). [Attachment not included. See ED. NOTE.]

(4) Temporary Placement in Disciplinary Segregation: With the approval of the functional unit manager or designee or the officer-in-charge, the STM lieutenant may order the immediate temporary placement of an inmate in disciplinary segregation when in his or her judgment the assignment is necessary to further the department's management of a specific security threat, or the safe, secure and orderly operation and management of the facility. An inmate managed by the STM unit will not be placed in temporary segregation beyond five working days; otherwise the placement will be considered Administrative Segregation in accordance with OAR 291-046.

(5) Transfers:

(a) An inmate under management of the STM Unit may be transferred to any facility, in or out of state, in accordance with the inmate's Inmate Management Plan, the department's overall security threat management plan, interstate compact agreements and population or program management needs.

(b) The Interstate Compact Unit staff shall notify the STM Assistant Chief or designee of any inmate requesting transfer to or from Oregon where security threat group affiliation or security threat behavior is suspected.

[ED. NOTE: Attachments referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

291-069-0280

Administrative Review

(1) An inmate who has been identified by the department as a "high alert" management inmate may obtain an administrative review of the classification action in accordance with this rule, by submitting a written request for administrative review to the Inspector General's Chief Investigator or designee at the department's central administrative offices.

(a) The administrative review request must specify the reason(s) why the inmate believes that his or her high alert management identification is inappropriate. The request for review must also include any supporting documentation by the inmate to be considered in reviewing the appropriateness of the high alert management identification.

(b) The Chief Investigator or designee must receive the administrative review request within 15 days of the issuance of the Inmate Management Plan to the inmate.

(2) Upon receipt of a timely written request for administrative review, the Chief Investigator or designee will review the high alert management identification, and affirm or reverse the classification as circumstances warrant. The decision of the Chief Investigator or designee shall be final.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 8-2007(Temp), f. 11-26-07, cert. ef. 12-1-07 thru 5-29-08; DOC 13-2008, f. & cert. ef. 5-19-08

DIVISION 70

RECORDS MANAGEMENT (INMATE AND OFFENDER)

291-070-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish standards for the control, maintenance and disposition of file materials pertaining to individuals committed to the supervision of the Department of Corrections.

(3) Policy: It is the policy of the Oregon Department of Corrections that files on Department of Corrections inmates and offenders will be maintained in a manner which assures the availability of file material necessary for case management. Additionally, relevant file material which serves to preserve an historical record of the individual's period of supervision shall be maintained and retained for specified periods of time following the individual's release from supervision.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: CD 54-1981(Temp), f. & ef. 12-10-81; CD 17-1982, f. & ef. 6-4-82; CD 21-1983(Temp), f. & ef. 5-16-83; CD 38-1983, f. & ef. 10-14-83; CD 50-1985, f. & ef. 8-16-85; CD 8-1986, f. 4-18-86, ef. 5-15-86; CD 17-1986, f. & ef. 6-30-86; CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; Renumbered from 291-070-0005, DOC 9-2008, f. & cert. ef. 4-10-08

291-070-0110

Definitions

(1) Archives: The state repository for public records having a legal or historical value but for which immediate access is not required. The location where the official files of Department of Correctional felony inmates and offenders are permanently maintained.

(2) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(3) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, Deputy Director, an Assistant Director, or administrator and has responsibility for the delivery of program services or coordination of program operations.

(5) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(6) Offender: Any person under the supervision of the Department of Corrections who is on parole, probation, or post-prison supervision status.

(7) Offender Information and Sentence Computation (OISC): The centralized functional unit which maintains working files after an inmate is released from a Department of Correctional facility.

(8) Record: Includes, but is not limited to, a document, book, paper, photograph, file, sound recording or machine readable electronic record, regardless of physical form or characteristics, made, received, filed or recorded in pursuance of law or in connection

with the transaction of public business, whether or not confidential or restricted in use. (ORS 192.005)

(9) Records Officer: Refers to the person designated by a state agency or political subdivision in accordance with ORS 192.105(2)(a). The OISC Administrator is the Department of Corrections Records Officer and has the duty to archive and seal offender records in compliance with these rules.

(10) Retention Schedule: Either a General Schedule published by the State Archivist in the Oregon Administrative Rules in which certain common public records are described or listed by title and a retention period is established for each, or a Special Schedule approved by the state Archivist for the public records of a specific agency.

(11) Sealing Inmate or Offender Records: The physical sealing of offender file material by order of the court accomplished by OISC.

(12) Working File: Those documents maintained in a Department of Corrections facility, Community Corrections office, or functional unit for administrative, operational or case management purposes.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: CD 54-1981(Temp), f. & ef. 12-10-81; CD 17-1982, f. & ef. 6-4-82; CD

21-1983(Temp), f. & ef. 5-16-83; CD 38-1983, f. & ef. 10-14-83; CD 50-1985,

f. & ef. 8-16-85; CD 8-1986, f. 4-18-86, ef. 5-15-86; CD 17-1986, f. & ef. 6-30-

86; CD 23-1994, f. 12-21-94, cert. ef. 1-3-95; CD 4-1996, f. 5-23-96, cert. ef. 6-

1-96; Renumbered from 291-070-0010, DOC 9-2008, f. & cert. ef. 4-10-08

291-070-0115

Working File

(1) Establishment of Working File: Working files on all Department of Corrections inmates shall be established upon initial reception at a Department of Corrections facility or intake center.

(2) Working files shall remain decentralized to ensure the staff members who work with them have access to them.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 9-2008, f. & cert. ef. 4-10-08

291-070-0120

Access to Files

(1) Only employees of the Department of Corrections and representatives of criminal justice agencies shall have authorized access to inmate and offender files. Department of Corrections employees shall request access to inmate/offender files for business purposes directly related to the employee's current position duties and responsibilities only.

(a) An example of acceptable access would include an employee reviewing an inmate's/offender's file because the inmate/offender is in the employee's housing unit or on the employee's caseload.

(b) An example of unacceptable access would include an employee reviewing the file on their neighbor for personal background purposes.

(2) The Records Office is a restricted area; only individuals authorized by the OISC Administrator or institution functional unit manager shall enter the Records Office.

(a) In emergency situations, the institution functional unit manager or designee may designate an employee to enter the Records Office and remove working files.

(b) A list of these authorized individuals may be posted in the Records Office.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-2008, f. & cert. ef. 4-10-08; DOC 30-2008(Temp), f. & cert. ef. 12-16-08 thru 6-12-09; Administrative correction 6-22-09; DOC 14-2009, f. & cert. ef. 7-14-09

291-070-0125

Transporting Working Files

(1) The Department will use proper security controls for transportation of inmate and offender working files during transit between institutions, functional units, agencies or customers.

(2) Each functional unit that sends, receives or transports confidential or sensitive offender information is responsible to assure that the information is protected appropriately during transit from loss, destruction or unauthorized access. (DAS Statewide Policy 107-004-100, Transporting Information Assets).

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 9-2008, f. & cert. ef. 4-10-08

291-070-0130

Retention and Destruction of Offender Records

(1) The State Archivist grants authorization to Oregon government agencies, in the form of records retention schedules, for the retention or disposition of public records in their custody.

(2) Centralized control over retention and disposition of all records will be in accordance with state statutes.

(3) Agency working files will be maintained in accordance with the approved Special Schedule.

(4) At the time of closure of Community Corrections working files, the closing summary and other required documents will be sent to OISC for archiving in accordance with the State Office Operations Network approved protocol. Community Corrections Offices will retain working file documents in accordance with the State Archivist schedule.

(5) Medical, dental, and mental health treatment files on inmates confined in a Department of Corrections facility will be maintained in accordance with the Department of Corrections rule on Health Services (Inmate) (OAR 291-124).

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 9-2008, f. & cert. ef. 4-10-08; DOC 21-2009, f. & cert. ef. 11-20-09

291-070-0135

Public Requests for Inmate/Offender Records

It is the responsibility of all persons using Department of Corrections files, including consultants, contract personnel, and volunteers, to ensure the confidentiality of and provide access to inmate and offender working files in strict accordance with the provisions outlined below:

(1) Inmate and Offender records will be released in accordance with the Department of Corrections rule on Release of Public Record (OAR 291-037).

(2) Verbal inquiries regarding Department of Corrections files and records from any source, including the inmate, will be responded to in accordance with the Department of Corrections rule on Release of Public Information (OAR 291-039).

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 9-2008, f. & cert. ef. 4-10-08

291-070-0140

Sealing of Inmate or Offender Records

(1) Sealing of a working file or record may only be accomplished after receipt of a certified order from the court;

(2) Upon receipt of a certified order directing a working file or record be sealed, when the inmate's or offender's file is available, staff will attach any and all inmate and offender material to the court order and forward the court order and file material to OISC for sealing.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 9-2008, f. & cert. ef. 4-10-08

DIVISION 71

THERAPEUTIC RESTRAINTS (USE OF)

291-071-0010

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 & 423.075.

(2) Purpose: The purpose of this rule is to provide guidance and direction to staff responsible to assess, administer and evaluate the use of therapeutic restraints for medical or mental health treatment.

(3) Policy:

(a) It is the policy of the Department of Corrections to authorize the use of therapeutic restraints in the uses specified in this rule. In those circumstances where therapeutic restraints are authorized, the type, the amount and manner are further specified within this rule;

(b) The use of therapeutic restraints is authorized by the Director through the verbal or written order of a physician.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1996, f. 5-23-96, cert. ef. 6-1-96

291-071-0020

Definitions

(1) Clinical Record: The record of mental health treatment provided to an inmate. This record is maintained as part of the inmate's individual medical record.

(2) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation or post-prison supervision status.

(3) Therapeutic Restraint: A type of restraint applied to an inmate for medical or mental health treatment and designed to limit an inmate's movements.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1996, f. 5-23-96, cert. ef. 6-1-96

291-071-0030

Application

(1) Therapeutic restraints shall be used to control a mentally disordered inmate only in an emergency. An emergency exists when, because of an inmate's behavior:

(a) There is a substantial likelihood of immediate harm to the inmate or others in the facility; or

(b) There is a substantial likelihood of significant property damage; or

(c) Less restrictive measures are deemed ineffective to manage behavior.

(2) Therapeutic restraints shall only be applied by staff who have been trained in the use and application of such restraints.

(3) The kinds of restraints that may be used for therapeutic purposes include leather, rubber or cloth restraints for the arms, legs and upper torso.

(4) Devices used in the course of medical care which are not subject to this procedure include:

(a) Mechanisms which are usually and customarily employed during medical, surgical or diagnostic procedures (body restraint during surgery, arm restraint during intravenous administration, restraint during radiological procedures).

(b) Mechanisms which are used during patient care to provide protection, postural support or to assist with bodily function (bed rails, tabletop chairs, soft chest restraints, orthopedic appliances, wheelchairs).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1996, f. 5-23-96, cert. ef. 6-1-96

291-071-0040

Authorization

(1) Therapeutic restraint shall be applied only upon the verbal or written order of a physician. In the absence of a physician, a registered nurse may authorize application of therapeutic restraint for a period not to exceed one hour. The nurse shall document the specific behavior which required application of therapeutic restraint in the inmate's clinical record.

(2) A physician shall personally assess the inmate prior to or within three hours following application of therapeutic restraint to assess the inmate and evaluate the appropriateness of the use of therapeutic restraint.

(3) Any evaluation of the appropriateness of the use of therapeutic restraint by a nurse and/or physician shall include consideration of the following:

(a) The inmate's behavior;

(b) The need to protect staff and others in the facility;

(c) The inmate's present physical ability to engage in violent or destructive behavior;

(d) The inmate's response to various methods of control;

(e) The risk or degree of physical or psychological harm and discomfort that accompanies the use of therapeutic restraints; and

(f) The risk or degree of interference with the inmate's treatment program, if any.

(4) The physician shall document the following in the inmate's clinical record:

(a) The specific behavior which required application of therapeutic restraint;

(b) The inmate's response to therapeutic restraint; and

(c) The reason the application was appropriate and the extent to which less restrictive measures were inadequate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1996, f. 5-23-96, cert. ef. 6-1-96

291-071-0050

Time Limits

(1) Any order authorizing use of therapeutic restraint expires after 12 hours.

(2) A physician may renew the order for a second 12-hour period.

(3) If therapeutic restraint is necessary for more than 24 consecutive hours, a second consulting physician must approve the order.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1996, f. 5-23-96, cert. ef. 6-1-96

291-071-0060**Release**

(1) An inmate will be released from therapeutic restraint by the officer-in-charge or clinical staff as soon as it is reasonable to believe the behavior authorizing use of therapeutic restraint will not immediately resume.

(2) Therapeutic restraint shall be terminated when two waking hours have passed during which the inmate has remained calm.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1996, f. 5-23-96, cert. ef. 6-1-96

291-071-0070**Condition and Observation**

(1) To the extent possible without endangering the inmate, staff or others in the facility, inmates in therapeutic restraint shall be:

(a) Offered fluids if capable of sitting up or laying on the side once every hour while awake or upon request;

(b) Offered the use of a toilet, bedpan or urinal once every hour while awake or upon request;

(c) Offered regular meals and the opportunity to maintain personal hygiene immediately before and after each meal as appropriate;

(d) Provided an opportunity to have exercise of at least ten minutes during each two hours of restraint. (These opportunities apply only during non-sleeping hours from 6:00 a.m. to 9:00 p.m.);

(e) Appropriately clothed which at a minimum includes underclothes, stockings and to be covered with a sheet.

(2) Within 30 minutes of the application of therapeutic restraint, an inmate will be medically examined and treated as necessary by a health care employee. This examination and any treatment rendered shall be documented in the inmate's clinical record.

(3) An inmate in therapeutic restraint shall be observed by correctional staff at least every 15 minutes. These observations shall be documented in the inmate's clinical record.

(4) A registered nurse shall observe and evaluate an inmate's condition not less than once every two hours. Each observation and evaluation shall be documented in the clinical record.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1996, f. 5-23-96, cert. ef. 6-1-96

291-071-0080**Review**

(1) Any application of therapeutic restraint must be reported to the Director or designee within one working day of such application.

(2) The Director or designee will review and evaluate the appropriateness of each application of therapeutic restraint at least quarterly and prepare a written report summarizing the conclusion.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1996, f. 5-23-96, cert. ef. 6-1-96

institutions/facilities and to establish procedures for the possession

and use of the inmate identification cards.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 16-1990(Temp), f. & cert. ef. 9-4-90; CD 6-1991, f. & cert. ef.

DIVISION 72**ID CARDS (INMATE)****291-072-0005****Authority and Purpose**

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: To establish an inmate identification card system for inmates incarcerated in Department of Corrections

2-19-91

Oregon Administrative Rules Compilation

291-072-0010

Procedures

(1) A Department of Corrections inmate identification card will be issued to each inmate upon arrival at the Oregon Corrections Intake Center or the Oregon Women's Correctional Center.

(2) Once issued an identification card, an inmate will be required to display it on his/her person at all times via a method determined by the functional unit manager. Each functional unit manager may designate areas of the facilities or activities during which inmates may not be required to display their cards; such as, in the immediate vicinity of their assigned housing area, during a recreation activity, or while attending a work assignment where it may pose of safety hazard. Inmates will be required to maintain their identification cards on their person until the time of discharge or release from a Department of Corrections facility.

(3) The inmate's identification card will be a permanent identification card and will be retained by the inmate when transferred between Department of Corrections facilities.

(4) Any identification card deemed by supervising correctional staff as needing replacement for being incorrect shall be replaced at no cost to the inmate.

(5) Identification cards damaged, destroyed, altered or lost by an inmate shall be replaced at a cost of five dollars to the inmate.

(6) Any identification card may be deemed by supervising correctional staff as needing replacement because of the inmate's change in appearance. The \$5 cost for replacing the card may be charged to the inmate.

(7) All cards replaced may be kept in the inmate's working file

(8) An inmate will be subject to disciplinary action for abusing an identification card or failure to surrender an identification card when directed to do so by an employee.

(9) An inmate identification card will be required for positive inmate identification in canteen purchases, check-out of library books, check-out of recreational equipment, visits, out-counts, receiving prescription medication or any other instance in which positive inmate identification is required.

(10) Upon discharge or release from a Department of Corrections facility, the identification card may be retained and placed in the inmate's file, or issued to the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 16-1990(Temp), f. & cert. ef. 9-4-90; CD 6-1991, f. & cert. ef. 2-19-91; DOC 8-2001, f. & cert. ef. 3-21-01

DIVISION 73

**MANDATORY AND DESIRABLE CRITERIA
FOR SITING CORRECTIONAL FACILITIES**

291-073-0010

Authority and Purpose

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.614, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to establish mandatory and desirable criteria to be used in the nomination of sites for the construction and operation of Oregon correctional facilities.

Stat. Auth.: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 7-1996(Temp), f. 7-8-96, cert. ef. 1-3-97; CD 13-1996, f. & cert. ef. 10-1-96

291-073-0020

Mandatory Criteria for all Sites

The mandatory criteria for all sites (including medium security and minimum work camps) are listed below. They are not in any order of preference.

(1) A proposed site must be available by purchase, condemnation, exchange or otherwise.

(2) A proposed site must be of sufficient size and shape to accommodate the planned facility and its operation.

(3) A proposed site must not be located in a 100-year flood plain as defined by a current FEMA map.

(4) A proposed site must not be in a designated tsunami inundation zone.

(5) A proposed site must have infrastructure available either on-site or such that they can be provided and maintained cost effectively. This infrastructure includes:

(a) Water for domestic use, fire protection, and irrigation;

(b) Sanitary sewer collection and treatment;

(c) Surface drainage and storm water collection and disposal; and

(d) Electricity, natural gas and/or oil or propane and telecommunications.

(6) A proposed site must be served by road or highway system capable of supporting the planned facility. New roadway construction or roadway improvements (if required) must be able to be constructed at a reasonable cost and be ready at the time the facility is scheduled to be opened.

Stat. Auth.: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 7-1996(Temp), f. 7-8-96, cert. ef. 1-3-97; CD 13-1996, f. & cert. ef. 10-1-96

291-073-0030

Desirable Criteria for Medium Security Sites

The desirable criteria for medium security sites are listed below. They are not in any order of preference. An alternate means of meeting the intent of a criterion may be considered.

(1) A proposed site which is available at little or no cost.

(2) A proposed site which has 200–300 acres with 300 acres the preferred size.

(3) A proposed site which is square or nearly so.

(4) A proposed site which is relatively flat to minimize earthwork, foundation, construction costs and surface/subsurface drainage construction costs.

(5) A proposed site which has natural buffers from surrounding land uses such as lakes, rivers, or ridges.

(6) A proposed site which is not adjacent to a school, unless the parcel is buffered.

(7) A proposed site which is not adjacent to a developed single-family or multi-family residential area, unless the parcel is buffered.

(8) A proposed site in which the soils shall not be unduly prone to liquefaction due to seismic activity.

(9) A proposed site with existing buildings that can be remodeled for utilization in new construction.

(10) A proposed site not subject to flooding from adjacent bodies of water, natural surface drainage or subsurface high water table.

(11) A proposed site not having an environmental, ecological, cultural or historic feature or condition which cannot be mitigated with remediation and/or health risk assessment prior to the beginning of site development. These conditions include, but may not be limited to, wetlands, historic or culturally significant sites, habitat for federally designated threatened and endangered species.

(12) A proposed site that maximizes the use of present Department of Corrections facilities and considers such institution management issues as warehousing, inmate transportation, inmate management, etc.

(13) A proposed site which has judicial, emergency and support services availability:

(a) Fifteen minutes or less to local and/or state police, full service fire department, and emergency medical transport/care;

(b) Sixty minutes or less to a National Guard unit;

(c) Forty-five minutes or less response time from licensed full service in-patient care hospital that accepts OMAP payment;

(d) Forty-five minutes or less to educational institutions to provide GED, vo-tech programs for inmates;

(e) Ninety minutes or less to higher education opportunities for staff development;

(f) Adequate providers of support services to inmates, including counseling, religious, job training and education; and

(g) Reasonable access to court facilities.

(14) A proposed site that can demonstrate eminent opportunity for inmate work by either the public or private sector. Sites that have Oregon Enterprise Zone designations that may be of assistance in attracting a private partner using inmate labor.

(15) A proposed site which is in close proximity to a population area from which a large number of inmates originate.

(16) A proposed site in which the facility is perceived as beneficial by local jurisdiction and community.

(17) A proposed site which is served by interstate and/or major arterial roadway. Paved (providing year around service, two lanes, maintained by state, city or county) interstate access is preferable.

(18) A proposed site with convenient access by public transportation, including commercial airport and surface transportation and public accommodations, such as hotel/motel facilities.

(19) A proposed site with a community of 30,000 population or greater within a 60-mile radius with:

(a) Substantiation of an adequate workforce;

(b) Demonstration of the ability of the community to provide for or develop adequate housing and other community services, including primary and secondary schools;

(c) Range of physical specialty services; and

(d) Community ability to cost effectively provide food, fuel, equipment, spare parts, and maintenance to the facility.

Stat. Auth.: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 7-1996(Temp), f. 7-8-96, cert. ef. 1-3-97; CD 13-1996, f. & cert. ef. 10-1-96

291-073-0040

Desirable Criteria for Minimum Security Work Camp Sites

The desirable criteria for medium security work camps sites are listed below. They are not in any order of preference. An alternate means of meeting the intent of a criterion may be considered.

(1) A proposed site which is available at little or no cost.

(2) A proposed site which has 25 acres with 30 acres the preferred size.

(3) A proposed site which is square or nearly so.

(4) A proposed site in which the topography will minimize earthwork, foundation, construction costs and surface/subsurface drainage construction costs.

(5) A proposed site which has natural buffers from surrounding land uses such as lakes, rivers, or ridges.

(6) A proposed site which is rural; isolated locations are appropriate.

(7) A proposed site in which the soils shall not be unduly prone to liquefaction due to seismic activity.

(8) A proposed site which has appropriate soil percolation capacity to use septic tank and drain field, if one is proposed for the site.

(9) A proposed site with existing buildings that can be remodeled for utilization in new construction.

(10) A proposed site not subject to flooding from adjacent bodies of water, natural surface drainage or subsurface high water table.

(11) A proposed site not having an environmental, ecological, cultural or historic feature or condition which cannot be mitigated with remediation and/or health risk assessment prior to the beginning of site development. These conditions include, but may not be limited to wetlands, historic or culturally significant sites, habitat for federally designated threatened and endangered species.

(12) A proposed site that maximizes the use of present Department of Corrections facilities and considers such institution management issues as warehousing, inmate transportation, inmate management, etc.

(13) A proposed site which has judicial, emergency and support services availability:

(a) Thirty minutes or less to local and/or state police, full service fire department and emergency medical transport/care; and

(b) Sixty minutes or less response time from licensed full service in-patient care hospital that accepts OMAP payment.

(14) A proposed site which can identify inmate work opportunities by either the public or private sector.

(15) A proposed site in which the facility is perceived as beneficial by local jurisdiction and community.

(16) A community able to cost effectively provide:

(a) Food, fuel, equipment, spare parts, and maintenance to the facility; and

(b) Support services to inmates, including counseling, religious, job training and education.

Stat. Auth.: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.614, 423.020, 423.030 & 423.075

Hist.: CD 7-1996(Temp), f. 7-8-96, cert. ef. 1-3-97; CD 13-1996, f. & cert. ef. 10-1-96

291-073-0100

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish as policy of the Department of Corrections the appropriate utilization of approximately 104 acres of real property owned by the department situated in Marion County, Oregon, inside the City of Salem bordering the Oregon State Correctional Institution described in Exhibit A and hereinafter referred to as the "Savanna Haven Property."

(3) Policy:

(a) As provided in the Oregon Sustainability Act, ORS 184.423, Oregon agencies, in their operations, "should help reduce adverse impacts on native habitats and species and help restore ecological processes."

(b) The department understands that utilization of the Savanna Haven Property must be in compliance with the following:

(A) ORS 184.423;

(B) ORS 276.054;

(C) City of Salem zoning requirement; and

(D) Salem Area Comprehensive Plan (Southeast Salem Area Plan).

(c) Consistent with the Oregon Sustainability Act and with the values and purposes described more fully below, it is the policy of the Department of Corrections to maintain and utilize the Savanna Haven Property in a manner that preserves the habitat values of the existing oak savanna and secures the area from commercial and industrial encroachment, as set forth in these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 184.423, 276.054, 423.020, 423.030, 423.075

Hist.: DOC 8-2014, f. & cert. ef. 3-3-14

291-073-0110

Utilization

(1) The Savanna Haven Property is a relatively undeveloped area that possesses scenic, aesthetic, open space, agricultural, natural resources, and wildlife habitat values (collectively "conservation values") of great importance to the people of Marion County and the State of Oregon. Among the specific conservation values of the Savanna Haven Property are valuable ecological systems and plant communities, including but not limited to the following:

(a) Vegetative communities ranging from grassland and oak savanna to mixed Oregon white oak and conifer woodlands;

(b) Bird species such as the acorn woodpecker, white breasted nuthatch, and American kestrel rely upon the savanna (grassland interspersed with oak groves), the woodland, or both for nesting and feeding grounds.

(2) The Department of Corrections understands the people of Marion County have a significant interest in the department's maintenance and utilization of the Savanna Haven Property, particularly those individuals and organizations who own land bordering the Savanna Haven Property. Accordingly, and consistent with purposes, policy and values described in these rules, the department intends the Savanna Haven Property be maintained in the manner

prescribed in subsection (3) of this rule and utilization of the property be limited to those activities specified in subsection (4) of this rule.

(3) The Savanna Haven Property shall be maintained as described below:

(a) Existing Buildings: Three barns currently exist on the property.

(A) The existing buildings on the property will be used and maintained by the department.

(B) If any buildings or structures on the property are damaged and present a safety hazard they will be repaired or demolished at the department's sole discretion.

(b) Existing Roadways: Maintenance of unpaved access roads for necessary improvements and uses permitted on the property are permitted, but limited to agricultural and maintenance uses.

(A) The gravel roadways providing maintenance and emergency access to the property will be maintained as appropriate.

(B) No portion of the property shall be paved or otherwise covered with concrete, asphalt or any other surface material other than gravel.

(c) Vegetative Cover: The property shall be maintained with vegetative cover.

(A) Areas of significant natural resource and habitat value may be restored and maintained.

(B) The control of non-native vegetation by removal or herbicide application is permissible.

(C) Diseased or hazardous trees will be removed as permitted by City of Salem Revised Code Chapter 68.

(d) It is specially noted that in restoration of Willamette Valley oak woodland and savannah habitat, selective or complete removal of Douglas-fir is a normal professional restoration practice. Douglas-fir trees may be removed from the property to improve the habitat value of the savannah and woodlands.

(4) Permissible activities of the Savanna Haven Property include the following:

(a) Agricultural production limited to the following:

(A) Grass hay production and harvesting in the field area surrounding the existing barns. The primary benefit of the grass hay production and harvesting will be weed and fire danger control.

(B) Plant, raise and harvest non-wholesale/retail nursery stock for use by the agencies of the State of Oregon.

(b) Educational opportunities including, but not limited to:

(A) Utilization of portions of the property to engage in approved programs of education, training, and restorative activities.

(B) Making the property available for use as a field study site for educational programs offered by colleges and universities.

(c) Signage: The department may place signs on the property, including but not limited to, signs to identify boundaries and plant species.

(5) If there are any changes to the utilization of the Savanna Haven Property as specified in this rule, the department shall provide reasonable opportunity for public comment by scheduling a rulemaking hearing. Pursuant to ORS 183.335, the department shall give notice of the rulemaking hearing to the following:

(a) Legislators as specified in ORS 183.335(15);

(b) Interested parties maintained on the department's mailing list pursuant to ORS 183.335(8);

(c) Individuals and organizations who own land bordering the Savanna Haven Property;

(d) City of Salem Public Works Director; and

(e) Marion County Planning Director.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 184.423, 276.054, 423.020, 423.030, 423.075

Hist.: DOC 8-2014, f. & cert. ef. 3-3-14

DIVISION 75**CITIZEN COMPLAINTS****291-075-0005****Authority, Purpose, and Policy**

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to provide for the reporting, receipt, investigation, and resolution of citizen complaints concerning the Department of Corrections, its employees, and inmates and offenders under its jurisdiction.

(3) Policy: It is the policy of the Department of Corrections that citizen complaints about the Department of Corrections personnel, programs and operations shall be logged and promptly investigated. Corrective action shall be taken if indicated, and a response furnished to the complainant.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 30-1983(Temp), f. & ef. 9-1-83; CD 46-1983, f. & ef. 12-2-83; CD 13-1985, f. & ef. 7-31-85; CD 11-1987, f. & ef. 1-22-87; CD 7-1992, f. 3-27-92, cert. ef. 3-31-92

291-075-0010**Definitions**

(1) Citizen Complaint: Any person writing to the Governor's Office requesting a response regarding the Oregon Department of Corrections.

(2) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, Deputy Director, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(3) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 30-1983(Temp), f. & ef. 9-1-83; CD 46-1983, f. & ef. 12-2-83; CD 13-1985, f. & ef. 7-31-85; CD 11-1987, f. & ef. 1-22-87; CD 7-1992, f. 3-27-92, cert. ef. 3-31-92; DOC 26-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 14-2000, f. & cert. ef. 6-19-00; DOC 13-2010, f. & cert. ef. 9-15-10

291-075-0015**Procedures**

(1) All citizen complaints directed to the Governor's Office and forwarded to the Department of Corrections regarding the Department or Oregon Corrections Enterprises shall be reviewed and logged by the Director's designee. The citizen complaint shall be assigned to the functional unit manager, Oregon Corrections Enterprises, or Inspector General's Office for investigation. All complaints alleging criminal conduct will be referred to the Oregon State Police by the Inspector General for review and investigation as appropriate.

(a) The functional unit manager, Oregon Corrections Enterprises, or Inspector General shall investigate the complaint and submit a response to the Director's designee within the assigned timeframe. The functional unit manager, Oregon Corrections Enterprises, or Inspector General shall recommend corrective action if the investigation reveals such action is needed.

(b) Where necessary corrective action has been recommended, that action shall be taken upon the approval of the Director, functional unit manager, Oregon Corrections Enterprises, or Inspector General's Office. When a letter of response is needed, the letter shall be prepared with the signature of the Director, functional unit manager, Oregon Corrections Enterprises, or Inspector General's Office as appropriate.

(c) A response delineating the investigation and action taken shall be signed by the Director, functional unit manager, Oregon Corrections Enterprises, or Inspector General's Office and given to the complainant within the assigned timeframe. A copy of the

response will be forwarded to the Governor's Office. If additional investigation time is required, the Governor's Office will be informed in advance so that the complainant will be appropriately notified.

(2) Citizen complaints received by a functional unit or Oregon Corrections Enterprises shall be promptly investigated by the functional unit manager or designee at the location where the complaint is received and a response prepared and returned to the complainant within the assigned timeframe.

(3) A record will be kept of all complaints received, responses, and supporting documentation. The record shall be retained for a minimum of three years by the Director's designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 30-1983(Temp), f. & ef. 9-1-83; CD 46-1983, f. & ef. 12-2-83; CD 13-1985, f. & ef. 7-31-85; CD 11-1987, f. & ef. 1-22-87; CD 7-1992, f. 3-27-92, cert. ef. 3-31-92; DOC 26-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 14-2000, f. & cert. ef. 6-19-00; DOC 13-2010, f. & cert. ef. 9-15-10

DIVISION 76

SUICIDE PREVENTION IN CORRECTIONAL FACILITIES

291-076-0010

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to prevent suicides among the inmate population.

(3) Policy: It is the policy of the Department of Corrections to provide immediate assistance whenever an inmate demonstrates, or is reported to be at risk of self-destructive behavior.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 4-1997, f. & cert. ef. 2-12-97

291-076-0020

Definitions

(1) Behavioral Health Services (BHS): A unit of ODOC Health Services with primary responsibility for the assessment and treatment of inmates with mental illness and developmental disabilities.

(2) Mental Health Provider: Any person employed by the Department or engaged by contract with the Department for the explicit purpose of providing mental health services.

(3) Suicide Assessment: A brief but formal assessment of mental status conducted by a mental health provider or a registered nurse in consultation with a mental health provider, concluding with a judged level of suicidal risk.

(4) Suicide Attempt: Any self-injury requiring significant medical intervention as determined by a mental health provider

(5) Suicide Close Observation: In moderate risk situations, unobstructed visual observation of the inmate is required at staggered intervals, not to exceed 15 minutes, with recorded observation within each 15 minute interval.

(6) Suicide Warning Signs: The following list provides some of the indicators of suicide potential:

(a) Talk of suicide, threats of suicide;

(b) Extreme sadness or crying;

(c) Apathy, loss of interest in all or almost all people and activities;

(d) Loss of appetite or weight;

(e) Walking or completing tasks at an unusually slow speed;

(f) Difficulty concentrating or thinking;

(g) Sleep disturbances;

(h) Emotional flatness; seems numb, non-reactive;

(i) Difficulty carrying out routine tasks; e.g., eating, dressing, etc.;

(j) Tension and agitation; inability to relax or sit still, pacing, hand wringing;

(k) Withdrawal, silent, uncommunicative;

(l) Pessimistic attitude about the future;

(m) Emotional outbursts, sudden expression of anger for no

apparent reason; or

(n) Feeling of hopelessness and helplessness.

(7) Suicide Watch: In high risk situations, continuous and

unobstructed one-to-one view of the inmate is required at all times

with recorded observation within each 15-minute interval.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 4-1997, f. & cert. ef. 2-12-97; DOC 23-2000, f. & cert. ef. 11-6-00;

DOC 20-2008, f. & cert. ef. 8-14-08

291-076-0030

Procedures

(1) Identification: All new admissions to the Department of Corrections will receive a mental health screening interview as part of the intake process. The mental health screening will include mental health history, suicide potential, evidence of psychosis, or other acute mental health emergency.

(2) Training: All employees having direct inmate contact will receive suicide prevention training.

(a) Suicide warning signs, prevention strategies, and response procedures will be present in New Employee Orientation (NEO) and in annual in-service training.

(b) Suicide prevention training curriculum will be approved by the Administrator of Behavioral Health Services.

(c) Additional training is required of staff on special housing units where mentally ill or suicidal risk inmates are concentrated.

(3) Referral: Inmates with significant potential for self harm or who are displaying suicide warning signs should be referred to Behavioral Health Services for evaluation.

(4) Assessment: Any Department staff, upon concluding that sufficient suicide warning signs are present to merit concern, should immediately notify a registered nurse or mental health provider. A mental health provider or registered nurse in consultation with a mental health provider will determine if suicide risk is present.

(a) When an inmate is placed on suicide watch or suicide close observation, the inmate should be reassessed by a registered nurse every four hours and by a mental health provider within 24 hours, in person or by phone, and once every 24-hour period thereafter.

(b) At those facilities without 24-hour nursing coverage, a suicide assessment will be completed every four hours when nursing staff are on duty, as well as at the end of the last shift and the beginning of the next shift. During the interim, specific written instructions shall be given to the officer-in-charge regarding what actions should be taken if the inmate's mental status appears to deteriorate, or if any acts of self-destruction are carried out.

(c) All suicide assessment, reassessments, inmate responses, as well as any written instructions which are given to the officer-in-charge, will be documented in the inmate's Health Services file.

(5) Monitoring — Suicide Watch (high risk): The officer-in-charge shall be responsible for placing an inmate on suicide watch based on the instruction from a mental health provider or registered nurse in consultation with a mental health provider. The officer-in-charge may initiate a suicide watch until a registered nurse or mental health provider arrives.

(a) An inmate on suicide watch shall be under continuous and unobstructed one-to-one observation at all times.

(b) When an inmate is placed on suicide watch, the officer-in-charge shall remove any items that pose a threat to self-harm from the inmate's living area based on the instruction from a mental health provider or a registered nurse in consultation with a mental health provider.

(c) Any inmate placed on suicide watch will be continued in this status until a mental health provider, or a registered nurse in consultation with a mental health provider, determines that the suicide watch is no longer necessary, and has notified the officer-in-charge. The officer-in-charge will then order the suicide watch discontinued and property will be returned as instructed.

(d) If the mental health provider decides to maintain an inmate on suicide watch past 48 hours, the officer-in-charge will be notified and arrangements will be made for the transportation of the inmate to the nearest Mental Health Infirmary. It is the responsibility of the mental health provider to communicate to the Mental Health Infirmary receiving staff of the impending admission.

(6) Monitoring — Suicide Close Observation (moderate risk): The officer-in-charge shall be responsible for placing an inmate on suicide close observation based on the instruction of a mental health provider or a registered nurse in consultation with a mental health provider. The officer-in-charge may initiate suicide close

observation until a registered nurse or mental health provider arrives.

(a) Suicide close observation requires unobstructed one-to-one observation of the inmate at staggered intervals, not to exceed 15 minutes (e.g., 9:15, 9:25, 9:34, 9:49, 10:00).

(b) When an inmate is placed on suicide close observation, the officer-in-charge shall remove items that pose a threat to self-harm from the inmate's living area based on the instruction from a mental health provider or a registered nurse in consultation with a mental health provider.

(c) Any inmate placed on close observation will be continued in this status until a mental health provider, or a registered nurse in consultation with a mental health provider, determines that the suicide close observation is no longer necessary and has notified the officer-in-charge. The officer-in-charge will then order the suicide close observation discontinued and property will be returned according to instruction.

(7) Housing: Inmates on suicide watch or suicide close observation may be housed in a segregation cell or special housing, or other cell modified and identified for use in suicide prevention if there is a visual and unobstructed view of the inmate so that he or she can be observed one-to-one on a continuous or staggered interval basis as required and property can be restricted as instructed.

(a) A mental health provider should be consulted as to the most appropriate housing. Upon determination and instruction by a mental health provider or a registered nurse in consultation with a mental health provider that an inmate cannot be safely maintained at a facility while on suicide watch or suicide close observation (in particular, those facilities without 24-hour nursing coverage), arrangements will be made to transfer the inmate to an appropriate facility for observation and intervention.

(b) The mental health provider or registered nurse in consultation with a mental health provider and registered nurse at the receiving facility before the inmate arrives at the receiving facility.

(8) Communication: Throughout the process of suicide risk assessment and intervention, Department staff and mental health providers will work closely together to ensure adequate and effective communication.

(9) Intervention: If a staff member discovers a suicide in progress, the following steps will be followed using universal blood and body fluid precautions:

(a) Call for assistance.

(b) If it is a hanging, the staff member shall cut the inmate down immediately.

(c) Emergency first aid procedures should be followed in the event of any self-destructive behavior and should be continued until Medical Services staff arrive and give further instructions.

(d) First aid procedures will be continued until relieved by Medical Services staff regardless of belief that the inmate is no longer alive.

(10) Notification and Reporting: The officer-in-charge will be responsible for initiating the facility's notification process of any attempted suicide. The notification will include the local Behavioral Health Services Manager or designee and the on-call prescriber for that facility where the attempted suicide took place. In the event of a completed suicide, the notification will include the local Behavioral Health Services Manager or designee and the Behavioral Health Services Administrator or designee.

(11) The Department of Corrections rules on Death (Inmate) (OAR 291-027) and Emergency Preparedness (OAR 291-053) will be followed in the event of a completed suicide.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 4-1997, f. & cert. ef. 2-12-97; DOC 23-2000, f. & cert. ef. 11-6-00;

DOC 20-2008, f. & cert. ef. 8-14-08

291-076-0040

Review

(1) Suicide Review: If a suicide occurs, a formal suicide review will be completed as assigned by the Inspector General,

including a review of the inmate's Health Services files, related materials, and interviews of staff.

(a) The actual review of the Health Services files, related materials, and interviews of staff will be conducted by a multi-disciplinary team comprised of an assigned Special Investigations Unit manager, Assistant Superintendent of Security, Medical Services manager and Behavioral Health Services manager from a facility other than the facility where the suicide occurred.

(b) The Inspector General will appoint the chair of the team.

(c) The team will write a review and submit it to the Inspector General.

(d) The Inspector General will submit the review to the Director, Deputy Director, Assistant Director for Operations, Health Services Administrator, Behavioral Health Services Administrator, and the functional unit manager where the suicide occurred.

(2) Attempted Suicide Review: The Director, Deputy Director, Inspector General, Health Services Administrator, Assistant Director for Operations or Behavioral Health Services Administrator may request a formal review from a multi-disciplinary team as described in (1) above for any suicide attempt.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 20-2008, f. & cert. ef. 8-14-08

DIVISION 77

PERFORMANCE RECOGNITION AND AWARD SYSTEM (INMATE)

291-077-0010

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.440, 423.020, 423.030, and 423.075 and Article I, Section 41 of the Oregon Constitution.

(2) Purpose: The purpose of this rule is to establish Department of Corrections policy and procedures governing its provision and distribution of monetary awards and other incentives to inmates made under the department's Performance Recognition and Awards System (PRAS).

(3) Policy:

(a) Within the inherent limitations of resources and the need for facility security, safety, health and order, it is the policy of the Department of Corrections to make available to inmates monetary awards and other incentives to recognize and encourage good institutional conduct. This includes exceptional performance in work and workforce development assignments and in self-improvement programs that address the criminal behaviors that led to their incarceration.

(b) Monetary awards provided to inmates under the PRAS and these rules are made available solely at the discretion of the Department, and may include the following:

(A) Performance awards that support the development of good performance and behaviors by inmates in Department of Corrections facilities; and

(B) Special Meritorious Awards that reward exceptional acts or behaviors by inmates that contribute to the safe and orderly operation of Department of Corrections facilities.

(c) Non-Monetary Incentives: Functional unit managers will examine the assets and practices of their facility and develop and implement non-monetary incentives that support the mission of the Department of Corrections and motivate inmates toward positive institutional behaviors and program compliance.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 1-1997(Temp), f. & cert. ef. 2-1-97; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; DOC 22-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 3-29-01; Administrative correction 6-20-01; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03

291-077-0020

Definitions

(1) Approved Programming: Inmate program assignments which are in compliance with the inmate's Oregon Corrections Plan or Article I, Section 41 of the Oregon Constitution.

(2) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director, or administrator and has responsibility for delivery of program services or coordination of program operations. In a correctional facility, the superintendent is the functional unit manager.

(3) General Population: For the purposes of these rules, any housing assignment that is not special housing as described in section (8) below including general population inmates out to court or out of the facility for medical or other reasons.

(4) Non-Monetary Incentive Program (also called Non-Cash Incentives Program): A program developed to enhance PRAS. This system will utilize "non-cash" items or activities to recognize inmates for their past and continued successful performance in approved programming and good institutional conduct.

(5) Performance Awards: Monthly monetary awards made to inmates at the discretion of the department to support the development of good performance and behavior and provide inmates with incentives to fully participate in programs that address criminal thinking, workforce development needs, substance abuse problems, and other contributors to their criminal behavior.

(6) Program Failure: Removal from a program for failure to satisfactorily perform in a program assignment or refusal to participate in a recommended or required program.

(7) Qualifying Programs: Any qualifying inmate assignment, including work, training, treatment and workforce development. Qualifying programs may include, but are not limited to the following:

(a) Work based education (WBE) program assignments in which inmates perform a service or produce a product. Many of the programs may include both training and production components.

(b) Treatment assignments that address diagnosed mental or behavioral problems that are barriers to successful employment, including but not limited to, alcohol and drug treatment or mental health day treatment; and

(c) Workforce development assignments intended to remove educational barriers (e.g., Adult Basic Education (ABE) or English as a Second Language (ESL)) or address personal deficits (e.g., Anger Management or Basic Living Skills) that impede employment.

(8) Special Housing: For purposes of these rules, special housing includes inmates housed in the following:

(a) Administrative Segregation;

(b) Disciplinary Segregation;

(c) Death Row;

(d) Intensive Management Unit; and

(e) Special Management Unit.

(9) Special Meritorious Awards: Monetary awards made to inmates at the discretion of the department to reward exceptional acts or behaviors that contribute to the safe and orderly operation of the facility, result in reductions in the cost of government, or recognize achievements in meeting team goals in a work or training assignment.

(10) Visitation Enhancements: Additional options over and above those mandated in the rule on Visiting (OAR 291-127). (Examples may include extra visiting points or different visiting hours.

Stat. Auth.: ORS 179.040, 421.440, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075

Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; DOC 2-2001(Temp), f. & cert. ef. 1-22-01 thru 7-18-01; DOC 15-2001, f. & cert. ef. 7-9-01; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03; DOC 1-2006, f. & cert. ef. 2-15-06

291-077-0030

Inmate Performance Awards

(1) All inmates housed in a Department of Corrections facility, except inmates who are provided compensation by the

department or Oregon Corrections Enterprises for their daily full-time participation in a Prison Industries Enhancement (PIE) certified inmate work program, may be considered at the discretion of the department for a monthly performance award in accordance with these rules.

(2) The awards will be made based on three primary considerations: the level of responsibility associated with an inmate's program assignments; the level of performance demonstrated by the inmate in his/her program assignments; and the inmate's institutional conduct. Individual performance awards will be determined based on each eligible inmate's total monthly performance points.

(3) Evaluation Period: Each inmate will undergo a 120-day evaluation period. During this period, the department will assess an inmate's willingness, attitude, and aptitude to perform in his or her particular program assignment(s). Inmates will not earn PRAS points for program assignments during this evaluation period. The 120 days begin accumulating on the inmate's admission date to the department.

(a) Inmates housed in minimum security facilities are exempt from the 120-day evaluation period. All inmates returning to a department facility, even a minimum security facility, as a consequence of failing their transitional leave will be subject to the 120-day evaluation period.

(b) Minimum security inmates reassigned to a medium security facility as a consequence of misconduct must complete the 120-day evaluation period upon their transfer.

(4) Daily Points: After the 120-day evaluation period, and for each day of satisfactory performance in a qualifying program assignment(s), the department will credit each eligible inmate with points equal to the value of the responsibility level for the inmate's program assignment. Satisfactory level of performance will be determined on a pass/fail basis. The total points credited to the inmate for each day equals the inmate's daily points.

(5) Monthly Performance Points:

(a) Each month the department will add together the inmate's daily points for that month to determine the inmate's monthly performance points. The monetary awards associated with specific ranges of accrued points earned during the month are set forth in **Appendix A**. [Appendix not included. See ED. NOTE.]

(b) The department will deduct a fixed percentage of each performance award made to inmates under these rules, to be credited to a general victims assistance fund. The department will credit the remainder of any monetary award to each recipient inmate's trust account.

(6) Responsibility Level: The department will assign a level of responsibility for each qualifying program assignment. The Assistant Director of Operations or designee will determine a specific responsibility level for each qualifying program.

(a) Qualifying program assignments will be assigned a responsibility level determined from a job description from the Department of Labor, Dictionary of Occupational Trades (DOT) that best describes the duties of the assignment. Each DOT job description includes skill level rating for specific vocational preparation (SV), reasoning, language and math.

(b) The Assistant Director for of Operations or designee may assign a qualifying program assignment a responsibility level that differs from the DOT job description when deemed appropriate to more accurately reflect the level of responsibility associated with a particular program assignment in a correctional setting. However, in no case will the responsibility level be assigned based on the monetary value of the inmate's work to the facility or any public agency or private enterprise.

(7) Satisfactory Performance: Program supervisors will submit to the functional unit manager or designee, their daily pass/fail assessment for each inmate's performance in each qualifying program. The daily assessment will be based on the inmate's attendance, performance quality, performance effort, interpersonal communications with staff and fellow inmates, self-improvement effort, and ability to follow directions.

(8) Multiple Program Assignments: Inmates will be credited with points from only one assignment in the work program

category and one assignment in the work-based education/treatment category in any given day. Inmates will be credited with points from the highest responsibility level in each of the two categories in a specific day. A failing level of performance in any of the program assignment category will result in no points being awarded in that category for that day.

[ED. NOTE: Appendices referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 1-1997(Temp), f. & cert. ef. 2-1-97; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; CD 31-1997(Temp), f. 12-24-97, cert. ef. 1-1-98; DOC 15-1998, f. 6-24-98, cert. ef. 6-29-98; DOC 22-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 3-29-01; DOC 1-2001, f. & cert. ef. 1-11-01; DOC 4-2003(Temp) f. 2-20-03, cert. ef. 2-28-03 thru 8-24-03; DOC 13-2003, f. & cert. ef. 8-22-03; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03; DOC 1-2006, f. & cert. ef. 2-15-06

291-077-0033

Behavioral Adjustments, Unsatisfactory Performance and Program Failures

(1) Daily Fail: Program supervisors may submit a fail assessment of an inmate's daily performance in any qualifying program.

(a) When a daily fail assessment is submitted, it is the supervisor's responsibility to complete a Record of Inmate Daily Performance Failure (CD 118a).

(b) One copy will be given directly to the inmate, one copy attached to the daily attendance roster, and remaining copies distributed in accordance with institution-specific procedures.

(2) Program Fail: The inmate assignment supervisor or counselor, in his/her sole discretion, with reasonable cause based upon an inmate's poor performance and non-compliance with prescribed programming may fail an inmate from any qualifying program. Poor performance and non-compliance include the following behaviors: refusal to participate, non-attendance, poor performance quality, poor performance effort, poor interpersonal communications with staff and fellow inmates, poor self-improvement effort and inability to follow directions or to ensure the orderly continued operation of the program.

(a) When a program failure is submitted, it is the supervisor's responsibility to complete an Inmate Performance Report (CD 118b).

(b) One copy will be given directly to the inmate, one copy attached to the daily attendance roster, and remaining copies distributed in accordance with institution-specific procedures.

(3) For purposes of this rule, inmates who dispute a program fail may use the inmate grievance system as described in the rule on Inmate Grievance Review System (OAR 291-109).

(4) Evaluation Period: There is also a 30-day program pass evaluation period that is a total of 30 successful programming days (30 daily passes). Inmates will not earn daily points during this evaluation period. An inmate will undergo the 30-day program pass evaluation period if involved in any of the following:

(a) Removal from a program for failure to satisfactorily perform in a program assignment; or

(b) Placement in segregated housing in connection with an inmate disciplinary sanction order.

(c) If an inmate is involved in any of the above events during the initial 120-day evaluation period described in OAR 291-077-0030(3), the 30-day program pass evaluation will not start until after the 120-day evaluation period is completed.

(4) Behavioral Adjustment:

(a) The department will record all inmate disciplinary sanction orders and adjust downward the inmate's monthly performance points based on the level of misconduct assigned to the disciplinary rule violation(s) by the corresponding inmate disciplinary grid(s) contained in the department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). For each disciplinary order sanctioning an inmate for a disciplinary rule violation, the department will deduct points from an inmate's monthly performance points based on the level of misconduct as follows:

(A) Level 1 — 100% Deducted.

(B) Level 2 — 80% Deducted.

- (C) Level 3 — 65% Deducted.
- (D) Level 4 — 40% Deducted.
- (E) Level 5 — 20% Deducted.
- (F) Level 6 — 10% Deducted.

(b) Deductions for behavioral adjustment will be made in the month in which the final disciplinary order is issued in the disciplinary case. Monthly performance points with behavioral adjustments will be calculated by taking the monthly performance points, subtracting for behavioral adjustments to determine the total monthly performance points.

[ED. NOTE: Tables referenced are available from the agency.]
 Stat. Auth.: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
 Hist.: DOC 2-2001(Temp), f. & cert. ef. 1-22-01 thru 7-18-01; DOC 15-2001, f. & cert. ef. 7-9-01; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03; DOC 1-2006, f. & cert. ef. 2-15-06; DOC 10-2009, f. 6-30-09, cert. ef. 7-1-09

291-077-0035

Non-Monetary Incentives (Non-Cash Incentives)

The purpose of non-cash incentives is to enhance cost effective inmate management by providing tiered access to services and privileges at department facilities. Non-cash incentives encourage pro-social behavior among inmates consistent with good correctional practices and the mission of the department. Functional unit managers may limit an inmate's access to services and privileges available within the incentive level attained by the inmate, as necessary, to ensure the safe and secure operation of the facility and within resources available to and physical plant limitations of the facility.

(1) General:

(a) Functional unit managers will develop a list of services and privileges specific to their facility as part of the DOC non-cash incentives program (institution incentive level matrix).

(b) Specific services and privileges available to inmates may differ between facilities depending on size and configuration of space and availability of resources.

(c) Some incentive services and privileges will be offered consistently throughout the department at each facility, when possible, as outlined in Appendix C.

(d) There will be three incentive levels (Level I, Level II, and Level III) available to inmates.

(e) Incentive Level I is a restricted level statewide. Restrictions imposed may differ between facilities due to the size and configuration of each facility. Level I inmates are identified with an orange identification card.

(f) Incentive Level II offers more services and privileges than Level I. Level II inmates are identified with the standard identification card (red fading into white).

(g) Incentive Level III is the highest attainable incentive level. Level III inmates are identified with a silver, holographic tamper resistant "NCI 3" sticker placed on their identification.

(h) Incentive levels will be calculated electronically at the end of each business day and made available to staff the following business day.

(2) Inmate Eligibility:

(a) All general population inmates will be eligible to earn services and privileges identified as non-cash incentives. Inmates who are not in general population will be ineligible to participate in the non-cash incentive program within the context of this rule. A non-cash incentive program may be developed and implemented in select special housing assignments as recommended by the functional unit manager and approved by the Assistant Director for Operations or designee.

(b) All department facilities will share a single set of inmate eligibility criteria.

(c) The incentive levels and corresponding eligibility are shown in Appendix B. Functional unit managers may develop additional criteria to manage services and privileges specific to the institution within the framework of Appendix B (e.g., waiting lists).

(d) New or returning commitments to the department will be placed at incentive Level II if they have not had a major misconduct

in the last 180 incarcerated days or program fail in the last 90 incarcerated days.

(e) If an inmate has segregation time to complete from a prior incarceration period with the department. Upon readmission, once segregation time is completed, the inmate will be placed at the proper incentive level as outlined in Appendix B.

(f) The time period necessary to attain eligibility to promote to a higher incentive level will not start until an inmate is released from special housing and after all disciplinary sanctions (segregation and loss of privileges) are satisfied.

(g) The time an inmate spends in the infirmary or mental health infirmary, for non-disciplinary reasons and while not serving any disciplinary sanctions, will not negatively impact their incentive level. Time spent in these units will count toward eligibility to promote to the next incentive level so long as these criteria are met.

(h) Inmates may earn promotion to higher incentive levels by compliance with prescribed programming and good institutional behavior.

(i) Alternatively, an inmate's incentive level may be lowered as a consequence of noncompliance with prescribed programming or engaging in prohibited conduct.

(j) The functional unit manager or designee may adjust an inmate's incentive level by two levels, up or down, as necessary to promote good institutional conduct and program compliance.

(k) An inmate's incentive level will be lowered no more than one level as a result of a disciplinary sanction and program failure arising out of a single act of prohibited conduct except when the inmate receives a sanction of more than 21 days in segregation. When the sanction is greater than 21 days in segregation, the inmate will be placed at the lowest incentive level available at the facility. An inmate whose incentive level has been reduced one level as a result of a disciplinary sanction will be considered as meeting all the eligibility criteria of the reduced incentive level.

(l) An inmate's incentive level will be adjusted once the inmate is found in violation of a major misconduct or a program failure is upheld.

(m) The functional unit manager or designee may waive the non-cash incentive system for a specific event(s) to allow all general population inmates to participate.

(3) Transfers:

(a) Inmates will retain the incentive level they have earned and any time accrued towards promotion to the next incentive level upon transfer to another facility.

(b) Inmates transferred to another facility will retain incentive property and commissary spending limit privileges earned prior to the transfer. Access to institution-specific services and privileges available at the receiving facility may be subject to waiting periods established by the functional unit manager or designee.

(4) Property:

(a) Inmates will retain property purchased (e.g., television, CD player, CDs) prior to the adoption of this rule subject to limitations on use established by the functional unit manager or designee.

(b) Property items offered as part of the non-cash incentive program (incentive property) will be offered department wide unless the property is part of a limited duration pilot project approved by the Assistant Director of Operations or designee.

(c) Once purchased, incentive property will be handled in accordance with the rule on Personal Property (Inmate) (OAR 291-117).

(d) When access to property is restricted by a disciplinary sanction (loss of privileges or assignment to special housing), incentive property will be stored at the direction of the functional unit manager/designee.

(e) Inmates will not be required to send incentive property home as a result of disciplinary infractions.

(f) The use of specific property, including but not limited to personal electronics, may be restricted until the proper incentive level is achieved. Select incentive property and the manner in which the property is restricted will be at the functional unit manager's/designee's discretion and may differ by institution. The

property may be stored or disabled until the proper incentive level is achieved.

(g) Certain property sold prior to implementation of this rule will not transfer to the receiving facility; e.g., 13-inch television (box or CRT).

(5) The functional unit manager or designee will create a matrix of non-cash incentives detailing services and privileges available to inmates at each incentive level within the facility. The matrix will be updated and made available to inmates at least annually. Any restrictions or additional eligibility criteria for institution-specific services and privileges (e.g., waiting lists) will be included in the matrix.

(6) Miscellaneous:

(a) Any inmate, regardless of incentive level, may be placed on the Security Threat Management caseload.

(b) The use of some or all of an inmate's incentive property and non-mandated services and privileges may be authorized or restricted by the functional unit manager or designee regardless of the inmate's incentive level.

[ED. NOTE: Appendices referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.440, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075

Hist.: DOC 2-2001(Temp), f. & cert. ef. 1-22-01 thru 7-18-01; DOC 15-2001, f. & cert. ef. 7-9-01; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03; DOC 1-2006, f. & cert. ef. 2-15-06; DOC 14-2013, f. 11-18-13, cert. ef. 12-1-13; DOC 2-2014, f. & cert. ef. 1-14-14

291-077-0040

Special Meritorious Awards

Inmates are eligible to be considered at the discretion of the department for special meritorious awards, as follows:

(1) Exceptional Acts or Behaviors: The functional unit manager may grant an inmate a special meritorious award for exceptionally positive acts or behaviors of significant benefit to the agency, staff, inmates, or the public, as follows:

(a) Acts of outstanding heroism;

(b) Satisfactory performance of an unusually difficult or hazardous assignment that requires personal responsibility related to public safety;

(c) Suggestions which result in substantial improvement of programs or definite economies of operation; or

(d) Other clearly exceptional or outstanding services which are consistent with the character of, but are not specified in, the above.

(2) Monthly Team Goals: The functional unit manager may grant inmates involved in a program assignment that emphasizes teamwork a special meritorious award to recognize their achievement in meeting team goals:

(a) The goals must be team-based, related to established job standards, and have measurable objectives that exceed the established job standards, as approved by the Assistant Director for Programs or designee.

(b) Established job standards, may include, but are not limited to, avoidance of injuries, meeting safety standards, efficient use of resources, maintaining equipment in operational status, team communication and sharing responsibilities.

Stat. Auth.: ORS 179.040, 421.440, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075

Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03

DIVISION 78

CASE MANAGEMENT SYSTEM (COMMUNITY CORRECTIONS)

291-078-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to:

(a) Provide uniform business practices in accordance with evidence-based practices of case management for offender supervision in the community;

(b) Establish a level of statewide consistency for the classification of offenders;

(c) Classify offenders based upon the risk of recidivism;

(d) Operate on the principle of limited risk control and utilize an objective risk assessment tool for making classification decisions;

(e) Quantify workload, including both investigative and supervision services;

(f) Assign levels of supervision;

(g) Provide the data necessary for policy decisions, program planning, effective utilization of resources, research, and evaluation;

(h) Enhance corrections system credibility by providing a means of accountability through established auditing methods; and

(i) Provide workload data which may be used for resource allocation.

(3) Policy: It is the policy of the Department of Corrections to target resources to those offenders who are most likely to recidivate using evidence-based practices in a comprehensive case management approach.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 15-1991, f. & cert. ef. 6-14-91; CD 12-1997, f. 7-23-97, cert. ef. 8-1-97; DOC 9-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 3-2013, f. & cert. ef. 2-28-13

291-078-0010

Definitions

(1) Agency: The Department of Corrections or county community corrections agencies.

(2) Case Management: A proactive and collaborative process which assesses, plans, implements, coordinates, monitors, and evaluates options and services to meet an offender's risks, needs, and responsiveness factors. Case management is the process that links all the elements involved in an offender's management. The process of case management unifies procedures and personnel to balance resources and an offender's needs through their term of community supervision.

(3) Case Plan: A dynamic document created collaboratively with an offender that specifically identifies the offender's evidence-based assessed risk and needs, accompanied by risk reduction strategies and plans of action, with timelines.

(4) Evidence-Based Practices: The body of research and clinical knowledge that describes correctional assessment, programming, and supervision strategies that lead to improved correctional outcomes, such as risk reduction and increased public safety. Such principles not only meet the public's expectations for economical business strategies, efficiency, and effectiveness; but also reflect fairness and accountability.

(5) Intensive Supervision: An enhanced level of supervision exceeding a county's high risk level supervision standards. Intensive supervision may include, but not be limited to, electronic monitoring, house arrest, curfew, day reporting, supervised housing, multiple supervising officers, adjunct surveillance by law enforcement or other specialists, increased face-to-face offender contacts in the community, increased collateral contacts (such as with family, therapist and employer), community notification, geographic restrictions, offender mileage logs, medication monitoring (such as psychotropics, or antabuse), intensive outpatient or residential treatment programming, urinalysis, and polygraph.

(6) Offender: Any person under the supervision of local community corrections who is on probation, parole, or post-prison supervision status.

(7) Risk of Violence: The identified potential of an offender to engage in or threaten to engage in behavior that constitutes physical force and/or the inflicting of injury on another person.

(8) Risk of Recidivism: The likelihood of an offender being convicted of a new felony within three years of release from prison or admission to probation.

(9) Sexually Violent Dangerous Offender (SVDO): A special designation by the Court and/or Board of Parole and Post-Prison Supervision as defined in ORS 144.635 subjecting the offender to intensive supervision for the full period of parole and/or post-prison supervision.

(10) Supervision Intake Date: The date upon which the agency supervisor assigns a new case offender to a supervising/intake officer.

(11) Supervision Period: The period of time an offender is under the supervision of an agency or agencies. The period of supervision may involve multiple cases and is interrupted only by Department of Correction incarceration, transfer of the offender's supervision out of state, case closure due to absconding, or legal termination of the final chronological case.

(12) Supervision Termination Date: The date established by the releasing/sentencing authority when the offender is no longer legally subject to community supervision.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 15-1991, f. & cert. ef. 6-14-91; CD 12-1997, f. 7-23-97, cert. ef. 8-1-97; DOC 9-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 3-2013, f. & cert. ef. 2-28-13; DOC 19-2014(Temp), f. & cert. ef. 8-29-14 thru 2-25-15; DOC 3-2015, f. & cert. ef. 2-25-15

291-078-0015

Applicability

(1) All agencies are required to utilize Community Case Management in order to access designated Community Corrections Act funds.

(2) Community Case Management shall apply to all offenders being supervised or investigated due to a felony conviction and to offenders being formally investigated as part of the court process prior to actual conviction and/or sentencing. Community Case Management does apply to diversions and deferred sentences, but not to game violations.

(3) Community Case Management Manual: A manual, which includes all agreed upon community case management practices and standards, will be provided by the Department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 15-1991, f. & cert. ef. 6-14-91; CD 12-1997, f. 7-23-97, cert. ef. 8-1-97; DOC 9-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 3-2013, f. & cert. ef. 2-28-13

291-078-0020

Risk Assessment

(1) Proper assessment ensures the classification of offenders according to risk and their assignment to specified levels of community supervision. The following risk assessment tools are utilized by the department and county community corrections agencies for risk assessment of offenders:

(a) Level of Service/Case Management Inventory (LS/CMI) Section 1 General Risk/Need Factors (version Feb. 2013): A validated assessment tool used to determine an offender's risk to recidivate and identify criminogenic risk factors across eight domains Criminal History, Education/Employment, Family/Marital, Leisure/Recreation, Companions, Alcohol/Drug Problem, Procriminal Attitude/Orientation, Antisocial Pattern.

(b) Ontario Domestic Assault Risk Assessment (ODARA) (version June 2004): Actuarial risk assessment tool to assess risk of committing future battering in cases where a man or a woman has assaulted his partner.

(c) Public Safety Checklist (PSC)(version 2005): A statistical calculation developed by the Oregon Criminal Justice Commission in collaboration with the department's research unit to predict an offender's risk to recidivate within three years of release from custody or admission to probation.

(d) Proxy (version 2005): A three question validated risk assessment tool used to identify initial risk for offenders entering probation supervision.

(e) Stable-2007 (version Sept. 2012): Actuarial risk assessment designed to assess risk of sexually recidivating over time using static risk factors used in conjunction Acute-2007.

(f) Acute-2007 (version Aug. 2012): Actuarial risk and needs scale for the assessment of sexual offenders and the probability of sexual and violent recidivism based upon dynamic needs measured at each supervision contact.

(g) Static-99R and Definitions (version 2003, age coding August 2012): A ten item actuarial assessment instrument for use with adult sexual offenders who are at least 18 years of age at the time of admission to supervision.

(h) The risk assessment tools listed in (a) through (g) above are filed with this rule and are available on request from the Department of Corrections or at the Secretary of State's Office.

(2) New Case: Any offender received for community supervision who is not already under community supervision at the time of the admission to supervision shall be considered a new case. A risk assessment must be completed.

(a) The offender shall be considered a new case for a period of up to 30 days commencing with the supervision intake date. Authorization to extend the new case status an additional 30 days may be granted by the supervisor when extenuating circumstances warrant such extension. Approval for the extension may be documented in the case file.

(b) An absconder shall be considered a new case upon return to supervision if he/she has been absent from supervision for a period of six months or longer.

(c) An offender shall be considered a new case upon release from incarceration due to revocation or upon a new felony conviction.

(3) Risk Assessment:

(a) The assessment of risk will involve the use of the PSC, a validated risk assessment tool, which is an objective instrument that groups offenders according to their likelihood to recidivate.

(b) The assessment of risk will rely primarily on automated static risk factors to predict the likelihood to recidivate. The initial risk assessment score will be created as part of new case procedures.

(c) The computer generated score will place the offender in one of three risk levels: high, medium, or low.

(d) If an offender has no in-state arrest history or an extensive out-of-state criminal history, the Proxy risk tool will be used, which is a manual risk assessment tool and will serve as a proxy to the automated risk assessment tool and will determine the initial risk level.

(4) Risk, Needs, and Responsivity Assessment:

(a) The ongoing assessment of offenders risk, needs, and responsivity relies on a combination of both static and dynamic risk factors in order to predict recidivism and identify criminogenic needs and responsivity issues.

(b) The LS/CMI and a case plan, as described in OAR 291-078-0026, will be completed on all offenders determined to be of high or medium risk either by the PSC, Proxy, or by an approved override. The LS/CMI is not required on sexual offenders who are subject to the Stable/Acute and Static-99R.

(c) Offenders will be reassessed using the LS/CMI a minimum of every twelve months, or as circumstances warrant for high and medium level cases.

(d) The LS/CMI is not required on offenders that are assessed at the low level either by the PSC or by an approved override. Low level offenders may be reassessed using the PSC or LS/CMI as circumstances warrant.

(e) Nothing in this rule prevents an agency from completing an LS/CMI on a sexual offender or on a low level offender.

(5) Overrides:

(a) The override feature is intended to address risk factors that may not be included in the objective risk assessment instruments. These factors are based upon:

(A) Dynamic risk factors, which appear to impact the risk the offender poses to the community; or

(B) Policy and/or value statements on the part of the agency regarding the delivery of correctional services.

(b) The override feature provides for either increases or decreases in the level of supervision from that determined through the initial risk assessment score.

(c) All overrides must be based upon static and/or dynamic risk factors identified by one of the following tools, special offender designation, or the offender's availability for supervision:

- (A) LS/CMI;
- (B) Stable/Acute
- (C) ODARA;
- (D) SVDO;
- (E) Policy; or
- (F) Unavailable status, which includes
 - (i) In custody;
 - (ii) Warrant/Abscond;
 - (iii) Residential Treatment;
 - (iv) CMPO, Compacted Out of State; or
 - (v) Medical (Hospice, State Hospital, etc.)

(d) The assessing officer must indicate the single most appropriate category on the override screen.

(e) Approval of override requests by the officer's supervisor is not required; however, an agency may require this level of approval.

(f) All overrides must include a comment or a reason for the override.

(g) Supervision level changes due to override shall remain in effect until:

(A) A change in circumstances warrants a reassessment and subsequent adjustment in the level of supervision;

(B) The removal of the override is warranted and consistent with public safety and the reformation of the offender.

(6) In order to ensure a baseline of statewide consistency in the supervision of offenders, three basic levels of supervision have been established: high, medium, and low. The risk instrument shall, in most cases, determine which supervision level is appropriate. The county community corrections manager will establish minimum contact standards for each of the three supervision levels for new cases.

(a) Standards will be in writing with the policies and procedures of the agency.

(b) The county will notify the Department of Corrections of the contact standards so that they can be coded into the Corrections Information System (CIS). The management reports generated by CIS will reflect the actual standards set in the county.

(7) An offender found to be a SVDO, as defined in ORS 144.635, shall be subject to intensive supervision for the full period of the offender's parole and post-prison supervision.

(8) Intensive supervision for the purposes of this rule means an enhanced level of supervision exceeding a county's high risk level supervision standards. Intensive supervision may include, but not be limited to, electronic monitoring, house arrest, curfew, day reporting, supervised housing, multiple supervising officers, adjunct surveillance by law enforcement or other specialists, increased face-to-face offender contacts in the community, increased collateral contacts (such as with family, therapist and employer), community notification, geographic restrictions, offender mileage logs, medication monitoring (such as depo provera, psychotropics, antabuse), intensive outpatient or residential treatment programming, urinalysis, and polygraph.

Stat. Auth.: ORS 144.637, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.637, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 15-1991, f. & cert. ef. 6-14-91; CD 12-1997, f. 7-23-97, cert. ef. 8-1-97; DOC 4-2001, f. & cert. ef. 2-7-01; DOC 9-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 3-2013, f. & cert. ef. 2-28-13; DOC 19-2014(Temp), f. & cert. ef. 8-29-14 thru 2-25-15; DOC 3-2015, f. & cert. ef. 2-25-15

291-078-0026

Community Case Management and Planning

(1) Community case management and planning is comprised of the following principles:

(a) When all community corrections staff and community stakeholders share appropriate information and assist in the case planning for offenders, both the quality of change and the safety of the community improve. Mutual respect, proper training, and on-going communication and cooperation provide the foundation for community case management;

(b) Case planning begins in the institution for those offenders releasing on parole or post-prison supervision. An effective community case management system will build upon the case planning that occurred in the institution;

(c) Each offender is treated as an individual rather than as a part of a group;

(d) Case management programs and interventions are structured around an individual's risk, need, and responsivity factors;

(e) Case plan programs and interventions contain clear and achievable goals where goal achievement is rewarded;

(f) Positive behaviors and personal accountability are expected in order to achieve goals;

(g) Each offender has the ability to provide input into their case plan;

(h) Quality pro-social interaction between all agency staff and offenders is the expectation and is an evidence-based practice that can be consistently offered throughout the correctional process;

(i) Offenders receive support in various ways, including education, employment, programs, and treatment services;

(j) The emphasis is on being proactive rather than waiting for problems to develop;

(k) Accurate record keeping for monitoring progress is a vital and on-going part of successful community case planning and case management;

(l) Feedback to the offender about case planning and progress is a vital and on-going part of successful community case management; and

(m) Quality assurance measures are utilized to ensure consistency and reliability of community case management techniques, as well as a consistent statewide case management approach.

(2) Individualized case plans shall be prepared on all high and medium risk offenders. Case plans may be prepared on all other offenders.

(a) The case plan will identify interventions, supervision strategies, programming, treatment, and educational/employment activities that are appropriate to the offender's strengths and needs;

(b) The case plan will promote positive change and assist in developing pro-social behaviors;

(c) The case plan process is intended to be collaborative in nature;

(d) The automated case plan in the Case Management Module shall be used when creating a case plan;

(e) Components of each case plan should contain or identify:

(A) Prioritized goals based upon assessments such as the LS/CMI, Stable/Acute and Static 99R, ODARA, (as referenced in this rule division) mental health status, or any other instruments assessing need or risk to recidivate;

(B) Desired outcomes for each goal;

(C) Action steps or tasks linking the offender to the appropriate services;

(i) Are time sensitive, measurable, achievable, and specific;

(ii) Are time specific and should not be identified as a range (e.g. 30-60 days) or as an unspecified period of time, (e.g. as needed);

(iii) Should identify who is responsible for accomplishing the action steps/tasks; and

(iv) Should prioritize completion dates.

(3) Officers should routinely review the case plan with the offender and modifications should be made as indicated by the offender's behavior, compliance with the plan, and responsivity to change.

(a) Progress should be outcome oriented, measurable, and recorded in case plan;

(b) When goals and action steps are completed, they should be replaced by the next prioritized risk/need areas identified.

(4) Reentry and release planning are part of the case planning process.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 3-2013, f. & cert. ef. 2-28-13; DOC 19-2014(Temp), f. & cert. ef. 8-29-14 thru 2-25-15; DOC 3-2015, f. & cert. ef. 2-25-15

291-078-0031

Validation/Evaluation

(1) The Department of Corrections will subject the PSC to periodic validation in order to ensure that the tool is predicting risk within acceptable ranges.

(2) Evaluation of the community case management system will occur through:

(a) The ongoing assessment of operations through the operational review system;

(b) The ongoing informal feedback of users and recommendations of the Oregon Association of Community Corrections Directors Risk Assessment Workgroup; and

(c) The formal written evaluation of the system to determine operational effectiveness and accomplishments of identified purposes.

(3) A formal evaluation will occur at no more than five-year intervals.

(4) Each agency is responsible for quality assurances measures within their county.

(a) Case plans should be reviewed a minimum of every six months for high and medium cases and as needed for all other cases;

(b) Internal quality assurance measures such as peer review and supervisor audits should be used to maximize consistency and reliability of case management tasks. These reviews should be conducted on a regular basis as determined by the agency.

(c) Internal quality assurance may include:

(A) Spot checks of assessments, which may include the LS/CMI and Stable/Acute and Static 99R (as referenced in this rule division);

(B) Review of case plan development and maintenance;

(C) Observation, review, and feedback of LS/CMI (as referenced in this rule division) interviews or motivational interviews;

(D) Proper use of supervision overrides;

(E) Accurate and appropriate case documentation; and/or

(F) Adherence to case plan policies and procedures.

(d) External quality assurance measures, including peer review and formal audits, may be used to ensure a statewide case management practice.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 3-2013, f. & cert. ef. 2-28-13; DOC 19-2014(Temp), f. & cert. ef. 8-29-14 thru 2-25-15; DOC 3-2015, f. & cert. ef. 2-25-15

DIVISION 79

SHARED INFORMATION SYSTEM

291-079-0030

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 329.965, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to establish department policy and procedures for obtaining and providing inmate/offender Social Security Numbers to the State Interagency Shared Information System (SIS).

(3) Policy: It is the policy of the Department of Corrections to request inmates/offenders to voluntarily provide their Social Security Numbers for use by the State Interagency Shared Information System (SIS). The SIS will use the information to assist state and local agencies to plan workforce development, education and training services. If provided, the Department will furnish the information to the SIS for its use as required by ORS 329.965. Refusal to disclose or permit the use of a Social Security Number by the SIS will not be used to deny an inmate/offender any rights, benefits, or privileges provided by law, or otherwise affect the inmate's/offender's ability to obtain services from the Department of Corrections.

Stat. Auth.: ORS 179.040, 329.965, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 329.965, 423.020, 423.030 & 423.075

Hist.: CD 8-1997, f. & cert. ef. 6-6-97; DOC 5-2002, f. & cert. ef. 3-27-02

291-079-0035

Definitions

(1) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation or post-prison supervision status.

(2) Offender: Any person under the supervision of the Department of Corrections who is on parole, probation or post-prison supervision status.

(3) Offender Information and Sentence Computation (OISC): A location where the official file of Department of Corrections felony inmates/offenders are permanently maintained.

(4) Official File: Those documents permanently maintained in OISC on all Department of Corrections felony inmates, offenders and misdemeanor sex offenders and placed on microfilm with security role forward to the Archives Division.

(5) Working File: Those documents maintained in a Department of Corrections facility or community corrections office for administrative and case management purposes.

Stat. Auth.: ORS 179.040, 329.965, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 329.965, 423.020, 423.030 & 423.075

Hist.: DOC 5-2002, f. & cert. ef. 3-27-02

291-079-0040

Procedures

(1) Upon admission to a Department of Corrections intake facility, or at such other facility as necessary, the department will furnish each inmate/offender with a release form requesting the inmate's/offender's voluntary disclosure of his/her Social Security Number(s) to the department for use by the State Interagency Shared Information System (SIS). The release form will describe the uses to which the inmate's/offender's Social Security Number will be put by the SIS and inform the inmate/offender that the Social Security Number information will be used for the stated purposes or as otherwise required by law. The inmate's/offender's Social Security Number will not be disclosed or released for use by the SIS without the informed consent of the inmate/offender. If an inmate/offender does not consent to the disclosure or use of the Social Security Number by voluntarily completing the form, the Social Security Number will not be provided to the SIS.

(2) Disclosure of an inmate's/offender's Social Security Number for use by the SIS is voluntary. Refusal to disclose or permit the use of a Social Security Number by the SIS will not be used to deny an inmate/offender any rights, benefits, or privileges provided by law, or otherwise affect the inmate's/offender's ability to obtain services from the Department of Corrections.

(3) SIS release forms collected at any Department of Corrections facility will be stored in the working file of the same facility where the inmate is housed.

(4) SIS release form collected at any community corrections will be stored in the working file where the offender is supervised.

(5) Entry of the inmate's/offender's Social Security Number and SIS status will be made in the department's computer system prior to placing the SIS release form into the working file.

(6) SIS release forms shall be archived, as an essential document, at OISC. SIS release forms shall be part of the official file.

Stat. Auth.: ORS 179.040, 329.965, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 329.965, 423.020, 423.030 & 423.075

Hist.: CD 8-1997, f. & cert. ef. 6-6-97; DOC 5-2002, f. & cert. ef. 3-27-02

DIVISION 81

**PRIVATE SECTOR/PRISON INDUSTRIES
ENHANCEMENT PROGRAM**

291-081-0010

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.440, 423.020, 423.030, 423.075, Oregon Laws 1997, Ch. 851, and Article I, Section 41 of the Oregon Constitution.

(2) Purpose:

(a) The purpose of this rule is to establish Department of Corrections policy and procedures governing the operation and administration of its Private Sector/Prison Industries Enhancement (PS/PIE) Program and work projects certified under the federal Prison Industry Enhancement Certification Program (PIECP);

(b) These rules apply only to inmates working on PS/PIE Program work projects when the goods manufactured will be transported in interstate commerce, except the inmates noted as follows. These rules do not apply to inmates involved in the production of agricultural commodities or parts for the repair of farm machinery, nor do they apply to inmates involved in the production of commodities intended for use by the federal government, the District of Columbia, any state or political subdivisions thereof, or not-for-profit organizations. These rules also do not apply to inmates who produce goods solely for intrastate transport, and inmates on parole, supervised release or probation.

(3) Policy: The Department of Corrections recognizes the value of fully engaging inmates in productive activities, such as PS/PIE Program work projects, if inmates are to successfully re-enter society with practical skills and a viable work ethic. Consistent with the mandate of Article I, section 41 of the Oregon Constitution requiring sufficient work and training programs to ensure that eligible inmates are productively involved in work and training programs, the Department of Corrections will seek opportunities to enter into agreements with private business concerns to accomplish the production or marketing of goods produced by inmates.

Stat. Auth. ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Hist.: CD 26-1989, f. & cert. ef. 12-20-89; CD 16-1997(Temp), f. & cert. ef. 9-17-97, Renumbered from 291-705-0005; DOC 6-1998, f. & cert. ef. 3-26-98, Renumbered from 291-705-0005

291-081-0025

Definitions

(1) Administrator: The administrator of Corrections Inmate Work Programs or the administrator's designee.

(2) Compensation: Payment by the Department of Corrections to an inmate for labor or other services rendered while working on a Private Sector/Prison Industry Enhancement Program work project.

(3) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(4) Locality: The geographic area impacted by the presence of a PS/PIE Program work project.

(5) Piece Work Compensation: Compensation paid on the basis of the quantity of work completed.

(6) Prison Industry Enhancement Certification Program or PIECP: The federal program authorized under 18 USC § 1761(c) that requires certification of an inmate work program before goods produced through that program can be shipped in interstate commerce.

(7) Private Sector/Prison Industry Enhancement Program or PS/PIE Program: The Department of Corrections inmate work program that is certified under the Prison Industry Enhancement Certification Program.

(8) PS/PIE Program Work Project: A specific inmate work project that is part of the Private Sector/Prison Industry Enhancement Program.

(9) Work week: An inmate's work week shall consist of seven consecutive days, beginning on Monday and ending on Sunday, except as otherwise designated by the Department.

Stat. Auth. ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Hist.: DOC 6-1998, f. & cert. ef. 3-26-98

291-081-0030

Inmate Compensation

(1) Inmates participating in a Private Sector/Prison Industries Enhancement Program shall be paid compensation as determined and established by the Director in accordance with these rules.

(2) In accordance with 18 USC § 1761, inmates participating in a PS/PIE Program work project shall be paid compensation for actual work performed that is not less than the amount paid for work of a similar nature in the locality in which the work is to be performed. In no case shall compensation paid be less than federal minimum wage. Inmates who work more than 40 hours per work week shall be paid compensation for additional hours worked at a rate equal to 1 1/2 times their base hourly compensation rate. If the Director or his/her designee determines that the Department shall pay inmates piece work compensation for their participation in a particular PS/PIE Program work project, the piece work compensation rate shall be determined and established by converting the piece work compensation to an hourly compensation equivalent.

(3) Prior to implementation of a PS/PIE Program work project, the administrator shall request from the Oregon Employment Division, or other appropriate agency, data regarding compensation paid for work of a similar nature to the PS/PIE Program work project in the locality in which the work is to be performed. The Director may rely upon this data and on other available information to determine and establish compensation for inmates participating in a PS/PIE Program work project. The administrator shall, on an annual basis, request the Oregon Employment Department, or other appropriate agency, to review and provide updated compensation data to the Department of Corrections.

(4) In the absence of available, relevant rate information, the Director may establish compensation at the federal minimum wage rate, or its piece work compensation equivalent.

Stat. Auth. ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Hist.: CD 26-1989, f. & cert. ef. 12-20-89; CD 16-1997(Temp), f. & cert. ef. 9-17-97, Renumbered from 291-705-0015; DOC 6-1998, f. & cert. ef. 3-26-98, Renumbered from 291-705-0015

291-081-0040

Labor Analysis

(1) Prior to implementation of a PS/PIE Program, the administrator shall submit a request to the Oregon Employment Department, or other appropriate agency, to provide a written analysis of the potential impact the proposed project may have on private labor in the locality in which the project will be performed.

(2) The administrator shall not implement a PS/PIE Program work project that would result in significant displacement of employed workers, utilize skills or trades in which there is a surplus of available gainful labor in the locality, or impair existing private sector contracts for services.

Stat. Auth. ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Hist.: CD 26-1989, f. & cert. ef. 12-20-89; CD 16-1997(Temp), f. & cert. ef. 9-17-97, Renumbered from 291-705-0045; DOC 6-1998, f. & cert. ef. 3-26-98, Renumbered from 291-705-0045

291-081-0050

Local Business and Labor Union Consultation

(1) Prior to implementing a PS/PIE Program work project, the administrator shall consult with representatives of local businesses and local union central bodies or similar labor organizations that would potentially be affected by the project. If there is no local union body or similar labor organization, the administrator shall consult with the state's union body or similar state-wide labor organization.

(2) The administrator shall:

(a) Provide a notice of intent to the local Chamber of Commerce, appropriate trade organizations and appropriate local or state labor union central bodies or similar labor organizations requesting comments, concerns, recommendations and names of private businesses and local labor organizations that would potentially be affected by the project. The notice of intent shall include a general description of the PS/PIE Program work project, a description of the project location, the type and quantity of goods to be produced, the number of inmates expected to be employed, the potential market for the goods, the project initiation date, and an explanation that federal law requires this consultation; and

(b) Maintain a file of all replies and Department of Corrections responses, if applicable, and submit them to the Prison Industries Board and the Director of Department of Corrections for their consideration prior to final approval of the PS/PIE Program work project.

Stat. Auth. ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Hist.: CD 26-1989, f. & cert. ef. 12-20-89; CD 16-1997(Temp), f. & cert. ef. 9-17-97, Renumbered from 291-705-0035; DOC 6-1998, f. & cert. ef. 3-26-98, Renumbered from 291-705-0035

291-081-0060

Conditions of Inmate Participation in the PS/PIE Program

(1) Inmate participation in a Private Sector/Prison Industries Program shall be voluntary. Prior to acceptance for participation in a PS/PIE Program work project, all inmate applicants shall sign a form indicating the inmate's voluntary participation in the work project and acknowledging the inmate's consent to the Department's PS/PIE Program requirements, including the compensation disposition procedure set forth in these rules.

(2) The following deductions shall be made from a participating inmate's gross compensation, which shall not in the aggregate exceed 80% of the inmate's gross compensation:

(a) State, federal, and local taxes if required to be withheld from the inmate's compensation by law;

(b) Family support obligations pursuant to state statute or court order, including income withholding orders and garnishments for family support;

(c) Five percent of the inmate's gross compensation shall be contributed to the Victims Compensation Fund established pursuant to ORS 147.005 through 147.415;

(d) Room and board charges as determined by the Director of the Department of Corrections under OAR 291-081-0070. The amount deducted from an inmate's monthly gross compensation for room and board charges shall equal the amount of compensation remaining after deductions from gross compensation are made as required under subsections (a) through (c) of this section.

(3) An inmate shall receive 20% of gross compensation for personal use, which shall be deposited into the inmate's trust account. In no instance shall the inmate retain more than 20% of gross compensation for personal use.

Stat. Auth.: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Hist.: CD 26-1989, f. & cert. ef. 12-20-89; CD 16-1997(Temp), f. & cert. ef. 9-17-97, Renumbered from 291-705-0030; DOC 6-1998, f. & cert. ef. 3-26-98, Renumbered from 291-705-0030

291-081-0075

Charges for Room and Board

The Director or his/her designee shall determine a reasonable monthly room and board charge based on the average total cost to the Department for inmate care including, but not limited to, cost of food, health care, administrative costs, housing and clothing costs. Daily room and board charges are calculated through the budgeting process on a biennial basis. The monthly room and board charge shall be calculated by multiplying the daily room and board charge by 30.

Stat. Auth.: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Hist.: DOC 6-1998, f. & cert. ef. 3-26-98

291-081-0085

Inmate Injury Fund

Inmates participating in a PS/PIE Program work project shall receive benefits under the Inmate Injury Fund set forth in ORS 655.505-655.555.

Stat. Auth.: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.440, 423.020, 423.030 & 423.075
Hist.: DOC 6-1998, f. & cert. ef. 3-26-98

DIVISION 82

ASSESSMENT, ASSIGNMENT, AND SUPERVISION OF INMATES FOR WORK ASSIGNMENTS AND UNFENCED MINIMUM HOUSING

291-082-0100

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.445, 423.020, 423.030, 423.075 and Article I, Section 41 of the Oregon Constitution.

(2) Purpose: The purpose of these rules is to establish Department of Corrections policy and procedures relating to the assessment, assignment, and supervision of inmates assigned to community custody work crews, on-site work assignments and unfenced minimum housing.

(3) Policy: It is the policy of the department to establish specific eligibility criteria for inmates who are assigned to community custody work crews, on-site work assignments and unfenced minimum housing.

(a) Consistent with the mandates and purposes of Article I, section 41 of the Oregon Constitution, the Department of Corrections will seek opportunities to enter into cooperative agreements with local, state, federal governmental agencies, private non-profit and private entities for the use of inmate labor and services on work projects.

(b) The department will enforce the following procedures for inmate work crew supervision to support the safety and security of the community, staff, supervisors, and inmates.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075
Hist.: CD 29-1997(Temp), f. & cert. ef. 12-12-97 thru 6-11-98; DOC 13-1998, f. & cert. ef. 6-10-98; DOC 3-2002, f. & cert. ef. 1-16-02; DOC 1-2005(Temp), f. & cert. ef. 1-7-05 thru 7-6-05; Administrative correction 7-20-05; DOC 10-2005, f. & cert. ef. 8-1-05; Renumbered from 291-082-0010, DOC 10-2008(Temp), f. & cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15

291-082-0105

Definitions

(1) Agency Work Crew: One or more inmates assigned to work on an on-site or community crew.

(2) Agency Work Crew Supervisor: An employee or agent of the local, state or federal governmental agency or private non-profit and private entities who may supervise inmates assigned to an agency work crew pursuant to an intergovernmental agreement entered into by the agency and the Department of Corrections.

(3) Corrections Information System (CIS): A computer system dedicated to tracking information critical to the management of inmates and offenders under the custody, supervision or both of the Department of Corrections.

(4) Custody Classification Level: One of five levels of supervision assigned to an inmate through initial and classification procedures in accordance with the DOC rule on Classification (Inmate) (OAR 291-104).

(a) Level 5: An inmate assigned at this custody level meets one of the following criteria:

(A) Has demonstrated behaviors causing serious management concerns, or has demonstrated behaviors that in the judgment of the department present a threat sufficient to require special security housing on intensive management status.

(B) Has a sentence of death or is pending retrial in a case in which a sentence of death may be re-imposed.

(C) Has a pending trial for a case in which a sentence of death may be imposed.

(D) Is under investigation for or has been charged with the in-custody murder of another inmate or staff.

(b) Level 4: An inmate assigned at this custody level presents a serious risk of escape or institutional violence, or has time remaining of more than 120 months to life, with or without parole.

(c) Level 3: An inmate assigned at this custody level presents a moderate risk of escape, has a Level 3 detainer, has demonstrated behavior causing moderate management concern, or has time remaining of more than 48 to 120 months.

(d) Level 2: An inmate assigned at this custody level presents a limited risk of escape, or has demonstrated behavior causing limited management concern, and has time remaining of less than 48 months.

(e) Level 1: An inmate assigned at this custody level presents a minimal risk of escape, meets the criteria for Detainer-Not Applicable, has demonstrated behavior causing minimal management concern, has time remaining of less than 48 months.

(6) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(7) Designator: Information, alerts or statutory designations important for sentence computation and crucial to determining work crew eligibility, unfenced housing assignment, and the management of inmates and offenders both in institutions and in the community.

(8) Direct Supervision: The responsibility of authorized supervisors to ensure the on-site presence of an inmate while outside the institution secure perimeter, and to immediately report any authorized absence or departure.

(9) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(10) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(11) Protection/Restraining Order: Any valid court order intended to protect one person from another and restraining one person from any form of contact with another person.

(12) Static-99R: A ten item actuarial assessment instrument designed to determine a sex offender's risk of re-offense. Scoring ranges between 3 (low) and 10 (high).

(13) Stalking Conviction: Any court conviction for stalking as described in ORS 163.732 and 163.750.

(14) Stalking Order: Any court order prohibiting one person from stalking another as described in ORS 163.732 and 163.750.

(15) Unfenced Housing Assignment: A housing assignment to a Department of Corrections facility that does not have a secure perimeter fence.

(16) WHALE Work Assignment Levels:

(a) Inside: A work assignment restricted to inside the perimeter fence of a Department of Corrections facility.

(b) On-Site: A work assignment on the grounds of the facility in which an inmate is housed, but outside the perimeter fence of the facility.

(c) Community: A work assignment located outside the perimeter fence and off the grounds of the Department of Corrections facility in which an inmate is housed.

(17) Work Housing Assignment Level Evaluation (WHALE): The automated assessment program in the Corrections Information System (CIS) used by the Department of Corrections to determine an inmate's work assignment levels and unfenced housing assignment.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075

Hist.: CD 29-1997(Temp), f. & cert. ef. 12-12-97 thru 6-11-98; DOC 13-1998, f. & cert. ef. 6-10-98; DOC 3-2002, f. & cert. ef. 1-16-02; DOC 1-2005(Temp), f. & cert. ef. 1-7-05 thru 7-6-05; Administrative correction 7-20-05; DOC 10-2005, f. & cert. ef. 8-1-05; Renumbered from 291-082-0020, DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 21-2011(Temp), f. & cert. ef. 10-17-11 thru 4-13-12; DOC 5-2012, f. & cert. ef. 3-1-12; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15

291-082-0110

Work Housing Assignment Level Evaluation (WHALE) Eligibility

(1) Inside Work Assignment: All inmates at custody classification Level 1 or 2 are minimally eligible for an inside work assignment.

(2) On-Site Work Assignment: An inmate must meet the following criteria to be considered for an on-site work assignment:

(a) Meets criteria for an inside work assignment on the WHALE.

(b) Has served more than 60 days in DOC custody.

(c) Has no predatory sex offender designation in Oregon or any other state, and if a sex offender, score 5 or below on the Static 99R or is not classified as a Level III sex offender under OAR 255-085-0020 (Sex Offender Risk Assessment Methodology). The Static 99R and definitions (version 2003, age coding August 2012) are attached to this rule.

(d) Has not been sentenced under the sexually violent dangerous offender law.

(e) Is approved by the functional unit manager or designee.

(3) Community Work Assignment: An inmate must meet the following criteria to be considered for a community work assignment:

(a) Served more than 60 days in DOC custody.

(b) No conviction for Arson I or Attempted Arson I.

(c) No conviction for a sex offense or a crime with a sexual element.

(d) No active protection/restraining order(s).

(e) No conviction for a Stalking offense.

(f) No active court Stalking Order.

(g) Not found in violation of Sexual Assault or Sexual Coercion as described in OAR 291-105-0015, Rules of Misconduct.

(h) Minimal escape risk as defined in the Custody Classification Guide and the rule on Classification (Inmate) (OAR 291-104).

(i) No felony detainer(s) that are untried or expire after the inmate's projected release date.

(j) No multiple misdemeanor detainers that expire after the inmate's projected release date.

(k) No designators on file disqualifying community assignment.

(4) Unfenced Housing: An inmate must meet the following criteria to be considered for an unfenced housing assignment:

(a) Custody Classification Level 1.

(b) Meets all community work assignment criteria listed in subsection (3) above.

(c) No conviction for Arson II, Attempted Arson II, Reckless Burning or other related arson crimes, including attempts.

(d) No current escape designator, or any ESMO or ESSV designators, as defined in the Custody Classification Guide (OAR 291-104-0116).

(e) No misdemeanor detainer that is untried.

(f) No consecutive misdemeanor detainer that expires one year or less from the inmate's projected release date.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075

Hist.: DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 21-2011(Temp), f. & cert. ef. 10-17-11 thru 4-13-12; DOC 5-2012, f. & cert. ef. 3-1-12; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15; DOC 4-2016, f. & cert. ef. 3-8-16

291-082-0115

Initial Work Housing Assignment Level Evaluation (WHALE)

(1) A WHALE shall be completed on all inmates who have been classified as Level 1 or Level 2 in order for the inmate to be considered for a community work assignment or for housing in an unfenced facility.

(2) The assigned counselor shall initiate the automated WHALE, review for accuracy of information imported from the CIS, and enter any additional information gleaned from file review or other sources.

(3) The WHALE shall be forwarded to the Correctional Rehabilitation Manager for approval. An evaluation is not considered official until approved by the Correctional Rehabilitation Manager or designee.

(4) All approved WHALE actions are historically recorded and maintained in the CIS system.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075
 Hist.: DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15

291-082-0120

Work Housing Assignment Level Evaluation (WHALE) Review

(1) An inmate's WHALE shall be reviewed when new information is received that affects the WHALE level.

(2) The inmate's assigned counselor will receive an automated alert when new information is received that will affect the WHALE level.

(3) The new WHALE action shall be forwarded to the Correctional Rehabilitation Manager or designee for approval. No WHALE action is official until approved by the Correctional Rehabilitation Manager or designee.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075
 Hist.: DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15

291-082-0125

On-site Work Exception

(1) Recommendation of an inmate for an on-site work exception will be at the discretion of the assigned counselor. Reasons for consideration for on-site recommendation by the counselor may be, but are not limited to, positive program and work history, positive behavior, or no victim concerns.

(2) Final approval of an on-site work assignment will be made by the facility functional unit manager or designee.

(3) On-site work assignment approval is only valid at the facility where the decision was made, and will automatically expire if the inmate is transferred to any other Department of Corrections facility.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075
 Hist.: DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08

291-082-0130

Work Housing Assignment Level Evaluation Quality Assurance Review

(1) The Office of Population Management is responsible for reviewing institution WHALE procedures and decisions.

(2) Reviewing shall consist of routine review of Work Housing Assignment Level Evaluations at each DOC facility. Such reviews shall be conducted to ensure:

(a) The policies and procedures set forth in this rule are followed; and

(b) The actions taken by the facility are adequately documented.

(3) Findings inconsistent with rule and established procedures shall be documented and reported to the appropriate functional unit manager or to the appropriate Operations Division Institution Administrator for corrective action.

(4) The Office of Population Management is responsible to review the last WHALE for any inmate who is involved in an escape or escape attempt from a Department of Corrections facility and to submit a report to the appropriate Institution Administrator.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075
 Hist.: DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15

291-082-0135

Inmate Work Crews Agreements

(1) The Department of Corrections may, at its discretion, assign inmate work crews to work in the community on local, state, federal governmental agencies, private non-profit or private entity work projects.

(2) Facility functional unit managers will use private partnership review guidelines in determining appropriateness of private sector agreement requests.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075
 Hist.: CD 29-1997(Temp), f. & cert. ef. 12-12-97 thru 6-11-98; DOC 13-1998, f. & cert. ef. 6-10-98; DOC 3-2002, f. & cert. ef. 1-16-02; DOC 1-2005(Temp), f. & cert. ef. 1-7-05 thru 7-6-05; Administrative correction 7-20-05; Renumbered from 291-082-0030, DOC 10-2005, f. & cert. ef. 8-1-05; Renumbered from 291-082-0021, DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15

291-082-0140

Supervision/Security Provisions for Inmate Work Crews

(1) If the Department of Corrections assigns an inmate work crew within three blocks of a school, the functional unit manager or designee will ensure notification is made to the affected school on dates, times and location of inmate work crew.

(2) When an inmate work crew is scheduled to work within city limits, a designee of the institution will notify the appropriate local law enforcement agency prior to the project start date.

(3) Inmate work crews working out-of-doors within a city or in a residential community located outside of a city will be supervised by a minimum of one supervisor for every ten inmates. The facility functional unit manager or designee may, with the approval of the Assistant Director of Operations or designee, assign additional inmates without an additional supervisor if an unforeseen and unique circumstance arises.

(4) The provisions specified in sections (2) and (3) are not required for inmate work crews deployed during natural disasters, including but not limited to, floods and forest fires.

(5) The provisions specified in sections (2) and (3) do not apply to inmate work crews assigned to work in programs operated by Oregon Corrections Enterprises under ORS 421.344 to 421.367.

(6) All assigned inmates will be dressed uniformly in clothing clearly stenciled in orange writing, or black writing for better contrast, that designates them as inmates.

(7) Upon arrival at a worksite, Department of Corrections signs stating an inmate work crew is present will be posted in or near the work area in a place that is visible to the public.

(8) While at the work site, supervisors will maintain direct supervision of all assigned inmates, unless the nature of a work task requires the supervisor to monitor an inmate by physically moving throughout the worksite.

(9) At a minimum, the inmate work crew supervisor will account for each inmate once every 30 minutes.

(10) All inmate work crews will be supervised by an employee of the Department of Corrections or Oregon Corrections Enterprises, unless performing a work project for a local, state, or federal governmental agency. The crew may be supervised by an employee of a governmental agency pursuant to an intergovernmental agreement entered into by that agency and the Department of Corrections.

(11) The department will require in its intergovernmental agreements with local, state or federal government agencies that the employees exercising supervision over inmates assigned to agency work crews receive appropriate training in accordance with OAR 291-082-0145.

(12) Institution post orders will be maintained in support of this rule.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075
 Hist.: DOC 3-2002, f. & cert. ef. 1-16-02; Renumbered from 291-082-0035, DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15

291-082-0145

Work Crew Supervision Training

(1) Before supervising a community inmate work crew, all employees of the Department of Corrections and other local, state or federal governmental agencies that have been designated to supervise inmates assigned to community work crews will minimally receive eight hours of supervisory training. This training shall be developed, approved, and provided by the Department of Corrections Professional Development Unit staff member or adjunct training.

(2) The department will provide the designated employees periodic follow-up training at least annually. Training may be provided by the department more frequently if the department determines additional training to be necessary or advisable.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075

Hist.: DOC 3-2002, f. & cert. ef. 1-16-02; Renumbered from 291-082-0045, DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 2-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 6-2015, f. & cert. ef. 5-21-15

DIVISION 83

CONTROLLED FEEDING

291-083-0005

Authority and Purpose

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 423.020 and 423.075.

(2) Purpose: To establish criteria and procedure for placement of an inmate on controlled feeding status.

Stat. Auth.: ORS 423

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 13-1989(Temp), f. & cert. ef. 7-11-89; CD 28-1989, f. & cert. ef. 12-29-89

291-083-0010

Definitions

(1) Acceptable Behavior: Behavior that does not include throwing or misusing food or human waste or misuse of eating trays or utensils.

(2) Controlled Feeding Status: Status in which the form of food is modified and served as Nutra Loaf in order to reduce the use of food, eating utensils and human waste as weapons against staff and others.

(3) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director, or an administrator and has responsibility for the delivery of program services or the coordination of program operations. In a correctional setting, the functional unit manager or designee is the superintendent.

(4) Human Waste: Materials issued from the human body, including but not limited to, blood, feces, urine, and other potentially infectious materials.

(5) Nutra Loaf: A product made from a combination of food items used in the preparation of mainline meals or medically assigned diets using standardized portion sizes and nutritionally balanced recipes. Recipes are kept on file by the Food Services Manager. The dietician is responsible for updating recipes and retaining nutritional information.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 13-1989(Temp), f. & cert. ef. 7-11-89; CD 28-1989, f. & cert. ef. 12-29-89; DOC 18-2011, f. & cert. ef. 10-6-11

291-083-0015

Procedures

(1) Inmates may be placed immediately on controlled feeding status with the approval of the functional unit manager or designee for the following behavior:

(a) Throwing or misusing food or human waste.

(b) Failure to voluntarily return the eating utensils and tray to staff after each meal.

(2) The staff member who observes the adverse behavior shall prepare a disciplinary report as outlined in the Department of Corrections Rule on Inmate Prohibited Conduct and for Processing Disciplinary Actions (OAR 291-105), containing the charges and other appropriate information.

(3) The housing unit officer in charge shall recommend to the functional unit manager or designee that an inmate be placed on controlled feeding status.

(4) Upon approval of the functional unit manager or designee, the housing unit officer in charge shall submit, prior to the end of the shift, a copy of the controlled feeding order form to the Food Services Manager or designee and retain the original form in the housing unit.

(5) Upon receipt of the controlled feeding order, the Food Services Manager or designee shall provide Nutra Loaf for the inmate on controlled feeding to coincide with the regular meal schedule.

(6) A review of the controlled feeding order shall be conducted by the functional unit manager or designee and the housing unit officer in charge every 24 hours from the reported misconduct. The 24 hour review shall be noted on the controlled feeding form and in the housing unit log. The completed original feeding form will be sent to the functional unit manager for archival disposition. A copy of the completed form, retained as part of the housing unit log, will suffice as documentation within the housing unit.

(7) Return to normal feeding and the outcome of the disciplinary hearing process are not necessarily related. Controlled feeding status shall be rescinded when the inmate demonstrates a return to acceptable behavior for a period of 24 hours. Return to normal feeding status does not affect the disciplinary process or the application of sanctions for rule violations.

(8) Seven days shall be the maximum length of time that an inmate shall remain on controlled feeding status per incident.

(9) If, after returning to regular feeding status, the disruptive behavior recurs, the inmate may be returned to controlled feeding status as outlined in this rule.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 13-1989(Temp), f. & cert. ef. 7-11-89; CD 28-1989, f. & cert. ef. 12-29-89; CD 13-1994, f. 7-19-94, cert. ef. 8-1-94; DOC 18-2011, f. & cert. ef. 10-6-11

DIVISION 86

INMATE ACCESS TO AUTOMATION

291-086-0010

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish the approval process and set standards that allow inmates to use computer equipment in the normal course of their work or program assignment.

(3) Policy: It is the policy of the Department of Corrections that security not be compromised by inmate use of computer equipment. Inmate use of computer equipment shall not jeopardize the safety, security or orderly operation of any Department of Corrections facility. Appropriate supervision and management practices shall be maintained to ensure adequate security safeguards.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

291-086-0020

Definitions

(1) Computer Equipment: Any automated processing or data storage devices including, but not limited to, personal computers, work stations, terminals, controllers, printers, and communication devices.

(2) Department of Corrections (DOC) Functional Unit Manager: Any person within the Department of Corrections who

reports to either the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or coordination of program operations.

(3) **DOC Standard Access:** The combination(s) of hardware and software which the Assistant Director for General Services/designee and the Assistant Director for Operations/designee determine to be the standard computer configuration for inmates.

(4) **Information Systems Unit (ISU):** The unit that is responsible for providing technical or operational support to the DOC Information System or DOC Inmate Network.

(5) **Inmate:** Any person under the supervision of the Department of Corrections who is not under parole, probation or post-prison supervision status.

(6) **Inmate Access:** Inmate access to, or use of, computer equipment which is granted because of work, program assignment, or authorized by Department of Corrections rule or policy.

(7) **Inmate Supervisor:** Any employee of the Department of Corrections, any OCE employee, or any DOC/OCE contractor that is responsible for supervising an inmate.

(8) **Oregon Corrections Enterprises (OCE):** A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(9) **OCE Functional Unit Manager:** Any person within the Oregon Corrections Enterprises who reports to either the Administrator or the Deputy Administrator and has responsibility for delivery of business services or coordination of business operations.

(10) **OCE Standard Access:** The combination(s) of hardware and software which the OCE Administrator and the Assistant Director for Operations/designee determine will be accessed by inmates within each correctional institution.

(11) **Program Assignment:** Any assignment fulfilling the requirement of the inmate's Oregon corrections plan, or other Department of Corrections approved performance recognition program.

(12) **Special Access:** The combination(s) of hardware and software beyond what is determined to be standard access.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 27-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

291-086-0030

General

(1) These rules (OAR 291-086-0010 through 291-086-0060) establish the approval process and set the standards for inmate access to and use of any information systems equipment; specifically computer hardware and software, peripheral devices, data communications devices, terminals, personal computers, and printers.

(2) Inmates shall only be granted access to computer equipment because of work or program assignment, except for access to resource materials as provided in Department of Corrections rule or policy.

(3) Approval for inmate access to computer equipment is not a privilege or benefit. Any decision to deny or restrict an inmate access to computer equipment may not be appealed by the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

291-086-0040

Approval Process for Inmate Access to Computer Equipment

(1) All requests for inmate computer equipment use shall be approved by the DOC functional unit manager or the OCE functional unit manager, depending on the area of responsibility, prior to granting access to the inmate.

(2) The DOC functional unit manager or the OCE functional unit manager may grant standard access. Any request for access that includes hardware or software that is purchased or donated beyond what is determined to be standard access (special access) shall require a recommendation from the functional unit manager requesting the access, a technical review by ISU or OCE for implementation problems, and approval by the Institutions Administrator.

(3) All requests for inmate access to computer equipment shall be submitted on the Inmate Access to Automation Equipment and Work Assignment Request form (CD-1426A). The inmate supervisor shall submit the request to the DOC functional unit manager or OCE functional unit manager for approval. If approved, the inmate supervisor and the DOC functional unit manager or OCE functional unit manager shall sign the request form, and forward it to ISU or OCE technical support for implementation. If special access is required, the Institutions Administrator shall approve and sign the request form.

(4) The Assistant Director for General Services/designee and the Assistant Director for Operations/designee will determine specifically what software and hardware combinations constitute DOC standard access.

(5) The OCE Administrator/designee and the Assistant Director for Operations/designee will determine specifically what software and hardware combinations constitute OCE standard access.

(6) ISU or OCE technical support will configure a computer as specified in the Inmate Access to Automation Equipment and Work Assignment Request form.

(a) Login accounts will be created for the number of inmates specified in the form.

(b) An inmate shared folder(s) on the computer or network hard drive will be created. This folder(s) is the only authorized data storage location on the computer or network.

(7) No inmate shall be granted access to computer equipment or systems which contain data or are connected in any way to the DOC information system network unless the request for access has been reviewed, approved and recommended by either the DOC functional unit manager or the OCE functional unit manager and the Institutions Administrator. The Assistant Director for General Services shall determine final approval for such access.

(8) The inmate supervisor shall review the standards for computer use listed in OAR 291-086-0050 or 291-085-0060 with the inmate prior to allowing the inmate to use computer equipment.

(9) Inmate supervisors shall abide by all the department rules and standards governing inmate access to computer equipment. Inmate supervisors are responsible for all work done by inmates on computer equipment and shall:

(a) Perform periodic audits of software and data on the equipment to ensure appropriateness;

(b) Ensure that regular backups of department data are performed; and

(c) Maintain contingency plans for the accidental or willful destruction of data, software, or hardware.

(10) The DOC functional unit manager or designee or the OCE functional unit manager or designee shall maintain a file of all approved requests for inmate access to computer equipment and proof of licenses for installed software per computer.

(11) As appropriate, ISU or OCE technical support will perform random reviews of the DOC or OCE computer equipment respectively to ensure the configuration conforms to the configuration on the request form. The DOC or OCE functional unit manager may contact ISU or OCE technical support to request an audit of specific computer equipment.

(12) Any DOC or OCE manager may suspend the authorization for an inmate to use computer equipment if violations to this rule are suspected.

(a) The institution assignment office will be notified of the suspension and remove the inmate from the work assignment and place him/her on "Review" status.

(b) Staff shall remove the computer from the work area or secure it in such a manner as to ensure that inmates will not have access to it.

(c) As provided in this rule, the inmate supervisor(s) will audit the data on the computer and may request ISU or OCE to conduct an investigation of the computer equipment by sending a formal request to ISU or OCE management. DOC requests will be through the ISU Helpdesk. OCE requests will be through OCE technical support. Findings will be reported to the functional unit manager who signed the original request form.

(d) If rule violations are found to have occurred, appropriate actions will be taken including, but not be limited to, disciplinary misconduct reports, program failures, and permanent restriction from any DOC inmate work or program computer system.

(e) As part of this process, ISU or OCE technical support may recommend to the functional unit manager a course of action to mitigate any problem which arises because of an inmate's use of computer equipment.

(13) Any changes from the original Inmate Access to Automation Equipment and Work Assignment Request form, must follow the same approval process as a new request. Changes include hardware requirements, application software additions or deletions, modification to automation request purpose, and adjustments to the number of inmates using the automation equipment.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 27-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

291-086-0045

Approval Process for Inmate Computer Operator on a Work Assignment Computer

(1) Supervisors who need an inmate(s) for a work assignment which involves use of computer equipment shall submit a request through the institution assignment office. The assignment office will screen the inmate(s) for the appropriateness of the assignment and report any ineligibility to the requestor.

(2) Criterion that will exclude an inmate from working on computers includes, but is not limited to, computer crime or documented violation of this rule.

(3) Inmates approved for access to computer equipment must sign the Inmate Access to Automation Acknowledgement Statement (CD-1426B) prior to using the automation equipment.

(4) Inmates approved for access to computer equipment will need to obtain an inmate password from ISU or OCE.

(a) The supervisor shall request a password for the inmate by forwarding a copy of the Inmate Access to Automation Acknowledgement Statement (CD-1426B) to ISU or OCE.

(b) ISU or OCE will issue a password to the inmate.

(c) In the event the inmate shares the password, he/she shall send an Inmate Communication Form to the supervisor. The inmate supervisor shall request ISU or OCE to provide another password.

(d) The inmate supervisor shall inform ISU or OCE of any changes in inmate operator(s). ISU or OCE will update the inmate computer access to reflect the change.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

291-086-0046

Approval Process for Inmate Computer Operator on a Program Assignment Computer

(1) Inmate access shall be restricted to those in an approved inmate program assignment. Inmate supervisors will determine inmate eligibility to program assignments requiring access to computers.

(2) The inmate supervisor shall request ISU provide a login account(s) for each program assignment computer. ISU will create

the inmate login account(s). The login account will provide access to only the needed program assignment materials.

(3) The inmate supervisor shall inform ISU of any changes in a program assignment that requires access to other computer resources on the computer equipment. ISU will update the inmate login accounts to reflect the change.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

291-086-0047

Approval Process for Inmate Computer Operator on a Resource Computer

(1) Inmate access to resource computer equipment (e.g., legal library) shall be restricted to services provided by department rule or policy.

(2) The inmate supervisor shall request ISU provide a login account for the resource computer equipment. ISU will issue a login account for the resource computer equipment. The login account will restrict inmate access to only the needed resources.

(3) The inmate supervisor shall inform ISU of any change in resource computer login requirement. ISU will update the inmate computer login to reflect the change.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

291-086-0050

Standards for Use of Standalone Computer Equipment by Inmates

(1) No inmate shall be permitted to enter, view, update or manipulate information on computer equipment except as authorized by the DOC functional unit manager or the OCE functional unit manager.

(2) Once an inmate has been granted access to computer equipment, he/she shall not be allowed to use the equipment without specific assignment by supervising staff. No inmate shall create, modify or change programs or program scripts that will be used on the DOC Information System or DOC Inmate Network without the approval of the Assistant Director of General Services or his/her designee.

(3) An inmate shall be supervised at all times while using computer equipment.

(4) An inmate shall only use computer equipment which has been authorized in accordance with the department's rule on **Inmate Access to Automation** (OAR 291-086).

(5) An inmate shall not repair or modify computer equipment except as part of an authorized Department of Corrections workforce development program.

(6) An inmate shall not be allowed direct access to printers. Printers for inmate use shall be caged or secured to eliminate direct inmate access, except as authorized by the DOC functional unit manager or the OCE functional unit manager and Institutions Administrator. All print outs shall be reviewed by staff.

(7) An inmate shall not gather or store personal data relating to staff, contractors or volunteers.

(8) An inmate shall not view, gather or store personal data relating to members of the general public.

(9) An inmate shall not view, gather or store personal data relating to other inmates or offenders, unless authorized by department rule or policy.

(10) An inmate shall not have in his/her control or possession any computer media; e.g., diskettes, CDs or tapes except as authorized by supervising staff. An inmate shall not use or take computer equipment to his/her housing area or from his/her immediate work site without approval.

(11) An inmate shall not have any unique passwords, except as authorized by ISU or OCE. The password will be created, recorded, and issued by ISU or OCE and will not be changed by the inmate.

(12) An inmate shall not be allowed to manage any programs that affect inmate assignments or allocations.

(13) Without the approval of the Director or designee, no inmate shall create or maintain Internet or website content that is published to an official department Internet/web site.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 17-1999, f. 9-24-99, cert. ef. 10-1-99; DOC 4-2000, f. & cert. ef. 1-13-00 thru 6-19-00; DOC 15-2000, f. & cert. ef. 6-19-00; DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

291-086-0060

Standards for Use of Network Computer Equipment by Inmates

(1) No inmate shall be permitted to store any data on the computer or network hard drive except as authorized by the inmate supervisor. A folder(s) will be created by ISU or OCE and shall be the only authorized data storage location.

(2) Once an inmate has been granted access to computer equipment, he/she shall not be allowed to use the computer equipment without specific assignment by supervising staff. No inmate shall create, modify or change programs or program scripts that will be used on the DOC Information System or DOC Inmate network without the approval of the Assistant Director of General Services or his/her designee.

(3) An inmate shall be supervised while using computer equipment.

(4) An inmate shall only use computer equipment which has been authorized in accordance with the department's rule on Inmate Access to Automation (OAR 291-086).

(5) An inmate shall not repair or modify network computer equipment except as part of an authorized Department of Corrections workforce development program.

(6) An inmate shall not be allowed direct access to printers. Printers for inmate use shall be caged or secured to eliminate direct inmate access, except as authorized by the DOC functional unit manager or the OCE functional unit manager and Institutions Administrator or his/her designee. All print outs shall be reviewed by staff.

(7) An inmate shall not use the network for electronic communications with other inmates.

(8) An inmate shall not gather or store personal data relating to staff, contractors or volunteers.

(9) An inmate shall not view, gather or store personal data relating to members of the general public.

(10) An inmate shall not view, gather or store personal data relating to other inmates or offenders except as authorized by department rule or policy.

(11) An inmate shall not have in his/her control or possession any computer media, e.g., diskettes, CDs or tapes except as authorized by supervising staff. An inmate shall not use or take computer equipment to his/her housing area or from his/her immediate work site without approval.

(12) An inmate shall not have any unique passwords, except as authorized by ISU. The password will be created, recorded and issued by ISU or OCE and will not be changed by the inmate.

(13) An inmate shall not be allowed to manage any programs that affect inmate assignments or allocations.

(14) Without the approval of the Director or designee, no inmate shall create or maintain Internet or website content that is published to an official department Internet/web site.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2004(Temp), f. & cert. ef. 9-28-04 thru 3-27-05; DOC 4-2005, f. 3-18-05, cert. ef. 3-21-05

DIVISION 93

DEATH ROW HOUSING UNIT

291-093-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish guidelines for the daily operation of death row at the Oregon State Penitentiary.

(3) Policy: It is the policy of the Department of Corrections to assign inmates with a sentence of death to the Death Row Housing Unit or to a Death Row status cell.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 14-1989(Temp), f. & cert. ef. 7-11-89; CD 24-1994, f. 12-21-94, cert. ef. 1-3-95; DOC 11-2012(Temp), f. & cert. ef. 11-5-12 thru 5-4-13; DOC 4-2013, f. & cert. ef. 4-15-13

291-093-0007

Housing Assignment

All cell moves shall be initiated by the housing unit officer-in-charge for the enhancement of security within the unit.

Stat. Auth.: ORS 423

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 17-1989(Temp), f. & cert. ef. 8-29-89; CD 27-1989, f. & cert. ef. 12-29-89

291-093-0010

Property

(1) Inmates on death row status shall be allowed the same property in their cells as inmates in the general population with the exception of those items which pose a threat to the safety and security of the unit. Any restriction of property shall be determined by the housing unit officer-in-charge and authorized by the Assistant Superintendent Security.

(2) All property in cells must be stored in issued containers and on assigned shelves. No items shall be stored in other than designated areas.

(3) Inmates shall be allowed one set of clothes in the cell.

(4) Nothing shall be placed on the border or around the border of the bulletin board.

(5) Radios and/or Televisions:

(a) Headphones/earphones shall be worn in the traditional manner when individual inmate radios and/or televisions are in use in housing units;

(b) The volume will be kept at a level that cannot be heard outside the inmate's cell or individual housing unit;

(c) Radios/televisions shall not be opened or altered by inmates;

(d) No repairs on radios/televisions will be allowed except warranty work through the canteen.

(6) Property shall not be placed on cell bars or be used to obstruct security.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 14-1989(Temp), f. & cert. ef. 7-11-89; CD 24-1994, f. 12-21-94, cert. ef. 1-3-95

291-093-0013

Sanitation

Inmates on death row status are responsible for cleanliness of their cells. All cells must be clean and in a sanitary condition at all times. Items issued at each meal must be consumed during that meal. No foodstuffs may be stored in cells.

Stat. Auth.: ORS 423

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 17-1989(Temp), f. & cert. ef. 8-29-89; CD 27-1989, f. & cert. ef. 12-29-89

291-093-0015

Services and Activities

(1) Canteen: Inmates may be allowed the canteen items available to general population. Upon recommendation of the housing unit officer-in-charge, the Assistant Superintendent, Security, may remove canteen items which pose a threat to the safety and security of the housing unit.

(a) Because of safety and security concerns, no metal items or glass containers shall be permitted. Items in glass containers shall be transferred into a different container. Radio batteries shall be exchanged on a one-for-one basis only;

(b) Access to the canteen may be on a weekly basis. Each week canteen is permitted, canteen slips shall be handed out based on a schedule to be determined by the officer-in-charge with the approval of the Assistant Superintendent, Security. The slips are to be placed on the cell bars on the following day to be picked up. Canteen slips are to be filled out in triplicate and must include the inmate's name (legibly printed), SID number, cell number and any substitute item.

(2) Clothing:

(a) A clean set of outer garments and undergarments shall be provided on an exchange basis three times per week;

(b) Coats may be issued for yard, transport or escort purposes only. Issued coats shall not be permitted in the cell;

(c) One knit cap may be issued;

(d) Institutional or personal shoes may be issued.

(3) Exercise:

(a) Each inmate may be provided an opportunity for inside exercise a minimum of 40 minutes per day (which may include shaving and showering), seven days per week;

(b) Inmates may be provided an opportunity for outside exercise for one hour per day a minimum of five days per week, if they choose to participate. Inmates choosing to forgo the outside exercise period will be allowed the indoor exercise period only;

(c) Exercise shall be conducted in an area and manner specified by the housing unit officer-in-charge unless security, staff availability or safety considerations dictate otherwise as authorized by the Assistant Superintendent, Security;

(d) In the event of inclement weather, protective clothing may be provided.

(4) Mail: Each inmate on death row status shall be allowed to correspond in accordance with the Department of Corrections rule on Mail (Inmate) (OAR 291-131). The housing unit officer-in-charge shall inspect all incoming mail prior to distributing to inmates. Legal mail shall be opened in the presence of the inmate except as outlined in the Rule on Mail (Inmate) (OAR 291-131).

(5) Telephone Services: One telephone is provided to inmates on death row status. Inmates may place collect calls during inside exercise periods. Legal and staff-assisted phone calls shall be allowed as provided in the Department of Corrections rule on Telephones (Inmate) (OAR 291-130).

(6) Visiting: Visiting shall occur in accordance with the Department of Corrections rules on Capital Punishment (Death by Lethal Injection) (OAR 291-24) and Visiting (Inmate) (OAR 291-127).

(7) Religious Services: Nondenominational religious counseling will be available to inmates on death row status, with a minimum one half-hour counseling per week.

(8) Education Services: Inmates on death row status may obtain educational materials by submitting an Inmate Communication to the Academic Manager who shall forward the request to the proper instructor. The instructor shall provide the necessary materials to the Assistant Superintendent, Security or designee for review prior to the materials being forwarded to the inmate.

(9) Other: The following shall be provided in accordance with security requirements as approved by the Assistant Superintendent, Security:

(a) Food;

(b) Linen;

(c) Personal Hygiene;

(d) Medical/dental/psychological/psychiatric services;

(e) Request forms;

(f) Reading;

(g) Work opportunities; and

(h) Legal materials and activities.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 14-1989(Temp), f. & cert. ef. 7-11-89; CD 17-1989(Temp), f. & cert. ef. 8-29-89; CD 27-1989, f. & cert. ef. 12-29-89; CD 24-1994, f. 12-21-94, cert. ef. 1-3-95

291-093-0020

Suspension of Services or Activities

If an inmate is using any service or activity in a destructive manner, or manner that threatens the safety or security of the inmate or others, that service or activity may be suspended or modified as determined by the housing unit officer-in-charge and approved by the Assistant Superintendent, Security. A written report will follow within 24 hours.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 14-1989(Temp), f. & cert. ef. 7-11-89; CD 24-1994, f. 12-21-94, cert. ef. 1-3-95

DIVISION 97

PRISON TERM MODIFICATION

291-097-0200

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120, 421.121, 421.122, 423.020, 423.030 and 423.075.

(2) The purpose of this rule is to establish procedures for calculating, applying, retracting, and restoring earned time, statutory good time and extra good time credits, and for recommending modifications of parole release dates to the Board of Parole and Post-Prison Supervision, for inmates sentenced for crimes committed on or after November 1, 1989 (sentencing guidelines), and for inmates sentenced for crimes committed prior to November 1, 1989 (matrix sentences).

(3) Policy:

(a) It is the policy of the Department of Corrections that inmates serving sentences for crimes committed on or after November 1, 1989 (sentencing guidelines), may be considered for a reduction in their term of incarceration pursuant to ORS 421.121, as set forth in these rules.

(A) Inmates sentenced under sentencing guidelines may be eligible to earn sentence reduction credits (earned time credits) up to a maximum of 20 percent or 30 percent of each sentencing guidelines sentence, pursuant to ORS 421.121, as set forth in these rules.

(B) Earned time credits are designed to provide incentive for appropriate institutional behavior, program participation, and for certain inmates, obtaining a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010.

(b) It is the policy of the Department of Corrections that inmates serving sentences for crimes committed prior to November 1, 1989 (pre-sentencing guidelines sentences), may be eligible for prison term reduction credits (statutory good time and extra good time credits) pursuant to ORS 421.120, as set forth in these rules.

(c) It is the policy of the Department of Corrections that inmates sentenced for crimes committed prior to November 1, 1989 (pre-sentencing guidelines sentences), may be eligible to receive a recommendation from the Department to the Board of Parole and Post-Prison Supervision that the inmate receive prison term reduction credits for an earlier date, as set forth in these rules.

(d) It is the policy of the Department of Corrections to develop case plans on all inmates assigned to a Department of Corrections facility.

(e) It is the policy of the Department of Corrections to not calculate earned time for boarders from another state or those inmates serving only pre-sentencing guidelines sentences.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; Renumbered from 291-097-0005 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0005 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0210

Definitions

(1) Case Plan: A dynamic document created by Department of Corrections counselors collaboratively with an inmate that specifically identifies the inmate's evidence-based assessed risk and needs, accompanied by risk reduction strategies and plans of action, with timelines.

(2) Certificate or Degree from a Post-Secondary Education Institution: A certificate or degree awarded by a post-secondary education institution as defined in ORS 337.511 for satisfactory completion of a course of study, which has been approved by the State Board of Education.

(3) Earned Time Credits: Sentence reduction credits (days), up to 30 percent of the sentence imposed, that can be earned by an inmate sentenced under sentencing guidelines, pursuant to ORS 421.121, and these rules.

(4) Earned Time Release Date: The release date that has been achieved by an inmate calculated by subtracting the earned time credits accrued from the maximum date.

(5) Extra Good Time Credits: Sentence reduction credits (days) that can be earned by an inmate sentenced for crimes committed prior to November 1, 1989 (pre-sentencing guidelines), for satisfactory work assignment or participation in an educational program, pursuant to ORS 421.120(1)(c), (d) and (e) and 421.122, and these rules. Days earned reduce the statutory good time date. Methods of computation are delineated in OAR 291-097-0070.

(6) Final Review Period: An increment of at least four months prior to an inmate's projected release date.

(7) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(8) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, or an Assistant Director and has responsibility for the delivery of program services or coordination of program operations.

(9) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(10) Judgment: Document issued by the court that commits an inmate to the legal and physical custody of the Department of Corrections, and reflects the inmate's term of incarceration, term of post-prison supervision, and court-ordered supervision conditions, if any.

(11) Multi-disciplinary Team (MDT): Stakeholders from different divisions within a functional unit who come together to provide comprehensive assessment, consultation and perspectives concerning an inmate's incarceration and successful reentry to the community.

(12) Non-Prison Leave: A period of leave not to exceed 90 days preceding an established release date granted to inmates successfully completing the institution phase of an Alternative Incarceration Program. Non-prison leave is designed to provide inmates with transitional opportunities that promote successful reintegration into the community and is granted in accordance with ORS 137.751, ORS 421.508, ORS 421.510 and the department's rule on Alternative Incarceration Programs (OAR 291-062).

(13) Offender: Any person under the supervision of the Department of Corrections, local supervisory authority or community corrections who is on probation, parole or post-prison supervision status.

(14) Offender Information & Sentence Computation Unit (OISC): The functional unit charged to administrate applicable statutes pertaining to sentencing; develop, implement and revise applicable processes for inmate and offender sentence computation; respond to public information requests with regard to inmates and offenders; certify an inmate's release date; and provide supportive services to department facilities with regard to inmate sentencing.

(15) Parole Release Date: The date on which an inmate is ordered to be released from an indeterminate prison sentence(s) to parole by the Board of Parole and Post-Prison Supervision. Parole release may be to the community, detainer or to another Department of Corrections sentence.

(16) Post-Secondary Education Institution: An education institution as defined in ORS 337.511.

(17) Pre-Sentence: That period of time a defendant spends in physical custody or incarceration from the point of arrest to the date of delivery to the Department to serve that sentence.

(18) Prison Term:

(a) Sentencing Guidelines Sentences: The length of incarceration time within a Department of Corrections facility as established by the court in the judgment for each crime of conviction.

(b) Pre-Sentencing Guidelines Sentences: The length of required incarceration time within a Department of Corrections facility as established by the order of the Board of Parole and Post-Prison Supervision setting of a parole release date.

(19) Projected Release Date: The date upon which an inmate is anticipated to complete service of the prison term.

(20) Restoration of Earned Time, Statutory Good Time, Extra Good Time Credits: Where previously retracted earned time, statutory good time, extra good time and previously forfeited statutory good time and extra good time for parole violators are granted and applied back to the inmate's sentence.

(21) Retraction: Where previously granted earned time, statutory good time or extra good time credits are forfeited by an inmate as a result of a significant negative action on the part of the inmate, in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105), or forfeiture of program earned time credits, advanced at the beginning of the final review period, for failure to comply with the case plan during the final review period.

(22) Review Period: A six-month increment, beginning with an inmate's admission date, used to determine an inmate's compliance with institution behavior and his/her case plan.

(23) Short-Term Transitional Leave: A period of leave not to exceed 90 days preceding an established release date designed to provide inmates with transitional opportunities that promote successful reintegration into the community. Short-term transitional leave shall be granted in accordance with ORS 421.168 and the department's rules on Short-Term Transitional Leave and Emergency Leaves (OAR 291-063).

(24) Statutory Good Time Credits: Prison term reduction credits (days) applicable to sentences for crimes committed prior to November 1, 1989 (matrix sentences) consisting of a reduction of one day for every two days served, pursuant to ORS 421.120(1)(a) and (b), and these rules. The application of statutory good time days establishes the initial statutory good time date and is re-calculated upon parole revocation based on the length of the remaining sentence.

(25) Supplemental Judgment: The form of judgment prepared by and transmitted to a sentencing court pursuant to Oregon Laws 2009, Chapter 660, §18 (House Bill 3508) which authorizes the Department to consider the inmate for a reduction in the term of incarceration under ORS 421.121 that may not exceed 30 percent of the total term of incarceration in a DOC facility.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2000, f. & cert. ef. 6-26-00; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; DOC 14-2010(Temp), f. & cert. ef. 10-19-10 thru 4-15-11; DOC 7-2011, f. & cert. ef. 4-8-11; Renumbered from 291-097-0010 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0010 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0215

Earned Time Credits for Crimes Committed on or after November 1, 1989 through June 30, 2009 and Sentenced Prior to July 1, 2009

(1) Pursuant to ORS 421.121, inmates with eligible crimes committed on or after November 1, 1989 through June 30, 2009 and sentenced prior to July 1, 2009, may earn sentence reduction credits up to 20 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;
- (e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;
- (f) Serving time as a sanction for violation of conditions of post-prison supervision; or
- (g) Subject to any other Oregon statutes restricting earned time credits.

(2) Pursuant to ORS 421.121, inmates sentenced under the sentencing guidelines prior to July 1, 2009 and for whom the sentencing court has issued a supplemental judgment authorizing the Department of Corrections to consider the inmate eligible for additional earned time credits, may earn sentence reduction credits up to 30 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates described in 291-097-0215(1)(a-g) or inmates:

- (a) Whose prison term reached its earned time release date prior to or on August 31, 2009;
- (b) Whose prison term reached its earned time release date prior to the date the sentencing court enters a supplemental judgment;
- (c) Whose supplemental judgment approving a reduction in the term of incarceration under ORS 421.121 that may not exceed 30 percent is:

- (A) Dated after February 17, 2010 at 10 a.m.; or
- (B) Dated on or after February 17, 2010, and the court made the order on the record in open court after February 17, 2010, at 10 a.m.; or

- (d) Serving a sentence for the following crimes:
 - (A) Rape in the Third Degree under ORS 163.355;
 - (B) Sodomy in the Third Degree under ORS 163.385;
 - (C) Sexual Abuse in the Second Degree under ORS 163.425;
 - (D) Criminally Negligent Homicide under ORS 163.145;
 - (E) Assault in the Third Degree under ORS 163.165;
 - (F) Assault in the Fourth Degree under ORS 163.160(3);
 - (G) A crime listed in ORS 137.700; or
 - (H) An attempt to commit a crime described in this subsection.

(3) Pursuant to ORS 475.930(2) and as outlined in OAR 291-097-0235, for eligible crimes committed on or after January 1, 2009, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence imposed under ORS 164.061, 475.907, 475.924 or 475.925.

(4) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct.

The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 3-1998(Temp), f. & cert. ef. 2-20-98 thru 8-17-98; DOC 19-1998, f. & cert. ef. 8-14-98; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; Renumbered from 291-097-0015 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0015 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0220

Earned Time Credits for Crimes Committed on or after November 1, 1989 through February 16, 2010 and Sentenced on or after July 1, 2009

(1) Pursuant to ORS 421.121, inmates with eligible crimes committed on or after November 1, 1989 through February 16, 2010 and sentenced on or after July 1, 2009, may earn sentence reduction credits up to 30 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except for inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;
- (e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;
- (f) Serving time as a sanction for violation of conditions of post prison supervision; or
- (g) Subject to any other Oregon statutes restricting earned time credits.

(2) If otherwise eligible for earned time, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence for the following crimes:

- (a) Rape in the Third Degree under ORS 163.355;
- (b) Sodomy in the Third Degree under ORS 163.385;
- (c) Sexual Abuse in the Second Degree under ORS 163.425;
- (d) Criminally Negligent Homicide under ORS 163.145;
- (e) Assault in the Third Degree under ORS 163.165;
- (f) Assault in the Fourth Degree under ORS 163.160(3);
- (g) A crime listed in ORS 137.700; or
- (h) An attempt to commit a crime described in this subsection.

(3) Pursuant to ORS 475.930(2) and as outlined in OAR 291-097-0235, for eligible crimes committed on or after January 1, 2009, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence imposed under ORS 164.061, 475.907, 475.924 or 475.925.

(4) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0225

Earned Time Credits for Crimes Committed on or after February 17, 2010 through June 30, 2011

(1) Pursuant to ORS 421.121, inmates with eligible crimes committed on or after February 17, 2010 through June 30, 2011,

may earn sentence reduction credits up to 20 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;
- (e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;
- (f) Serving time as a sanction for violation of conditions of post-prison supervision;
- (g) Serving a mandatory minimum incarceration term of 90 days under ORS 813.011(3) for Felony Driving under the Influence of Intoxicants under ORS 813.010(5)(a) and ORS 813.011 committed on or after December 2, 2010; or
- (h) Subject to any other Oregon statutes restricting earned time credits.

(2) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0230

Earned Time Credits for Crimes Committed on or after July 1, 2011 and through June 30, 2013

(1) Pursuant to ORS 421.121, inmates with eligible crimes committed on or after July 1, 2011 and through June 30, 2013, may earn sentence reduction credits up to 30 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except for inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;
- (e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;
- (f) Serving time as a sanction for violation of conditions of post prison supervision;
- (g) Serving a mandatory minimum incarceration term of 90 days under ORS 813.011(3) for Felony Driving under the Influence of Intoxicants under ORS 813.010(5)(a) and ORS 813.011 committed on or after December 2, 2010; or
- (h) Subject to any other Oregon statutes restricting earned time credits.

(2) If otherwise eligible for earned time, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration for crimes in which:

- (a) The judgment states earned time may not exceed 20 percent;
- (b) The inmate is convicted of an offense that was committed less than five years after the inmate completed serving a sentence for:
 - (A) A person felony; or
 - (B) A crime described in paragraph (e) of this subsection;
 - (c) The inmate is convicted of a person felony;
 - (d) The inmate is convicted of an offense involving the use or threatened use of a firearm; or
 - (e) The inmate is convicted of any of the following crimes:

(A) Subjecting another person to involuntary servitude in the second degree under ORS 163.263;

(B) Subjecting another person to involuntary servitude in the first degree under ORS 163.264;

(C) Trafficking in persons under ORS 163.266;

(D) Coercion under ORS 163.275;

(E) Online sexual corruption of a child in the second degree under ORS 163.432;

(F) Online sexual corruption of a child in the first degree under ORS 163.433;

(G) Aggravated theft in the first degree under ORS 164.057, if:

(i) The victim of the theft was 65 years of age or older at the time of the commission of the offense; and

(ii) The value of the property stolen from the victim described in sub-subparagraph (i) of this subparagraph, in a single or aggregate transaction, is \$10,000 or more;

(H) Treason under ORS 166.005;

(I) Abuse of a corpse in the second degree under ORS 166.085;

(J) Racketeering activities under ORS 166.720;

(K) Luring a minor under ORS 167.057;

(L) Assaulting a law enforcement animal under ORS 167.339;

(M) A sex crime as defined in ORS 163A.005(5) (former 181.594 and 181.805);

(N) Causing another person to ingest a controlled substance under ORS 475.908;

(O) Applying a controlled substance to the body of another person under ORS 475.910;

(P) Driving while under the influence of intoxicants under ORS 813.010 (5); or

(Q) An attempt, conspiracy or solicitation to commit an offense described in this paragraph or in paragraph (c) or (d) of this subsection.

(3) As used in this section:

(a) "Completed serving a sentence" includes the completion of any term of probation, parole or post-prison supervision.

(b) "Person felony" has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

(4) Pursuant to ORS 475.930(2) and as outlined in OAR 291-097-0235, for eligible crimes committed on or after January 1, 2009, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence imposed under ORS 164.061, 475.907, 475.924 or 475.925.

(5) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0231

Earned Time Credits for Crimes Committed on or after July 1, 2013

(1) Pursuant to ORS 421.121, inmates with crimes committed on or after July 1, 2013, may earn sentence reduction credits up to 20 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates:

- (a) Serving a sentence subject to ORS 137.635;
- (b) Serving presumptive sentences or required incarceration terms under ORS 161.737;
- (c) Serving statutory minimum sentences under ORS 137.700 or 137.707;
- (d) Serving a presumptive sentence under ORS 137.719;

(e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;

(f) Serving time as a sanction for violation of conditions of post-prison supervision;

(g) Serving a mandatory minimum incarceration term of 90 days under ORS 813.011(3) for Felony Driving under the Influence of Intoxicants under ORS 813.010(5)(a) and ORS 813.011 committed on or after December 2, 2010; or

(h) Subject to any other Oregon statutes restricting earned time credits.

(2) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the case plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Stats. Impl: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Hist.: DOC 17-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 4-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14; DOC 12-2014, f. & cert. ef. 5-14; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0235

Earned Time Credits for Crimes Impacted by ORS 475.930(2)

(1) Pursuant to ORS 475.930(2), for eligible crimes committed on or after January 1, 2009, the maximum amount of earned time credits may not exceed 20 percent of the total term of incarceration if serving a sentence imposed under ORS 164.061, 475.907, 475.924 or 475.925 for any of the following crimes:

(a) Aggravated Theft I under ORS 164.057 if the victim is at least 65 years of age (per ORS 164.0561);

(b) Unlawful Delivery or Manufacture of a Schedule I Controlled Substance under ORS 475.840(1)(a) or 475.752(1)(a) if the controlled substance and quantities are as follows:

(A) Heroin of 50 grams or more; or

(B) 3,4-Methylenedioxymethamphetamine (MDMA/Ecstasy) of 50 grams or more or 250 or more pills, tablets, or capsules.

(c) Unlawful Delivery or Manufacture of a Schedule II Controlled Substance under ORS 475.840(1)(b) or 475.752(1)(b) if the controlled substance and quantities are as follows:

(A) Cocaine of 100 grams or more; or

(B) Methamphetamine of 100 grams or more.

(d) Unlawful Delivery or Manufacture of a Controlled Substance within 1000 Feet of a School under ORS 475.904 if the controlled substance and quantities are as follows:

(A) Heroin of 50 grams or more;

(B) 3,4-Methylenedioxymethamphetamine (MDMA/Ecstasy) of 50 grams or more or 250 or more pills, tablets, or capsules;

(C) Cocaine of 100 grams or more; or

(D) Methamphetamine of 100 grams or more;

(e) Unlawful Delivery of a Schedule I or II Controlled Substance to a Minor under ORS 475.906(1) if the controlled substance is Heroin, 3,4-Methylenedioxymethamphetamine (MDMA/Ecstasy), Cocaine or Methamphetamine;

(f) Unlawful Delivery of Cocaine to a Minor under ORS 475.880(3);

(g) Unlawful Delivery of Methamphetamine to a Minor under ORS 475.890(3);

(h) Unlawful Manufacture of Heroin under ORS 475.846 if 50 grams or more;

(i) Unlawful Manufacture of Heroin within 1000 Feet of a School under ORS 475.848 if 50 grams or more;

(j) Unlawful Delivery of Heroin under ORS 475.850 if 50 grams or more;

(k) Unlawful Delivery of Heroin within 1000 Feet of a School under ORS 475.852 if 50 grams or more;

(l) Unlawful Manufacture of 3,4-Methylenedioxymethamphetamine (MDMA/Ecstasy) under ORS 475.866 if 50 grams or more or 250 pills, tablets or capsules;

(m) Unlawful Manufacture of 3,4-Methylenedioxymethamphetamine (MDMA/Ecstasy) within 1000 Feet of a School under ORS 475.868 if 50 grams or more or 250 pills, tablets or capsules;

(n) Unlawful Delivery of 3,4-Methylenedioxymethamphetamine (MDMA/Ecstasy) under ORS 475.870 if 50 grams or more or 250 pills, tablets or capsules;

(o) Unlawful Delivery of 3,4-Methylenedioxymethamphetamine (MDMA/Ecstasy) within 1000 Feet of a School under ORS 475.872 if 50 grams or more or 250 pills, tablets or capsules;

(p) Unlawful Manufacture of Cocaine under ORS 475.876 if 100 grams or more;

(q) Unlawful Manufacture of Cocaine within 1000 Feet of a School under ORS 475.878 if 100 grams or more;

(r) Unlawful Delivery of Cocaine under ORS 475.880(2) if 100 grams or more;

(s) Unlawful Delivery of Cocaine within 1000 Feet of a School under ORS 475.882 if 100 grams or more;

(t) Unlawful Manufacture of Methamphetamine under ORS 475.886 if 100 grams or more;

(u) Unlawful Manufacture of Methamphetamine within 1000 Feet of a School under ORS 475.888 if 100 grams or more;

(v) Unlawful Delivery of Methamphetamine under ORS 475.890(2) if 100 grams or more;

(w) Unlawful Delivery of Methamphetamine within 1000 Feet of a School under ORS 475.892 if 100 grams or more

(2) For crimes described in subsections (e)–(g) above, section (1) does not apply to a person who is less than three years older than the person under 18 years of age to whom the controlled substance was delivered, unless the person has a previous conviction for Delivery of Cocaine, Methamphetamine, Heroin or 3,4-Methylenedioxymethamphetamine (MDMA/Ecstasy) to a person under 18 years of age.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0236

Earned Time Credits for Life Sentences for Murder and Aggravated Murder (ORS 163.105 and 163.115)

(1) Earned Time Credits for Life Sentences for Murder and Aggravated Murder committed on or after November 1, 1989 and prior to July 1, 2015:

(a) Life sentences for Murder and Aggravated Murder are not eligible for earned time unless otherwise eligible as outlined in 291-097-0215 through 291-097-0231.

(b) Life sentences for Murder and Aggravated Murder otherwise eligible for earned time are limited to 20% earned time pursuant to ORS 421.121.

(c) Life sentences for Murder and Aggravated Murder are not eligible for earned time until and unless the Board of Parole and Post-Prison Supervision sets the initial prison term.

(d) For Life Sentences for Murder and Aggravated Murder otherwise eligible for Earned Time Credits:

(A) OISC will provide the calculated earned date to the Board of Parole and Post-Prison Supervision only after the initial prison term has been established;

(B) OISC's calculation of earned time on the initial prison term will not generate either a "parole release date" or a "projected earned time release date" on the life sentence as the parole release date is still determined by the Board of Parole and Post-Prison Supervision;

(C) OISC will not calculate earned time on any deferral periods after the initial prison term has been established;

(D) OISC will not calculate earned time on any post-prison supervision revocation sanctions;

(E) OISC will not capture or record earned time on the inmate's electronic facesheet; and

(F) Earned time calculated on the initial prison term may be retracted pursuant to OAR 291-105.

(2) Life Sentences for Murder and Aggravated Murder committed on or after July 1, 2015 are not eligible for earned time pursuant to ORS 421.121.

Stat Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Stats Impl: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Hist.: DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0240

Calculation and Application of Earned Time Credits

(1) Case plan compliance is defined as acceptable participation in work and self-improvement programs required within the case plan. The required activities within the case plan are determined by ongoing assessment and evaluation, which begins at the inception of the inmate prison term.

(a) An inmate will be considered to be compliant if he/she was not failed from the required program activity during the review period under consideration, nor did the inmate refuse to participate in required programming during the review period under consideration.

(b) As needed, the counselor or multi-disciplinary team will evaluate an inmate's compliance with the required program activity.

(c) If the inmate's counselor or multi-disciplinary team determines the inmate is non-compliant with the case plan, he/she will approve a program failure for documentation in the inmate's computer record.

(2) Institution conduct compliance is defined as maintaining Level I or Level II major misconduct-free behavior during the review period. Major misconduct is documented in accordance with the department's rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). Any finding of a Level I or Level II major misconduct violation during the review period will be considered as noncompliance. The date of the adjudication, not of the incident, will be used for the date of the violation.

(3) At the end of each review period, the OISC staff will review the inmate's computer records for information reflecting the inmate's compliance with the current case plan and institution conduct. Based on the information contained in the inmate's computer records, the OISC staff will apply either:

(a) An effective 0, 10, or 20 percent reduction to the sentencing guidelines sentence proportional for the review period under consideration for sentences eligible for a maximum of 20% earned time, or

(b) An effective 0, 15, or 30 percent reduction to the sentencing guidelines sentence proportional for the review period under consideration for sentences eligible for a maximum of 30% earned time.

(4) For inmates housed in non-Oregon Department of Corrections facilities, the staff, as designated by the Offender Management and Rehabilitation Division will review the inmate's institution file including any reports received from the housing facility to determine compliance with the current case plan and institution conduct.

(a) Case plan compliance will be determined by the inmate's reported compliance with requirements as determined by Department staff or the housing facility staff.

(b) Due process comparable to the department's rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) shall be applied. Institution conduct non-compliance will be determined by substituting the rule of prohibited conduct, for the rule violated at the housing facility, with the most equivalent charges as defined in the department's rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). The functional unit manager or designee may impose sanctions, in addition to that imposed by the housing facility, related to sentence reductions.

(5) For each review period under consideration for inmates housed in Department of Corrections facilities, the OISC staff will list the reasons for applying or not applying earned time credits and record the corresponding percentage of earned time applied to the

inmate's sentence on the Earned Time Computation Form (CD 1154D).

(6) For inmates housed in non-Oregon Department of Corrections facilities, the staff, as designated by the Offender Management and Rehabilitation Division, will list the reasons for applying or not applying earned time credits and record the corresponding percentage of earned time applied on the Earned Time Computation Form (CD 1154D).

(7) Upon the application of earned time credits toward an inmate's sentence for the review period under consideration, the OISC Unit will re-compute the inmate's new earned time release date, file the Earned Time Computation Form (CD 1154D) in the institution file, and provide a copy of the determination to the inmate.

(8) Determination of Earned Time Credits During Presentence Incarceration: For crimes committed on or after November 1, 1989, earned time credits will be computed for the period in which an inmate is in custody in a non-Department of Corrections facility prior to sentencing and admission to the Department of Corrections, based solely on the inmate's conduct in the facility.

(a) Conduct compliance will be assumed, unless the Department receives documentation of adjudicated misconduct from the facility.

(A) For sentences eligible for a maximum of 20% earned time credits, the inmate will be granted an effective 0 or 20 percent reduction toward the sentencing guidelines sentence proportional for the length of presentence incarceration.

(B) For sentences eligible for a maximum of 30% earned time credits, the inmate will be granted an effective 0 or 30 percent reduction toward the sentencing guidelines sentence proportional for the length of presentence incarceration.

(b) Any verified major misconduct equivalent to a Level I or Level II major misconduct violation as defined in the department's rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) during any of the presentence incarceration credits applied to the sentence will result in an effective 0 percent reduction toward the sentencing guidelines sentence proportional for the total length of presentence incarceration. The date of the adjudication, not of the incident, will be used for the date of the violation.

(9) If the inmate escapes, the OISC staff will close out the current earned time review period, changing the current review period to end the day after escape. An inmate that is returned from an escape to a Department of Corrections facility will have the starting date of the new earned time credit cycle begin with the date of return. The escape will constitute a program failure for the period up to the escape.

(10) Alternative Incarceration Program:

(a) If, during any review period, the inmate is assigned to an Alternative Incarceration Program, the inmate will be considered as participating in the case plan. If the inmate, for sufficient justification as determined by the functional unit manager's committee, is unsuccessful and fails to complete any portion of the program or requests to be voluntarily removed, the inmate will be considered noncompliant with the case plan and receive a program failure during that review period.

(b) If the inmate fails to successfully complete the non-prison leave granted through the Alternative Incarceration Program, the inmate will be considered a program failure and non-compliant with institution conduct for the length of the inmate's non-prison leave. The failure to successfully complete the non-prison leave will not result in a retraction of the portion of earned time credits for program compliance advanced at the beginning of the final review period as outlined in OAR 291-097-0250(2).

(11) Determination of earned time credits for inmates on short-term transitional leave:

(a) Earned time credits will be computed for the period in which an inmate is serving the remainder of his/her sentencing guidelines term of incarceration on short-term transitional leave (OAR 291-063).

(A) Institution conduct and case plan compliance will be assumed while an inmate is released on short-term transitional leave.

(B) Earned time credits for the period on transitional leave will be applied at a rate of 20 percent or 30 percent, in accordance with the applicable rate for the sentence at the time of release onto short-term transitional leave.

(b) A revocation of an inmate's short-term transitional leave is deemed non-compliance with the inmate's case plan and non-compliance with institution conduct. Upon revocation of short-term transitional leave, an inmate will receive an effective 0 percent reduction for case plan compliance and 0 percent reduction toward the sentencing guidelines sentence for institutional conduct proportional for the length of the inmate's short-term transitional leave.

(c) The failure to successfully complete the short-term transitional leave will not result in a retraction of the portion of earned time credits for program compliance advanced at the beginning of the final review period as outlined in OAR 291-097-0250(2).

(12) If all of an inmate's sentence(s) is vacated, reversed and remanded for new trial, or conviction affirmed and remanded for resentencing, the OISC staff will close out the current earned time review period to end the day after release to the sentencing court. An inmate that is returned on a resentencing will start a new review period, effective the date of return to a Department of Corrections facility. The new earned time credit cycle date will be reflected on the inmate's facesheet.

(13) Determination of earned time credits for inmates serving the remainder of a sentencing guidelines sentence on conditional release (Second Look):

(a) Earned time credits will be computed for the period in which an inmate is serving the remainder of his/her sentencing guidelines term of incarceration in the community on conditional release, based solely on the inmate's compliance with his/her conditional release plan.

(b) Earned time credits for the period on conditional release (Second Look) will be applied at a rate of 20 percent or 30 percent, in accordance with the applicable rate for the sentence at the time of release onto conditional release (Second Look).

(c) Conduct compliance will be assumed unless the inmate's conditional release is revoked by the sentencing court.

(d) Any suspension or revocation of an inmate's conditional release prior to the inmate reaching his/her projected earned time date will result in an effective 0 percent reduction in the sentencing guidelines prison term for the length of the inmate's sentence being served in the community on conditional release.

(14) If an inmate is incarcerated in an Oregon county jail prior to the inmate's return to a Department of Corrections facility following an escape, suspension or revocation of second look conditional release, or violation of short-term transitional leave or non-prison leave, earned time credits will be computed for the period in which the inmate is in custody based solely on the inmate's conduct in the county jail.

(a) Conduct compliance will be assumed, unless the Department receives documentation of adjudicated misconduct from the facility.

(A) For sentences eligible for a maximum of 20% earned time credits, the inmate will be granted an effective 0 or 20 percent reduction toward the sentencing guidelines sentence proportional for the length of incarceration.

(B) For sentences eligible for a maximum of 30% earned time credits, the inmate will be granted an effective 0 or 30 percent reduction toward the sentencing guidelines sentence proportional for the length of incarceration.

(b) Any verified major misconduct equivalent to a Level I or Level II major misconduct violation as defined in the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) during the incarceration will result in an effective 0 percent reduction toward the sentencing guidelines sentence proportional for the length of incarceration. The date of the adjudication, not of the incident, will be used for the date of the violation.

(15) Work Release: A revocation of an inmate's work release is deemed noncompliant with the inmate's case plan.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2000, f. & cert. ef. 6-26-00; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; DOC 14-2010(Temp), f. & cert. ef. 10-19-10 thru 4-15-11; DOC 7-2011, f. & cert. ef. 4-8-11; Renumbered from 291-097-0020 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0020 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0245

Earned Time Credit for Education or Apprenticeship Certifications

(1) Pursuant to ORS 421.121 and this rule, consideration for earned time credit may also be given for crimes committed prior to July 1, 2015 for an inmate who obtains a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010, on or after January 1, 2010.

(2) Determination of Earned Time Credits for Education or Apprenticeship Certifications:

(a) Inmates who obtain a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010 prior to January 1, 2010 or whose crime was committed on or after July 1, 2015 are not eligible to be considered for earned time credits for education or apprenticeship certifications.

(b) Subject to OAR 291-097-0250 (Retraction of Earned Time Credits), 291-097-0255 (Restoration of Earned Time Credits), and 291-097-0260 (Determination of Earned Time Credits During Final Review Period for Sentencing Guidelines Sentences), at the time an inmate obtains a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010 on or after January 1, 2010 and whose crime was committed prior to July 1, 2015, the OISC staff will apply the amount of earned time credits, not to exceed 60 days, to the amount of earned time credits actually received by the inmate for either maintaining appropriate institution conduct or compliance with his/her case plan, in order to bring the inmate's total earned time credits up to the amount of earned time credits the inmate would have received if the inmate maintained appropriate institution conduct and was in full compliance with his/her case plan as of the date the inmate obtained the education or apprenticeship certification.

(A) The department may apply up to 60 days earned time credits for education or apprenticeship certifications toward prior earned time not credited to the sentence due to adjudicated misconduct during the presentence incarceration or while an inmate is incarcerated in an Oregon county jail prior to the inmate's return to a Department of Corrections facility following an escape, revocation of second look conditional release, or violation of short-term transitional leave or non-prison leave, or toward non-compliance with institutional conduct or the case plan, and toward earned time previously retracted during the service of the sentence.

(B) In no event will an inmate be credited with more earned time credits than the amount of earned time credits the inmate would have received toward the sentence if the inmate maintained appropriate institutional behavior and was in full compliance with his/her case plan as of the date the inmate obtained a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as

defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in 660.010.

(C) The earned time credits for education or apprenticeship certifications may not be applied to a sentence whose prison term reached its earned time release date prior to the date the inmate obtained a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in 660.010.

(D) An inmate may be credited with multiple education or apprenticeship certifications as long as no individual sentence receives more than 60 days total earned time credit for obtaining a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in 660.010.

(E) The date the inmate successfully meets the total score requirements for the GED certificate is the date the inmate is deemed to have obtained his/her GED certificate.

(F) For inmates housed at OYA, the date the inmate receives the high school diploma or GED certificate is the date the inmate is deemed to have obtained his/her diploma unless DOC receives documentation that the inmate completed the requirements for the diploma or GED at an earlier date.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
Hist.: DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0250

Retraction of Earned Time Credits

Time credits previously earned or applied will be retracted as follows:

(1) The inmate is found guilty of a major rule violation after a formal disciplinary hearing or upon waiver of the inmate's right to a hearing, and the disciplinary order directs that earned time credits earned or applied be forfeited in accordance with the Department's rule on **Prohibited Inmate Conduct and Processing Disciplinary Actions** (OAR 291 105).

(a) A recommendation for retraction of earned time shall be within the range corresponding to the violation level as set forth in Table 1.

(b) A recommendation for retraction of earned time credits may not exceed the amount previously applied, including any amount credited to the inmate for obtaining a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in 660.010 on or after January 1, 2010.

(2) Failure to comply with the case plan during the final review period will result in a retraction of the portion of the earned time credits for program compliance advanced at the beginning of the final review period. The OISC staff will document the retraction on the Earned Time Computation form (CD 1154D).

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; DOC 14-2010(Temp), f. & cert. ef. 10-19-10 thru 4-15-11; DOC 7-2011, f. & cert. ef. 4-8-11; Renumbered from 291-097-0025 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0025 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0255

Restoration of Earned Time Credits

(1) Time credits that have been retracted may be restored upon recommendation of staff and approval of the functional unit manager or designee only for an inmate who has been involved in saving a life or through the Adjustments to Final Order process outlined in the Department's rule on **Prohibited Inmate Conduct and Processing Disciplinary Actions** (OAR 291-105). Time credits restored may not exceed those previously retracted.

(2) Restoration of time credits must be approved in writing by the functional unit manager or designee.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; Renumbered from 291-097-0030 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0030 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0260

Determination of Earned Time Credits During Final Review Period for Sentencing Guideline Sentences

(1) Four months prior to an inmate's projected release date, OISC staff (or the ODOC staff, as designated by the Offender Management and Rehabilitation Division, for inmates housed in non-Oregon Department of Corrections facilities) will conduct a final review of inmates' earned time compliance.

(a) Final reviews will be conducted only for inmates serving a sentencing guidelines sentence. OISC staff will advance and apply earned time credits for the final review period.

(b) An inmate's full compliance with the case plan and institutional behavior will be assumed during the final review period.

(A) For inmates sentenced on or after November 1, 1989, with sentences eligible for a maximum of 20 percent earned time credits, the OISC staff will apply an effective 20 percent reduction in sentence for the final review period and the OISC Unit will recompute the inmate's new earned time release date.

(B) For inmates sentenced on or after November 1, 1989 with sentences eligible for a maximum of 30 percent earned time credits, the OISC staff will apply an effective 30 percent reduction in sentence for the final review period and the OISC Unit will recompute the inmate's new earned time release date.

(2) If, after the completion of a final review and advancement of earned time credits for the final review period, the inmate's prison term is extended as a result of a new sentence or an adjustment in presentence time, the OISC staff will delete the final review and any earned time credits advanced for the final review period. The OISC staff will complete a new Earned Time Computation form (CD 1154D) to assure that the extended prison term is reviewed in accordance with these rules.

(3) If, after the completion of a final review and advancement of earned time credits for the final review period, the inmate's prison term is reduced, the OISC Unit will adjust the final review period and any earned time credits advanced for the final review period provided the inmate was in full compliance with his/her case plan and institutional behavior at the time of the final review.

(a) If the inmate was in partial compliance with his/her case plan or institutional behavior at the time of the final review, the OISC staff will delete the final review and any earned time credits advanced for the final review period.

(b) The OISC staff will complete a new Earned Time Computation form (CD 1154D) to assure that the reduced prison term is reviewed in accordance with these rules.

(4) If, after the completion of a final review and advancement of earned time credits for the final review period, the inmate obtains a high school diploma, General Educational Development (GED) certificate, a certificate or degree from a post-secondary education institution as defined in ORS 337.511, or a journey level certification from a registered apprenticeship program as defined in ORS 660.010 on or after January 1, 2010 and whose crime was committed prior to July 1, 2015, the OISC Unit will adjust the final

review period and any earned time credits advanced for the final review period in accordance with OAR 291-097.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; DOC 6-2010(Temp), f. & cert. ef. 4-14-10 thru 10-11-10; DOC 9-2010, f. & cert. ef. 7-14-10; DOC 14-2010(Temp), f. & cert. ef. 10-19-10 thru 4-15-11; DOC 7-2011, f. & cert. ef. 4-8-11; Renumbered from 291-097-0040 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0040 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13; DOC 10-2016, f. & cert. ef. 9-15-16

291-097-0265

Administrative Review

(1) An inmate may obtain an independent review of the determination of his/her case plan performance as documented by the OISC staff or the ODOC staff as designated by the Offender Management and Rehabilitation Division, (for inmates housed in non-Oregon Department of Corrections facilities) for each review period by writing to the office designated by the Offender Management and Rehabilitation Division and requesting an administrative review of the determination.

(a) The review request must be in writing on an Inmate Communication form (CD 214), and must state the reason(s) why the inmate believes the determination is not correct. A copy of the Earned Time Computation form (CD 1154D) under review must also be submitted.

(b) Requests for administrative review must be received by the office designated by the Offender Management and Rehabilitation Division no later than 30 days after final determination as indicated on the Earned Time Computation form (CD 1154D).

(2) If an inmate submits a proper and timely request for administrative review, the Office of Population Management shall review the determination and either approve or modify the determination, in writing, within 30 days after receipt of the request. A copy of the order shall be provided to the inmate, his/her assigned counselor, and OISC.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 14-2010(Temp), f. & cert. ef. 10-19-10 thru 4-15-11; DOC 7-2011, f. & cert. ef. 4-8-11; Renumbered from 291-097-0050 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0050 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0270

Statutory Good Time Credits

(1) Pursuant to ORS 421.120(1)(a) and (b), and these rules, each inmate confined in execution of the judgment of sentence upon any conviction for a crime committed prior to November 1, 1989, for any term other than life, who has acceptably participated in the requirements of their case plan and has maintained appropriate conduct, shall be entitled to a deduction from the term of sentence.

(2) The deduction shall be computed as follows:

(a) From the term of a sentence of not less than six months nor more than one year, one day shall be deducted for every six days of such sentence actually served in the Department of Corrections facility.

(b) From the term of a sentence of more than one year, one day shall be deducted for every two days of such sentence actually served in the Department of Corrections facility.

Stat Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 & 423.075
 Stat Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 & 423.075
 Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; Renumbered from 291-097-0060 by DOC 13-2012(Temp),

f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0060 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0275

Extra Good Time Credits

(1) Pursuant to ORS 421.120(1)(c), (d), (e), 421.122, and these rules, each inmate confined in execution of the judgment of sentence upon any conviction for a crime committed prior to November 1, 1989, for any term other than life, who has acceptably participated in his/her case plan and has maintained appropriate institutional conduct shall be entitled to a deduction from the term of sentence to be computed as follows:

(a) From the term of any sentence:

(A) One day shall be deducted for every 15 days of work actually performed in prison industry, or in meritorious work in connection with prison maintenance and operation, or of enrollment in an educational activity as certified by the educational director of the institution during the first year of prison employment or educational activity; and

(B) One day shall be deducted for every seven days of such work actually performed or educational activity certified after the first year to and including the fifth year of prison employment or educational activity certified; and

(C) One day for every six days of such work actually performed or educational activity certified after the fifth year of prison employment.

(b) From the term of any sentence, one day shall be deducted for every 10 days of work actually performed in agriculture during the first year of prison employment, and one day for every six days of such work actually performed thereafter.

(c) From the term of any sentence one day shall be deducted for every six days of work performed at work camp during the first year of prison employment and one day for every four days thereafter. Once the four-day rate is achieved, it may be applied to subsequent work or release programs while the inmate is serving the same term.

(2) Extra good time credits applied pursuant to ORS 421.120 (1)(c), (d), (e), 421.122, and these rules, shall be in addition to statutory good time credits granted pursuant to 421.120 (1)(a) and (b), and these rules. For purposes of this rule, "meritorious" is synonymous with satisfactory performance.

(3) For purposes of these rules, "prison employment" includes actual work in Oregon Correctional Enterprises, meritorious work in connection with prison maintenance and operation, actual work in agriculture and actual work at work camp. Performance shall be considered meritorious unless removed from the work assignment for unsatisfactory performance.

(4) No statutory good time or extra good time credits earned or applied prior to acceptance and release on parole shall be granted to an inmate upon return to a Department of Corrections facility for a service of a term of incarceration as a sanction for violation of any condition of parole, except when authorized by the Board of Parole and Post-Prison Supervision upon recommendation of the functional unit manager thereof.

(5) Rate attained for calculation of extra good time credits prior to release on parole shall be voided upon an inmate's return to a Department of Corrections facility for violation of any condition of parole, except when authorized by the Board of Parole and Post-Prison Supervision.

Stat Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 & 423.075
 Stat Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 & 423.075
 Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; Renumbered from 291-097-0070 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0070 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0280

Retraction of Statutory Good Time and Extra Good Time Credits

Statutory good time and extra good time credits previously earned or applied may be retracted as a result of a disciplinary action as follows:

(1) The inmate is found guilty of a major rule violation after a formal disciplinary hearing or upon waiver of the inmate's right to a hearing, and the disciplinary order directs that time credits earned are forfeited in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) and Table 2 attached.

(2) A recommendation for retraction of statutory good time and extra good time credits may not exceed the amount previously earned or applied.

Stat Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 & 423.075

Stat Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; Renumbered from 291-097-0080 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0080 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0285

Restoration of Statutory Good Time and Extra Good Time Credits

(1) Statutory good time and extra good time credits that have been retracted may be restored upon recommendation of staff and approval of the functional unit manager or designee only for an inmate who has been involved in saving a life.

(2) Restoration of statutory good time and extra good time credits must be approved in writing by the functional unit manager or designee.

Stat Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 & 423.075

Stat Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; Renumbered from 291-097-0090 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0090 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0290

Inmates With Indeterminate Sentences of More Than Thirty-Six Months

(1) The functional unit manager may recommend to the Board of Parole and Post-Prison Supervision that an inmate receive prison term reduction credits in those cases where the inmate has received a parole release date set from the Board of Parole and Post-Prison Supervision of 36 months or more, if:

(a) The inmate has applied for a reduction and the period under review falls within the established prison term;

(b) The inmate has completed a three-year period of good conduct; and

(c) The inmate has complied with case plan efforts to address problems associated with the inmate's criminal conduct present at the time of incarceration.

(d) Notwithstanding (b) and (c) above, the functional unit manager may consider significant improvement in inmate behavior and case plan efforts during the last 12 months of the three-year period and recommend that the parole release date be reset.

(2) Three-Year Period of Good Conduct: For purposes of these rules, an inmate shall be considered to have maintained a three-year period of good conduct if:

(a) The inmate has not received any Level I — II rule violations as defined in the Department's rule on **Prohibited Inmate Conduct and Processing Disciplinary Actions** (OAR 291-105) during the three years under review.

(b) Notwithstanding (a) above, upon finding that an inmate has committed a Level III or IV rule violation as defined in the Department's rule on **Prohibited Inmate Conduct and Processing**

Disciplinary Actions (OAR 291-105), after a formal disciplinary hearing or upon waiver of the inmate's right to hearing, the hearings officer may recommend to the functional unit manager that the inmate not be considered for a positive recommendation for prison term reduction within a three-year period from the date of the rule violation.

(3) Demonstrable Achievement in Addressing Problems Associated with the Inmate's Criminal Conduct Present at the Time of Incarceration: For purposes of these rules, an inmate shall be considered to have made demonstrable achievement in addressing problems associated with the inmate's criminal conduct present at the time of incarceration if the inmate has received favorable reports for his/her successful participation in one or more self-improvement programs appropriate to his/her need as determined by departmental assessment captured in the case plan (to the extent these specific programs are available to the inmate). An inmate will be considered to be successfully participating in a self-improvement program if he/she is documented to be registered on a waiting list for the program within 30 days of the development of the case plan.

(4) Inmates serving a term of incarceration in a Department of Corrections facility as a sanction for violation of parole or post-prison supervision are ineligible for consideration for a positive recommendation.

(a) Inmates sentenced for aggravated murder or as dangerous offenders, and those whose parole the Board of Parole and Post-Prison Supervision denied are not subject to personal reviews.

(b) Dangerous offenders may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections, if the Board of Parole and Post-Prison Supervision has found their condition absent or in remission and has set a parole release date.

(5) The functional unit manager or designee will review the recommendation of the counselor, approve/deny or otherwise modify the recommendation, and send the determination to the Board of Parole and Post-Prison Supervision on an action sheet and supplemental report for the Board's consideration.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 15-2009(Temp), f. & cert. ef. 8-31-09 thru 2-23-10; DOC 23-2009, f. & cert. ef. 11-20-09; Renumbered from 291-097-0100 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0100 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0295

Inmates With Indeterminate Sentences of Thirty-Six Months or Less

(1) The functional unit manager may recommend to the Board of Parole and Post-Prison Supervision that an inmate's parole release date be reset to an earlier date in those cases where the inmate has received a parole release date set from the Board of Parole and Post-Prison Supervision of 36 months or less, if:

(a) The inmate has been incarcerated in a Department of Corrections facility for at least six months; and

(b) The inmate's performance in two areas, the case plan and institution conduct, as set forth in the criteria for calculation and application of earned time credits in OAR 291-097 0020 warrants a positive recommendation.

(2) Inmates serving a term of incarceration in a Department of Corrections facility as a sanction for violation of parole or post-prison supervision are ineligible for consideration for a positive recommendation.

(3) Inmates sentenced to a minimum term of incarceration pursuant to ORS 144.110 (judicial minimum) or 161.610 (gun minimum), are ineligible for consideration for a positive recommendation, until such minimum incarceration term has been served.

(4) Inmates serving an enhanced sentence pursuant to ORS 161.725 and 161.735 (dangerous offender), or pursuant to 426.725

(sexually dangerous offender), are ineligible for consideration for a positive recommendation.

(5) At the end of the review period, based upon six-months increments beginning with the inmate's admission date, a counselor will evaluate the inmate's eligibility, consistent with OAR 291-097-0020(3), for a positive recommendation based on the criteria set forth above. Based upon the inmate's performance, the counselor will recommend to the functional unit manager or designee that the inmate be considered by the Board of Parole and Post-Prison Supervision for a 0, 10 or 20 percent reduction in the prison term set by the Board, and a corresponding parole release date.

(6) The functional unit manager or designee will review the recommendation of the counselor, approve/deny or otherwise modify the recommendation, and send the determination to the Board of Parole and Post-Prison Supervision on an action sheet for the Board's consideration.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; Renumbered from 291-097-0120 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0120 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0300

Extension of Parole Release Date (Recommendations)

The Department of Corrections may recommend to the Board of Parole and Post-Prison Supervision that an inmate's parole release date be reset to a later date as a result of a disciplinary action, as follows:

(1) The inmate is found guilty of a major rule violation after a formal disciplinary hearing or upon waiver of the inmate's right to a hearing, and the final disciplinary order directs that the Board of Parole and Post-Prison Supervision be notified that the department recommends that the inmate's parole release date be extended in accordance with the department's rule on **Prohibited Inmate Conduct and Processing Disciplinary Actions** (OAR 291-105).

(2) In order to qualify the inmate for a parole release date extension recommendation, the rule violation must involve misconduct that can be classified within one of four categories as follows:

- (a) Hazard to human life/health;
- (b) Hazard to security;
- (c) Hazard to property;
- (d) Third in series of rule violations within a three-month period while assigned to any Department of Corrections facility or program.

(3) A parole release date extension shall not be recommended without consideration of the following:

- (a) Effectiveness of the sanction as a disciplinary measure, both to the inmate and to the general inmate population;
 - (b) Degree of hazard posed by the misconduct to human health and/or life, facility security, or to property;
 - (c) Seriousness of the misconduct had it been committed in the wider community;
 - (d) Circumstances of the misconduct; and
 - (e) The inmate's prior record of institution conduct.
- (4) A recommendation for extension of an inmate's parole release date shall be within the range corresponding to the violation classification category, as set forth in Table 3.

(5) A parole release date extension recommendation will not be made that, if followed by the Board of Parole and Post-Prison Supervision, will result in a parole release date beyond the inmate's statutory good time date.

(6) If an inmate is found guilty of a major rule violation, before a parole release date has been set, that qualifies the inmate for a parole release date extension recommendation in accordance with these rules, the department will recommend to the Board of Parole and Post-Prison Supervision that the inmate's parole release date be adjusted when set to reflect the department's recommended extension, if any.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; Renumbered from 291-097-0130 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0130 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

291-097-0305

Administrative Review

(1) An inmate may obtain an independent review of the determination of his/her referral to the Board of Parole and Post-Prison Supervision for a modification of the parole release date set by writing to the Counselor Case Management Unit and requesting an administrative review of the determination.

(a) The review request must be in writing on an inmate communication form (CD 214) and must state the reason(s) why the inmate believes the functional unit manager's or designee's decision not to refer the request to the Board of Parole and Post-Prison Supervision is not correct.

(b) Requests for administrative review must be received by the Counselor Case Management Unit no later than 30 days after the date of the determination.

(2) If an inmate submits a proper and timely request for administrative review, the Counselor Case Management Unit shall review the determination and either approve or modify the determination in writing to the inmate and functional unit manager within 30 days after the receipt of the request for administrative review.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030 & 423.075
 Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; Renumbered from 291-097-0110, DOC 2-2009, f. & cert. ef. 3-10-09; Renumbered from 291-097-0140 by DOC 13-2012(Temp), f. & cert. ef. 12-28-12 thru 6-25-13; Renumbered from 291-097-0140 by DOC 5-2013, f. 5-30-13, cert. ef. 6-1-13

DIVISION 100

ADMISSION, SENTENCE COMPUTATION AND RELEASE

291-100-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.315, 137.320, 137.370, 137.372, 137.375, 137.635, 144.108, 144.110, 144.245, 161.610, 179.040, 421.120, 421.121, 421.122, 423.020, 423.030, 423.075, and 426.675.

(2) Purpose: To establish department policy and procedures for the computation of sentences, and for the admission and release of inmates.

(3) Policy: It is the policy of the Department of Corrections to admit and release inmates, and to compute sentences, in accordance with ORS 137.315, 137.320, 137.370, 137.372, 137.375, 137.635, 144.108, 144.110, 144.245, former 144.390 (repealed 1989 Oregon Laws, Chapter 790, §47a) 161.610, 421.120, 421.121, 421.122, and 426.675.

Stat. Auth.: ORS 137, 144, 161.610, 179.040, 421, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075
 Hist.: CD 42(Temp), f. 10-3-77, ef. 10-4-77; CD 1-1978, f. & ef. 2-1-78; Renumbered from 291-020-0005, CD 23-1983, f. & ef. 5-2-83; CD 51-1985, f. & ef. 8-16-85; CD 45-1986, f. & ef. 10-21-86; CD 7-1989, f. & cert. ef. 5-25-89; CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0008

Definitions

(1) Abscond: Unauthorized absence from parole or post-prison supervision.

(2) Commitments: A sentence of incarceration to the legal and physical custody of the Department of Corrections.

(3) Concurrent/Consecutive Ghosts: Inmates with Oregon Department of Corrections sentences who are housed in a federal or another state's jurisdiction (not physically housed in an Oregon Department of Corrections facility) and their Oregon sentence is ordered to be served either concurrently or consecutively to a sentence from the federal or other state's jurisdiction.

(4) Custodial Authority: The authority holding physical custody of the inmate, who is responsible for certifying time served while in their custody.

(5) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(6) Earned Time Credits: Sentence reduction credits that can be earned by an inmate sentenced under Sentencing Guidelines, pursuant to ORS 421.121 and the department's rule on Prison Term Modification, OAR 291-097.

(7) Escape: Unauthorized departure of an inmate from the physical or legal custody of the Department of Corrections. Escape includes "constructive escape" where an inmate has any unserved felony sentence(s) in excess of 12 months and, by no effort of the inmate, is voluntarily absent from the Department of Corrections (for example, where an inmate is released from custody after serving a local supervisory sentence despite the inmate having any unserved felony sentence(s) in excess of 12 months).

(8) Extra Good Time Credits: Sentence reduction credits that can be earned by an inmate sentenced for crimes committed prior to November 1, 1989, (Non-Sentencing Guidelines), pursuant to ORS 421.120(1)(c), (d) and (e) and 421.122, and the department's rule on Prison Term Modification, OAR 291-097.

(9) Face Sheet: Document that shows a summary of sentences for which an inmate is incarcerated by the Department of Corrections.

(10) Good Time Date: An indeterminate sentence release date calculated for inmates serving a sentence(s) for crime(s) committed prior to November 1, 1989, (Non-Sentencing Guidelines), achieved through reduction in the sentence due to granting of statutory good time and extra good time credits.

(11) Inmate: A person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(12) Inoperative Time: Time spent on abscond, escape, or unauthorized departure from custody, transitional leave, or parole or post-prison supervision, which does not count toward service of the sentence.

(13) Intake Facility: A Department of Corrections facility designated by the department to receive inmates upon commitment to the legal and physical custody of the department, and to conduct intake evaluation of the inmate, including custody classification, needs assessment and some program assessments.

(14) Jail Good Time/Work Time Credits: Time credits for good behavior and work performed as allowed for inmates in a county local correctional facility pursuant to ORS 169.110 and 169.120, which are included as time thus served toward a probation revocation sentence if certified as part of the probationary sentence.

(15) Judgment: Document issued by the court that commits an inmate to the legal and physical custody of the Department of Corrections, and reflects the inmate's sentence length, any applicable statutes, term of post-prison supervision (for crimes committed on or after November 1, 1989), and court-ordered supervision conditions, if any.

(16) Maximum Sentence Expiration Date: The very latest date that a person can be held or supervised by the department on a particular sentence.

(17) Offender: Any person under the supervision of the Department of Corrections, local supervisory authority or community corrections who is on probation, parole, or post-prison supervision status.

(18) ORS 137.635 Sentence: A determinate sentence resulting from a conviction of one or more of ten listed felony crimes (i.e., Murder, including any aggravated form of Murder, Manslaughter I, Assault I, Kidnapping I, Rape I, Sodomy I, Sexual Penetration With a Foreign Object I, Burglary I, Arson I and Robbery I), if the inmate also has a prior conviction for one or more of those ten listed felony crimes.

(19) Parole Release Date: The date on which an inmate is ordered to be released from an indeterminate prison sentence(s) to parole by the Board of Parole and Post-Prison Supervision. Parole release may be to the community, detainer or to another Department of Corrections sentence.

(20) Parole Suspension: Issuance of an arrest and detain warrant by the Board of Parole and Post-Prison Supervision which ceases the running of an inmate's parole.

(21) Parole Violator: Any person whose parole has been revoked by the Board of Parole and Post-Prison Supervision.

(22) Post-Prison Supervision: A period of community supervision ordered by the sentencing judge for offenders convicted of a crime(s) committed on or after November 1, 1989.

(23) Post-Prison Supervision Violator: Any person whose post-prison supervision has been revoked by the Board of Parole and Post-Prison Supervision.

(24) Predicate Crime: A crime listed in ORS 137.635(2) that serves as a previous conviction in designating an inmate as an ORS 137.635 felon.

(25) Pre-sentencing Guidelines Sentences: Sentences imposed for crimes committed on or after October 4, 1977 and prior to November 1, 1989. Also may be referred to as "Matrix" sentences.

(26) Prison Term:

(a) Sentencing Guidelines Sentences: The length of incarceration time within a Department of Corrections facility as established by the court in the judgment.

(b) Pre-Sentencing Guidelines Sentences: The length of required incarceration time within a Department of Corrections facility as established by the order of the Board of Parole and Post-Prison Supervision setting of a parole release date.

(27) Projected Release Date: A release date calculated for inmates serving a sentence(s) for crimes committed on or after November 1, 1989 (Sentencing Guidelines), based on earned time sentence reduction credits earned through the last review period and a projected full compliance of earned time sentence reduction credits on the remaining sentence to be served.

(28) Qualifying ORS 137.635 Conviction: Conviction of a crime listed in 137.635 that was committed following a predicate conviction of any of the ten crimes listed in 137.635.

(29) Release Date Adjustment Form (CD 1417): A standardized form used by the Department of Corrections for documentation of the request and approval/disapproval for early release as authorized by the Department of Corrections.

(30) Revocation Sanction: A term of incarceration or confinement designated by the Board of Parole and Post-Prison Supervision (or its designee) for violation of conditions of parole and post-prison supervision.

(31) Sentence: The punishment given to a person who has been convicted (i.e. found to be guilty) of a crime.

(a) Sentencing Guidelines Sentences: For purposes of these rules and Department of Corrections sentence computation, "sentence" means the length of incarceration time within a Department of Corrections facility, as established by the court in the judgment.

(b) Pre-Sentencing Guidelines Sentences: The length of time an inmate is ordered to the legal and physical custody of the Department of Corrections, up to the maximum indeterminate amount authorized by Oregon law, as established by the court in the judgment and reduced by statutory and extra good time credits.

(32) Sentencing Guidelines Sentences: Sentences imposed for crimes committed on or after November 1, 1989.

(33) Statutory Good Time Credits: Prison term reduction credits granted to an inmate sentenced for crimes committed prior to November 1, 1989, (Non-Sentencing Guidelines), pursuant to ORS 421.120(1)(a) and (1)(b), and these rules.

(34) Time Served Certification: A signed statement by a sheriff of the number of days an inmate was imprisoned prior to delivery of the inmate to a Department of Corrections facility.

(35) Time Served Credits: Pre-sentence time an inmate is confined in a county jail prior to sentencing, as certified in accordance with this rule. Time served credits also include time confined in jail between sentencing and arrival at a Department of Corrections intake facility.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075
Hist.: CD 23-1983, f. & ef. 5-2-83; CD 51-1985, f. & ef. 8-16-85; CD 45-1986, f. & ef. 10-21-86; CD 7-1989, f. & cert. ef. 5-25-89; CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05; DOC 9-2006(T), f. & cert. ef. 8-7-06 thru 2-3-07; DOC 1-2007, f. 1-31-07, cert. ef. 2-1-07

291-100-0013

Admissions

(1) In-State Commitments:

(a) Intake Facility: The Coffee Creek Correctional Facility is the general intake facility for male and female inmates committed to the Oregon Department of Corrections except as outlined in (c), (d) and (h)–(j) below.

(b) Pursuant to ORS 137.320(1), the sheriff shall deliver with the inmate a copy of the judgment and a time served certification. Pursuant to ORS 137.315, the sentencing court or the sheriff may transmit a notice of the judgment by electronic telecommunication, as long as the notice is followed by a duplicate or photographic copy of the judgment.

(c) Male inmates sentenced to death will be delivered by the sheriff to the Oregon State Penitentiary. Female inmates sentenced to death will be delivered by the sheriff to the Coffee Creek Correctional Facility.

(d) In extraordinary circumstances where intensive confinement or special immediate treatment of an inmate is essential; e.g., medical/mental health problems, the sheriff may deliver the inmate directly to an approved department facility other than the designated department intake facility. In such cases, the sheriff must obtain prior approval by contacting the Department of Correction's Population Management Administrator or designee.

(e) Upon receipt of the judgment and the time served certification, the Offender Information and Sentence Computation Unit (OISC) staff will establish a case file and compute the inmate's sentence. After the case file is established and the inmate's sentence is computed, OISC staff will send a copy of the face sheet, judgment, and time served certification to the Board of Parole and Post-Prison Supervision.

(f) In the event the sheriff does not deliver a time served certification with the inmate, the department will accept a time served certification by fax, mail, or teletype at OISC.

(g) If a time served certification is received after admission of the inmate, the OISC staff designated to perform sentence calculation shall amend the sentence computation pursuant to ORS 137.370 and send a copy of the amended face sheet, along with the new time served certification to the Board of Parole and Post-Prison Supervision.

(h) Parole violators will be accepted at the designated Department of Corrections intake facility with a revocation order issued by the Board of Parole and Post-Prison Supervision chairperson, or for a Board of Parole and Post-Prison Supervision warrant from out-of-state.

(i) A post-prison supervision violator is to be returned to the appropriate Department of Corrections intake facility by Community Corrections Branch staff or the county sheriff upon receipt of authorization from the Board of Parole and Post-Prison Supervision. The authorization must include the date of arrest, suspend and detain, revocation, the days to be served on the violation sanction and the sanction release date, or pending future disposition hearing.

(j) Inmates being returned from escape will be accepted at the Department of Corrections intake facility or other designated Department of Corrections facility (as approved) upon verification of escape status and positive identification.

(2) Concurrent/Consecutive Ghosts:

(a) Pursuant to ORS 137.320(2), if an inmate is surrendered to another state or federal authority after sentencing, the sheriff shall forward to the OISC Unit at the Department of Corrections intake facility a copy of the judgment, a statement of the number of days the inmate was imprisoned in the county jail prior to surrender and an identification of the authority to whom the prisoner was surrendered.

(b) Upon receipt of the judgment and the time served certification, OISC staff will establish a case file and compute the inmate's sentence(s). After the case file is established and the inmate's sentence(s) is computed, OISC staff will send a copy of the face sheet, judgment, and time served certification to the Board of Parole and Post-Prison Supervision.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075
Hist.: CD 23-1983, f. & ef. 5-2-83; CD 24-1983(Temp), f. & ef. 7-11-83; CD 44-1983, f. & ef. 11-4-83; CD 51-1985, f. & ef. 8-16-85; CD 45-1986, f. & ef. 10-21-86; CD 7-1989, f. & cert. ef. 5-25-89; CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0070

First/Last Day Credit

(1) An inmate will receive a full day of credit for the date of commitment to the department.

(2) An inmate will receive a full day of credit for the last day of the sentence in a department facility.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075
Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0080

Credit for Pre-sentence Time Served (ORS 137.370)

(1) OISC must receive time served certifications directly from the county sheriff or other qualified certifying authority. Time served certifications will not be accepted from an inmate. Time served must be certified by the custodial authority.

(2) It is the inmate's responsibility to direct inquiries to OISC regarding pre-sentence time served certified by the county if he/she believes it does not include all the time they were confined in that county's jail. Form letters for this purpose will be available at the institution law library.

(3) Pursuant to ORS 137.320(3) and 137.370:

(a) An inmate will receive time served credit only for the actual number of days confined after arrest in a county jail or other non-Department of Corrections facility (as authorized by statute) as a result of the charge or of the conduct which gave rise to the charge for which the sentence is later imposed. Credit will be given only for the presentence time the inmate was confined in the county jail or other non-Department of Corrections facility (as authorized by statute). The days must be certified by the county sheriff or other qualified certifying authority, or if the time served certification is erroneous (for example, days certified when the inmate was not actually confined in that county's jail), as can be verified.

(b) An inmate will receive time served credit for time confined in a county jail or other non-Department of Corrections facility (as authorized by statute) against only the first of multiple consecutive sentences unless different dates are indicated for the consecutive sentences.

(c) An inmate will receive time served credit for time confined in a county jail or other non-Department of Corrections facility (as authorized by statute) against each of multiple concurrent sentences, if certified individually by case number.

(d) An inmate will not receive time served credit for the time the inmate is incarcerated in a Department of Corrections facility while awaiting trial and sentencing on additional criminal charges against the incarceration term arising out of those additional charges.

(e) An inmate will not receive time served credit on a department sentence if, while incarcerated in the county jail, the inmate was serving an existing department sentence, probation, parole or post-prison supervision revocation sanction, county jail sentence, or other state or federal sentence.

(f) An inmate will not receive time served credit for time in custody on a warrant or detainer unless that custody is the sole result of the warrant/detainer.

(g) An inmate will not receive time served credit for time not confined in the county jail, such as time spent on house arrest, electronic monitoring, or in a county work release program.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0085

Credit for Time Served Toward a Probationary Sentence (ORS 137.372(2))

An inmate who has been ordered confined as part of a probationary sentence for a crime committed on or after July 18, 1995, shall receive credit for time served in jail after arrest and before commencement of the probationary term unless the sentencing judge orders otherwise.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0090

Credit for Time Served Toward a Probation Revocation Sentence

(1) Time served as a condition of probation:

(a) Crimes committed prior to November 1, 1989: Pursuant to *former* ORS 137.550, an inmate will receive credit for time served as a condition of probation pursuant to 137.540 against the incarceration term of any subsequent sentence resulting from revocation of probation. Time served includes jail good time and work time credits as certified.

(b) Crimes committed on or after November 1, 1989 and judgments entered prior to July 18, 1995: Pursuant to ORS 137.372 and *former* 137.550(6), an inmate will receive credit for time served as a condition of probation pursuant to 137.540, or as part of a probationary sentence pursuant to the rules of the Oregon Criminal Justice Commission, against the incarceration term of any subsequent sentence resulting from revocation of probation only if ordered by the sentencing judge in the judgment. Time thus served includes jail good time and work time credits as certified.

(c) Crimes committed on or after November 1, 1989 and judgments entered on or after July 18, 1995: Pursuant to ORS 137.372, *former* 137.550(6), and 137.545(7), an inmate will receive credit for time served as a condition of probation pursuant to 137.540, or as part of a probationary sentence pursuant to the rules of the Oregon Criminal Justice Commission, against the incarceration term of any subsequent sentence resulting from revocation of probation unless the sentencing judge orders otherwise in the judgment. Time thus served includes jail good time and work time credits as certified.

(2) Time served prior to commencement of probation:

(a) Pursuant to ORS 137.370(2)(a), an inmate who has been revoked from a probationary sentence for a crime committed on or after November 1, 1989 and prior to July 18, 1995, will receive credit for the time served in jail after arrest and before commencement of the probationary sentence.

(b) Pursuant to ORS 137.370(2)(a) and 137.372(1), an inmate who has been revoked from a probationary sentence for a crime committed on or after July 18, 1995, will receive credit for the time served in jail after arrest and before commencement of the probationary sentence unless the sentencing judge orders otherwise.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0100

Prison Term and Sentence Reduction Credits

(1) Statutory Good Time and Extra Good Time Credits: Each inmate confined in execution of the judgment of sentence upon any conviction for a crime committed prior to November 1, 1989, for any term other than life, and whose record of conduct shows that the inmate faithfully has observed the rules of the institution, shall be entitled to a deduction from the term of sentence to be computed in accordance with ORS 421.120(1), 421.122, and the department's rule on **Prison Term Modification**, OAR 291-097.

(2) Earned Time Credits: Each inmate sentenced to the custody of the Department of Corrections for felonies committed on or after November 1, 1989 under Sentencing Guidelines, except those inmates subject to the provisions of ORS 137.635, any other Oregon statutes restricting earned time credits, or those inmates serving a term of incarceration as a sanction for violation of conditions of post-prison supervision, shall be eligible to earn sentence reduction credits up to 20 percent of the total sentencing guidelines incarceration term for acceptable participation in work and self-improvement programs in accordance with the Oregon Corrections Plan, as well as maintaining appropriate institution conduct, in accordance with ORS 421.121 and the department rule on **Prison Term Modification**, OAR 291-097.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0105

ORS 137.700 and 137.707

When a person is convicted of an offense listed in ORS 137.700 or 137.707 for a crime committed on or after the effective dates listed in 137.700 and 137.707, the person shall serve the entire term imposed by the court and is not eligible for earned time, work release, alternative incarceration programs, release on post prison supervision or any form of temporary leave from custody during the service of the term of imprisonment in accordance with 137.700, 137.707 and the department's rules on Prison Term Modification, OAR 291-097; Work Release Programs, OAR 291-149; Alternative Incarceration Programs, OAR 291-062 and Short-Term Transitional Leaves, Emergency Leaves and Supervised Trips, OAR 291-063.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0110

Ballot Measure 4 Sentences (ORS 137.635)

(1) Prior Convictions for ORS 137.635 Predicate Crimes:

(a) For purposes of ORS 137.635, an inmate has a prior conviction for an 137.635 predicate crime if the inmate committed and was previously convicted for one of the crimes listed in 137.635 prior to the commission of an 137.635 crime for which the inmate is currently sentenced.

(b) A prior conviction for an ORS 137.635 predicate crime may have occurred either before, or on or after January 1, 1990, the effective date of 137.635.

(c) A prior conviction for an ORS 137.635 predicate crime may be a prior conviction from another state or federal jurisdiction that is the equivalent of a listed 137.635 felony crime.

(d) Determination of a prior conviction for an ORS 137.635 predicate crime:

(A) For crimes committed on or after January 1, 1990 with judgments entered prior to August 23, 1993, OISC staff will determine whether an inmate has a qualifying prior conviction for an ORS 137.635 predicate crime and whether an inmate is subject to the sentencing provisions of 137.635. If a prior conviction for an 137.635 predicate crime is from another state or federal jurisdiction, OISC staff will obtain documents necessary to verify that the ele-

ments of the predicate felony crime for which the inmate was previously convicted are identical to the elements of one or more of the ten felony crimes listed in 137.635.

(B) For crimes committed on or after January 1, 1990 with judgments entered on or after August 23, 1993, the court will determine whether an inmate has a qualifying prior conviction for an ORS 137.635 predicate crime and whether an inmate is subject to the sentencing provisions of 137.635.

(2) Qualifying ORS 137.635 Convictions:

(a) An inmate who is currently convicted of one or more ORS 137.635 crimes committed on or after January 1, 1990, who is sentenced by the court to a determinate sentence and who has a prior conviction for an ORS 137.635 predicate crime is subject to the sentence computation requirements of 137.635 on the qualifying second or repeat conviction.

(b) An inmate who receives two or more qualifying ORS 137.635 convictions arising out of the same criminal episode (e.g., convictions are separate counts in the same criminal case, convictions arise in the same court appearance), is not subject to an ORS 137.635 sentence as a result of the convictions, unless the inmate has a prior conviction for an ORS 137.635 predicate crime.

(3) Sentence Computation of ORS 137.635 Sentences:

(a) The incarceration term of a current determinate ORS 137.635 sentence is determined by the court as indicated in the judgment committing the offender to the legal and physical custody of the Department of Corrections.

(b) An inmate that is determined to be subject to an ORS 137.635 sentence shall serve the entire incarceration term of the sentence imposed by the court, and is not eligible to earn sentence reduction credits (i.e., earned time) during service of the qualifying ORS 137.635 sentence.

(c) An inmate that is determined to be subject to an ORS 137.635 sentence is not eligible for parole, earned time, work release, alternative incarceration programs, release on post prison supervision or any form of temporary leave from custody, including medical leave, during the service of the term of imprisonment in accordance with 137.635, and the department's rules on Prison Term Modification, OAR 291-097; Work Release Programs, OAR 291-149; Alternative Incarceration Programs, OAR 291-062; and Short-Term Transitional Leaves, Emergency Leaves and Supervised Trips, OAR 291-063.

(d) An inmate serving a sentence for a predicate conviction for a crime committed on or after November 1, 1989, may be eligible for earned time credits on that prior sentence pursuant to ORS 421.121, but not during service of the qualifying ORS 137.635 sentence.

(e) An inmate serving a sentence for a predicate conviction for a crime committed prior to November 1, 1989, may be eligible for statutory good time and extra good time credits on that prior sentence pursuant to ORS 421.120(1) and 421.122 and in accordance with the department's rule on **Prison Term Modification**, OAR 291-097.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; CD 5-1994, f. 2-18-94, cert. ef. 3-1-94; DOC 22-1998(Temp), f. & cert. ef. 12-23-98 thru 6-21-99; DOC 6-1999, f. 3-26-99, cert. ef. 4-1-99; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0115

ORS 137.750 (Sentences Imposed for Crimes Committed on or After December 5, 1996)

(1) Pursuant to ORS 137.750, when the court sentences a defendant for any crime committed on or after December 5, 1996, the court must order on the record in open court if the defendant may be eligible for any form of temporary leave from custody, reduction in sentence, work release, alternative incarceration program or program of conditional or supervised release.

(2) The Department of Corrections may consider the inmate for any form of temporary leave, sentence reduction credits, work release, alternative incarceration programs, or programs of condi-

tional or supervised release, only upon order of the sentencing court appearing in the judgment.

(3) The Department of Corrections will not consider an inmate eligible for ORS 137.750 programming unless a sentencing court specifically orders, in writing, that the inmate is eligible for such program(s) in the judgment.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0120

ORS 161.610 Gun Minimums

(1) Pre-Sentencing Guidelines:

(a) Pursuant to ORS 161.610, inmates serving a sentence(s) for crime(s) committed prior to November 1, 1989, containing an ORS 161.610 gun minimum incarceration term will begin the gun minimum incarceration term on the begin date of the sentence, less eligible time served credits.

(b) Inmates serving an ORS 161.610 minimum incarceration term shall not become eligible for work release or parole until the minimum incarceration term, less reductions for statutory good time, is served.

(c) Inmates shall be released upon completion of the ORS 161.610 minimum incarceration term, or upon the parole release date, whichever is longer.

(2) Sentencing Guidelines Sentences:

(a) Pursuant to ORS 137.637, inmates serving a sentence(s) for crime(s) committed on or after November 1, 1989, containing an ORS 161.610 gun enhancement penalty shall have their sentence release date computed on the determinate sentence imposed less earned time under 421.121, or the presumptive sentence as provided by the rules of the Oregon Criminal Justice Commission, whichever is longer.

(b) Inmates serving an ORS 161.610 minimum incarceration term will not be eligible for work release, alternative incarceration programs, release on post-prison supervision or any form of temporary leave from custody during the service of the term of imprisonment in accordance with the department's rules on Prison Term Modification, OAR 291-097; Work Release Programs, OAR 291-149; Alternative Incarceration Programs, OAR 291-062 and Short-Term Transitional Leaves, Emergency Leaves and Supervised Trips, OAR 291-063.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0130

Computation of "Inoperative Time"

(1) Pursuant to 137.370(2), time on escape or on "suspend" status from transitional leave outside a Department of Corrections or other assigned facility status will not be credited toward service of a department sentence.

(2) An inmate's service of a department sentence ceases on the date that the inmate escapes from a Department of Corrections or other assigned facility or on the date that transitional leave is suspended. A full day of credit will be given for the day of escape or for the day transitional leave is suspended. The inmate's sentence commences to run again on the date the inmate is incarcerated in an Oregon county jail with a full day of credit given for the day of incarceration in an Oregon county jail, with earned time calculated in accordance with OAR 291-097-0020(8). If Oregon county jail incarceration information cannot be obtained or verified by the department, the inmate's sentence commences to run again on the date the inmate is incarcerated in a Department of Corrections facility.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05; DOC 9-2006(T), f. & cert. ef. 8-7-06 thru 2-3-07; DOC 1-2007, f. 1-31-07, cert. ef. 2-1-07

291-100-0140

Computation of Sentences for Parole Violators

(1) Upon parole revocation, the suspend, revocation, and arrest dates provided by the Board of Parole and Post-Prison Supervision will be used by OISC staff to calculate new good time and maximum sentence expiration dates.

(2) A new sentence received by a parolee who has been returned to the Department of Corrections without revocation will be calculated in the same manner as a new commitment.

(3) Inmates paroled before September 13, 1975, who are revoked and returned to a Department of Corrections facility will not receive any credit toward their indeterminate sentence(s) for time served on parole prior to the revocation.

(4) Pursuant to former ORS 144.390 (repealed 1975 Oregon Laws, Chapter 589), inmates paroled on or after September 13, 1975, who are revoked and returned to a Department of Corrections intake facility will receive credit toward their indeterminate sentence for time served on parole prior to revocation, except inoperative time.

(5) Absconders from parole will cease to accrue time served on parole toward their indeterminate sentence as of the date of issuance of the parole suspend warrant. Parole time resumes upon arrest in Oregon for the abscond warrant. If the absconder is arrested out of state, parole time resumes upon return to the Department of Corrections intake facility or placement in an Oregon local correctional facility (as approved).

(6) All previously granted statutory good time and extra good time credits are forfeited upon revocation of parole.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0150

Release

(1) An inmate shall not be released from confinement in a Department of Corrections facility except as authorized in writing by an appropriate releasing authority.

(2) Inmates serving a sentence(s) for crime(s) committed on or after November 1, 1989, shall be released from confinement on that sentence(s) only upon completion of their incarceration term, or upon receipt and verification of:

(a) A court order or judgment requiring the inmate's release; or

(b) A commutation or pardon order issued by the Governor requiring the inmate's release.

(c) An order of release to post-prison supervision issued by the Board of Parole and Post-Prison Supervision for those sentences (in accordance with statutes) the Board has release authority over.

(3) Inmates serving a sentence(s) for crime(s) committed prior to November 1, 1989, shall be released from confinement on that sentence(s) only upon:

(a) Receipt and verification of:

(A) An order of parole release issued by the Board of Parole and Post-Prison Supervision; or

(B) An order of parole-like release six months prior to the inmate's good time date in the event an inmate refuses parole for crimes committed prior to September 20, 1985; or

(C) A court order or judgment requiring the inmate's release; or

(D) A commutation or pardon order issued by the Governor requiring the inmate's release.

(b) Discharge of sentence, upon:

(A) The good time date, when the good time date is reached on or before a parole release date set by the Board of Parole and Post-Prison Supervision; or

(B) The good time date, when the good time date is reached and the offender has refused parole, for crimes committed prior to September 20, 1985.

(C) Compelled parole pursuant to ORS 144.245(2) for crimes committed on or after September 20, 1985 and prior to November 1, 1989.

(4) OISC staff shall receive and distribute to the Department of Corrections facility having physical custody of the inmate, any verified court order or judgment requiring the inmate's release.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: CD 23-1993, f. 9-16-93, cert. ef. 9-20-93; DOC 2-2002(Temp), f. & cert. ef. 1-15-02 thru 7-14-02; DOC 9-2002, f. & cert. ef. 7-12-02; DOC 5-2005, f. & cert. ef. 4-13-05

291-100-0160

Adjusted Release Date

(1) Pursuant to ORS 137.375, when an inmate's release date falls on a Saturday, Sunday or legal holiday, the inmate shall be released at the discretion of the releasing authority, on the first, second, or third day preceding the date of release which is not a Saturday, Sunday or legal holiday. The inmate may be released on the Wednesday or Thursday immediately prior to the release date if the release date interferes with community supervision or transitional planning.

(2) Approval Process: To request an adjusted release, the following process will occur:

(a) The institution counselor shall send the release plan/packet to the county community corrections office when the inmate has no less than 90 days remaining prior to their scheduled release. If the institution counselor determines a Friday release could be problematic, he/she will note this on the release plan/packet with a brief explanation why; i.e., bus schedule. The institution counselor shall document all early release actions in the computer system.

(b) Upon receiving the release plan/packet, community corrections staff shall request an early release by submitting a written request to the institution counselor when there is no less than 60 days remaining prior to the projected release date. In the written request, community corrections staff shall indicate a preferred release date (Wednesday or Thursday), briefly explain circumstances that make the release date problematic, briefly describe why the release date may interfere with community supervision or transitional planning, and briefly describe a plan for receiving the inmate. Community corrections staff should document all early release actions in the computer system (chronos).

(c) Upon receiving an adjusted release request from community corrections staff, the institution counselor shall submit a Release Date Adjustment form (CD 1417) to the designated Central Office staff for approval within 14 days of receiving the request from the county community corrections. The institution counselor shall document in the computer system (chronos) that an early release request was received from community corrections staff and a Release Date Adjustment form was submitted to Central Office.

(d) Upon receiving an adjusted release request from an institution counselor, the designated Central Office staff shall respond to the institution counselor within seven days of receiving the request. Realizing that situations change, requests not received within the above timeframes will be considered on a case-by-case basis.

(3) Communication Process:

(a) Upon approval of the requested adjusted release by the designated Central Office staff, the institution counselor will notify the county community corrections office, Board of Parole and Post-Prison Supervision, and inmate of the new release date. The counselor will also notify OISC of the new release date by providing the facility's OISC institution office with a copy of the approved Release Date Adjustment form.

(b) If the adjusted release is denied by the designated Central Office staff, the institution counselor will notify the county community corrections office and inmate of the denial and provide the facility's OISC institution office with a signed copy of the denied Release Date Adjustment form.

(c) If a release date changes and there is no longer a need for an adjusted release date, the designated Central Office staff will write "canceled" across the top of the Adjusted Release Date form

and send a copy to the institution counselor who will forward a copy to the county community corrections office, Board of Parole and Post-Prison Supervision, inmate, and the facility's OISC institution office.

Stat. Auth.: ORS 137, 144, 161.620, 179.040, 421, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137, 144, 161.610, 179.050, 421, 423.020, 423.030 & 423.075

Hist.: DOC 5-2005, f. & cert. ef. 4-13-05

DIVISION 104

CLASSIFICATION (INMATE)

291-104-0106

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to:

(a) Establish Department of Corrections policy and procedures for identifying and assigning an appropriate custody level to each inmate committed or transferred to the Department of Corrections and housed in a Department of Corrections operated or contracted facility or those adult-sentenced youths in the custody of Oregon Youth Authority;

(b) Provide information for population management and planning; and

(c) Provide information to support the appropriate distribution of correctional resources for both inmate and agency needs.

(3) Policy:

(a) Custody Level: It is the policy of the Department of Corrections to assign each inmate committed or transferred to the custody of the department the lowest custody level deemed appropriate and to:

(A) Provide the amount of supervision necessary to account for the inmate's whereabouts;

(B) Provide for the safe, secure, and orderly operation of Department of Corrections facilities;

(C) Provide reasonable protection to the general community, staff, and inmate population;

(D) Allow each inmate to exercise independent responsibility commensurate with his or her demonstrated ability and behavior; and

(E) Ensure the provision of appropriate inmate health care, mental health treatment, education, and work programs.

(b) Housing Assignments: It is the policy of the Department of Corrections to assign an inmate housing consistent with his/her custody level, demonstrated behavior, and special needs. No Level 5 inmates shall be housed in a general population housing unit.

(c) The following classification terminology directly corresponds when interpreting DOC administrative rules, policies, or procedures:

(A) Level 5 — Maximum.

(B) Level 4 — Close.

(C) Level 3 — Medium.

(D) Level 2 — Minimum.

(E) Level 1 — Minimum.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 2-1989, f. & cert. ef. 2-6-89; CD 14-1991, f. & cert. ef. 6-7-91; CD 18-1993, f. 6-7-93, cert. ef. 6-9-93; CD 20-1994, f. 9-21-94, cert. ef. 10-1-94; DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; Renumbered from 291-104-0005, DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08

291-104-0111

Definitions for OAR 291-104-0106 to 291-104-0140

(1) Administrative Review: A review of classification scoring, classification level, or classification override requested by an inmate and completed by the designated institution committee, facility functional unit manager, or Classification Manager.

(2) Arrest: For the purposes of these rules, arrest means placing a person under full custody (i.e. after being fully restrained

or after being placed in a law enforcement vehicle for transport) for the purpose of charging that person with an offense.

(3) Classification Action: Initiation of initial classification, classification review, or classification override to determine an inmate's custody classification level.

(4) Classification Manager: A Department of Corrections employee responsible for the development, implementation, training, auditing, oversight and management of the classification function within the department.

(5) Classification Review: The process used by the department to re-evaluate an inmate's assigned custody classification level. The assigned custody classification level may be changed as a result of the review.

(6) Corrections Information System (CIS): A computer system dedicated to tracking information critical to the management of inmates and offenders under the custody, supervision or both of the Department of Corrections.

(7) Custody: As it relates to escape, a person is in custody if a peace officer has placed the person under arrest for the purpose of charging that person with an offense.

(8) Custody Classification Guide (Attachment 1): Criteria and guidelines that assist in understanding an inmate's assigned custody classification level utilizing scoring elements determined by the Department of Corrections.

(9) Custody Classification Level: One of five levels of supervision assigned to an inmate through initial and classification review procedures.

(a) Level 5: An inmate assigned at this custody classification level meets one of the following criteria:

(A) Has demonstrated behaviors causing serious management concerns, or has demonstrated behaviors that in the judgment of the department present a threat sufficient to require special security housing on intensive management status.

(B) Has a sentence of death or is pending retrial in a case in which a sentence of death may be re-imposed.

(C) Has a pending trial for a case in which a sentence of death may be imposed.

(D) Is under investigation for or has been charged with the in-custody murder of another inmate or staff.

(b) Level 4: An inmate assigned at this custody classification level presents a serious risk of escape or institutional violence, or has time remaining of more than 120 months to life, with or without parole.

(c) Level 3: An inmate assigned at this custody classification level presents a moderate risk of escape, has a Level 3 detainer, has demonstrated behavior causing moderate management concern, or has time remaining of more than 48 to 120 months.

(d) Level 2: An inmate assigned at this custody classification level presents a limited risk of escape, or has demonstrated behavior causing limited management concern, and has time remaining of less than 48 months.

(e) Level 1: An inmate assigned at this custody classification level presents a minimal risk of escape, meets the criteria for Detainer-Not Applicable, has demonstrated behavior causing minimal management concern and has time remaining of less than 48 months.

(10) Department of Corrections (DOC) Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(11) Designators: Information, alerts or statutory designations important for sentence computation and crucial to determining work crew eligibility, unfenced housing assignment, and the management of inmates and offenders both in institutions and in the community.

(12) Escape:

(a) For purposes of these rules, escape means an unlawful departure of a person from custody (as defined herein); or escape, attempted escape, or conspiracy to escape from any correctional facility, including state, federal, county or juvenile facilities; or

departure and failure to return to any facility in which a person was court ordered to reside.

(b) Escape includes the unauthorized departure or absence from this state by a person who is under the jurisdiction of the Psychiatric Security Review Board, or under the jurisdiction of the Oregon Health Authority under ORS 161.315 to 161.351; abscond while on temporary release or transitional leave from a facility; or escape, attempted escape or conspiracy to escape from the custody of officials while in a legitimate criminal justice building for a court appearance.

(13) Initial Classification: The process used by the Department of Corrections to assign an inmate a custody level upon his/her admission to the physical custody of the Department.

(14) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(15) Office of Population Management: A functional unit of the department that oversees capacity and resource management, the inmate classification system, high risk inmate placement, Interstate Corrections Compact, treatment and program screening, Oregon Youth Authority/ghost caseloads, centralized Static 99R assessments, centralized transfer authority, and state and inmate conflict review.

(16) Override: An option utilized when there is a documented issue(s) not addressed in the classification scoring elements, or a degree of seriousness in a classification factor that justifies a higher or lower custody classification level than indicated by the classification action.

(17) Peace Officer: A civil officer appointed to preserve law and order, such as a sheriff, police officer, or parole officer.

(18) Policy Elements: Areas of potential risk that determine the inmate's custody classification level: escape history, sentence remaining, detainees, and institutional behavior.

(19) Serious Management Concerns: Participation either individually, or in a group, in behavior which poses a significant threat to the safe and secure operation of the facility, including, but not limited to,

- (a) Threatening or inflicting bodily injury on another person;
- (b) Posing an immediate risk of escape;
- (c) Promoting or engaging in disruptive group behavior;
- (d) Promoting security threat group activities; or
- (e) Being involved in any other activity that could significantly threaten the safe and secure operation of the facility, and that such behavior poses a sufficient threat that, in the judgment of the department, can only be adequately controlled in appropriate housing.

(20) Special Population Management (SPM) Committee: A committee composed of at least three department administrative staff to include a representative from Institution Operations, Behavioral Health Services, and the Office of Population Management.

(21) Violence Predictor Score (VPS): A score based on a mathematical equation used to determine an inmate's potential risk for violence in an institutional setting during the first twelve months of incarceration. The equation includes calculations based on an inmate's age, gender, prior incarcerations, type of crime, aggression, drug history, and certain personality disorders.

[ED. NOTE: Attachments referenced are available from the agency.]

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075

Stat Impl: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 11-2012(Temp), f. & cert. ef. 11-5-12 thru 5-4-13; DOC 4-2013, f. & cert. ef. 4-15-13; DOC 9-2013(Temp), f. & cert. ef. 10-23-13 thru 4-21-14; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14; DOC 11-2014, f. & cert. ef. 5-1-14; DOC 1-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 5-2015, f. & cert. ef. 5-21-15

291-104-0116

Initial Classification

(1) The Department of Corrections shall assign inmates an initial custody level in accordance with the Custody Classification Guide (Attachment 1) or the inmate's Violence Predictor Score, whichever is higher. An inmate will generally be assigned an initial custody classification level within 30 days of admission to the physical custody of the Department of Corrections.

(2) The Violence Predictor Score is used as a classification scoring element only during the first twelve months of an inmate's incarceration in the Department of Corrections, and may be applied at the discretion of a Department of Corrections counselor after a thorough review of an inmate's records.

(3) Upon admission to the physical custody of the Department of Corrections, the inmate's assigned counselor will determine an inmate's initial custody level and forward the classification action to the functional unit manager or designee for approval.

(4) No classification action is official until the functional unit manager or designee approves the classification action.

(5) Final approval for any override of one step will be made by Intake or institution staff and shall be documented on the classification override comment screen, describing the override reason.

(6) A custody classification override of more than a single step is not official until approved by the designated institution committee and the Classification Manager or designee.

(7) A custody classification of Level 5 is not official until approved by the designated institution committee, the SPM Committee and the High Risk Placement Manager or designee.

(8) An inmate may request a copy of his/her official classification action.

(9) All official classification actions are historically recorded and maintained in the CIS system.

(10) The Office of Population Management may modify any classification. In such cases, the affected facility will be notified of the reason(s) for the modification.

[ED. NOTE: Attachments referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14; DOC 11-2014, f. & cert. ef. 5-1-14; DOC 1-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 5-2015, f. & cert. ef. 5-21-15

291-104-0125

Classification Review

(1) An inmate's custody classification level will be reviewed when new information is received that affects a classification scoring policy element or when an inmate's Violence Predictor Score has expired.

(2) Custody Classification Levels 1-4: When new information is received that affects the inmate's custody classification level, the inmate's assigned counselor will review the classification action for accuracy and forward it to the functional unit manager for approval.

(a) No classification action is official until the functional unit manager or designee approves the classification action.

(b) Final approval for any override of one step will be made at the institutional level and shall be documented on the classification override comment screen describing the override reason.

(c) Overrides of more than a single step are not official until approved by the designated institution committee and the Classification Manager or designee.

(d) An inmate may request a copy of his/her official classification action.

(e) All official classification actions are historically recorded and maintained in the CIS.

(f) The Office of Population Management may modify any classification action. In such cases, the affected facility will be formally notified of the reason(s) for the modification.

(g) Counselors may opt to review inmates with ICE detainees for override to Level 2 for placement or retention in a minimum facility.

(3) Custody Classification Level 5:

(a) When an inmate's institutional behavior is determined to create serious management concerns, the classification action will be reviewed by the designated institution committee and forwarded to the Special Population Management (SPM) Committee for review. If the SPM committee approves an inmate's classification at Level 5, the Office of Population Management will add an IMU5 designator and generate a new classification, which will be scored as custody classification Level 5.

(b) Once an inmate is assigned to custody classification Level 5, the automated classification program will maintain the inmate's Level 5 custody classification status until the IMU5 designator is removed, an IMUR designator is added, and a new classification is generated. The new classification will be scored at custody classification Level 4 for one year.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14; DOC 11-2014, f. & cert. ef. 5-1-14; DOC 1-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 5-2015, f. & cert. ef. 5-21-15

291-104-0135

Administrative Review

(1) An inmate may request an administrative review of his/her classification action by completing and submitting the Department of Corrections Request for Administrative Review form (CD1120aD) or Request for Administrative Review of IMU Level 5 Custody form (CD1120aE).

(2) Issues Subject to Administrative Review: Administrative review is available to an inmate to contest three aspects of his/her classification action:

- (a) The accuracy of custody classification levels 1-4 scoring;
- (b) An override of a scored custody classification level; or
- (c) A Level 5 custody classification.

(3) Custody Classification Level 1-4 Accuracy of Scoring:

(a) To obtain an administrative review of a Level 1-4 custody classification score, an inmate must complete the top portion of a CD1120aD form, and send the completed form, together with any supporting documentation, to the designated institution committee at the facility where the inmate is currently housed. The institution committee must receive the request within 30 calendar days of the classification approval date. The institution committee should

complete its review within 30 days after receiving an inmate's review request.

(b) If, after receiving the review decision of the designated institution committee, an inmate is not satisfied with the decision, the inmate may obtain further review of the custody classification Level 1-4 score by sending another completed CD1120aD form, together with any supporting documentation, and a copy of the institution committee's decision, to the functional unit manager or designee of the institution where the inmate is currently housed. The functional unit manager or designee must receive the review request within 30 calendar days of the institution committee's review decision. The functional unit manager or designee should complete his/her review within 30 days after receiving the inmate's review request. There shall be no further administrative review of a custody classification Level 1-4 score.

(c) Inmates engaged in the intake process may not submit a request for review of their custody classification score until they are no longer housed at the Intake Center.

(4) Override of a Scored Custody Classification Level 1-4: To obtain an administrative review of classification that has been overridden at the institution level, an inmate must complete the bottom portion of a CD1120aD form and send the completed form to the Classification Manager, together with any supporting documentation. The Classification Manager must receive the review request within 30 calendar days of the classification action approval date. The Classification Manager should complete the review within 30 days after receiving an inmate's review request. There shall be no further administrative review of an override decision.

(5) Level Five:

(a) To obtain an administrative review of a Level 5 custody classification, an inmate must complete the CD1120aD form and send it to the Classification Manager. The request for review by the inmate shall include any supporting documentation to be considered in reviewing the appropriateness of the Level 5 custody classification.

(b) If an inmate has been assigned to the Intensive Management Unit (IMU), the matter shall be reviewed only once while the inmate is completing IMU programming.

(c) If an inmate has been assigned to IMU and retained at custody Level 5 due to serious management concerns, the inmate will be provided a packet containing a Request for Administrative Review of Retention at Custody Classification Level 5/IMU (CD1120aE). An inmate may request further review of the Level 5 custody classification once annually.

(6) A copy of administrative review decisions will be provided to the inmate and retained in the inmate's institution file.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14; DOC 11-2014, f. & cert. ef. 5-1-14; DOC 1-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 5-2015, f. & cert. ef. 5-21-15

291-104-0140

Classification Quality Assurance Review

(1) The Classification Manager is responsible for reviewing facility classification procedures and decisions.

(2) Reviewing shall consist of routine review of custody Level 1 and 2 placements and review of individual classification actions at each facility. Such reviews shall be conducted to ensure:

(a) The policies and procedures set forth in this rule are followed; and

(b) The actions taken by the facility are adequately documented.

(3) Findings inconsistent with rule and established procedures shall be documented and reported to the appropriate functional unit manager or to the Institution Administrator(s) for corrective action.

(4) The Classification Manager is responsible to review the last classification action for any inmate who is involved in an escape or escape attempt from a Department of Corrections facility and to submit a report to the Operations Division Institution Administrators.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14; DOC 11-2014, f. & cert. ef. 5-1-14; DOC 1-2015(Temp), f. & cert. ef. 1-6-15 thru 7-3-15; DOC 5-2015, f. & cert. ef. 5-21-15

DIVISION 105

PROHIBITED INMATE CONDUCT AND PROCESSING DISCIPLINARY ACTIONS

291-105-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.068, 421.180, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to define the rules of conduct governing inmates and outline the procedures to be followed in processing disciplinary action(s).

(3) Policy:

(a) It is the policy of the Department of Corrections to hold inmates accountable for misconduct while incarcerated, and to promote and reinforce pro-social behavior by inmates, through a system of disciplinary rules and procedures that embrace the Oregon Accountability Model.

(b) Inmates in Department of Corrections facilities shall be disciplined for violation of specified rules of prohibited inmate conduct in accordance with the procedures set forth in these rules. The primary objectives of these rules are:

(A) To provide for the safe, secure, efficient, and orderly management of Department of Corrections facilities, specifically including the safety and security of Department employees, inmates, and property of the Department of Corrections;

(B) To establish norms of acceptable inmate conduct, and consistent and fair procedures for the processing of inmate misconduct reports and the imposition of disciplinary sanctions, which are understood by both employees and inmates alike;

(C) To establish a comprehensive range of appropriate disciplinary sanctions for violation of the rules of prohibited inmate conduct; and

(D) To provide a consistent Departmental response to like types of misconduct committed by inmates with similar misconduct histories.

(c) To promote these objectives, the rules define appropriate disciplinary sanctions for each rule violation on a disciplinary sanction grid. Inmates found in violation of the rules of prohibited inmate conduct are disciplined in accordance with the sanction grid, subject to deviation upon order of the hearings officer, functional unit manager, or his/her designee for substantial reasons.

(d) The Department intends that the authorization in OAR 291-105-0100 to withdraw an order and direct the disciplinary hearing to be reopened applies retroactively to disciplinary orders issued on, before, or after the effective date of the rule.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Hist.: CD 7-1979, f. & ef. 3-14-79; CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 11-2011(Temp), f. & cert. ef. 6-10-11 thru 12-7-11; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0010

Definitions

(1) Adjudicator: The assigned employee within the facility responsible for the disposition of all informal hearings and minor misconduct reports that are to be adjudicated without a formal hearing.

(2) Attempt: Conduct which constitutes a substantial step towards the commission of a rule violation.

(3) Calendar Day: All weekdays, weekends, and holidays.

(4) Conduct Order: An Oregon Department of Corrections form CD 708, that allows restriction of an inmate's privileges for no more than 72 hours, without the need of a major or minor misconduct report disciplinary hearing, for cited rule violations, in accordance with OAR 291-105-0021(1).

(5) Conspiracy: An agreement between an inmate and one or more persons to engage in, cause, or conceal a rule violation.

(6) Contraband: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, or which the inmate is not specifically authorized to obtain or possess or which the inmate alters without authorization.

(7) Controlled Substance: A drug or its precursor as listed in ORS 475.005 through 475.999.

(8) Dangerous or Deadly Weapon: Any instrument, article or substance which is readily capable of causing death or a serious physical injury.

(9) Deadly Force: Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

(10) Department of Corrections (DOC) Employee: Any person who is full time, part time, or under temporary employment by the Department of Corrections; any person under contractual arrangement to provide services to the Department; any person employed by private or public sector agencies who is serving under Department sanctioned special assignment to provide services or support to Department programs within any Department of Corrections facility. Any person, as described above, assigned to work for a residential or extended care Corrections Treatment Program.

(11) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(12) Distribution: The transfer of contraband from one person to another (Distribution includes smuggling.)

(13) Drugs: Any controlled substance.

(14) Electronic Device: An electronic communication device capable of making or receiving wireless transmissions, including but not limited to, cell phone, pagers, or Blue-tooth enabled devices; etc.

(15) Escape Device: Any item specifically designed for, physically altered for, or readily capable of being used to facilitate an escape from a Department of Corrections facility, or from custody.

(16) Explosive: A substance which, when subjected to a suitable initiating impulse, undergoes a chemical change characterized by the liberation of heat in the formation of products which are mainly gaseous.

(17) Fine: A monetary sanction imposed in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions. Inmate fines shall be deposited in the Department of Corrections Inmate Welfare Fund as confiscated funds.

(18) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(19) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(20) Good Cause: Denoting of adequate or substantial grounds or reason to take a certain action, or fail to take an action prescribed by law. What constitutes a good cause is usually determined on a case-by-case basis and is thus relative.

(21) Harassment—Racial, Religious or Sexual: Directing offensive language or gestures toward or about another person or group or subjecting another to physical contact because of the other person's or group's race, sex, color, religion, national origin, age, marital status or disability.

(22) Hearings Officer: A DOC employee assigned to review and dispose of major, and certain minor, misconduct reports through a formal hearing.

(23) **Hostage:** A person held as security in order to obtain demands.

(24) **Inmate:** Any person under the supervision of the Department of Corrections, who is not on parole, post prison supervision, or probation status.

(25) **Intoxicants:** Any substance, including but not limited to, unauthorized medication and alcoholic beverages, which causes a disturbance of mental or physical capacity resulting from the introduction of the substance in the body. Intoxicants do not include controlled substances.

(26) **Lesser Included Violation:** Any violation which is a lesser degree of the charged violation (for example, Assault III is a lesser included violation of Assault I or Assault II. Contraband III is a lesser included violation of Contraband I or II, etc.)

(27) **Local Jail:** Any city or county lock up or local correctional facility.

(28) **Officer-in-Charge:** That person designated by the functional unit manager to supervise the facility and make operational decisions in accordance with policy, rule or procedure during periods when the functional unit manager or officer of the day are not readily available.

(29) **Order:** Any direction given to an inmate that directs or forbids the doing of some act over which the inmate has control. An order may be written, verbal or gestured communication (including all Department of Corrections functional unit rules and procedures; all federal, state and local laws; conditions of transitional leave; and court ordered terms and conditions).

(30) **Oregon Corrections Enterprises (OCE):** A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(31) **Oregon Corrections Enterprises (OCE) Employee:** Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

(32) **Physical Force:** The use of hands, other parts of the body, objects, instruments, chemical devices, electronic devices, firearms or other physical methods used to restrain, subdue, control, intimidate or to compel persons to act in a particular way or to stop acting a particular way.

(33) **Physical Injury:** Impairment of physical condition or substantial pain.

(34) **Possession:** To have physical possession of or otherwise exercise control over property.

(35) **Reimbursement:** A monetary amount ordered in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions. Reimbursement funds will be credited to the institution or program suffering fiduciary loss or cost from the inmate misconduct, and shall be the actual cost incurred.

(36) **Restitution:** A monetary amount ordered in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions. Restitution funds will be credited to the institution or program suffering fiduciary loss or cost from the inmate misconduct, and shall be the actual cost incurred.

(37) **Security Device:** Any fixture, device or tool, the purpose of which is to assist with safety or security.

(38) **Security Threat Activity:** Inmate behavior which poses a significant threat to the safe and secure operation of the facility, including but not limited to, threatening or inflicting bodily injury on another person, posing a high risk of escape, promoting or engaging in disruptive group behavior, distributing a controlled substance, or being involved in any other activity that could significantly threaten the safe and secure operation of the facility.

(39) **Security Threat Group (STG):** Any group of two or more individuals who:

(a) Have a common name, identifying symbol, or characteristic which serves to distinguish themselves from others.

(b) Have members, affiliates, or associates who individually or collectively engage, or have engaged, in a pattern of illicit activity or acts of misconduct that violates Oregon Department of Corrections rules.

(c) Have the potential to act in concert to present a threat, or potential threat, to staff, public, visitors, inmates, offenders or the secure and orderly operation of the institution.

(40) **Serious Physical Injury:** Injury that creates a substantial risk of death, causes serious and protracted disfigurement, impairment of health, loss or impairment of any bodily organ function, or death.

(41) **Sexual Activity:** Sexual contact including, but not limited to, sexual intercourse, deviate sexual intercourse, kissing, fondling, or manipulation of the genitalia, buttocks, and breasts of another person, or of oneself, in a manner that produces or is intended to produce sexual stimulation or gratification.

(42) **Short-Term Transitional Leave:** A leave for a period not to exceed 90 days preceding an established release date which allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community in accordance with ORS 421.148, 421.510 and the Department's rule on Short-Term Transitional Leave, Emergency Leaves and Supervised Trips. The Department may grant a transitional leave of up to 30 days for inmates who are not participating in an alternative incarceration program.

(43) **Temporary Segregation Status:** Placement in a disciplinary segregation unit or local jail pending disciplinary hearing.

(44) **Working Day:** Monday through Friday, excluding weekends and holidays.

(45) **Working File:** Those documents maintained in a Department of Corrections facility or community corrections office for administrative and case management purposes.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030, 423.075
 Hist.: CD 7-1979, f. & ef. 3-14-79; CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 38-1987, f. & ef. 10-2-87; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 28-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 16-2000, f. & cert. ef. 6-19-00; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0013

Inmate Access to the Rules of Prohibited Conduct

During the reception and orientation process inmates will be provided with the rules on Prohibited Conduct and a notice of inmate rights in a disciplinary hearing. Spanish speaking inmates will receive a copy in Spanish; other inmates with a language barrier will receive assistance from an individual who speaks their language. Inmates with a visual, speech or hearing disability shall be provided with assistance appropriate to the degree of their disability. In addition, copies of OAR 291-105-0005 through 291-105-0100 will be posted in the legal library, and general library of each facility, available for review by inmates, and copies can be obtained from either the Rules Coordinator upon request at the rate of \$.50 per page pursuant to the Department of Corrections rule on Release of Public Records, or from the library coordinator upon request at the rate of \$.10 per page, as pursuant to the Department of Corrections rule on Legal Affairs (Inmate).

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
 Hist.: CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD

291-105-0015

Rules of Misconduct

(1) Violations Involving Property

(a) **1.01 Arson:** An inmate commits arson if he/she starts an unauthorized fire or causes an explosion.

(b) **1.05 Property I:** An inmate commits Property I when he/she, except as authorized by a DOC or OCE employee, destroys, abuses, alters, damages, defaces, misuses, tampers with, or wastes materials or property, or fails to properly protect or produce property issued to him/her in a timely manner and:

(A) **1.05.01** The property involved exceeds \$75 in value; or

(B) **1.05.02** The misconduct involves the functioning of a security device; or

(C) **1.05.03** The misconduct involves a threat to the safety, security or orderly operation of the facility; or

(D) **1.05.04** The misconduct includes possession of an unauthorized or altered blade, such as a razor blade or pencil sharpener.

(c) **1.06 Property II** (minor violation): An inmate commits Property II when he/she, except as authorized by a DOC or OCE employee, destroys, alters, abuses, damages, defaces, misuses, tampers with or wastes materials or property or fails to properly protect or produce property issued to him/her in a timely manner.

(d) **1.10 Contraband I:** An inmate commits Contraband I if he/she:

(A) **1.10.01** Possesses any intoxicant; or

(B) **1.10.02** Possesses any drug paraphernalia; or

(C) **1.10.03** Has any controlled substance or intoxicant in his/her urine or blood, or other body parts that is found under any Department-authorized screening process such as urinalysis, breathalyzer, oral swabs, etc.; or

(D) **1.10.04** Fails to provide, refuses to submit, or submits an unacceptable urine sample for testing; or

(E) **1.10.05** Alters, substitutes, contaminates or destroys a urine sample; or

(F) **1.10.06** Possesses money in the amount of \$10 or more.

(e) **1.11 Contraband II:** An inmate commits Contraband II if he/she possesses contraband other than that listed in Contraband I (OAR 291 105 0015(d)(A-F) and Contraband III (OAR 291 105 0015(f) and it creates a threat to the safety, security or orderly operation of the facility, including but not limited to:

(A) **1.11.01** Tobacco or smoking paraphernalia, unauthorized medication, items of barter (such as jewelry or canteen items not purchased by the inmate), checks, money under \$10, or unauthorized sexually explicit material; or

(B) **1.11.02** Items that were obtained by threats of or actual theft, forgery or coercion.

(f) **1.12 Contraband III** (minor violation): An inmate commits Contraband III if he/she possesses contraband other than that listed on Contraband I (OAR 291-105-0015(d)(A-F) and Contraband II (OAR 291-105-0015(e)(A-B), including un-cancelled stamps, expired self-medication, legal material belonging to another inmate, or property in excess of that authorized by staff.

(g) **1.15 Drug Possession:** An inmate commits Drug Possession if he/she possesses a controlled substance.

(h) **1.20 Possession of Body Modification Paraphernalia:** An inmate commits Possession of Body Modification Paraphernalia if he/she possesses items capable of being used in body modification, including but not limited to motors, needles, ink.

(i) **1.25 Unauthorized Use of Information Systems I:** An inmate commits Unauthorized Use of Information Systems I if he/she operates or uses any DOC, OCE or unauthorized information system equipment including, but not limited to, terminals, personal computers, minicomputers, work stations, controllers, printers, copiers, fax machines or phones that exceeds the conditions of use or access granted by the Director, functional unit manager, or designee, as appropriate, in the following manner:

(A) **1.25.01** To send, receive, or read messages or e-mails; access the Internet, or access the AS400, DOC servers or network devices, programs, other unauthorized computer programs, etc;

(B) **1.25.02** To conduct illegitimate business activity; or

(C) **1.25.03** To do unauthorized legal work.

(j) **1.26 Unauthorized Use of Information Systems II:** An inmate commits Unauthorized Use of Information Systems II if he/she operates or uses any DOC, OCE or unauthorized information system equipment including, but not limited to, terminals, personal computers, copiers, fax machines, or phones that exceeds the conditions of use or access granted by the Director, functional unit manager, or designee, as appropriate, in the following manner:

(A) **1.26.01** To prepare a letter or other unauthorized document;

(B) **1.26.02** To make copies for personal use (e.g., photos, greeting cards, pictures, newspaper articles); or

(C) **1.26.03** To use the phone in excess of or outside the parameters permitted under the Department's rules.

(2) Violations Against Persons:

(a) **2.01 Staff Assault I:** An inmate commits Staff Assault I if he/she:

(A) **2.01.01** Causes physical injury to a DOC or OCE employee, visitor or volunteer; or

(B) **2.01.02** Causes bodily fluids (human or animal) to come in contact with a DOC or OCE employee, visitor or volunteer, including (human or animal) feces, urine, spit, semen and blood, etc.; or

(C) **2.01.03** Causes physical injury to a DOC or OCE employee, visitor or volunteer and uses a dangerous or deadly weapon; or

(D) **2.01.05** Harms or endangers the well being of an animal used to conduct DOC affairs.

(b) **2.02 Staff Assault II:** An inmate commits Staff Assault II if he/she refuses to stop his/her assaultive behavior after being ordered to do so which necessitates a DOC or OCE staff member to use physical force to stop the assaultive behavior and the actions result in staff injury.

(c) **2.05 Inmate Assault I:** An inmate commits Inmate Assault I if he/she:

(A) **2.05.01** Causes serious physical injury to another inmate or causes injury to an inmate that requires staff transporting the inmate to an outside agency for medical care; or

(B) **2.05.02** Causes physical injury to another inmate and uses a dangerous or deadly weapon; or

(C) **2.05.03** Commits a unilateral attack in a location or under circumstances which creates a threat to the safety, security, or orderly operation of the facility, such as the dining hall or the recreation area; or

(D) **2.05.04** Refuses to stop his/her assaultive behavior after being ordered to do so which necessitates a DOC or OCE staff member to use physical force to stop the assaultive behavior and which results in no staff or inmate injury.

(d) **2.06 Inmate Assault II:** An inmate commits Inmate Assault II if he/she:

(A) **2.06.1** Causes bodily fluids (human or animal) to come in contact with another inmate, including (human or animal) feces, urine, spit, semen and blood, etc.; or

(B) **2.06.02** Commits a unilateral attack or is involved in a mutual fight that causes physical injury to another inmate; or

(C) **2.06.03** Is involved in a mutual fight in a location or under circumstances which creates a threat to the safety, security, or orderly operation of the facility, such as a dining hall or recreation area.

(e) **2.07 Inmate Assault III:** An inmate commits Inmate Assault III if he/she commits a unilateral attack or is involved in a mutual fight.

(f) **2.10 Disrespect I:** An inmate commits Disrespect I if he/she directs hostile, sexual, abusive or threatening language or gestures, verbal or written, towards or about another person that involves racial, religious or sexual harassment or a physical threat to the other person.

(g) **2.11 Disrespect II:** An inmate commits Disrespect II if he/she directs hostile, sexual, abusive or threatening language or gestures, verbal or written, towards or about another person the

expression of which or under circumstances that create a threat to the safety, security or orderly operation of the facility (including, but not limited to, when one or more other persons are present, or in a location such as a dining hall or recreation yard).

(h) **2.12 Disrespect III** (minor violation): An inmate commits Disrespect III when he/she directs hostile, sexual, abusive or threatening language or gestures, verbal or written, towards or about another person.

(i) **2.15 Extortion I**: An inmate commits Extortion I if he/she compels or induces a DOC or OCE employee or any other person who is not an inmate to act or refrain from acting by threats, force or intimidation. (Extortion includes the use of threats, force or intimidation to collect gambling and other types of debt.)

(j) **2.16 Extortion II**: An inmate commits Extortion II if he/she:

(A) **2.16.01** Compels or induces an inmate to act or refrain from acting by threats, force or intimidation (Extortion includes the use of threats, force or intimidation to collect gambling and other types of debt.); or

(B) **2.16.02** Compels or induces a DOC or OCE employee to act or refrain from performing a job duty through use of demands, including but not limited to, changes to housing or work assignments; etc.

(k) **2.20 Sexual Assault**: An inmate commits Sexual Assault if he/she engages in non-consensual sexual activity with another person, or when force is used or when the person is unable to consent because of age or incapacitation (mental defect, mental incapacitation or physical helplessness).

(l) **2.25 Sexual Coercion**: An inmate commits Sexual Coercion if he/she compels or induces another person to engage in sexual activity by deceit, threats, force or intimidation or for personal favors.

(m) **2.30 Non-assaultive Sexual Activity**: An inmate commits Non assaultive Sexual Activity if he/she engages in sexual activity and the sexual activity is conducted without violence, threat of violence, coercion, or use of a weapon.

(n) **2.35 Sexual Solicitation**: An inmate commits Sexual Solicitation if he/she solicits another person to engage in sexual activity.

(o) **2.40 Hostage Taking**: An inmate commits Hostage Taking if he/she interferes with another person's personal liberty by taking him/her hostage.

(p) **2.45 Body Modification**: An inmate commits body modification if he/she alters or allows to be altered his/her body or the body of another by tattooing, piercing, puncturing, scarring, etc., that includes modifying or perpetuating a previous piercing or tattoo.

(3) Violations Involving Fraud or Deception

(a) **3.01 False Information to Employees I**: An inmate commits False Information to Employees I if he/she presents or causes the presentation of false or misleading information to a DOC or OCE employee that creates a threat to the safety, security or orderly operation of the facility. False or misleading information shall include gestures, verbal or written communication.

(b) **3.02 False Information to Employees II** (minor violation): An inmate commits False Information to Employees II when he/she presents or causes the presentation of false and misleading information to DOC or OCE employees. False or misleading information includes gestures, verbal or written communication.

(c) **3.05 Forgery**: An inmate commits Forgery if he/she falsely makes, completes, alters or presents a written instrument.

(d) **3.10 Gambling**: An inmate commits Gambling when he/she wagers anything of value in games of chance, or an inmate possesses paraphernalia associated with gambling or possesses the proceeds of gambling activity, money or otherwise.

(e) **3.15 Fraud**: An inmate commits fraud if he/she deceives another person or business in order to obtain money, property or something of value.

(4) Violations Against the Orderly Operation of the Department or Facility:

(a) **4.01 Disobedience of an Order I**: An inmate commits Disobedience of an Order I if he/she overtly refuses to promptly , or in a timely manner, comply with a valid order, which creates a threat to the safety, security, or orderly operation of the facility (such as when one or more other persons are present).

(b) **4.02 Disobedience of an Order II**: An inmate commits Disobedience of an Order II if he/she fails to comply with a valid order, which creates a threat to the safety, security or orderly operation of the facility (such as when one or more other persons are present).

(c) **4.03 Disobedience of an Order III** (minor violation): An inmate commits Disobedience of an Order III if he/she fails to comply with a valid order.

(d) **4.04 Transitional Leave Violation**: An inmate commits Transitional Leave Violation if he/she refuses to follow a valid order or conditions of transitional leave.

(e) **4.05 Disturbance**: An inmate commits a Disturbance if he/she advocates, incites, creates, engages in, maintains or promotes a situation characterized by unruly, noisy, or violent conduct or unauthorized group activity, which disrupts the orderly administration of or poses a direct threat to the security of a facility, facility programs or the safety of DOC or OCE employees or other persons.

(f) **4.10 Distribution I**: An inmate commits Distribution I if he/she:

(A) **4.10.01** Distributes or has distributed to him/her any controlled substance, intoxicant, drug paraphernalia or money in the amount of \$10 or more; or

(B) **4.10.02** Possesses such items as listed in (A) above which have been packaged for distribution.

(g) **4.11 Distribution II**: An inmate commits Distribution II if he/she:

(A) **4.11.01** Distributes or has distributed to him/her or manufactures contraband that creates a threat to the safety, security and orderly operation of the facility; or

(B) **4.11.02** Possesses such items as listed in (A) above which have been packaged for distribution.

(h) **4.15 Compromising an Employee**: An inmate commits Compromising an Employee when he/she knowingly engages a DOC or OCE employee or DOC contractor or volunteer in a personal or business transaction including, but not limited to, through the use of bribery, contraband distribution or sexual solicitation, either directly or through another person(s).

(i) **4.20 Escape I**: An inmate commits Escape I if he/she departs without authorization from:

(A) **4.20.01** Within the security perimeter of a facility; or

(B) **4.20.02** The immediate control of DOC or OCE staff while in secure physical custody and outside the facility security perimeter.

(j) **4.21 Escape II**: An inmate commits Escape II if he/she departs without authorization from:

(A) **4.21.01** The grounds of a minimum security facility without a security perimeter; or

(B) **4.21.02** The direct supervision of personnel authorized to supervise inmates while outside the facility security perimeter; or

(C) **4.21.03** Transitional leave and an escape warrant has been issued.

(k) **4.25 Possession of an Escape Device**: An inmate commits Possession of an Escape Device if he/she possesses any item specifically designed for, physically altered for, or readily capable of being used to facilitate an escape from a DOC facility or from custody.

(l) **4.30 Possession of a Weapon**: An inmate commits Possession of a Weapon if he/she possesses an instrument, article or substance that is specifically designed for, physically altered for, or readily capable of causing death or serious physical injury to a person or animal used to conduct DOC affairs.

(m) **4.33 Possession of an Electronic Device**: An inmate commits Possession of an Electronic Device if he/she possesses an unauthorized electronic communication device.

(n) **4.35 Racketeering:** An inmate commits Racketeering if he/she engages in illicit activity that is carried out for the purpose of personal or financial gain through acts of crime, extortion of money or advantage by threats of force.

(o) **4.40 Unauthorized Area I:** An inmate commits Unauthorized Area I when he/she fails to be present or is in any location not designated by assignment, programmed activity, call out or staff directive that creates a threat to the safety, security or orderly operation of the facility.

(p) **4.41 Unauthorized Area II (minor violation):** An inmate commits Unauthorized Area II when he/she fails to be present or is in any location not designated by assignment, programmed activity, call out or staff directive.

(q) **4.45 Unauthorized Organization I:** An inmate commits Unauthorized Organization I if he/she involves himself/herself with a group of two or more persons, whether formal or informal, and who collectively or in concert creates or actively promotes, recruits, participates in or involves himself/herself in security threat activity.

(r) **4.46 Unauthorized Organization II:** An inmate commits Unauthorized Organization II if, except as specified by Department of Corrections rule on Group Activities (Inmate) (OAR 291 145):

(A) **4.46.01** Supports, displays, or endorses through verbal, visual or written acts or communication (e.g., STG tattoos, STG graffiti, STG hand signs) any club, association or organization which is a security threat group; or

(B) **4.46.02** Engages in a petition drive without specific authorization from the functional unit manager.

[ED. NOTE: Exhibits referenced are available from the agency]

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030, 423.075

Hist.: CD 8(Temp), f. & ef. 10-20-72 thru 2-16-73; CD 11(Temp), f. & ef. 10-20-72 thru 2-16-73; CD 12(Temp), f. & ef. 10-20-72 thru 2-16-73; CD 33, f. 6-16-76, ef. 7-1-76; CD 34(Temp), f. & ef. 7-19-76; CD 36, f. 11-5-76, ef. 11-15-76; CD 7-1979, f. & ef. 3-14-79; CD 19-1979(Temp), f. & ef. 10-19-79, Renumbered from 291-040-0050; CD 13-1980, f. & ef. 4-15-80, Renumbered from 291-040-0050; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 38-1987, f. & ef. 10-2-87; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-14-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 28-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 16-2000, f. & cert. ef. 6-19-00; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 9-2009, f. 6-24-09, cert. ef. 7-1-09; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0021

Procedures for Handling Misconduct by Inmates

(1) Corrective Action: DOC or OCE employees shall be expected to use less than formalized procedures if the act(s) of misconduct do not constitute a threat to life, health, facility security or good order, employee authority or property and in a manner that promotes and embraces the Oregon Accountability Model. Corrective action may include: reprimand, warning and counseling, and as authorized by the functional unit manager or officer-in-charge, loss of leisure activities conduct order (CD 708) for no more than 72 hours.

(a) Staff issuing a conduct order shall promptly notify the inmate of the action.

(b) Staff issuing a conduct order shall promptly complete the conduct order and forward it to the officer-in-charge or designee for review.

(c) The officer-in-charge or designee shall review and approve, cancel or modify the conduct order within four hours or as soon as practicable of it being issued by staff. If the officer-in-charge or designee determines that the incident warrants a misconduct report rather than a conduct order, the officer-in-charge or designee will ensure the conduct order is cancelled.

(d) A copy of the conduct order shall be delivered to the inmate within four hours or as soon as practicable.

(2) Misconduct Reports:

(a) When the misconduct justifies submission of a misconduct report, the DOC or OCE employee shall file a misconduct report with an immediate supervisor or the officer in charge no later than 24 hours AFTER sufficient evidence is gathered, discovered, or observed to support a charge of violation of rules. Determination of the sufficiency of evidence shall be a matter of judgment for the employee submitting the report and the immediate supervisor reviewing the report.

(b) The reviewing supervisor will ensure the report is accurate, appropriate and supported by sufficient information. The supervisor will then sign the report. The reviewing supervisor or designee shall be responsible for providing the inmate with a copy of the misconduct report, rules of prohibited conduct, and the notice of hearing and inmate rights within 24 hours of the filing of the report unless the inmate is unavailable to be served.

(c) The hearing may be held within 24 hours with the inmate's consent.

(d) The misconduct report shall be submitted on a Department of Corrections form, and shall be as specific and comprehensive as possible.

(A) The misconduct report shall include a description of any unusual relevant inmate behavior and information regarding how the employee became aware of the behavior. The misconduct report must contain sufficient and complete facts to support the alleged rule violation(s), including a description of what the restitution is for and the amount of restitution to be ordered, if it is possible to determine.

(B) Attempt and Conspiracy: If an inmate attempts or conspires to commit an act of prohibited conduct, it shall be considered the same as if the inmate had completed the act.

(e) The misconduct report must specifically allege all the major or minor rule violations the inmate is alleged to have violated, and demonstrate conduct constituting an attempt or conspiracy. Neither the hearings officer nor the adjudicator may add or change any violations. The hearings officer may find the inmate in violation of lesser included violations.

(f) Reports from DOC or OCE employee witnesses shall also be submitted.

(g) When the alleged misconduct occurs while the inmate is in the temporary physical custody of a jurisdiction other than the Department of Corrections, employees from that jurisdiction may provide a written description of the misconduct to Department employees.

(A) On review of such written information, the officer-in-charge at the facility receiving the inmate back into the physical custody of the Department may determine that the described action violates a rule(s) of prohibited inmate conduct and direct that a misconduct report be submitted.

(B) The written description provided by the temporary custody jurisdiction shall accompany the misconduct report. A misconduct report shall not be submitted absent a written description of the allegation from the temporary physical custody jurisdiction.

(C) If it is determined that the other jurisdiction maintained the inmate in a similarly restrictive status, the inmate shall be credited with the number of days he/she was held in segregation type status by the other jurisdiction.

(3) Temporary Placement in Disciplinary Segregation Status: An inmate charged with committing a rule violation may be placed in temporary disciplinary segregation status pending resolution of the charge. This action will be taken when the functional unit manager or the officer in-charge determines that the alleged rule violation charged is of such seriousness that the good order and security of the facility requires immediate removal of the inmate from the general population, or it is determined the inmate is a threat to the community or is likely to escape or abscond.

(a) If temporary disciplinary segregation status is ordered, the officer in charge must complete the portion of the Department of Corrections misconduct report specifying the reason(s) why immediate temporary disciplinary segregation of the inmate was deemed necessary.

(b) A completed copy of the Department of Corrections misconduct report will be forwarded to the functional unit manager or designee who will review the inmate's pre hearing detention status within 72 hours of the inmate's placement in temporary disciplinary segregation status. If approved, the functional unit manager or designee will initial the report. If the inmate is temporarily confined in a local jail while on short term transitional leave or emergency leave, the functional unit manager or designee will be notified for review of the inmate's status, within 72 hours of the inmate's confinement.

(4) Scheduling a Hearing:

(a) An inmate charged with a rule violation shall be scheduled for a hearing as soon as practicable.

(5) Initiating a Hearing:

(a) A hearing shall be initiated within ten calendar days (including Saturdays, Sundays, and legal holidays) if the inmate is placed in temporary segregation status.

(b) All other hearings shall be initiated as soon as practicable. For significant delays, reasons for longer timeframes shall be made part of the hearing record.

(c) When an inmate charged with a level I or level II rule violation is released from custody prior to a hearing being held, a hearing will be initiated as soon as practicable upon his/her return to DOC custody.

(d) The hearing may be postponed or continued for a reasonable period for good cause as provided in OAR 291-105-0064. The reason(s) for the postponement or continuance shall be made part of the record.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030, 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 38-1987, f. & ef. 10-2-87; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 28-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 16-2000, f. & cert. ef. 6-19-00; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0026

Hearings Officers Responsibilities

(1) Unless waived by the inmate, a formal hearing shall be conducted by the hearings officer on all misconduct reports classified by the adjudicator as charging a major rule violation(s), and included minor violation(s), and on all misconduct reports charging a minor rule violation(s) for which an inmate requests a formal hearing.

(2) Prior to the formal hearing, the hearings officer shall review the misconduct report alleging major rule violation and, if there is no prima facie case for a major rule violation, dismiss the major violations and refer the minor violations back to the adjudicator for an informal hearing. The hearings officer may substitute minor violations as lesser included violations.

(3) The hearings officer shall not have been a witness to the event, have personal knowledge of any material, disputed fact relating to the case or have participated in the case as a charging or investigating officer.

(4) The hearings officer will conduct the hearing and shall decide, based upon the evidence, whether the inmate has violated the rule(s) as charged in the misconduct report. The hearings officer may not add or change the violation(s) in the misconduct report. The hearings officer may find a violation of a lesser included violation (see Definitions).

(5) The hearings officer may dismiss the alleged rule violation(s) at any stage of the proceedings, with or without prejudice, stating in writing the reason for the dismissal. An alleged rule violation(s) dismissed without prejudice may be resubmitted in another misconduct report utilizing the same process as provided in OAR 291-105-0021(2).

(6) The hearings officer or other employees as requested by the hearings officer shall report disciplinary actions which involve security threat activity to the facility's security threat manager.

(7) Behavioral Health Services staff will be notified when inmates with mental health, developmental disability issues, or inmates that have engaged in self-harm activities or suicide attempts are placed in disciplinary segregation or are scheduled for a disciplinary hearing.

(a) Behavioral Health Services staff will then determine whether an evaluation shall be submitted to the hearings staff in the institution housing the inmate.

(b) If an evaluation is to be provided, Behavioral Health Services staff will contact hearings staff within two working days of receiving notification and advise them that an evaluation will be submitted for consideration at the hearing. Behavioral Health Services staff will include the timeline for submission of the evaluation.

(c) The hearings officer will postpone the hearing if necessary, to ensure that such an evaluation is considered in the case at issue.

(8) The mental health evaluation shall address the following:

(a) Is the inmate able to understand the charges and the hearing process at this time;

(b) From a mental health standpoint, should sanctions be modified or are sanctions for the alleged misconduct contraindicated; and

(c) Did the inmate's mental health status contribute to the alleged violation.

(9) If a mental health evaluation is not provided by Behavioral Health Services staff prior to the inmate's hearing, the hearings officer may request a mental health evaluation be completed on the inmate prior to disposition of the hearing.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030, 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1987, f. & ef. 8-20-86; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 16-2000, f. & cert. ef. 6-19-00; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0028

Conduct of Formal Hearings on Major and Minor Violations

(1) Unless waived by the inmate, a formal hearing shall be conducted by the hearings officer on all misconduct reports charging a major rule violation(s), and included minor violations, on all misconduct reports charging a minor rule violation(s) for which an inmate requests a formal hearing, and on all misconduct reports referred by the adjudicator for a formal hearing in accordance with OAR 291-105-0041(6).

(2) The findings must be on the merits. Technical and clerical errors in the writing or processing of the misconduct report should not be grounds for dismissal, unless there is substantial prejudice to the inmate.

(3) Standard of Proof: Rules violation(s) shall be found upon proof by a preponderance of the evidence. The term preponderance of the evidence means the greater weight of evidence (e.g., 51% vs. 49%). It is such evidence that, when weighed with that opposed to it, has more convincing force and is more probably true and accurate.

(4) The hearings officer shall consider such evidence as would be considered by reasonable persons in the conduct of their serious affairs.

(5) Once the formal hearing has begun, if the hearings officer determines that the major violations are not supported by the facts as written in the misconduct report, the hearings officer may substitute appropriate minor violations as lesser included violations and proceed with the hearing.

(6) At the hearing, the inmate will be allowed to speak in his/her own behalf, exercise his/her rights, and submit evidence as allowed in OAR 291-105-0056.

(7) The hearings officer may pose questions during the hearing.

(8) An investigation shall be conducted in a formal hearing upon the inmate's request if the information sought, taken in the light most favorable to the inmate, together with reasonable inferences to be drawn from the information, would constitute a defense to the charge or substantially mitigate the violation. The information sought must be within the ability of the facility to procure. If a request for investigation is denied, the reason(s) for denial shall be made a part of the record.

(9) Testimony of Witnesses:

(a) The hearings officer shall direct the scheduling and taking of testimony of witnesses at the hearing. Witnesses may include inmates, employees, or other persons. Testimony may be taken in person, by telephone, or by written report or statement.

(b) The inmate may request that the hearings officer schedule witnesses to present testimony at the hearing. The request should be submitted to the hearings officer in writing in advance of the hearing, and include a list of the person(s) the inmate requests be called to testify and the questions sought to be posed to each person. Requests for witnesses must minimally be made to the hearings officers at the time of the hearing. The hearings officer shall arrange for the taking of testimony from such witnesses as properly requested by the inmate, subject to the exclusions and restrictions provided in these rules. Requests for witnesses made or received after a hearing is decided will not be considered.

(c) The inmate shall not directly pose questions to any witness.

(d) The hearings officer may limit testimony when it is cumulative or irrelevant.

(e) The hearings officer may exclude a specific inmate or employee witness upon finding that the witness' testimony, if taken in the light most favorable to the inmate, together with the reasonable inferences to be drawn from that testimony, would not constitute a defense to the charge or substantially mitigate the violation, or that the witness' appearance at the hearing would present an immediate undue risk to the safe, secure, or orderly operation of the facility, specifically including the safety and security of DOC or OCE employees and inmates. If a witness is excluded, the reason(s) shall be made a part of the record.

(f) The hearings officer may exclude other persons as witnesses upon finding that the witness' testimony would not assist the hearings officer in the resolution of the disciplinary action, or that the witness' appearance at the hearing would present an undue risk to the safe, secure, or orderly operation of the facility, specifically including the safety and security of DOC or OCE employees and inmates. The reason(s) for exclusion shall be made a part of the record.

(g) The hearings officer may, on his/her own motion, call witnesses to testify.

(h) Witnesses requested by the inmate may refuse to testify.

(i) Persons requested as witnesses, other than inmates or employees, may refuse to appear or testify.

(j) All questions that may assist in eliciting evidence that, if taken in the light most favorable to the inmate, together with the reasonable inferences to be drawn from that evidence, would constitute a defense to the charge or substantially mitigate the violation shall be posed. The reason for not posing a question will be made part of the record.

(k) Confidential Informants:

(A) When confidential informant testimony is submitted to the hearings officer, the identity of the informant and the verbatim statement of the informant shall be submitted to the hearings officer in writing using form CD 1276, but shall remain confidential in accordance with OAR 291-105-0036(3).

(B) In order for the hearings officer to rely on the testimony of a confidential informant, information must be submitted to the hearings officer from which the hearings officer can find that the

informant is a person who can be believed or that the information provided in the disciplinary action at issue is truthful.

(10) Documents and Physical Evidence:

(a) An inmate participating in a formal disciplinary hearing may present documents and physical evidence during the hearing, subject to the exclusions and restrictions provided in these rules.

(b) The reporting employee(s) or agent(s) of the Department of Corrections or Oregon Corrections Enterprises who are knowledgeable of the rule violation(s) charged in the misconduct report(s) may submit documents and physical evidence in advance of or during the hearing.

(c) The hearings officer may exclude documents and physical evidence upon finding that such evidence would not assist the hearings officer in the resolution of the disciplinary action, or that such evidence would present an undue risk to the safe, secure, or orderly operation of the facility, specifically including the safety and security of DOC or OCE employees and inmates. The reason(s) for exclusion shall be made a part of the record.

(d) The hearings officer may classify documents and physical evidence as confidential upon finding that disclosure would present an undue risk to the safe, secure, or orderly operation of any Department of Corrections facility, specifically including the safety and security of DOC or OCE employees and inmates, or that disclosure would interfere with an ongoing official investigation. The reason(s) for classifying documents and physical evidence as confidential shall be made a part of the record. Documents and physical evidence classified as confidential by the hearings officer shall not be shown or otherwise provided to the inmate.

(e) The hearings officer may show to the inmate or read into the record documents received in evidence. However, the hearings officer will not provide copies of the documents to the inmate. Inmates may request and obtain copies of nonexempt records in accordance with the Department's rule on Release of Public Records (OAR 291-037).

(11) The hearings officer shall determine whether a violation has occurred and, if so, impose the appropriate sanction on the grid.

(a) The hearings officer may postpone the rendering of a decision for a reasonable period of time, not to exceed three working days, for the purpose of reviewing the evidence and imposing the appropriate sanction. The decision will be based solely upon information obtained in the hearing process, including DOC or OCE employee reports, the statements of the inmate charged, and evidence derived from witnesses and documents.

(b) Attempt and Conspiracy: An inmate who attempts or conspires to commit a rule violation shall be found in violation of the rule and shall be subject to appropriate sanctions on the same basis as if the inmate had committed the rule violation.

(12) At the formal hearing the hearings officer shall decide:

(a) No Violation: The hearings officer may find that the inmate did not commit the violation(s) charged, in which case the inmate may be restored to similar status and privileges as before he/she was charged, as allowed by other rules, policies, etc.

(b) Violation: The hearings officer may find that the inmate committed the violation(s) charged, in which case, the hearings officer will so inform the inmate.

(c) Dismissal: The hearings officer may dismiss the alleged rule violation(s) without entering a finding if:

(A) There is insufficient evidence to support the alleged violation(s);

(B) Corrective action using less formalized procedures would be more appropriate; or

(C) The inmate is released from custody.

(d) Violation Not Responsible: When an inmate deemed serious mentally ill engages in misconduct and is determined not to be responsible for their actions.

(e) Violation of Transitional Leave: When conduct constitutes a violation of the inmate's condition(s) of transitional leave, the hearings officer shall also recommend revocation of his/her transitional leave.

(13) At the conclusion of the hearing, the inmate shall be informed of the finding and any sanctions imposed.

(14) If no violation is found or all of the alleged charges are dismissed on the misconduct report(s), the report(s) shall not be placed in the inmate's file, but may be retained for statistical or litigation purposes in the Hearings Section records.

(15) Upon the finding of violation(s) by the hearings officer, the hearings officer shall:

(a) Determine the location of the violation(s) on the major or minor grids (Exhibits 1 and 2).

(b) Determine the inmate's prior misconduct history as recorded on the Disciplinary Misconduct System. (Evidence of the inmate's prior misconduct history shall be placed in the record either orally or in writing.)

(c) Determine which box on the grid is appropriate for the inmate's misconduct and his/her prior misconduct history.

(d) Impose sanctions within the range of sanctions in the appropriate box.

(e) Determine if a deviation (upward or downward) is appropriate. The hearings officer must document in writing the substantial reasons for the deviation in accordance with OAR 291-105-0072.

(f) Determine if consecutive sanctions are appropriate for separate rule violations arising from a single misconduct report. The hearings officer must document in writing the substantial reasons for consecutive sanctions, in accordance with OAR 291-105-0066(4)(b).

(16) The hearings officer may also consider imposing the additional sanctions that are available in the major range of sanctions (OAR 291-105-0069).

(17) The hearings officer may suspend imposition of any or all of the imposed disciplinary sanctions, informing the inmate of expected conduct to avoid imposition and the length of time for which the sanction will be suspended.

(18) The hearings officer may impose any or all sanctions previously suspended, after finding that the rule violation in question was also a violation of the conditions of the suspension.

(19) A verbatim record of the hearing shall be made. A written record will be made of the decision and the supporting reasons.

[ED. NOTE: Exhibits & Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030, 423.075

Hist.: Formerly Exhibit 2 to OAR 291-105-026; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. ef. 8-20-86; CD 38-1987, f. & ef. 10-2-87; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 28-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 16-2000, f. & cert. ef. 6-19-00; DOC 19-2001(Temp), f. & cert. ef. 12-3-01 thru 6-1-02; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0031

Processing of the Formal Record on Major and Minor Violations

(1) Within ten working days following the conclusion of the hearing, the hearings officer shall prepare and issue a preliminary order containing the hearings officer's findings of fact and conclusions of law. Once issued, the preliminary order shall be delivered to the functional unit manager or designee for his/her review.

(2) The hearings officer may issue an amended order for restitution purposes. In all such instances, the hearings officer shall convene or reconvene a hearing with the inmate regarding the restitution issue(s), in accordance with the provision of OAR 291-105-0028 and 291-105-0056. In such cases the inmate shall be provided a Notice of Hearing in accordance with 291-105-0056(3), a written description of what the restitution is for and the amount of restitution to be ordered.

(3) Upon receipt of the preliminary order, the functional unit manager or designee shall note the date received on the order. Within five working days after receipt of the preliminary order, the functional unit manager or designee shall do one of the following:

(a) Approve and sign the preliminary order without amendment, upon which the preliminary order becomes the Final Order;

(b) Issue an amended order dismissing the misconduct report(s) or changing the disciplinary sanction(s) (or their imposition) in the preliminary order, for one or more of the reasons specified in OAR 291-105-0031(5), upon which the amended order becomes the Final Order; or

(c) Order the hearings officer to reopen the hearing to receive and consider additional evidence not submitted in the original hearing, and to issue an amended preliminary order after consideration of the additional evidence.

(4) If the functional unit manager or designee fails to act on the preliminary order within seven working days following its receipt, the preliminary order shall become the Final Order.

(5) Grounds for Issuance of Amended Orders: The functional unit manager or designee may issue an amended order for one or more of the following reasons:

(a) The evidence in the record is insufficient to support the violation(s) found, in which case the functional unit manager or designee may find a violation of a lesser included violation (see definitions) or order the dismissal of the misconduct report(s);

(b) The sanction(s) imposed by the hearings officer was not within the range of sanctions in the correct box on the grid, in which case the functional unit manager or designee may impose appropriate sanctions from the correct grid box;

(c) The deviation ordered by the hearings officer was not supported by written substantial reasons, in which case the functional unit manager or designee may impose the appropriate sanctions without the deviation, or order the deviation upon written substantial reasons found by the functional unit manager or designee;

(d) The deviation ordered by the hearings officer included a segregation sanction in excess of 50%, in which case the functional unit manager or designee shall impose a sanction that does not exceed 50%;

(e) The consecutive segregation sanctions imposed by the hearings officer for multiple rule violations arising out of the same misconduct report were not supported by written reasons, in which case the functional unit manager or designee may impose the segregation sanctions served concurrently, or order the segregation sanctions served consecutively upon written reasons;

(f) To order a deviation not ordered by the hearings officer, upon written substantial reasons found by the functional unit manager or designee;

(g) To impose mandatory consecutive sanctions not imposed by the hearings officer, for multiple rule violations arising out of two or more misconduct reports;

(h) To impose consecutive sanctions not imposed by the hearings officer, for multiple rule violations arising out of the same misconduct report, upon written reasons;

(i) To suspend imposition of any or all sanctions imposed by the hearings officer, informing the inmate of expected conduct to avoid imposition of the sanction(s); and

(j) To impose any or all sanctions ordered suspended by the hearings officer. The reasons for imposing the previously suspended sanctions shall be explained in writing in the order.

(k) To amend sanctions imposed or to impose sanctions not imposed by the hearings officer, within the range of sanctions listed in the appropriate grid box and OAR 291-105-0066(2), 291-105-0069 or 291-105-0071.

(6) Within seven working days after the Final Order is signed by the functional unit manager or his/her designee, or after a preliminary order becomes the Final Order under OAR 291-105-0031(3) and (4), a copy of the Final Order shall be provided to the inmate.

(7) Minor typographical or calculation errors on the written Findings of Fact, Conclusions and Order may be rectified by correcting that document to accurately reflect the results of the hearing, without actually reconvening the hearing. The inmate shall be notified in writing of such corrections.

(8) The record of the hearing and supporting documents shall be maintained in the hearings officer's records for a minimum of

three years. A copy of the misconduct report(s) and the Final Order (Findings of Fact, Conclusions and Order) shall be permanently retained in the inmate's working file, except in those instances where all major charges have been reduced to minor violations or dismissed by the hearings officer.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030, 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0036

Preparation of the Formal Record on Major and Minor Violations

(1) The record of the formal hearing shall include:

- (a) The misconduct report(s);
- (b) The Notice of hearing and rights;
- (c) Supporting material;
- (d) The Final Order (Findings of Fact, Conclusions and Order) issued by the hearings officer, functional unit manager or his/her designee.

(2) A transcript or recording of the hearing shall not be a part of the record, however, it shall be prepared and provided to the Inspector General, Attorney General or their designees or to the court, upon request. A copy of the transcript or recording of the hearing shall not be provided directly to the inmate by the hearings office.

(3) Information received that is determined to be confidential shall be clearly labeled "confidential" and shall not be shared with or provided to inmates.

(a) Confidential information may be summarized for the inmate at the time of his/her hearing, without releasing the confidential information verbatim or the name of a confidential informant.

(b) Confidential information may be shared with the functional unit manager. Confidential information may also be shared with Department employees, the Attorney General or the courts with approval of the Inspector General or the Hearings Administrator. Employee requests for confidential information shall be approved by the functional unit manager prior to being forwarded to the Inspector General or the Hearings Administrator.

(c) Such confidential information shall be archived in a secure area outside the secure perimeter of any facility.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.068, 421.180, 421.185, 421.190, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 32-1987(Temp), f. & ef. 8-5-87; CD 38-1987, f. & ef. 10-2-87; CD 11-1988, f. & cert. ef. 8-19-88; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0041

Adjudicator Responsibilities

(1) An adjudicator and designated alternate(s) shall be appointed by the functional unit manager in each Department of Corrections facility.

(2) Duties and Powers of the Adjudicator: The adjudicator will receive all misconduct reports, once they have been reviewed and approved by a reviewing supervisor and a copy has been provided to the inmate. The adjudicator shall:

(a) Promptly forward the misconduct reports to the hearings section for entry into the inmate disciplinary system and assignment of a case number. The hearings section will promptly return misconduct reports charging only minor rule violations to the

adjudicator once they have been entered into the inmate disciplinary system and assigned a case number.

(b) Refer all major reports and all minor reports for which the inmate requests a formal hearing to the hearings officer who shall proceed in accordance with OAR 291-105-0028. If a case contains both major and minor violations, the entire incident, even if it involves more than one inmate, shall be handled by the hearings officer in a formal hearing.

(c) Conduct an informal hearing on minor reports in accordance with OAR 291-105-0046.

(3) The adjudicator shall not have been a witness to the event, have personal knowledge of any material, disputed fact relating to the case or have participated in the case as a charging or investigating officer.

(4) The adjudicator shall conduct the informal hearing and decide whether the inmate has violated the rule(s) as charged in the misconduct report. The adjudicator may not add or change the violations in the misconduct report.

(5) The adjudicator may dismiss the misconduct report(s) at any stage of the proceedings, with or without prejudice, stating in writing the reason for the dismissal. A new misconduct report dismissed without prejudice may be resubmitted utilizing the same process as provided in OAR 291-105-0021(2).

(6) The adjudicator may decline to conduct an informal hearing and refer the case to the hearings officer for a formal hearing when the inmate's mental competency is an issue.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 16-2000, f. & cert. ef. 6-19-00; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0046

Conduct of the Informal Hearings on Minor Violations

(1) An informal hearing shall be conducted by the adjudicator or designee on all misconduct report(s) which do not charge a major violation(s), unless the inmate requests a formal hearing, in writing, on the Notice of Inmate Rights form, prior to the informal hearing.

(2) Findings by the adjudicator or designee must be on the merits. Technical and clerical errors in the writing or processing of the misconduct report shall not be grounds for dismissal.

(3) The adjudicator or designee shall consider such evidence as would be considered by reasonable persons in the conduct of their serious affairs.

(4) Standard of Proof: Rule violation(s) shall be found upon proof by a preponderance of the evidence. The term preponderance of the evidence means the greater weight of evidence (e.g., 51% vs. 49%). It is such evidence that, when weighed with that opposed to it, has more convincing force and is more probably true and accurate.

(5) The inmate shall be given the opportunity to speak in his/her own behalf, exercise his/her rights, and submit evidence as set forth in OAR 291-105-0056. Inmates shall not be permitted to call witnesses in an informal hearing.

(6) The adjudicator may pose questions during the hearing.

(7) Documents and Physical Evidence:

(a) An inmate participating in an informal disciplinary hearing may present documents and physical evidence during the hearing, subject to the exclusions and restrictions provided in these rules.

(b) The reporting employee(s) or agent(s) of the Department of Corrections or Oregon Corrections Enterprises who are knowledgeable of the rule violation(s) charged in the misconduct report(s) may submit documents and physical evidence in advance of or during the hearing.

(c) The adjudicator designee may exclude documents and physical evidence upon finding that such evidence would not assist

the adjudicator in the resolution of the disciplinary action, or that such evidence would present an undue risk to the safe, secure or orderly operation of the facility, specifically including the safety and security of DOC or OCE employees and inmates. The reason(s) for exclusion shall be made a part of the record.

(d) The adjudicator or designee may classify documents and physical evidence as confidential (and not disclose such evidence to the inmate) upon finding that disclosure would present an undue risk to the safe, secure or orderly operation of the facility, specifically including the safety and security of DOC or OCE employees and inmates, or that disclosure would interfere with an ongoing official investigation or criminal prosecution. The reason(s) for classifying documents and physical evidence as confidential shall be made a part of the record.

(8) At the informal hearing the adjudicator or designee shall decide:

(a) No Violation: The adjudicator or designee may find that the inmate did not commit the violation charged, in which case the inmate will be restored to the same status and privileges as before he/she was charged.

(b) Violation: The adjudicator or designee may find that the inmate did commit the violation charged, in which case, the adjudicator will so inform the inmate.

(c) Dismissal: The adjudicator or designee may dismiss the alleged rule violation(s) without entering a finding if:

(A) There is insufficient evidence to support the alleged violation(s); or

(B) Corrective action using less formalized procedures would be more appropriate; or

(C) The inmate is released from custody.

(9) At the conclusion of the hearing the inmate shall be informed of the finding and any sanctions imposed.

(10) If the inmate is found in violation, the record of the decision shall be retained in the Hearings Unit records for a minimum of three years.

(11) Upon finding that a violation occurred as charged, the adjudicator or designee shall:

(a) Determine the location of the violation(s) on the minor disciplinary grid (Exhibit 2).

(b) Impose sanctions within the range of sanctions in the appropriate box.

(12) The adjudicator or designee may also consider imposing the additional sanctions that are available in the minor range of sanctions (OAR 291-105-0071).

(13) The adjudicator or designee may suspend imposition of any or all of the ordered disciplinary sanctions, informing the inmate of expected future conduct to avoid imposition and the length of time for which the sanction will be suspended.

(14) The adjudicator may impose any or all sanctions previously suspended, after finding that the rule violation in question was also a violation of the conditions of the suspension.

(15) The adjudicator or designee may give a verbal warning and reprimand in lieu of sanctions on the minor grid, informing the inmate of expected future conduct.

(16) No verbatim recording of the hearing shall be made.

(17) If the inmate is transferred to another facility before the informal hearing is complete, the misconduct report shall be forwarded to the other facility for processing.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 421.185, 421.190, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 30-1985, f. & ef. 8-16-85; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 28-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 16-2000, f. & cert. ef. 6-19-00; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0056

Inmate Rights in Formal and Informal Hearings on Major and Minor Violations

(1) Hearing:

(a) An inmate shall be entitled to a hearing whenever a misconduct report has been filed against him/her.

(b) An inmate receiving a minor misconduct report shall not receive a formal hearing, unless he/she specifically requests a formal hearing.

(2) Waiver of Hearing:

(a) In all cases, the inmate may waive the right to a hearing. Waiver of right must be in writing, verbally, or through behavior and must be documented on the record. An inmate's refusal to attend the hearing will constitute a waiver.

(b) An inmate waiving his/her right to a hearing shall have his/her case reviewed on its merits by the hearings officer or adjudicator in accordance with the procedures outlined in these rules.

(3) Notice of Hearing:

(a) The inmate shall be given written notice of the hearing not less than 24 hours prior to the hearing, unless the inmate consents to holding the hearing within 24 hours after the misconduct report has been served on the inmate.

(b) The notice shall include a statement of the inmate's rights with respect to the hearing.

(4) Representation:

(a) In all cases, the inmate shall be entitled to:

(A) Speak in his/her own behalf.

(B) Be present at all evidentiary stages of the hearing process, except when the hearings officer or adjudicator finds that to have the charged inmate present would constitute an immediate threat to facility security or the inmate's behavior during the hearing warrants exclusion. The reason(s) for the finding shall be part of the record.

(C) Inmates shall be excluded during the testimony of any witness whose testimony must be given in confidence. The reasons for the inmate's absence or exclusion shall be made part of the record.

(b) Assistance by a DOC or OCE employee, inmate, or other person approved by the adjudicator or hearings officer will be ordered in cases where it is found that assistance is necessary based upon language barriers or competence and capacity of the inmate to prepare a defense, to understand the charge or surrounding facts, and rights available to him/her.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; DOC 16-2000, f. & cert. ef. 6-19-00; DOC 14-2008, f. & cert. ef. 6-2-08

291-105-0058

Investigations in Formal and Informal Hearings on Major and Minor Violations

(1) The adjudicator or hearings officer may order an investigation on his/her own motion.

(2) The investigator shall not have been a witness to the event, have personal knowledge of any material, disputed fact relating to the case or have participated in the case as a charging officer.

(3) The adjudicator or hearings officer shall allow the inmate access to the results of the investigation unless disclosure of the investigative results would constitute a threat to the safety, security, or orderly operation of a Department of Corrections facility. The reason(s) for nondisclosure shall be made a part of the record. Access minimally refers to the verbal disclosure by the hearings officer of the results of an investigation. The adjudicator or hearings officer shall not be required by this rule to provide the inmate with copies of supplemental documents that comprise the case against him or her.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 421.180, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp) f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 38-1987, f. & ef. 10-2-87; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05

291-105-0064

Postponements and Continuances of Formal and Informal Hearings on Major and Minor Violations

(1) A hearing may be postponed or continued by the hearings officer or the adjudicator for a reasonable period of time for good cause.

(2) "Good cause" includes, but is not limited to:

(a) Preparation of defense;

(b) Illness or unavailability of the inmate charged;

(c) Gathering of additional evidence (e.g., calling of witnesses, gathering of witnesses' statements, investigation, acquisition of physical evidence); or

(d) Avoiding interference with an ongoing police investigation or pending prosecution.

(3) The reason for the postponement in a formal hearing shall be stated on the record.

(4) If an inmate has been lodged in temporary disciplinary segregation pending a hearing and a continuance or postponement is ordered on the motion of the hearings officer, the hearings officer shall consider retention of the inmate in disciplinary segregation and:

(a) Determine that the inmate no longer presents a threat to security and recommend to the functional unit manager of the facility where the inmate is in disciplinary segregation, that the inmate be released from disciplinary segregation pending conclusion of the hearing; or

(b) Determine that the rule violation(s) alleged is serious that, if proven, the inmate would present an immediate and continuing threat to the safety, security or orderly operation of the facility and order, subject to the approval of the functional unit manager of the facility where the inmate is in disciplinary segregation, that the inmate be retained in disciplinary segregation. The written approval of the functional unit manager of the facility where the inmate is in disciplinary segregation shall be made a part of the record. In no case shall the inmate be retained in disciplinary segregation for a period longer than that permitted by the sanction in the appropriate box on the disciplinary grid.

(5) If an inmate has been lodged in temporary disciplinary segregation pending a hearing and a continuance or postponement is requested by him/her, the hearings officer shall not consider retention of the inmate in disciplinary segregation, and the inmate will be retained in disciplinary segregation. In no case shall the inmate be retained in disciplinary segregation for a period longer than that permitted by the sanction in the appropriate box on the disciplinary grid.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 29-1986, f. & ef. 8-20-86; CD 38-1987, f. & ef. 10-2-87; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 14-2008, f. & cert. ef. 6-2-08

291-105-0066

Principles of Application of Disciplinary Sanctions

(1) A single act of misconduct may violate more than one misconduct rule.

(2) Loss of Privilege: If the inmate's misconduct involves the abuse or misuse of a specific privilege (i.e., recreation yard, canteen, etc.), the hearings officer or adjudicator may order a loss of that specific privilege, and may increase the loss of that specific privilege sanction up to twice the amount listed in the appropriate grid block.

(3) For rule violations arising out of separate misconduct reports, segregation sanctions shall be served consecutively, up to 180 days.

(4) For rule violations arising out of the same misconduct report:

(a) Concurrent segregation sanctions may be imposed by the hearings officer or functional unit manager, up to 180 days. The inmate shall be ordered to only serve the sanction for the most serious violation in the misconduct report.

(b) Consecutive sanctions may be imposed by the hearings officer or functional unit manager. The reasons for consecutive sanctions shall be supported by written substantial reasons outlining the factor(s) supporting the consecutive sanctions. No aspect of the misconduct that serves as a necessary element of misconduct may be used as an aggravating factor if that factor is also used to impose discipline.

(5) The Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions contains two inmate disciplinary grids. One grid governs inmate disciplinary action for major violations (Exhibit 1). One grid governs inmate disciplinary action for minor violations (Exhibit 2).

(6) Each of the inmate disciplinary grids shall outline the available sanctions within each box, which includes fines, segregation time and the loss of privileges.

(7) There are additional sanctions that will be available to the hearings officers and adjudicators at all levels of discipline for major violations and minor violations (OAR 291-105-0069 and 0071). These sanctions shall be applied consistently and in proportion to the violation and the inmate's prior misconduct.

(8) Merger and Consecutive Sanctions: In the case of multiple rule violations, a hearings officer or adjudicator shall impose a sanction or sanctions for only the single most severe or most applicable rule violation found as charged in a single misconduct report, except as specifically allowed by OAR 291-105-0066(4)(b). The applicable sanctions for the remaining rule violations shall be deemed to have merged with the sanction(s) imposed for the single rule violation, unless consecutive sanctions are imposed as authorized in 291-105-0066(4)(b).

(9) The hearings officer shall consider input from a multidisciplinary team where the inmate is housed and Behavioral Health Services Unit employees. The hearings officer may recommend sanctions be modified or are contraindicated, irrespective of the sanctions contained on the disciplinary grids and OAR 291-105-0069 and 0071.

(10) Limitations on the Length of Confinement in Disciplinary Segregation for Rule Violations:

(a) No inmate shall be confined in disciplinary segregation for more than 180 consecutive days. On the 180th consecutive day of confinement in disciplinary segregation, an inmate shall be reassigned and ordered to other housing. Once reassigned and ordered to other housing, the inmate shall be subject to additional confinement in disciplinary segregation (up to a maximum of another 180 days) as a sanction for a new rule violation, notwithstanding that the inmate remains in the segregation unit.

(b) Once an inmate has received the maximum sanction of 180 consecutive days, the hearings officer or adjudicator is not required to impose any additional segregation sanction. The hearings officer or adjudicator is also not required to order additional loss of privileges sanctions to an inmate who has already received the maximum 180 days segregation sanction, if he/she determines that the sanction would not be meaningful to the inmate. Such action shall be made a part of the written record of the hearing.

(c) New Violations Committed While Assigned to Disciplinary Segregation: If an inmate is ordered to serve an additional disciplinary segregation sanction for committing a new rule violation while assigned to disciplinary segregation, the additional disciplinary segregation sanction may be served consecutively to any prior segregation sanctions then being served, up to a maximum of 180 days.

(d) New Violations Committed While Assigned to Intensive Management Unit or IMU Status: An inmate who commits a new rule violation while assigned to the Intensive Management Unit (IMU), or while assigned to IMU status, shall not be ordered to

serve a disciplinary segregation sanction for the violation. The inmate shall be subject to the range of additional sanctions described in OAR 291-105-0069 and 291-105-0071, including but not limited to fines and loss of privileges.

(11) When an inmate has been assigned to segregation as part of a disciplinary sanction that is Level I or Level II on the major violation grid and the inmate is temporarily transferred to the custody of a jurisdiction other than the Department, or is released from prison, he/she shall not be given credit for time served in segregation while he/she is out of Department custody.

(a) Once the inmate is returned to the Department's custody, the number of days he/she actually served in segregation will be subtracted from the total original sanction and he/she will serve the remainder of the segregation sanction in a Department segregation unit.

(b) If it is determined that the other jurisdiction maintained the inmate in a similarly restrictive status, the inmate shall be credited with the number of days he was held in segregation type status by the other jurisdiction.

(12) In those instances where there exists a need to create available bed space in a segregation unit, the functional unit manager or designee, in his/her sole discretion, may release an inmate(s) from segregation.

(a) At that point, the segregation sanction will be deemed to have been completed and the remaining segregation sanction will not be served as loss of privileges, while the inmate resides in the general inmate population.

(b) Any loss of privileges sanction ordered to be served upon the inmate's release from segregation, shall begin at the time the inmate is actually released from segregation.

(13) Inmates who commit a rule violation may be subject to classification review in accordance with the Department of Corrections rule on Classification (Inmate) (OAR 291-104).

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 421.185, 421.190, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 29-1986, f. & ef. 8-20-86; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0069

Additional Sanctions for Major Violations

(1) The additional sanctions available to the hearings officer for major violations are:

(a) Restitution or Reimbursement: Inmates shall be responsible for making full restitution for any damage or loss of property. In addition, inmates shall be financially responsible for all costs associated with or resulting from the violation. These shall include the costs of any drug urinalysis testing. There is no limit on the amount of restitution or reimbursement which can be imposed for a major sanction. There must always be a factual basis in the record to support the restitution or reimbursement amount and that amount must be reasonable.

(b) Confiscation of property or contraband.

(c) Reduction to Basic Visiting Status (non contact): For any major violation, basic visiting status may be imposed up to a maximum of 180 days for any one violation. Any inmate found in violation of Distribution I involving drugs, Drug Possession, or Contraband I involving drugs, drug paraphernalia, or drug testing including attempt or conspiracy, within the past two years shall be restricted to basic visits for each violation as follows:

(A) First violation: 1 year (365 days)

(B) Second violation: 2 years (730 days)

(C) Third or more violation(s): 4 years (1,460 days)

(i) Basic visiting sanctions shall be served consecutively to the conclusion of any assignment to disciplinary segregation or Intensive Management Unit.

(ii) Reduction to basic visiting status sanctions shall be served consecutively up to 7 years (2,555 days). No inmate shall serve more than 7 years (2,555 days) of consecutive reduction to basic visiting status sanctions at any one time.

(d) Extra Work Detail: For a major violation, the limit on extra work detail is a maximum of 80 hours, to be completed within 30 days after the Final Order has been signed.

(e) Revocation of short-term transitional leave and return the inmate to a Department of Corrections facility.

(f) Recommendation for no Favorable Future Consideration of Parole Release Date.

(g) Recommendation for an extension of parole release date in accordance with the rule on Prison Term Modification (OAR 291-097).

(h) Recommendation for reduction in earned time, statutory good time or extra good time credits in accordance with the rule on Prison Term Modification (OAR 291-097).

(2) Recommendations for reduction of earned time, statutory good time or extra good time and recommendations for an extension of parole release date shall be mandatory sanctions for all violations at level one of the major misconduct grid.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 421.185, 421.190, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 29-1986, f. & ef. 8-20-86; CD 38-1987, f. & ef. 10-2-87; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0071

Additional Sanctions for Minor Violations

Listed below in subsections are all the additional sanctions which are available to the hearings officers or adjudicator for a minor violation. They shall be applied consistently and in proportion to the violation and the inmate's prior misconduct history.

(1) Restitution: Inmates shall be responsible for making full restitution for any damage or loss of property. In addition, inmates shall be financially responsible for all costs with or resulting from the misconduct. There is no limit on the amount of restitution which can be ordered for a minor sanction. There must always be a factual basis in the record to support the restitution amount.

(2) Confiscation of property or contraband.

(3) Reduction to basic visiting status (non contact): For a minor violation, basic visiting status may be imposed up to a maximum of 28 days for any one violation.

(4) Extra work detail: For a minor violation, the limit on extra work detail is a maximum of 40 hours, to be completed within 30 days after the hearing.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 6-1993, f. 3-10-93, cert. ef. 4-1-93; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 14-2008, f. & cert. ef. 6-2-08

291-105-0072

Deviation Sanctions for Major Violations

(1) Once the level of discipline has been determined, according to the disciplinary grid, the hearings officer or functional unit manager or his/her designee may deviate, either upward or downward on major violations in formal hearings. This deviation, under no circumstances, may exceed 50% of the segregation sanction in the inmate's appropriate box on the grid. All deviations shall be supported by written "substantial reasons" outlining the mitigating or aggravating factors which support the deviation. All deviations shall be subject to review by the functional unit manager or his/her designee.

(2) There may be only one deviation ordered for each sanction imposed. The hearings officer and functional unit manager may NOT both order a separate deviation for one sanction.

(3) Deviations may only be ordered for major violations. Deviations may not be ordered for minor violations.

(4) Substantial reasons will be separated into mitigating and aggravating factors.

(5) The following list of mitigating and aggravating factors may be considered when determining substantial reasons for a deviation. Other factors not listed may also constitute substantial reasons for mitigation or aggravation.

(a) Mitigating factors:

(A) The inmate acted under duress or compulsion (not sufficient as a complete defense).

(B) The inmate's mental capacity was diminished (excluding diminished capacity due to voluntary drug or alcohol abuse).

(C) The misconduct was principally accomplished by another and the inmate exhibited extreme caution or concern for the victim.

(D) The victim (if any) was an aggressor or participant in the behavior associated with the misconduct.

(E) The inmate played a minor or passive role in the misconduct.

(F) The inmate cooperated with the department with respect to the current misconduct or any other misconduct by the inmate or other inmates.

(G) The degree of harm or loss attributed to the current misconduct was significantly less than typical for such misconduct.

(b) Aggravating factors:

(A) Threat of or actual violence toward a witness or victim.

(B) Persistent involvement in similar misconduct or repetitive assaults.

(C) Use of a weapon in the commission of the misconduct.

(D) Deliberate cruelty to victim.

(E) The inmate knew or had reason to know of the victim's particular vulnerability, such as the extreme youth, age, disability or ill health of victim, which increased the harm or threat of harm caused by the misconduct.

(F) The misconduct involved multiple victims or incidents.

(G) The misconduct was part of an organized operation.

(H) The misconduct resulted in a permanent injury to the victim.

(I) The degree of harm or loss attributed to the current violation was significantly greater than typical for such misconduct.

(J) The misconduct was motivated entirely or in part by the race, sex, color, religion, ethnicity or national origin of the victim.

(K) The timing and location of the misconduct directly threatened the safety, security, or orderly operation of the facility significantly more than typical for such misconduct.

(c) No aspect of the misconduct that serves as a necessary element of misconduct may be used as an aggravating factor if that aspect is also used to impose discipline.

Stat. Auth.: ORS 179.040, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.180, 423.020, 423.030 & 423.075

Hist.: CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 9-1995, f. 5-23-95, cert. ef. 6-1-95; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05

291-105-0081

Adjustments to Final Orders

(1) Based upon an inmate's significant positive behavior change and after consideration of each individual inmate's particular circumstances, the functional unit manager or designee may make adjustments to final orders either at his/her discretion, or upon employee recommendation.

(2) Adjustments to segregation time and fine sanctions from final orders may not exceed the limits established in Exhibit 3.

(3) Adjustments of up to 50% of the total sanction accrued to that point in time may be made to basic visiting on a one-time basis only.

(4) Up to 50% of the cumulative total (at the time of restoration consideration) of previously retracted earned time,

statutory good time or extra good time credits resulting from disciplinary sanctions may be restored. Earned time credits will be restored toward the most recent retraction and continue thereafter in reverse order. At no time will a restoration of earned time, statutory good time or extra good time credits cause an inmate's release date to move within 60 days of the date of the adjustment. Earned time, statutory good time and extra good time restored under this section can only be later retracted if the subsequent findings of fact is signed by the functional unit manager or designee after the date of the restoration.

(5) Adjustments to final orders shall be initiated and documented using the Adjustment to Final Order form (CD 1460). Copies of Adjustment to Final Order will be provided to appropriate sections for necessary action, including the hearings section where the amendment will be entered into the inmate disciplinary system.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075

Hist.: DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

291-105-0085

Administrative Review

(1) Any order for rule violations on Level I or Level II of the major violation grid or, which recommends an extension of the inmate's parole release date or retraction of earned time, statutory good time or extra good time credits; or which recommends a deviation from the segregation sanction listed on the grid is subject to review by the Inspector General.

(2) Petitions for administrative review must be filed by the inmate with the Inspector General within 60 calendar days after the Final Order is signed by the functional unit manager or his/her designee or after a preliminary order becomes the Final Order under OAR 291-105-0031. Filing a petition for administrative review shall not stay the imposition of a sanction.

(3) An inmate may file a petition for administrative review by completing the Department's Petition for Administrative Review form (CD 1442) and submitting it to the Inspector General. Petitions for administrative review shall minimally state the following:

(a) The date the hearing was completed and the hearing case number (i.e., 0104-A001-A03).

(b) The rule violation(s) which the inmate was found in violation or sanction which meets the review criteria listed in (1) above.

(c) Sufficient information to show why there was not substantial compliance with the rule, that the finding was not based upon a preponderance of the evidence or that the sanction imposed was not in accordance with provisions set forth in the rule (OAR 291-105).

(d) An inmate who attempts to file a petition for administrative review by use of an inmate communication form or any written communication other than the petition for administrative review form (CD 1442) shall have his/her communication returned with instructions that the inmate resubmit the petition on the proper form.

(4) Upon receipt of the petition for administrative review, the Inspector General or designee shall review the case to determine:

(a) Was there substantial compliance with the rule (OAR 291-105);

(b) Was the finding based upon a preponderance of evidence; and

(c) Was the sanction imposed in accordance with the provisions set forth in the rule (OAR 291-105).

(5) If the Inspector General or designee determines there was substantial compliance with the rule (OAR 291-105), the finding was based on a preponderance of evidence and the sanctions imposed were in accordance with the provisions set forth in the rule (OAR 291-105), he/she shall so inform the inmate.

(6) If the Inspector General or designee determines there was not substantial compliance with the rule (OAR 291-105), the finding was not based on a preponderance of the evidence or the

sanctions imposed were not in accordance with provision set forth in the rule (OAR 291-105), he/she shall direct the hearing to be reopened or vacate all or part of the final order in the case.

(7) The Inspector General or designee shall provide the inmate with a written response to the petition for administrative review within 60 days from the date it is received by him/her. Documentation submitted to the Inspector General shall not be returned to the inmate.

(8) Petitions that are outside the criteria listed in OAR 291-105-0085(1) shall be returned without comment.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030, 423.075
 Hist.: CD 19-1979(Temp), f. & ef. 10-19-79; CD 13-1980, f. & ef. 4-15-80; CD 25-1982, f. & ef. 11-19-82; CD 8-1985(Temp), f. & ef. 6-19-85; CD 30-1985, f. & ef. 8-16-85; CD 6-1986(Temp), f. & ef. 3-14-86, ef. 4-15-86; CD 29-1986, f. & ef. 8-20-86; CD 32-1987(Temp), f. & ef. 8-5-87; CD 38-1987, f. & ef. 10-2-87; CD 5-1989, f. & cert. ef. 4-21-89; CD 8-1992, f. 3-27-92, cert. ef. 4-15-92; CD 16-1996, f. 11-13-96, cert. ef. 11-15-96; DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 6-2002, f. 4-30-02, cert. ef. 5-1-02; Renumbered from 291-105-0073, DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08

291-105-0100

Vacating or Withdrawing the Final Order in the Interest of Justice

The Inspector General, Assistant Director for Operations or the Institutions Administrator may, in the interest of justice, vacate all or part of a final disciplinary order or withdraw the order and direct that a disciplinary hearing be reopened for consideration of new evidence.

Stat. Auth.: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.068, 421.180, 423.020, 423.030 & 423.075
 Hist.: DOC 3-1999, f. 2-25-99, cert. ef. 3-1-99; DOC 9-2005, f. 7-22-05, cert. ef. 7-24-05; DOC 14-2008, f. & cert. ef. 6-2-08; DOC 11-2011(Temp), f. & cert. ef. 6-10-11 thru 12-7-11; DOC 24-2011, f. 12-2-11, cert. ef. 12-7-11

DIVISION 107

PETITIONS (CIRCULATION IN FACILITIES)

291-107-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Administrator by the Director of Human Resources in accordance with ORS 179.040 and 423.060.

(2) Purpose: The purpose of this rule is to set guidelines to govern the circulation of petitions by inmates or others within a Department of Corrections facility.

(3) Policy: It is the policy of the Department of Corrections to assure that effective channels of communication between inmates, community, and staff exist. Suggestions for improvements are welcome and encouraged. Those inmates and/or community persons who have not been able to resolve problems through other available channels (i.e., the Ombudsman, Department of Corrections staff, or grievance procedure), may request approval to circulate a petition. Petitions may be circulated with the approval of the facility manager in accordance with the procedures included in this rule.

Stat. Auth.: ORS 179 & 423
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 32-1978, f. 10-24-78, ef. 10-25-78; CD 22-1985, f. & ef. 8-5-85; CD 38-1986, f. & ef. 10-17-86

291-107-0010

Definitions

(1) "Department of Corrections Facility": An institution or its satellite, release center, or office, including the grounds, operated by the Department of Corrections.

(2) "Functional Unit": Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(3) "Functional Unit Manager": Any person within the Department of Corrections who reports to either the Administrator or an assistant administrator and has day-to-day responsibility for the delivery of program services or coordination of program operations.

(4) "Inmate": Any person under the supervision of Department of Corrections who is not on parole or probation status.

Stat. Auth.: ORS 179 & 423
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 32-1978, f. 10-24-78, ef. 10-25-78; CD 22-1985, f. & ef. 8-5-85; CD 38-1986, f. & ef. 10-17-86

291-107-0015

Procedures

(1) Those inmates and/or community persons who have not been able to resolve problems through other available channels (i.e., the Ombudsman, Department of Corrections staff, or grievance procedure), may request approval to circulate a petition. Petitions may be circulated with the approval of the functional unit manager as directed in this rule. Circulation of a petition is a process through which inmates can show support for community endeavors. Any inmate or other person desiring to circulate a petition will present the petition to the functional unit manager adding any supporting information that would justify its approval. Permission to circulate petitions within a Department of Corrections facility will be approved if:

- (a) There is factual information;
- (b) All other available avenues to remedy a problem or seek a solution to the issue or subject of the petition have been exhausted;
- (c) The outcome of circulating the petition has the potential to benefit or improve the facility population or the people of the State of Oregon;
- (d) Circulation of the petition would not seriously disrupt the order and security of the facility.

(2) The functional unit manager will respond, in writing, within ten days and will:

- (a) If the petition is approved, advise the petitioner of the manner in which the petition may be circulated;
- (b) If the petition is denied, advise the petitioner of reason for denial.

Stat. Auth.: ORS 179 & 423
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 32-1978, f. 10-24-78, ef. 10-25-78; CD 22-1985, f. & ef. 8-5-85

291-107-0020

Implementation

These rules will be implemented immediately, without modification, by all functional unit managers.

Stat. Auth.: ORS 179 & 423
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 32-1978, f. 10-24-78, ef. 10-25-78; CD 22-1985, f. & ef. 8-5-85; CD 38-1986, f. & ef. 10-17-86

DIVISION 109

INMATE COMMUNICATION AND GRIEVANCE REVIEW SYSTEM

291-109-0100

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish department policy and procedures for inmate communication with staff and the administration of the department's internal grievance review and appeal system for inmates confined in Department of Corrections facilities.

(3) Policy:

(a) It is the policy of the Department of Corrections to encourage inmates to address their concerns informally with appropriate staff and managers through either dialog or by utilizing inmate communication forms. Inmates having information or concerns regarding the conduct or behavior of staff that may directly threaten the life, health, and safety of staff or inmates are also encouraged to communicate their information and concerns to the department using such other systems as the department may develop, for example, the Inspector General's hotline.

(b) Recognizing that due to the complex nature of the correctional setting some issues or disputes between staff and inmates may not be readily resolved at an informal level, it is the policy of the Department of Corrections to permit and encourage inmates to seek resolution of issues or disputes using the department's internal inmate grievance review and appeal system established in these rules.

(c) Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections that all inmates be treated fairly and equitably, and that staff actions and decisions be consistent with the rules, policies and procedures of the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11

291-109-0110

Definitions

(1) Administrative Directive: A term used to describe in general a Department of Corrections rule or policy signed by the Director or Deputy Director.

(2) Communication: A process by which information is exchanged between individuals, usually through verbal or written message.

(3) Contractor: Any person under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department sanctioned assignment to provide services or support to department programs.

(4) Department of Corrections (DOC) Employee: Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections.

(5) Functional Unit Manager: Any person within the Department of Corrections who reports either to the Director, an Assistant Director, or an administrator and has responsibility for the delivery of program services or the coordination of program operations.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post prison supervision status.

(7) Inmate Communication Form: An official Department of Corrections form (CD 214) commonly referred to as a "kyte or kite." The form is designed for inmate use in communicating with employees, volunteers, or contractors and allows employees, volunteers, or contractors to respond in writing, when appropriate, to the inmate.

(8) Inspector General's Hotline: A phone number, maintained and paid for by the department, where inmates may report misconduct by other inmates and abuse of lawful authority or criminal activity of department staff in order to protect the life, health, and safety of both staff and inmates.

(9) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(10) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises.

(11) Volunteer: An approved person who donates time, knowledge, skills and effort to enhance the mission, activities and programs of the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 3-1979, f. 1-18-79, ef. 1-25-79; CD 34-1981(Temp), f. & ef. 8-7-81; CD 5-1982, f. & ef. 1-29-82; CD 39-1983(Temp), f. & ef. 10-14-83; CD 6-1984, f. & ef. 4-9-84; CD 53-1985, f. & ef. 8-16-85; CD 56-1986, f. & ef. 12-5-86; CD 13-1992, f. 6-15-92, cert. ef. 6-26-92; DOC 29-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 17-2000, f. & cert. ef. 6-19-00; Renumbered from 291-109-0010, DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11

291-109-0120

Inmate-Staff Communications (General Principles)

(1) Proper and effective communication between inmates and staff is essential to the safe, secure, and orderly operation of Department of Corrections facilities and to the successful completion of the inmate's corrections plans.

(a) Inmates and staff communicate with each other not only with their choice of words (oral or written), but also non-verbally through their manner, tone, and approach (commonly referred to as "body language").

(b) Inmates and staff are jointly responsible for ensuring their choice of words, manner, tone and approach are appropriate to properly and effectively convey their intended information and ideas to one another.

(2) Inmates shall communicate with staff in a civil and respectful tone and manner.

(3) Staff shall communicate with inmates in a professional manner that fosters respect and confidence. Staff orders directed to inmates should be clear and concise.

(4) Staff should make every effort to respond to an inmate communication form within seven days of receipt.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11; DOC 22-2014, f. & cert. ef. 11-19-14

291-109-0140

Grievance Review System

(1) General Requirements:

(a) If an inmate is unable to resolve an issue through informal communications, the department encourages the inmate to seek resolution of the issue by submitting a written grievance using the department's approved inmate grievance form (CD 117) in accordance with these rules. As with informal communications, inmates should use a civil and respectful tone and manner in their written grievances to attempt to resolve the issue or concern.

(b) An inmate grievance must include a complete description of the incident, action, or application of the rule being grieved, including date and approximate time.

(A) Only supporting documentation that directly relates to the issue being grieved, such as program failures, inmate communications, etc., should be attached and submitted with the grievance.

(B) Inmate grievances and supporting attachments that directly relate to the issue being grieved meet the standard for photocopying detailed in the rule on Legal Affairs, OAR 291-139-0040 (Supplies, Photocopying, Mailing, and Notary Services). However, library coordinators may limit photocopying of irrelevant or excessive amounts of supporting attachments.

(c) An inmate who attempts to grieve an issue by use of an inmate communication form or any written communication other than the department's approved inmate grievance form shall have his/her communication returned to him/her with instruction that the inmate resubmit the grievance on the department's approved inmate grievance form.

(d) An inmate grievance may request review of just one matter, action or incident per inmate grievance form.

(2) An inmate may file a single grievance concerning any of the following matters:

(a) The misapplication of any administrative directive or operational procedure;

(b) The lack of an administrative directive or operational procedure;

(c) Any unprofessional behavior or action which may be directed toward an inmate by an employee, contractor, or volunteer of the Department of Corrections or the Oregon Corrections Enterprises;

(d) Any oversight or error affecting an inmate;

(e) A program failure as defined in the DOC rule on Performance Recognition and Award System (Inmate), OAR 291-077-0020, unless the program failure is a direct result of a misconduct report where the inmate was found in violation;

(f) The loss or destruction of property as designated in the DOC rule on Personal Property (Inmate), OAR 291-117-0130(3);

(g) Sexual contact, solicitation or coercion between a DOC or OCE employee, contractor, volunteer of the department or OCE and an inmate; or

(h) Sexual abuse of an inmate by another inmate if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse.

(3) An inmate cannot grieve the following:

(a) Grievances relating to actions or decisions not within the jurisdiction of the department (for example, actions by the Board of Parole and Post-Prison Supervision).

(b) Incidents or actions for which there exists a separate internal department appeal or review process as identified by an OAR for which an inmate may take part in; for example, rejection or confiscation of mail, visiting, discrimination complaints, removal from an alternative incarceration program; classification issues, etc. (A use of force review, as described in OAR 291-013-0140, is not a separate appeal or review process for purposes of this rule.

(c) Daily fails as defined in the DOC rule on Performance Recognition and Award System (Inmate), OAR 291-077-0033;

(d) Conduct orders, investigations leading to a conduct order, or conduct order sanction(s);

(e) Misconduct reports, investigations leading to or arising from misconduct reports, or disciplinary hearings, findings and sanctions;

(f) Incident(s) or problem(s) to which an inmate was not a party;

(g) Claims or issues for which the inmate has filed a Notice of Tort with the Oregon Department of Administrative Services, Risk Management Division;

(h) Claims or issues the inmate has pursued or is pursuing in pending litigation in state or federal courts; or

(i) Group grievances representing other inmates, or acts where an inmate is a spokesperson for other inmates.

(4) An inmate may submit only his/her signature on a single grievance form.

(5) An inmate may not file more than one grievance regarding a single incident or issue unless more than one DOC or OCE employee, volunteer, or contractor is directly involved in the incident. A separate grievance must be filed for each individual.

(6) An inmate may file a grievance regarding the same issue as a previously filed grievance provided there is another incident and new information is available about the issue.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11; DOC 22-2014, f. & cert. ef. 11-19-14

291-109-0150

How and When a Grievance is Filed

(1) Inmate grievances must be submitted to the functional unit grievance coordinator on the department's approved inmate grievance form (CD117). Instructions for filing a grievance are found on form CD117a (Inmate Grievance Instructions).

(2) To obtain a grievance review, the functional unit grievance coordinator must receive an inmate's grievance within 30 calendar days of the date of the incident giving rise to the grievance.

(a) An inmate may file a grievance past the 30 days of the incident if the inmate can demonstrate why the grievance could not be filed within the timelines established by rule; i.e., physical incapacity, etc.

(b) Untimely grievances that fail to make that showing shall be returned to the inmate with a statement of the rule.

(3) The grievance coordinator shall date stamp and log the grievance form upon receipt.

(4) If an inmate cannot complete the grievance form due to language, physical, or competency and capacity barriers, another person may complete the form. However, the inmate submitting the grievance must sign the grievance form. Translation services or

other assistance for submission of a grievance form for non-English speaking inmates or inmates that have difficulty with reading and writing will be made available upon request.

(5) Functional unit managers or designees shall ensure the approved inmate grievance forms are readily available to inmates in DOC correctional facilities.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; Renumbered from 291-109-0140(3), DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11; DOC 22-2014, f. & cert. ef. 11-19-14

291-109-0160

Processing of Inmate Grievances

(1) Upon receiving an inmate grievance at the institution where the incident or issue occurred, the grievance coordinator will assign the grievance a number, date stamp, and record its receipt in an inmate grievance log.

(a) After the inmate grievance has been logged, the grievance coordinator will send a grievance receipt to the inmate.

(b) The grievance coordinator will coordinate with the appropriate staff or, if deemed more suitable, the appropriate manager by sending the grievance and a grievance response form (CD 117b) to the staff or manager respondent for reply.

(c) The respondent will complete the form and submit it to his/her manager for review and signature. The response shall be returned to the grievance coordinator for processing within 21 calendar days.

(2) After recording, the grievance coordinator will send the inmate grievance and employee's, contractor's, or volunteer's response to the inmate and retain copies for the file.

(a) The grievance coordinator will complete processing of the grievance within 45 days from the date the grievance was received from the inmate, unless further investigation is necessary.

(b) If the grievance is not processed within this timeframe, the grievance coordinator will make an effort to notify the inmate of the status of the grievance. If the inmate does not receive a response within the allotted time frame, he/she may contact the grievance coordinator.

(3) Grievance responses may be consolidated.

(4) If at any time the grievance coordinator determines the inmate has pursued his/her issue through state or federal courts, or has filed a notice of tort claim, the grievance process will cease and the grievance will be returned to the inmate. The grievance coordinator will retain a copy of the inmate's grievance and document the date and reason for return of the grievance.

(5) A grievance that has been returned to the inmate by the grievance coordinator for procedural reasons cannot be appealed. If a grievance is returned to the inmate because it does not comply with these rules, the inmate may elect to resubmit the grievance to the grievance coordinator within 14 calendar days from the date the grievance was sent back to the inmate if the procedural errors can be corrected.

(6) Once an inmate is released from the custody of the Department of Corrections, any pending grievances or pending appeal responses will be completed and held on file unless other arrangements have been made with the grievance coordinator. No further appeals will be accepted for processing once the inmate is released from the custody of the Department of Corrections.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; Renumbered from 291-109-0140(4), DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11; DOC 22-2014, f. & cert. ef. 11-19-14

291-109-0170

Grievance Appeals

(1) Appeals of the Initial Grievance (First Appeal Process):

(a) An inmate may appeal the initial grievance response using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments and staff response(s).

(A) The scope of the original grievance cannot be expanded. No additional information may be submitted unless the information was unavailable to the inmate at the time the original grievance was filed and the information is directly related to the alleged issue being grieved.

(B) After the appeal has been date stamped and logged, the inmate will be issued a return receipt, and the grievance appeal will be forwarded to the functional unit manager having authority to review and resolve the issue.

(b) Appeal Timelines: The grievance coordinator must receive an appeal within 14 calendar days from the date that the grievance response was sent to the inmate from the grievance coordinator.

(c) A grievance appeal that has been returned to the inmate by the grievance coordinator for procedural reasons cannot be appealed. If a grievance appeal is returned to the inmate because it does not comply with these rules, the inmate may elect to resubmit the grievance appeal to the grievance coordinator within 14 calendar days from the date the grievance appeal was sent back to the inmate if the procedural error can be corrected, (d) The functional unit manager shall respond to the inmate's grievance appeal within 30 calendar days from the date the appeal was received by the functional unit manager. The functional unit manager will return the grievance appeal and the response back to the grievance coordinator.

(2) Appeal of the Functional Unit Manager Decision (FINAL Appeal Process):

(a) An inmate may appeal the functional unit manager's decision using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments, staff responses and documentation related to the first grievance appeal.

(A) The scope of the original grievance cannot be expanded. No additional information may be submitted unless the information was unavailable to the inmate at the time the original grievance or first-level appeal was filed and the information is directly related to the alleged issue being grieved.

(B) After the appeal has been date stamped and logged, the inmate will be issued a return receipt. The grievance appeal will be forwarded to the Assistant Director having authority to review and resolve the issue.

(b) The Assistant Director or designee shall review the final grievance appeal. If the Assistant Director determines additional facts should have been gathered or additional witnesses interviewed, the grievance appeal will be referred back to the functional unit grievance coordinator. Upon completion of the investigation, the Assistant Director shall complete the review.

(c) Final Appeal Timelines: The grievance coordinator must receive the final appeal within 14 calendar days from the date that the first grievance appeal response was sent to the inmate from the grievance coordinator.

(A) An inmate may file a grievance appeal past the 14 day timeline if the inmate can demonstrate why the grievance appeal could not be filed within the timelines established by rule, i.e., physical incapacity, etc.

(B) Untimely grievances that fail to make that showing shall be returned to the inmate with a statement of the rule.

(d) A grievance appeal that has been returned to the inmate by the grievance coordinator for procedural reasons cannot be appealed. If a grievance appeal is returned to the inmate because it does not comply with these rules, the inmate may elect to resubmit the grievance appeal to the grievance coordinator within 14 calendar days from the date the grievance appeal was sent back to the inmate if the procedural errors can be corrected.

(e) The Assistant Director or designee shall respond to the inmate's grievance appeal within 30 calendar days from the date the appeal was received by the Assistant Director.

(f) The Assistant Director's or designee's decision on an inmate's grievance appeal is final, and is not subject to further review.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; Renumbered from 291-109-0140(5), DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11; DOC 22-2014, f. & cert. ef. 11-19-14

291-109-0175

Grievance Regarding Allegations of Sexual Abuse

(1) For purposes of this rule sexual abuse is defined as sexual abuse of an inmate by another inmate and sexual abuse of an inmate by a staff member.

(a) Sexual abuse of an inmate by another inmate includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) Contact between the mouth and the penis, vulva, or anus;

(C) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and

(D) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

(b) Sexual abuse of an inmate by a DOC or OCE employee, contractor, or volunteer of the department or OCE includes any of the following acts, with or without consent of the inmate, detainee, or resident:

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) Contact between the mouth and the penis, vulva, or anus;

(C) Contact between the mouth and any body part where a DOC or OCE employee, contractor, or volunteer of the department or OCE has the intent to abuse, arouse or gratify sexual desire;

(D) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where a DOC or OCE employee, contractor, or volunteer of the department or OCE has the intent to abuse, arouse, or gratify sexual desire;

(E) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to the official duties or where a DOC or OCE employee, contractor, or volunteer of the department or OCE has the intent to abuse, arouse or gratify sexual desire;

(F) Any attempt, threat, or request by a DOC or OCE employee, contractor, or volunteer of the department or OCE to engage in the activities described by paragraphs (A)–(E) of this section;

(G) Any display by a DOC or OCE employee, contractor, or volunteer of the department or OCE of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(H) Voyeurism by a DOC or OCE employee, contractor, or volunteer of the department or OCE. Voyeurism by a staff member, contractor or volunteer means an invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

(3) Grievances alleging sexual abuse must be submitted to the functional unit grievance coordinator on the departments approved inmate grievance form (CD117). The grievance should have the words "sexual abuse grievance" clearly written on the top of the grievance form.

(4) There is no time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.

(5) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.

(a) If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(b) If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision.

(c) The grievance coordinator may not refer a grievance alleging sexual abuse to a staff member who is the subject of the grievance. The grievance coordinator will coordinate with the appropriate manager by sending the grievance and a grievance response form (CD 117b) to the manager respondent for reply.

(d) An inmate may appeal the initial grievance response using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments and manager's response.

(e) The department shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

(f) Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.

(g) The department may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The department shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

(h) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial of the allegations made by the inmate at that level.

(i) An inmate who alleges that he or she is subject to a substantial risk of imminent sexual abuse may provide the grievance directly to the officer-in-charge (OIC) or the OIC's designee.

(j) After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the OIC or the OIC's designee shall immediately review and take immediate corrective action as necessary to mitigate the risk of sexual assault.

(k) The OIC or the OIC's designee shall provide the emergency grievance and the initial response to the inmate and the grievance coordinator within 48 hours of the submission of the grievance.

(l) The grievance coordinator will issue to the inmate a final response to the emergency grievance within five days of the submission of the emergency grievance.

(m) The initial and final responses shall document the department's determination whether the inmate is in substantial risk of imminent sexual abuse and any action, if necessary, taken in response to the emergency grievance.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Impl.: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 16-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 3-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14; DOC 7-2014, f. & cert. ef. 3-3-14; Renumbered from 291-109-0200, DOC 22-2014, f. & cert. ef. 11-19-14

291-109-0180

Abuse of Grievance Review System

(1) An inmate shall submit no more than two initial inmate grievances in any one week or six in any calendar month. This will not apply to grievances regarding allegations of sexual abuse. A week is defined as Sunday through Saturday.

(2) Initial grievances submitted in excess of two grievances in any one-week or six in any calendar month will be denied and returned to the inmate, noting that he/she has abused the grievance review system.

(3) Grieving multiple staff involved in one incident counts as filing one grievance.

(4) If a life, health or safety situation arises whereby there is valid reason to submit more than two grievances in one week or six in a calendar month, the inmate must clearly state in writing the reason for submission of the grievance above the number allowed. If the grievance coordinator determines that these reasons are not

clear, concise or valid for submission of an additional grievance, the grievance will be returned to the inmate denied.

(5) Actions taken against an inmate who has abused the grievance review system under these rules are not grievable.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; Renumbered from 291-109-0140(6), DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11; DOC 16-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 3-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14; DOC 7-2014, f. & cert. ef. 3-3-14; DOC 22-2014, f. & cert. ef. 11-19-14

291-109-0190

Retention and Filing of Inmate Grievances

(1) The grievance coordinator will retain a file copy of grievances with pertinent documents, including appeals, in accordance with the department's approved retention schedule for these records.

(2) Inmate grievances will not be filed in the inmate's working file.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; Renumbered from 291-109-0140(7), DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11

291-109-0200 [Renumbered to 291-109-0175]

DIVISION 113

WORKFORCE DEVELOPMENT EDUCATION PROGRAMS

291-113-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.084, 423.020, 423.030, 423.075, and 423.085.

(2) Purpose: The purpose of this rule is to establish uniform entry requirements for all educational programs offered in Department of Corrections facilities, as well as a uniform procedure for the assignment of inmates to inter-institutional education programs in the department.

(3) Policy: It is the policy of the Department of Corrections, within the resources available, to provide educational programs which are responsive to the assessed needs of incarcerated individuals in its custody.

(a) Pursuant to ORS 179.750(2), there will be no discrimination in the provision of education facilities and services in state institutions, including those administered by the Department of Corrections, on the basis of age, race, religion, gender, marital status, national origin, or disability. Criteria for selection and assignment to these programs shall be equitable and nondiscriminatory for all participants based on the inmate's interest, academic need, aptitude, prior academic record, and career goals as identified and diagnosed at the time of admission to a Department of Corrections facility.

(b) Participation in educational programs is by mutual agreement between the inmate and the appropriate institutional staff, including but not limited to, admission and orientation, education and security. Re-assessment may also be conducted at the request of the inmate, educational staff personnel, or the inmate's counselor at any subsequent time.

Stat. Auth.: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085

Stats. Implemented: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085

Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0010

Definitions

(1) Adult Basic Education (ABE): A basic skills curriculum providing functional literacy foundations to inmates who do not

possess a high school diploma or General Education Development (GED) certificate or do not function at a high school level. The ABE program emphasizes functional literacy skills with curriculum focused on family, work, and community. The ABE program also provides instruction in the processes involved in solving everyday problems and prepares inmates to meet the requirements of other educational programs. The ABE curriculum may also provide inmates with systematic preparation for the GED examination, administered according to guidelines set forth by the Oregon Department of Workforce Development and Community Colleges.

(2) Assessment: As applied in this rule, a test designed to measure the grade-level/scale score achievement of the person tested. Such instruments may include, but are not limited to, the BASIS (Basic Adult Skills Inventory System)/CASAS (Comprehensive Adult Student Assessment System) Test, or Test of Adult of Basic Education, or BEST (Basic English Skills Test).

(3) Collegiate Program: A post secondary course of studies offered through a local college or correspondence courses approved by institution/education staff and paid for by the inmate.

(4) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(5) English as a Second Language (ESL): A program which targets inmates who are non-English speakers with low or no English skills. The program focuses on improving English language skills (listening, speaking, reading, and writing).

(6) Functional Literacy: Those educational skills necessary to function independently in society, including but not limited to, reading, writing, comprehension, and arithmetic computation.

(7) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(8) Intra-Institutional Assignment: An assignment in which an inmate is assigned to an education program within the Department of Corrections facility in which he/she resides.

(9) Inter-Institutional Assignment: An assignment in which an inmate is regularly transported to and from the Department of Corrections facility in which he/she resides, for the purpose of participation in another Department of Corrections facility's educational program not available to the inmate at the facility in which he/she resides.

(10) Work-Based Education (WBE): These programs develop specific skills that can assist inmates in obtaining employment after release. Many of the programs may include both training and production components.

Stat. Auth.: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085
Stats. Implemented: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085
Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 19-1983, f. & ef. 5-2-83; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03; DOC 12-2004, f. & cert. ef. 10-21-04

291-113-0015

Collegiate Program

(1) College programs are not provided by the department. Inmates choosing to pursue a post secondary college degree or certificate, either through enrollment in classes provided at the facility or by the local community college or through correspondence courses, must pay for the program themselves. Correspondence courses must be approved by the institution/education staff. Inmates must consult their counselor before making arrangements for correspondence courses.

(2) Inmates must follow the institution rules regarding package authorization. The education unit, depending on available resources, may assist with proctoring tests, callouts for viewing videos/listening to cassette tapes. Resources will differ from facility to facility.

NOTE: There are no grant funds (Pell Grants) nor general fund resources to pay for these programs. Pell grants were eliminated for state prisoners in 1994 with the passage of the Federal Crime Bill.

Stat. Auth.: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085

Stats. Implemented: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085
Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 19-1983, f. & ef. 5-2-83; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0021

Work-Based Education (WBE) Training Programs

(1) Selection Criteria for Entry into WBE Training Programs:
(a) A high school diploma or GED; and
(b) CASAS scores of 242 in reading and 236 in math.
(c) Assignment as a new WBE student will normally be given to those candidates who are no more than three years or less than one year from his/her projected parole release date.

(2) Continuing Participation: An inmate's continuing participation in any WBE program in a Department of Corrections facility is contingent upon satisfactory, timely progress as evaluated by the instructor(s) and the Work Force Development (WFD) manager on an ongoing monthly basis.

Stat. Auth.: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085
Stats. Implemented: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085
Hist.: DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0030

Logistical Considerations for All Inter-Institutional Programs

(1) An inmate who meets the required criteria and is interested in a program not available in his/her specific institution setting may request an inter-institution assignment.

(a) Step 1: The inmate shall send an Inmate Communication (kyte) to the local institution Work Force Development (WFD) manager.

(b) Step 2: The institution WFD manager will process this request to determine minimum educational eligibility. All requests will be processed in accordance with that facility's approved programming procedures. If the minimum criteria are not met, the inmate will be referred to the Work Force Development unit for appropriate skill improvement in the current facility. If the minimum criteria are met, the request will be forwarded to the inmate's counselor.

(c) Step 3: The counselor will look at additional factors and the inmate's incarceration plan in order to determine the appropriateness of transfer, then return the findings to the WFD manager of the sending facility. Upon receipt, the WFD manager will forward the request and findings to the WFD manager of the receiving facility.

(d) Step 4: When the WFD manager of the receiving facility receives the request, he/she will arrange for the inmate to be interviewed, if requested by the instructor, by the appropriate program personnel, utilizing the preferred format of both facilities.

(e) Step 5: After completion of the interview(s), the WFD manager will forward the interview comments to the functional unit manager or designee of the receiving facility.

(f) Step 6: The functional unit manager or designee of the receiving facility will approve or deny the request after following institution protocol and/or having appropriate conversations with institution personnel. Justification will be based upon the following criteria:

(A) Inmate safety;
(B) Inmate's record of conformity to established rules and regulations; and
(C) The appropriateness of the proposed course of study with respect to the inmate's Inmate Incarceration Transition Plan (IITP) program goals.

(D) The fact that the inmate has one or more co-defendants or enemies housed in the participating facility is not in itself sufficient cause to deny that inmate's request to participate, unless it can be demonstrated that such participation would place any of all of these co-defendants in personal danger or jeopardize security in the participating facility.

(g) Step 7: Once the request has been approved, the inmate's name will be placed on the appropriate waiting list. The WFD

manager of the receiving facility will notify the inmate and WFD manager of the sending facility that a preliminary check determined whether the inmate was eligible for transfer and that security will make the final decision just prior to transfer.

(h) Step 8: Prior to actual acceptance into the program, the WFD unit of the receiving facility will have security complete the final security check. The WFD unit of the receiving facility will contact the inmate's counselor at the sending facility and let the counselor know the inmate is ready to transfer. The counselor from the sending facility will initiate the 1206 process with Classification and Transfer. It is the responsibility of the sending facility to maintain communication with the receiving facility in order to facilitate the move.

(i) If for some reason the inmate is unable to complete his/her program, the inmate may be returned to the sending facility.

(j) Qualifications for Work-Based Education Training Programs: All work-based education training programs have requirements that inmates must meet in order to qualify for entry into the program.

(A) Standard Minimum Qualifications:

(i) Verified high school diploma or GED;

(ii) CASAS Scores: 242 reading, 236 math; and

(iii) Normally one to three years (36 or less months remaining on sentence).

(B) Programs with Additional Requirements:

(i) CAD/CAM (SRCI): ASSET college placement test with a math level of 60 or higher.

(ii) Call Center (SRCI): CASAS reading score 245 and must be able to type 30 wpm.

(iii) Construction Technology (SRCI): ASSET college placement test and 36 months remaining on sentence.

(iv) Inmate Legal Assistant (SRCI): Must pass the ASSET college placement test and 36 months remaining on sentence.

(k) Inmates who test below the minimum requirements will be given the opportunity to take education courses for basic skills upgrade in the subject and may retest to meet qualifications.

(l) In order to guarantee equal opportunity to all inmates, affirmative action may be taken to overcome the effects of conditions which resulted in limited participation therein by persons of a particular gender in accordance with existing state and federal statute, Title IX, paragraphs 86.3(B).

(m) In cases of conflicting recommendations between functional unit managers, the matter may be referred by either party to the administrator of the WFD unit for final resolution.

(2) Transportation and Arrival/Departure:

(a) Transportation will be arranged by staff from the sending facility and provided by the Transport unit.

(b) Arrival and departure times, parking arrangements, the entry and exit points to and from the participating facility, and related details will be articulated in advance and agreed upon by the functional unit manager involved.

(c) Participants will be transported to the designated instructional area by Transport staff.

(3) Supervision: Supervision of participants in inter-institutional programs will be provided by the receiving facility.

(4) Meals: Where and when meals shall be eaten will be designated in advance and approved by the functional unit managers involved.

(5) Restrooms: Participants in inter-institutional programs shall use designated restroom(s) in the area(s) assigned.

(6) Medical Services:

(a) In the event of illness or injury involving non-resident participants in an inter-institutional program, emergency attendance and first aid will be provided by the receiving facility.

(b) Immediate return to the sending facility or a local hospital shall occur if treatment in addition to emergency first aid is needed.

(7) Disciplinary Matters:

(a) In the event of any disciplinary problems involving non-resident participants, the resident will be returned to the facility in which he/she resides immediately, when indicated.

(b) Disciplinary problems and behavioral adjustments will be the responsibility of the staff and administration of the facility in which the inmate resides.

(c) An inmate may be removed from any Department of Corrections inter-institutional educational program if disciplinary action in the facility in which he/she resides results in a situation where that person is unable to participate in the program for more than two weeks.

(d) Disciplinary reports on participants in inter-institutional education programs issued at the receiving facility may also result in removal from the program. Such action will be undertaken in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(8) Emergency Moves:

(a) In the event of an emergency move due to medical or disciplinary reasons, the correctional officer from the sending facility will supervise the emergency move with the assistance of a staff member/driver from the receiving facility.

(b) The sending facility will dispatch additional staff immediately to relieve staff at the receiving facility of the responsibility for interim supervision of other inter-institutional program participants.

(9) Personal Attire:

(a) Inmates participating in any educational program will be required to follow the guidelines of the receiving facility procedure on inmate dress.

(b) Protective clothing for WBE participants will be provided by the receiving facility, but such work clothing as may be required by the nature of the trade area involved will be provided by the facility in which the inmate resides.

Stat. Auth.: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085

Stats. Implemented: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085

Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 19-1983, f. & ef. 5-2-83; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0035

Adult Basic Education (ABE) Intra-Institutional Programs

ABE Program Participation:

(1) ABE program participation will be based on inmate need as outlined in the inmate's Inmate Incarceration Transition Plan (IITP). In accordance with ORS 421.084, the functional literacy program is mandatory for inmates scoring below 230 on the BASIS tests. The program will consist of the equivalent of 90 days of instruction at 1 1/2 hours per day, five days per week or 135 hours. Successful completion of the mandatory program will result in receipt of a portion of the 20% time cut for program completion for inmates who qualify in accordance with the Department of Corrections rule on Prison Term Modification (OAR 291-097). Those exempted from the mandatory program include:

- (a) Inmates sentenced to less than one year;
- (b) Inmates sentenced to life without parole;
- (c) Inmates sentenced to death; and
- (d) Inmates developmentally disabled.

(2) The ABE program is available to inmates on request. Need will be assessed by means of a recognized assessment to determine the functional literacy level/scale score achievements of the inmate for use in correct placement of the individual in the ABE program. Those unable to test will be given further assessment at the facility in which they reside and will be recommended for appropriate programming.

(3) Placement of an inmate in the ABE curriculum will reflect each individual's IITP.

(4) Staff will regularly assess inmate progress toward identified outcomes.

Stat. Auth.: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085

Stats. Implemented: ORS 179.040, 421.084, 423.020, 423.030, 423.075 & 423.085

Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

DIVISION 117

PERSONAL PROPERTY (INMATE)

291-117-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish policy and procedures for inmates in Department of Corrections facilities, to acquire, possess, store and dispose of property consistent with sound correctional practices and the safe, secure, orderly and efficient operation and management of Department facilities.

(3) Policy: Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections that inmates are authorized to acquire, possess, store and dispose of property in accordance with and subject to the procedures and restrictions set forth in these rules. Primary objectives of these rules are:

(a) To provide for the processing of inmate personal property in a prompt, orderly and efficient manner;

(b) To prevent the introduction and creation of contraband or articles which could constitute a safety and/or security hazard;

(c) To limit the amount of personal property which may be acquired and retained consistent with sound correctional practices, taking into consideration available space, accountability, fire, health, safety, sanitation, and security needs;

(d) To provide for the safekeeping, storage, or disposal of inmate personal property; and

(e) To allow personal property to transfer with an inmate from one Department of Corrections facility to another Department of Corrections facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18-1978, f. 8-21-78, ef. 8-23-78; CD 3-1981(Temp), f. & ef. 2-5-81; CD 9-1981, f. & ef. 5-5-81; CD 11-1983, f. & ef. 2-18-83; CD 21-1985, f. & ef. 8-2-85; CD 14-1987, f. & ef. 2-6-87; CD 11-1992(Temp), f. 3-31-92, cert. ef. 4-15-92; CD 22-1992, f. & cert. ef. 10-9-92; DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0008

Definitions

(1) Authorized Legal Material: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, correspondence, and other necessary documents (including discovery and exhibits), in or directly pertaining to an inmate's own pending and active case(s), lawsuit(s) before the courts or paroling authorities.

(2) Contraband: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, creating, or which the inmate is not specifically authorized to obtain or possess or which the inmate alters without authorization.

(3) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or coordination of program operations.

(5) General Population Housing: Cell or dormitory housing for general population inmates whose assignment is not restricted or segregated for disciplinary or programming reasons.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(7) Special Housing: Housing for inmates whose assignment is administrative segregation, disciplinary segregation, Special Management Unit, Infirmary, Intensive Management Unit, and Death Row.

(8) Staff Chaplain: A person employed full-time or contracted by the Department of Corrections to provide religious services to inmates in Department of Corrections facilities.

(9) State-Issued Property: Items that are issued to the inmate by the department for his/her personal use.

Stat. Auth.: ORS 170.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 14-1987, f. & ef. 2-6-87; CD 11-1992(Temp), f. 3-31-92, cert. ef. 4-15-92; CD 22-1992, f. & cert. ef. 10-9-92; DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0070

Inmate Property (General)

(1) Each Department of Corrections facility shall have a specific location(s) where inmate property may be securely stored when not in the possession of the inmate and where property records are maintained.

(2) Property Limit: Inmate property shall not exceed the capacity of storage space located in the inmate's assigned housing area and designated by the functional unit manager/designee for the storage of inmate personal property. Designated storage space includes, but is not limited to, drawers, storage box(es), cabinet(s), shelf(ves), clothing hook(s), or under the bunk. Inmates shall be informed of the storage space capacity of the facility where they are assigned.

(3) All inmate property shall be stored neatly in designated storage space(s) when not in use.

(4) All unbound paper products shall be cleared from open areas when not in use, and placed in designated storage, except as authorized by the functional unit manager/designee.

(5) Inmates are solely responsible for the care and safekeeping of their personal property while it is in their possession.

(6) All personal property must be acquired through authorized means.

(7) Property items offered as part of a non-cash incentive program will be handled in accordance with these rules and the department's rule on Performance Recognition and Award System (Inmate) (OAR 291-077).

(8) Inmates are responsible for retaining canteen receipts for property purchased after the effective date of this rule. Receipts shall be retained as proof of purchase for as long as the property is in the inmate's possession.

(9) Inmates are required to retain authorization slips for property acquired through any other approved process after the effective date of this rule. Slips shall be retained as proof of authorization for as long as the property is in the inmate's possession.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0080

Authorized Inmate Property

(1) Each inmate may possess authorized personal property and state-issued clothing not to exceed the capacity of the designated storage space located in the inmate's assigned housing area. Each inmate is authorized to possess only the following personal property items:

(a) One television;

(b) One CD player;

(c) One portable/pocket radio;

(d) One radio/tape player (boom box): An existing radio/tape player (boom box) acquired through authorized means and possessed by the inmate prior to the effective date of this rule may be retained by the inmate until transfer or release.

(e) One alarm clock;

(f) Jewelry: One plain, smooth wedding band, without stones or protrusions (must be married to possess), and one watch purchased through the canteen;

(g) Religious Items: Items authorized for religious use by inmate in accordance with the rule on Religious Activities (Inmate) (OAR 291-143) that are purchased through the canteen or authorized in writing by the staff chaplain;

(h) One acoustic guitar or other stringed instrument similar to and no larger than a guitar ordered/purchased through the canteen, and supporting equipment as appropriate (e.g., instrument strap, case, pitch pipe, and plastic picks),

(A) Instrument strings will be available for purchase through the facility canteen on a one for one exchange basis.

(B) Existing electric guitar and supporting equipment acquired through authorized means and possessed by the inmate prior to the effective date of this rule may be retained by the inmate until transfer or release.

(i) Personal and authorized books, magazines, newspapers, photos, personal mail, and any item purchased through the canteen or another approved process;

(j) Authorized legal material;

(k) Medical prosthesis approved by Health Services;

(l) Cosmetic Appliances (female inmates only): One electric hair dryer, one electric curling iron/brush, and one electric flat iron for hair;

(m) Oregon driver's license (for individual inmates assigned to minimum security facilities who have received written authorization from the functional unit manager/designee for work-related activity); and

(n) Personal Clothing: An inmate participating in an approved work release program at a minimum security facility may be authorized by the functional unit manager/designee to possess additional items of personal clothing necessary for the approved work activity.

(2) The following items are not subject to the space restrictions listed in this rule:

(a) One electric guitar and supporting equipment;

(b) One acoustic guitar and supporting equipment;

(c) One television;

(d) One radio/tape player (boom box); and

(e) Medical prosthesis approved by Health Services.

(f) Other items may be exempted from designated storage limits as approved by the functional unit manager/designee.

(3) Inmate personal property authorized at one Department of Corrections facility is authorized at all Department of Corrections facilities, except for the following items that are not allowed to transfer: 13-inch television, radio/tape player (boom box), electric guitar and supporting equipment, or other property approved as an institution-specific incentive property item (pilot project) until such time as the item is approved for all facilities departmentwide.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0090

Authorized Inmate Property at Initial Intake

(1) Each inmate received at intake shall possess only the following personal property items while awaiting assignment to an appropriate facility within the state system:

(a) Medical prosthesis as approved by Health Services (includes prescription eyeglasses);

(b) One plain smooth wedding band, without stones or protrusions (must be married to possess); and

(c) Authorized legal material.

(2) All property received will be inspected and inventoried. Unauthorized property or excess property will be handled in accordance with procedures set forth in Disposition of Property (OAR 291-117-0140)

(3) Money in the inmate's possession shall be received and processed in accordance with the Department of Corrections rule on Trust Accounts (Inmate).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0100

Authorized Legal Property

(1) Each inmate is authorized to possess in his/her living quarters, and in the facility law library, legal material in or directly pertaining to his/her own pending and active case(s)/lawsuit(s) before the courts or paroling authorities. The authorized legal material shall not exceed the capacity of storage container(s) designated by the functional unit manager/designee for storage of inmate personal property. If an inmate exceeds the capacity of available storage in

his/her living quarters, additional authorized legal storage container(s) will be available for purchase (limit two). Additional legal storage containers shall only be used to store an inmate's authorized legal materials.

(2) Prior to an inmate being allowed to purchase additional legal storage container(s), the inmate must send a written request to the staff member(s) designated by the functional unit manager/designee.

(a) The staff member will verify the requesting inmate has authorized legal materials that exceed the designated storage capacity of the inmate's living quarters. The staff member will also verify the number of legal storage containers the inmate needs for the storage of his/her authorized legal materials.

(b) Once verified, the inmate will follow the procedure designated by the functional unit manager/designee regarding the purchase of authorized legal storage containers.

(3) Indigent Inmates: An inmate lacking sufficient funds in his/her trust account to pay for an additional storage container(s) for storage of authorized legal material in his/her living quarters will be provided with additional storage container(s) upon written request to the staff member(s) designated by the functional unit manager/designee. The written request must be accompanied by a signed Inmate Withdrawal Request form (CD 28). The inmate's trust account will be debited for collection of the cost(s) of the container(s) as funds become available.

(4) Excess Authorized Legal Material: If an inmate accumulates large amounts of authorized legal material that exceeds the capacity of storage available to the inmate in his/her living quarters, a reasonable amount of secure space for storage of excess authorized legal material will be provided for inmate use, on an as-needed and availability basis, in storage areas designated by the functional unit manager/designee. The following procedures will be utilized to provide for the inmate's access to and security of such materials:

(a) Inmate Organizes His/Her Own Legal Materials: The inmate shall organize and inventory his/her authorized excess legal material by case name and number, and place the material in storage containers approved by the department. All approved storage containers shall be labeled with the inmate's name, SID number, and with the case name and number. Designated staff will secure the storage containers. The inmate shall complete an Excess Authorized Legal Material Inventory List (CD 1242a). The original shall be retained with the library coordinator/designee, one copy shall be retained by the inmate, and one copy shall be placed with the stored material. Upon completion of the inventory list, the material shall be collected by designated staff and placed in a designated storage area(s).

(b) Only legal material in or directly pertaining to the inmate's own pending and active case(s)/lawsuit(s) before the courts or paroling authorities, shall be authorized for storage. The inmate may not store case law, legal texts or books, or multiple copies of legal material as excess active legal material. Any material which is determined by staff, with the assistance of legal counsel where necessary, to not directly pertain to the inmate's own pending and active case(s)/lawsuit(s) shall be collected by designated staff and placed in a standard storage box(es) for storage pending disposition as directed and approved in writing by the functional unit manager.

(c) Staff Orders Inmate to Organize His/Her Own Legal Materials: Upon receiving a written order from staff, an inmate shall have a reasonable period of time, not to exceed one week (seven calendar days), except as authorized by the functional unit manager/designee, within which to organize and inventory his/her legal material, and complete an Excess Authorized Legal Material Inventory List (CD 1242a).

(A) In the event the inmate refuses to organize and inventory his/her excess authorized legal material as ordered, the inmate shall receive a misconduct report and the material will be collected by designated staff and placed in a standard storage box(es) for storage. The box(es) will be labeled with the inmate's name and SID number and marked "Legal Material" and stored in a designated storage area.

(B) The inmate shall not have access to the stored material until he/she agrees to properly organize and inventory the material as ordered. In such event, the inmate will be permitted a reasonable amount of time for this activity, not to exceed one week (seven calendar days).

(C) In no event will such material be destroyed or removed from the facility by staff except as authorized and directed in writing by the inmate, in accordance with procedures for disposition of inmate personal property provided in this rule, or as directed and approved in writing by the functional unit manager.

(d) An inmate will be permitted reasonable access to his/her stored excess authorized legal material. An inmate may request his/her authorized legal material from designated storage at any time upon showing written documentation that an imminent court deadline (within 30 days) exists, or once each month, on an exchange basis, (e.g., by trading an equivalent amount of authorized legal material from his/her assigned cell or housing area or from the facility law library). The request must be directed to and approved by the facility library coordinator, and identify the specific material(s) requested by case number and name. Removal and exchange of excess authorized legal material from designated storage outside the facility law library shall be documented on the Excess Authorized Legal Material Inventory List (CD 1242a) and a Legal Material Transaction form (CD 1242). Both the inmate and the responsible staff shall sign the inventory list and transaction forms.

(e) Approved storage containers are property of the department. The approved storage containers will not be removed from the designated storage areas. Inmates will only be allowed to remove their own legal materials under staff supervision.

(5) Possession of Authorized Legal Material by Assigned Inmate Legal Assistants: Assigned inmate legal assistants are authorized to receive and possess legal material pertaining to another inmate's pending and active case(s)/lawsuit(s), only in the facility law library, at the request of the inmate seeking assistance. Possession of such legal material shall be for purposes of assisting the inmate with legal research and the preparation and filing of legal documents with the courts and paroling authorities.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0110

Transfers

(1) Authorized inmate personal property items shall be allowed to transfer with the inmate to any Department of Corrections facility, except for the following items:

- (a) 13-inch television;
- (b) Radio/tape player (boom box);
- (c) Electric guitar and supporting equipment; and
- (d) An item approved as an institution specific 'incentive property' item (pilot project) until such time as the item is approved for use at all department facilities.

(2) State-issued property shall not transfer with the inmate.

(3) Responsibility of the Sending Facility:

(a) Designated staff shall order an inmate in general population housing to prepare his/her property for transport. In such case, the property will not be inventoried until the time it reaches the receiving facility.

(b) If the inmate is in special housing, unable, or refuses to prepare the property for transfer, staff will inventory and prepare the property for transport. The designated staff shall fill out a Personal Property Inventory List CD 611 (male inmate) or CD 306 (female inmate). The form will be signed by the staff inventorying the property. Time and date shall be logged on the form. The form will be kept on file for a period of three years. A copy of the form shall be placed with the property in the designated bag/container for transporting of property.

(4) Responsibility of the Receiving Facility:

(a) Designated staff will inspect all property received. If a Personal Property Inventory List is included with the property, staff

will verify the property received against that listed on the inventory list. Any discrepancy shall be noted.

(b) If an inventory list is not included with the property, staff shall inventory the property. The designated staff shall fill out the Personal Property Inventory List. Time and date shall be logged on the form. The form will be signed by the staff recording the inventory. The form will be signed by the inmate when the property is released.

(c) If the inmate refuses to sign the form, that fact will be noted on the form by the staff taking the inventory and by a second staff present. The inmate will receive a copy of the inventory form. The form will be kept on file for a period of three years.

(d) Any property received that is in excess of the allowed storage capacity of the receiving facility shall be considered excess property and shall be handled in accordance with procedures set forth in Disposition of Property (OAR 291-117-0140).

(5) Generally, property will be transferred at the same time the inmate is transferred. Property that does not fit on the department's transport vehicle at the time of transfer will be transferred at a later date. Transport officers are responsible for inmate property from the time the property is picked up at the sending facility until it is dropped off at the receiving facility.

(6) Transfers to Facilities Other Than Department of Corrections: If the inmate is transferred to a facility other than the Department of Corrections, it shall be the responsibility of the inmate to make arrangements to have the property mailed out or picked up by a designated individual. The inmate shall be responsible for the cost of postage to mail the item(s). If the inmate has not made these arrangements 45 days from the date of transfer, the property shall be disposed of as excess property in accordance with procedures set forth in Disposition of Property (OAR 291-117-0140).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0120

Control of Property

(1) Property must be kept in authorized areas. Property in unauthorized areas shall be considered contraband and unauthorized property, and shall result in confiscation of the item and/or disciplinary action.

(2) There shall be no pictures/drawings of nudity, genitalia, or depictions of sexual acts displayed in an inmate's living quarters.

(3) An inmate shall not alter or otherwise tamper with or use any personal property item for other than the item's intended purpose. Unauthorized alteration or use of an authorized personal property item for other than its intended purpose may result in confiscation of the item and/or disciplinary action.

(4) An inmate shall not give, receive, loan, sell, or otherwise exchange property with another inmate, except as authorized in OAR 291-117-0100 (Possession of Authorized Legal Material by Assigned Inmate Legal Assistants).

(5) When an inmate is moved from general population to special housing, his/her personal property shall be inventoried, secured, and stored until such time that the inmate is released back to general population or transferred. Staff shall utilize the Personal Property Inventory List CD 611 (male inmate) and CD 306 (female inmate) for such purposes.

(6) When an inmate is transported from the facility for court appearances, medical trip or other authorized trip for a period longer than 24 hours, his/her personal property shall be inventoried, secured, and stored until such time the inmate returns to the facility. Staff shall utilize the Personal Property Inventory List CD 611 (male inmate) or CD 306 (female inmate) for such purposes.

(7) An inmate may arrange through designated staff to dispose of personal property at the inmate's expense. Disposition may include arrangements for pick up at the facility by a designated individual, or donation to an organization, if authorized by the functional unit manager/designee. Any costs associated with disposition of the property will be the responsibility of the inmate.

(8) Any inmate being released on parole, post-prison supervision, or expiration of sentence shall take all personal property with

him/her at the time release. The inmate shall confirm in writing receipt of the property.

(9) The department may dispose of property only within the context of these rules. Disposition of property may include destruction or donation of such property.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04

291-117-0130

Limitations on Value/Liability/Inmate Personal Property Claims

(1) No inmate may possess any single item of personal property that exceeds \$100 in value, excluding one television, one approved musical instrument, one approved graphing calculator; and approved medical prosthesis. No inmate may possess personal property the aggregate value of which exceeds \$1000, excluding approved medical prosthesis. When determining the aggregate value of inmate property, the inmate may be required to produce receipts or authorization slips for any item valued at \$75 or greater.

(2) Each inmate is responsible for his/her own authorized property. In permitting inmates to retain items of personal property while incarcerated, the Department of Corrections accepts no liability for the theft, loss, damage, or destruction of such property resulting from the intentional, willful, reckless or negligent act or activities of any inmate which exposes such property to loss, damage, theft or destruction.

(3) An inmate's authorized personal property that may have been lost, damaged, or destroyed because of operations of the department shall be reported by the inmate immediately upon discovery. Upon receiving an inmate's report or grievance, the department shall conduct an investigation. Following completion of the investigation, the department may in its sole discretion, and without admission of liability, replace an inmate's personal property that is lost, damaged or stolen while the inmate is incarcerated in a department facility, subject to the following limitations:

(a) The department may replace an item with an identical or similar item when the value of the item that is lost, damaged or stolen may reasonably be determined by the department.

(b) The department will not replace an inmate's personal television or musical instrument.

(4) Nothing in this rule is intended to preclude an inmate from seeking resolution to a personal property claim through the Oregon Tort Claims Act administered by the Oregon Department of Administrative Services Risk Management Division.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2004, f. & cert. ef. 7-19-04; DOC 12-2006, f. 10-18-06, cert. ef. 11-1-06

291-117-0140

Disposition of Inmate Property

(1) Disposition of Unauthorized/Excess Property at Intake:

(a) Items that are not authorized and considered not dangerous shall be packaged and mailed out at the inmate's expense. If the inmate lacks sufficient funds to mail out the property, arrangements may be made for the property to be picked up at the facility by a person designated by the inmate. Otherwise, the department shall mail out the property to a person designated by the inmate, and the inmate's trust account shall be debited.

(b) To permit the department to mail out an inmate's property, the inmate must provide staff with the name and street address of the person designated by the inmate to receive the property. If the property is returned because it is undeliverable, e.g., mail refused or no such address, the department shall make a second attempt to mail out the property if the inmate provides staff with an alternate address. If the property is returned to the facility a second time, the department shall confiscate the property and discard it.

(c) The department will not mail out any item(s) considered dangerous or hazardous including, but not limited to, ammunition, knives, lighters, and batteries. Oregon Trail cards will not be mailed out. Oregon Trail cards shall be processed as agreed upon by the department and the Department of Human Services.

(d) All items identified for mailing out/disposal shall be noted on the Personal Property and Clothing Inventory List (CD 353-C). The form shall be signed by the staff inventorying the property and the inmate.

(e) The form will be kept on file for a period of three years. A copy of the inventory form will accompany the item(s) mailed out.

(2) Disposition of Excess Property:

(a) Inmate personal property that exceeds the capacity of the facility's designated storage space shall be considered excess property. Excess property shall be mailed out at the inmate's expense or discarded. Excess property that is not mailed out or discarded at the direction of inmate shall be considered contraband, and may result in confiscation of the item(s) and/or disciplinary action.

(b) Staff shall direct inmates in writing to bring their aggregate property within the capacity of designated storage space. The facility will hold an inmate's excess property for no more than 45 days following the date of staff's written order directing the inmate to mail out or dispose of the inmate's excess property. If after 45 days the inmate has not made arrangements to mail out or dispose of the item(s), the department shall confiscate the property as contraband and discard it.

(3) Disposition of Unclaimed Property: Inmate personal property items that the department cannot identify as the property of a specific inmate shall be confiscated and held by the department for no more than 45 days. If after 45 days the property items remain unclaimed, the department shall discard the items.

(4) Disposition of Abandoned Property:

(a) Upon the Inmate's Release or Death: Inmate personal property that is left with the department upon an inmate's release from a department facility or death shall be processed and disposed of as follows:

(A) Staff will secure, inventory, and place the inmate's property in a secure area.

(B) Staff will attempt to contact the person(s) on the inmate's notification record to take possession of the property. If contact is made with the person(s), and if the person decides to claim and take possession of the inmate's property, the person must make arrangements with the designated staff to pick up the property at the facility or for the property to be mailed to the person. If the person picks up the property at the facility, the person must sign and provide staff with a property receipt before taking possession of the property. If the person makes arrangements to take delivery of the property by mail, the property will be mailed to the person certified mail, return receipt requested. Staff will document the property transfer, and place and maintain the property inventory and signed property receipt (or, in the case of mailing, the certified mail return receipt) in the inmate's institution file and such other files, if any, that the facility maintains for such records.

(C) The department will store the inmate's property for no more than 45 days following the inmate's release or death. If after 45 days the property remains unclaimed, the department shall confiscate the property and discard it.

(b) Upon the Inmate's Escape:

(A) The department is not responsible for any loss or damage to inmate personal property that is left with the department upon an inmate's escape from an ODOC confinement or custody.

(B) In the event of escape, the inmate's property shall be confiscated, searched, inventoried and placed in evidence or property room in a secure area.

(C) If the inmate is not returned to the custody of the department within 45 days, and the property is not being held for evidence, the department shall discard the property.

(c) Voluntary Abandonment: Inmate personal property that is voluntarily abandoned by an inmate during confinement in an ODOC facility shall be disposed of as excess property.

(d) Funds held in the inmate's trust account shall be disposed of in accordance with the department's rule on Trust Account (Inmate) (OAR 291-158).

(e) Books and Shoes: Abandoned books will be stamped as department property and placed in the facility library. Abandoned shoes will be discarded.

(5) Disposition of Property Held as Evidence: Inmate personal property items that have been confiscated and held by the department as evidence in a disciplinary investigation shall be returned to the inmate upon conclusion of the investigation and any subsequent disciplinary hearing/case, if the inmate is found not to have violated the rules of prohibited inmate conduct, and the property item(s) is not classified as contraband.

(6) Disposition of Certain "Valuable" Property Items: Notwithstanding the dispositional rules set forth above, the department shall hold jewelry, approved religious items, and any other functional inmate property item that cost \$75 or more, excluding books and shoes, for a period of no more than two years. If after two years the property remains unclaimed, the department shall confiscate and dispose of the item(s).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: DOC 6-2004, f. & cert. ef. 7-19-04; DOC 12-2006, f. 10-18-06, cert. ef. 11-1-06

DIVISION 119

INVENTIONS, MANUSCRIPTS AND/OR COMPOSITIONS (INMATE)

291-119-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 147.275, 179.040, 421.095, 423.020, 423.030 and 423.075.

(2) Purpose: To support and encourage inmate efforts to patent, copyright, publish, exhibit and sell products which are constructive and contribute positively to the quality of life. Other efforts by the inmate which involve profit from criminal activity will neither be supported nor encouraged.

(3) Policy: In accordance with ORS 421.095, the Department of Corrections shall facilitate, if requested to do so, and in no way inhibit, if assistance is not requested, an inmate's efforts to patent, copyright, publish, exhibit, sell, or otherwise dispose of his/her invention(s), manuscript(s), and/or composition(s) or any rights thereto. An inmate's activities toward the development of an invention, manuscript, and/or composition will be controlled by other Department of Corrections rules or procedures governing the security and control of a Department of Corrections facility. No employee of the Department of Corrections may profit or benefit in any way from the development and/or the patenting, copyrighting, publishing, exhibiting, sale, or other disposition of an inmate's invention(s), manuscript(s), and/or composition(s).

Stat. Auth.: ORS 147.275, 179.040, 421.095, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 147.275, 179.040, 421.095, 423.020, 423.030 & 423.075
 Hist.: CD 38-1978, f. & ef. 12-12-78; CD 21-1981(Temp), f. & ef. 6-30-81; CD 59-1981, f. & ef. 12-21-81; CD 54-1985, f. & ef. 8-16-85; CD 15-1987, f. & ef. 2-6-87; CD 32-1993, f. 12-16-93, cert. ef. 1-3-94

291-119-0010

Definitions

"Inmate": Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

Stat. Auth.: ORS 179.040, 421.095, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 147.275, 179.040, 421.095, 423.020, 423.030 & 423.075
 Hist.: CD 38-1978, f. & ef. 12-12-78; CD 21-1981(Temp), f. & ef. 6-30-81; CD 59-1981, f. & ef. 12-21-81; CD 54-1985, f. & ef. 8-16-85; CD 15-1987, f. & ef. 2-6-87; CD 32-1993, f. 12-16-93, cert. ef. 1-3-94

291-119-0015

Resources

(1) Any inmate may patent, copyright, publish, exhibit, sell, or otherwise dispose of his/her invention(s), manuscript(s), and/or documents, providing the material utilized in its production is the property of the inmate.

(2) Equipment, supplies, and other resources that are the property of the State of Oregon cannot be utilized in the production of

items offered for sale or other disposition by the inmate, except as may be authorized by other Department of Corrections rule and/or procedure.

(3) Before attempting to patent, copyright, publish, exhibit, sell, or otherwise dispose of an invention, manuscript, or composition, an inmate shall obtain a written statement from the functional unit manager or designee, that the item(s) to be so used or disposed of is, to the best knowledge and belief of the manager, the property of the inmate, and not of another person within the facility.

Stat. Auth.: ORS 179, 421 & 423
 Stats. Implemented: ORS 179.040, 421.095, 423.020, 423.030 & 423.075
 Hist.: CD 38-1978, f. & ef. 12-12-78; CD 54-1985, f. & ef. 8-16-85; CD 15-1987, f. & ef. 2-6-87

291-119-0020

Staff Assistance

(1) Assistance from staff in a facility may be provided by the functional unit manager if the inmate requests.

(2) Such assistance may include, but is not limited to:

(a) The establishment of appropriate lines of communication with persons or agencies who may be of assistance to the inmate;

(b) Attempting, when requested, to direct the inmate to such resource persons as he/she may require for specialized information; and/or

(c) Arranging such meetings and workspace as may be required to facilitate these efforts, in accordance with such rules and procedures of the Department of Corrections as may apply.

(3) All direct costs incurred through these efforts will be paid by the inmate involved.

(4) Inmates are not required to seek assistance from the staff in patenting, copyrighting, publishing, exhibiting, selling, or otherwise disposing of inventions, manuscripts, and/or compositions; however, the inmate must have prior approval from the responsible functional unit manager for all such items to be developed within the facility.

(5) If staff assistance is not requested, no effort shall be made by any Department of Corrections employee to inhibit or hinder the inmate in legitimate efforts to patent, copyright, publish, exhibit, sell, or otherwise dispose of his/her invention(s), manuscript(s), and/or composition(s).

Stat. Auth.: ORS 179.040, 421.095, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.095, 423.020, 423.030 & 423.075
 Hist.: CD 38-1978, f. & ef. 12-12-78; CD 54-1985, f. & ef. 8-16-85; CD 15-1987, f. & ef. 2-6-87; CD 32-1993, f. 12-16-93, cert. ef. 1-3-94

291-119-0025

Proceeds from Invention(s), Manuscript(s), and/or Composition(s)

All proceeds received by the facility in which the inmate is confined from the sale, exhibition, or other disposition of patents, copyrights, inventions, manuscripts, and/or compositions will be deposited in the inmate's trust account in accordance with the law and the Department of Corrections rule on Trust Accounts (Inmate).

Stat. Auth.: ORS 179.040, 421.095, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 421.095, 423.020, 423.030 & 423.075
 Hist.: CD 38-1978, f. & ef. 12-12-78; CD 54-1985, f. & ef. 8-16-85; CD 32-1993, f. 12-16-93, cert. ef. 1-3-94

291-119-0027

Escrow Accounts

(1) Whenever any person or other legal entity contracts with a representative or assignee of an inmate for the payment of money in return for the right to reenact a crime or to describe the individual's thoughts, opinions or emotions regarding the crime in a motion picture, book, magazine, article, tape recording, phonograph record, radio or television presentation or live entertainment of any kind, the person or legal entity shall promptly submit a copy of the contract to the Department of Justice and pay to the Department any monies which would otherwise, under the terms of the contract, be paid to the accused or convicted individual, the person found guilty except for insanity or the representative or assignee of the individual in accordance with provisions of ORS 147.275.

(2) The Department of Justice in accordance with ORS 147.275 shall deposit monies received in an escrow account estab-

lished for the benefit of the victims or dependents of the victims of the crime for which the individual whose earnings are placed in escrow account is convicted or found guilty except for insanity. Monies in the escrow account shall be paid to satisfy judgments as provided in 147.275 or restitution orders under 137.103 to 137.109.

Stat. Auth.: ORS 147.275, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 147.275, 179.040, 421.095, 423.020, 423.030 & 423.075
Hist.: CD 15-1987, f. & ef. 2-6-87; CD 32-1993, f. 12-16-93, cert. ef. 1-3-94

DIVISION 121

HANDIWORK (INMATE MANUFACTURE AND SALES)

291-121-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.142, 423.020, 423.030, and 423.075.

(2) Purpose: To afford constructive utilization of leisure time providing a positive learning experience and potential for earning funds for those inmates in participating institutions/facilities.

(3) Policy:

(a) It is the policy of the Department of Corrections that selected inmates within Department of Corrections participating facilities may be permitted to manufacture small items of authorized handiwork, and to sell or otherwise dispose of these through approved channels;

(b) It is the policy that the price of handiwork products to Department of Corrections staff will be the same as the public price. ORS 421.405 prohibits offices and employees of the state from receiving the use or profit of the labor or services of any inmate.

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020
Stats. Implemented: ORS 179.040, 421.142, 421.405, 423.030, 423.075 & 423.020
Hist.: CD 39-1978, f. & ef. 12-12-78; CD 20-1981(Temp), f. & ef. 6-30-81; CD 58-1981, f. & ef. 12-21-81; CD 55-1985, f. & ef. 8-16-85; CD 20-1987, f. & ef. 3-5-87; CD 12-1991, f. & cert. ef. 5-15-91

291-121-0010

Definitions

(1) "Department of Corrections Facility": Any secure institution or minimum security facility or staff office, including the grounds, operated by the Department of Corrections.

(2) "Functional Unit": Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(3) "Functional Unit Manager": Any person within the Department of Corrections who reports to either the Director, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(4) "Inmate": Any person under the supervision of Department of Corrections who is not on parole, post-prison supervision, or probation status.

(5) "Participating Institutions/Facilities": The institutions/facilities which have a hobby shop which include Mill Creek Correctional Facility (MCCF), Oregon State Correctional Institution (OSCI), Oregon State Penitentiary (OSP), and Oregon Women's Correctional Center (OWCC).

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020
Stats. Implemented: ORS 179.040, 421.142, 423.030, 423.075 & 423.020
Hist.: CD 39-1978, f. & ef. 12-12-78; CD 20-1981(Temp), f. & ef. 6-30-81; CD 58-1981, f. & ef. 12-21-81; CD 55-1985, f. & ef. 8-16-85; CD 20-1987, f. & ef. 3-5-87; CD 12-1991, f. & cert. ef. 5-15-91

291-121-0015

Methods of Application and Approval for Program Participation

Space limitation alone dictates selectivity among members of the population. Care must be exercised that those chosen have an acceptable conduct record and sufficient resources to obtain the supplies needed. If necessary, assignment of hobby craft work may be rotated to accommodate a greater number of inmates.

(1) Mill Creek Correctional Facility: Inmate applications for admission to the hobby shop will be submitted on an Interview Request (CD 214) to the facility commander or designee:

(a) The facility commander or designee will determine the inmate's eligibility for assignment to the hobby shop program;

(b) The facility commander or designee will maintain a list by date of application of the inmates requesting hobby shop admission;

(c) As space becomes available in the hobby shop, inmates will be assigned from the list, in order of application, to the hobby shop.

(2) Oregon State Correctional Institution:

(a) Inmates may apply to participate in the hobby shop program by sending an Interview Request (CD 214) to the hobby shop supervisor;

(b) If there are no vacancies in the hobby shop, names will be placed on a waiting list in the order in which applications are received by the hobby shop supervisor;

(c) A person who has documented and demonstrated past behavior as a threat to others or to the security and safety of the institution may be defined placement in the hobby shop program;

(d) Inmates must show sufficient resources are available to secure needed supplies prior to hobby shop program admission. Inmate without funds must show donated property availability which will need final approval by the hobby shop supervisor;

(e) If, in the hobby shop supervisor's opinion, an inmate is no longer benefitting from the program, the supervisor may submit a recommendation to the Activities Manager to review the inmate for removal from the program;

(f) If an inmate is absent from the institution for forty-five days, his property will be removed from the hobby shop, packaged and stored in the property room located in the back of Unit #1 for subsequent disposition as appropriate in accordance with the Department of Corrections rule on Personal Property Control and Disposition (Inmate) and Oregon State Correctional Institution requirements;

(g) There are no full-time assignments to the hobby shop. In the event all hobby work spaces are filled and a waiting list exists, the Activities Manager may elect to remove from active participation the inmates who have held work spaces for the longest period of time to the extent deemed appropriate to accommodate the waiting list and thus assure equal opportunity in the hobby shop. Any inmate removed will be permitted to complete the project then in progress; his name will then be added to the waiting list. Materials sent home during these conditions shall be sent at the institution's expense or stored at institution discretion. When an inmate voluntarily terminates program involvement or is removed from the program for disciplinary reasons, personal hobby shop materials will be sent out of the institution at the inmate's expense;

(h) Individual clubs wishing to obtain access to the hobby shop to work on club projects will submit a written request to the Activities Manager. If approved for program placement, the hobby shop supervisor will determine appropriate times and locations for club work to be done.

(3) Oregon State Penitentiary:

(a) Inmate applications for admission to the hobby shop:

(A) Applications will be submitted on an Interview Request Form (CD 214) to the inmate's respective counselor;

(B) The counselor will present the application to the Assistant Superintendent, Security or designee and a decision will be reached as to whether the inmate is eligible for placement on the hobby shop waiting list;

(C) The hobby shop waiting list will remain in the Operations Captain/Lieutenant's office.

(b) Eligibility and Assignment Criteria:

(A) Six months served in the institution since admission on current sentence, six months clear conduct (no major rule violation) at time of assignment request, and six months clear conduct at time of actual assignment to the hobby shop;

(B) Twelve months or more to release date;

(C) Sufficient resources available to secure needed supplies at the time of assignment;

(D) A person that has documented and demonstrated past behavior as a threat to others or to the security and safety of the institution may be denied placement on the hobby shop waiting list or admittance to the hobby shop program;

(E) Inmates will be assigned by the Assistant Superintendent, Security or Operations Captain/Lieutenant to the hobby shop from the established eligibility list in chronological order.

(c) Bench Activity by Clubs:

(A) Individual clubs wishing to obtain a bench must submit a request to the Assistant Superintendent, Security for review at the Activities Committee meeting. If approved, they are placed on the bottom of the waiting list;

(B) Eligibility and assignment criteria for clubs is the same as for individual inmates, except the club selects the individual to participate and refers the name to the Assistant Superintendent, Security for consideration and approval;

(C) Inmates selected by the clubs are to use only the benches specified for club use;

(D) Two inmates are allowed to be assigned and/or work on each club bench at a time;

(E) The system for receiving items, selling, etc., is the regular process for other inmates except the club(s) sponsor the material(s) bought. All club-sponsored hobby craft items will be credited to that specific club account;

(F) If an inmate is removed from the hobby shop by the Disciplinary Committee, the club's status will be reviewed by the Assistant Superintendent, Security. Removal of an assigned inmate will not be an automatic removal of the club bench unless the violation was directly related to the hobby shop.

(d) Attendance/Removal:

(A) All inmates assigned to the hobby shop part-time will maintain a minimum of eight work periods per month. Full-time assignments require the same attendance as full-time jobs. Failure to meet the minimum attendance requirements may result in removal from the hobby shop;

(B) An inmate may be removed by the Assistant Superintendent, Security or designee if the inmate's actions while working in the hobby shop present a threat to the security of the institution. Inmates working in the hobby shop will work on their own approved hobby craft only.

(4) Oregon Women's Correctional Center: An arts and crafts area is maintained in the Program Unit:

(a) All arts and crafts projects and materials to be used in the institution shall be approved by the Education Manager and Security Manager. All requests are submitted by the Recreation Supervisor on a Program Proposal Form (CD 812) or Special Program Request Form (CD 812A);

(b) Inmates may use the arts and crafts area to work on approved items unless specifically restricted from the privilege;

(c) Space availability shall be a criterion used to govern inmate participation. If use exceeds available space, the Recreation Therapist shall originate a schedule to permit equal participation by all inmates. Inmates shall obtain permission from the Recreation Supervisor before entering the arts and crafts area.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Stats. Implemented: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Hist.: CD 39-1978, f. & ef. 12-12-78; CD 58-1981, f. & ef. 12-21-81; CD 55-1985, f. & ef. 8-16-85; CD 20-1987, f. & ef. 3-5-87; CD 12-1991, f. & cert. ef. 5-15-91

291-121-0020

Schedule of Program Activity

(1) Mill Creek Correctional Facility: The hobby shop is open seven days per week, including holidays, from 4 p.m. to 9 p.m. weekdays and 9 a.m. to 9 p.m. on weekends.

(2) Oregon State Correctional Institution: The hobby shop will normally be open five days per week as scheduled in the inmate newsletter. The hobby shop may be closed occasionally for special projects. Approved inmates are authorized to go to the

hobby shop only during regularly scheduled line movements or when on call-out.

(3) Oregon State Penitentiary:

(a) On the first Wednesday of each month, the hobby shop supervisor will designate a crew of approximately five inmates from the hobby shop roster to assist the hobby shop orderly in thoroughly cleaning the hobby shop floor. The orderly and clerk assignments are paid positions under the direction of the Group Living Captain/Lieutenant;

(b) The hobby shop is open five days per week with varied hours and is closed on major holidays. Hours are posted on the hobby shop doors and any changes are announced to the general population as far in advance as possible.

(4) Oregon Women's Correctional Center: The Recreation Therapist shall post the arts and crafts schedule in a conspicuous place near the arts and crafts room. These hours are also listed in the weekly inmate newsletter.

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Stats. Implemented: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Hist.: CD 12-1991, f. & cert. ef. 5-15-91

291-121-0025

Approved Projects List

(1) Mill Creek Correctional Facility: Projects must be approved by the facility commander or designee and inmates may work on only one project at a time.

(2) Oregon State Correctional Institution: Approved projects are leather crafts, painting, model building, woodworking, fishing equipment, and stained glass:

(a) Materials for projects are not to exceed space in assigned lockers;

(b) All project materials must have written approval (approval slip or order form) by the hobby shop supervisor before entering the institution;

(c) Approved hobby craft projects must be manufactured in the hobby shop with hobby shop tools. Personal inmate tools will not be allowed in the institution;

(d) All items in the hobby shop must be mailed out of the institution.

(3) Oregon State Penitentiary: Approved projects are leather, arts, copper, jewelry, fishing equipment, and approved club projects:

(a) Inmates may be approved for only one of the projects listed at any one time. If an inmate desires to change his hobby craft, he must submit an Interview Request (CD 214) to the Assistant Superintendent, Security or designee for approval;

(b) If approved, all materials and tools concerning the first craft must be sent out of the institution prior to ordering new tools and materials. Certain related tools may be retained upon approval of the Assistant Superintendent, Security or designee. Items and tools classified as detrimental to the security of the institution will not be permitted;

(c) All items made in the hobby shop must be delivered to the Curio Store or mailed out of the institution except items approved by the Assistant Superintendent, Security or designee. Club bench projects may be removed from the hobby shop by designated staff for approved functions.

(4) Oregon Women's Correctional Center: The Recreation Therapist shall maintain a list of all approved craft materials/projects on an Operations Committee Approved Arts and Crafts Materials/ Projects Form (CD 873).

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Stats. Implemented: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Hist.: CD 12-1991, f. & cert. ef. 5-15-91

291-121-0030

Procurement of Materials

(1) General:

(a) Procurement of materials shall be handled in accordance with ORS 421.142;

(b) An inmate will not be denied participation in a handiwork program merely because of lack of personal funds if donated prop-

erty or materials are available. Trading of materials for labor or other trading between inmates will be prohibited.

(2) Mill Creek Correctional Facility: The method for procuring tools, supplies, and equipment must be approved by the facility commander or designee.

(3) Oregon State Correctional Institution:

(a) All materials must be purchased from an approved vendor. Inmates will be required to pay postage. Designated times during the week will be set aside for purchase of hobby craft materials and supplies. All projects must be approved by the hobby shop supervisor. Any inmate may appeal any negative decision on a proposed project to the Activities Manager; Assistant Superintendent, Program Services; and Superintendent, in that order;

(b) All incoming materials must be shipped through the warehouse with a Package Authorization Form (CD 948) attached to the outside of the package;

(c) All donated materials must be approved by the hobby shop supervisor and listed on a Recreation Property Transaction Form (CD 252);

(d) Inmates purchasing craft materials will complete and submit Hobby Shop Order Form (CD 753) to the hobby shop supervisor for approval and signature. Upon arrival, the hobby shop supervisor will turn the form in to the canteen officer during normal canteen operating hours. The canteen officer will verify the inmate has sufficient funds, debit the account appropriately and return the approved form to the hobby shop supervisor;

(e) Upon receipt of materials, the hobby shop supervisor will complete and submit Hobby Shop Transaction Form (CD 254) and submit one copy each to the hobby file and the inmate. Upon completion of this form, property will be subject to the Department of Corrections rule on Personal Property Control and Disposition (Inmate) and Oregon State Correctional Institution requirements. Proper procurement information such as receipts or Recreation Property Transaction Forms must be available for all inmate owned property.

(4) Oregon State Penitentiary:

(a) Materials and tools must be purchased from an approved vendor:

(A) The inmate will be required to pay postage;

(B) Donated items must be from a vendor and approved by the Assistant Superintendent, Security.

(b) Requests for purchasing of materials and tools will be submitted to the hobby shop supervisor for approval:

(A) Order forms will establish that finished articles are, in fact, projects completed from legitimately acquired materials;

(B) Tools and materials will be related to hobby shop assignment only;

(C) A signed Withdrawal Request Form (CD 28D) must accompany the request to pay for materials, tools, and required postage;

(D) The hobby shop supervisor will submit all orders to the Assistant Superintendent, Security or designee for final approval and then forward them to the Central Trust Accounting Unit;

(E) All materials received from vendors will be delivered directly to the receiving warehouse and stored in a secure area until signed for by the Operations Captain/Lieutenant or designee. On a weekly basis, the materials will be searched in the warehouse by the Operations Captain/Lieutenant or designee prior to delivery to the hobby shop;

(F) The Assistant Superintendent, Security will designate a time schedule to ensure the weekly delivery of supplies to the hobby shop.

(c) All tool orders will be reviewed by the Operations Captain/Lieutenant;

(d) A security staff member will be required to ensure the delivery of orders to the hobby shop:

(A) Upon receipt of the orders to the hobby shop, the supervisor will inventory the items received and personally re-inventory each item with the inmate;

(B) A notebook labeled "Supplies Received" will be kept by the hobby shop supervisor. All incoming orders will be noted.

Information will include the inmate's name and number, the shipper and order number, and the institution's order number. Any items not shipped or on back order and any refunds or balances due will also be noted;

(C) All supplies received without appropriate shipping invoices will be returned to the shipper collect;

(D) Delivery of supplies can be made at any time designated by the Assistant Superintendent, Security (at least one time per week);

(E) An up-to-date inventory sheet will be posted on the inside of the cabinet doors at each work area. The inmates assigned to benches are responsible for keeping bench inventories current.

(5) Oregon Women's Correctional Center:

(a) Inmates shall purchase all raw materials for personal use for arts and crafts projects with their own funds. State-owned property is not sold or given to inmates for handicraft purposes unless inmates are involved in a structured workshop or class. These items shall not be sold by the inmates;

(b) The Recreation Therapist may accept any approved donated materials to be distributed to interested indigent inmates;

(c) The Recreation Therapist may accept donated materials from approved vendors for inmates to be used in constructive handiwork programs. Handiwork manufactured from these materials become the property of the inmate participants;

(d) A volunteer conducting an approved handicraft program may donate materials for use in the program. These materials may become the property of the inmate upon completion of a handicraft;

(e) The Recreation Therapist shall maintain a Donated Materials Form (CD 802) showing the date, donor, type of material, and inmate receiving the material;

(f) Inmates with funds may obtain arts and crafts materials by submitting a Withdrawal Request (CD 28D) made payable to an approved vendor and a Ceramic Order Form (CD 621) or a Vendor's Order Form to the Recreation Supervisor. The Recreation Supervisor will keep a copy of the vendor order to verify authorization of all incoming craft packages;

(g) The Recreation Supervisor will forward the Withdrawal Request (CD 28D) to the Education Services Manager for approval. The education secretary will send the request to the Superintendent's assistant who will forward it to the Central Trust Accounting Unit. The Central Trust Accounting Unit shall send final approval notice to the inmate. Withdrawal Requests showing insufficient funds shall be returned to the Recreation Supervisor to be returned to the inmate;

(h) The Central Trust Accounting Unit shall send a check made out for the materials to the vendor;

(i) The Oregon Women's Correctional Center is not responsible for damage to inmate handiwork, except for damage due to staff and assigned recreation clerk accident or negligence;

(j) All incoming craft packages shall be routed to the Recreation Supervisor to be searched and given to the inmate;

(k) Toxic, caustic, or flammable products shall be handled in accordance with the Department of Corrections rule on Hazard Communications.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Stats. Implemented: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Hist.: CD 12-1991, f. & cert. ef. 5-15-91

291-121-0035

Security of Tools and Materials

(1) Mill Creek Correctional Facility: Control of hobby shop tools and equipment will be in accordance with Mill Creek Correctional Facility requirements. No tools or equipment for hobbies shall be manufactured at Mill Creek Correctional Facility.

(2) Oregon State Correctional Institution:

(a) Inmates will be assigned a locker and padlock on an as-needed basis;

(b) Tools and flammables will be issued out of the hobby shop office and must be checked back in by the inmate prior to leaving the shop;

(c) Inmates will be searched in and out of the shop. Inmates shall not leave and then return until the next authorized line movement;

(d) No flammable liquids or tools are to be stored in inmate lockers. No smoking is permitted in the hobby shop.

(3) Oregon State Penitentiary:

(a) Control of tools and materials will be conducted in accordance with Oregon State Penitentiary tool requirements;

(b) Absolutely no tools or equipment will be manufactured in the institution (e.g., hobby shop, industries, vocational training);

(c) When the inmate is released or removed from the hobby shop, the following will occur:

(A) All inmate materials, tools, and Curio Store item(s) will be inventoried and packaged by the hobby shop supervisor. A copy of the inventory list is to be retained by the hobby shop supervisor. Abandoned property will be disposed of in accordance with the Department of Corrections rule on Personal Property Control and Disposition (Inmate);

(B) If the inmate wishes the materials to be mailed or shipped by freight, he will prepare a request for withdrawal from his personal funds on a Withdrawal Request Form (CD 28D). The form will be taken to the mail room by the hobby shop supervisor with the packaged materials;

(C) If the inmate wishes to take materials with him at the time of his release, the hobby shop supervisor will inventory the inmate's materials with the inmate and have the inmate sign an accurate inventory list prior to delivery to the inmate;

(D) Under unusual situations, other arrangements will be made for disposition of hobby craft materials by the Assistant Superintendent, Security or designee;

(E) Inmates who are removed from their hobby shop assignment will follow the procedure for disposition of their materials. Inmates will not be removed for any time period shorter than six months. All materials in the hobby shop and the Curio Store will be removed and disposed of by the hobby shop supervisor. Inmates who have been removed from the hobby shop will not be reassigned without being placed on the bottom of the waiting list (on approval of the Assistant Superintendent, Security or designee);

(F) Removal from a club bench for nondisciplinary reasons will not jeopardize the inmate's position on the hobby shop waiting list.

(4) Oregon Women's Correctional Center:

(a) All tools purchased for use in the arts and crafts area shall be approved in accordance with Oregon Women's Correctional Center requirements;

(b) All tools designated as critical shall be stored in the designated locked storage cabinet in the arts and crafts area. Critical tools shall be used under the direct supervision of staff and secured on a shadow board when not in use. The Recreation Supervisor shall maintain a tool and equipment log which shall be initialed each time a critical tool is checked out;

(c) All tools designated as noncritical shall be stored in the arts and crafts area. The recreation staff shall maintain a tool and equipment log which shall be initialed each time a noncritical tool is checked out.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Stats. Implemented: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Hist.: CD 12-1991, f. & cert. ef. 5-15-91

291-121-0040

Pricing Policy for Handiwork

(1) Mill Creek Correctional Facility:

(a) Each inmate desiring to offer his handiwork for sale will set his own asking price for the item;

(b) Price breaks for a handiwork item offered for sale must be in increments of five cents for prices up to one dollar, twenty-five cents for prices up to five dollars, and fifty cents for prices above five dollars.

(2) Oregon State Correctional Institution: Each inmate will establish his own price together with his name and number on a tag which will be attached to each article. Prices must be in increments

of five cents for prices up to one dollar, twenty-five cents for prices up to five dollars, and fifty cents for prices above five dollars.

(3) Oregon State Penitentiary: Each inmate will establish his own price for his product (at five-cent price breaks) and will record this price together with his name and number on a tag and attach it to each article.

(4) Oregon Women's Correctional Center: Each inmate is permitted to establish the sale price for completed handiwork.

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Stats. Implemented: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Hist.: CD 12-1991, f. & cert. ef. 5-15-91

291-121-0045

Personnel Supervision

(1) General:

(a) Guidelines for participation in the program should be written and a signed acknowledgement from the individual inmate retained in the hobby-craft office during the period of the inmate's participation in the program;

(b) Designated staff shall make nonscheduled inspections and monitor the physical area of the hobby shop, as well as the activities. Periodic and special inventories shall be made of tools and materials.

(2) Mill Creek Correctional Facility:

(a) The primary responsibility for supervision of the hobbies program will be with the officer in charge of the hobby shop. Any security staff member may enter the hobby shop at any time for monitoring and supervising programs;

(b) The facility commander will complete a monthly unscheduled inspection of the hobbies area;

(c) Inmates will be held responsible for the sanitation of their assigned areas;

(d) Any item wrapped for mailing or pick up will be checked by the facility commander or designee prior to wrapping.

(3) Oregon State Correctional Institution:

(a) Supervision of handiwork activities will be done at all times by the hobby shop supervisor;

(b) Specific rules for participation in the program will be supplied and signed by the individual inmates. These will be retained in the hobby shop office files during the period of the inmate's participation in the program;

(c) All lockers are subject to regular inspections. There shall be no exchange of materials between inmates;

(d) Each assigned inmate is responsible for items in or at his assigned bench and general sanitation of his work area;

(e) The supervisor will observe and inventory all packages being wrapped for mailing or sale at the Curio Store. The supervisor will ensure that items sent to the mail room for mailing or pickup were made by the inmate and correspond with his approved hobby. A copy of the inventory will be kept in the hobby shop central records.

(4) Oregon State Penitentiary:

(a) Supervision of handiwork activities will be done at all times by the hobby shop supervisor;

(b) The Assistant Superintendent, Security; the Safety and Sanitation Officer; and the Operations Captain/Lieutenant will complete a monthly nonscheduled inspection and monitoring of the hobby shop. Periodic and special inventories shall be made of tools and materials;

(c) Each assigned inmate is responsible for keeping his assigned bench clean and orderly and is responsible for all items in or at his assigned bench;

(d) The supervisor will observe and inventory all packages being wrapped for mailing or sale at the Curio Store and ensure that all items were made by the inmate and correspond with his approved hobby. A copy of the inventory will be kept in the supervisor's records.

(5) Oregon Women's Correctional Center:

(a) The Recreation Supervisor shall be present for at least spot supervision while the arts and crafts area is open;

(b) The Recreation Supervisor shall draft requirements for participation in the arts and crafts program and maintain a signed acknowledgement of all inmates participating in the program;

(c) The Education Services Manager shall inspect the arts and crafts area weekly.

Stat. Auth.: ORS 179.040, 421.142, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.142, 423.020, 423.030 & 423.075

Hist.: CD 12-1991, f. & cert. ef. 5-15-91; CD 17-1994, f. 8-17-94, cert. ef. 9-1-94

291-121-0050

Disposition of Completed Handiwork

(1) General: Procurement information will establish that finished articles are, in fact, products of legitimately acquired materials.

(2) Completed handiwork items may be mailed out or kept if in compliance with the Department of Corrections rule on Personal Property Control and Disposition (Inmate).

(3) Sales Unit:

(a) ORS 421.142 permits establishment of a handiwork sales facility at the "penal or correctional institution." The inmate handiwork sales facility at the Oregon State Penitentiary shall be called the "Curio Store" and shall be for use by Oregon State Penitentiary, Oregon State Correctional Institution, and Oregon Women's Correctional Center inmates only. Operating hours will be posted at the Curio Store:

(A) Articles will be individually itemized on the hobby shop shipping ticket (OSP Form #128) and will normally reach the Curio Store one day after leaving the hobby shop;

(B) All items for sale at the Curio Store, including special orders, will be for sale to the general public;

(C) All articles sent to the Curio Store may be displayed for a period of one calendar year. Articles that have not sold within the allotted time period will be packaged and inventoried by the hobby shop supervisor. The responsible inmate may have these articles disposed of in accordance with requirements in this procedure. Abandoned property will be disposed of in accordance with the Department of Corrections rule on Personal Property Control and Disposition (Inmate);

(D) Once an article has been delivered to the Curio Store it may not be returned to the hobby shop except with the written permission of the Superintendent or designee. Minor repairs will be handled by the Curio Store clerk within his capabilities;

(E) Upon sale of an article, a quadruplicate sales ticket will be filled out. Distribution of the sales ticket is as follows:

(i) The orange ticket goes into the lock box in the Curio Store;

(ii) The pink ticket goes to the customer;

(iii) The yellow ticket is sent to the inmate who made the article;

(iv) The white (original) ticket goes to the hobby shop supervisor for retention;

(v) Each ticket number will be recorded on a special Curio Store sales report by the store clerk. This report will also list the inmate's inventory number, item description, amount, and total sales for each inmate per day. The sales tickets and the sales reports will be turned in to the Penitentiary Communications Center daily for processing and delivery to the Central Trust Accounting Unit. A copy shall be sent to the Activities Manager for record keeping. Money from sales will be turned in to the Penitentiary Communications Center daily and a receipt obtained.

(F) The Department will not be responsible for lost, stolen, or damaged articles and/or monies;

(G) If an inmate desires to make any changes in the terms of sale or delivery of his merchandise, he will outline the changes on an Interview Request (CD 214) signed and witnessed by staff and forward his request to the Activities Manager. All changes will be completed as soon as possible.

(b) An inmate clerk may be selected from minimum custody candidates by the Penitentiary Superintendent or his/her designee; the Assistant Superintendent, Security; and the Activities Manager using the following criteria: No drug history, high level of maturity

and stability, and parole or release date far enough into the future to allow the clerk to remain in position for a length of time:

(A) The inmate clerk is a paid position. Pay will be within the limits established by ORS 421.408. The Activities Manager is the operational supervisor for the Curio Store. The inmate clerk is responsible and accountable to the Activities Manager for all store procedures (stock, inventory, receipts, complaints, etc.);

(B) The clerk will check daily with the Activities Manager for sales, report, stock, etc. The cash bag and store keys shall be obtained from the Communications Center. Sufficient change should be maintained in the cash bag to ensure the clerk will not have to obtain more during the course of the day;

(C) The clerk will pick up/receive hobby shop items as scheduled by the hobby shop supervisor. Absolutely no item will be sent to the Curio Store without being listed on a shipping ticket from the appropriate facility;

(D) Stock will be displayed and grouped by type of items and crafts. Each individual inmate's products should be as closely arranged together as possible for easier accountability;

(E) Checks will not be accepted. Advance payments for special orders are not to be accepted;

(F) The inmate clerk is not to close the store unless specifically instructed to do so by the Activities Manager and/or Operations Captain/ Lieutenant;

(G) Cash receipts will be turned in to the Penitentiary Communications Center daily (Monday-Friday) with original of the sales report. The receipt and copy of the sales report will be turned in to the hobby shop supervisor (Monday-Friday);

(H) All sales are final; no refunds will be given.

(4) Special Order:

(a) Any persons desiring to order a specially made item shall submit their request to the Curio Store clerk who will deliver the request to the Activities Manager. The request will be recorded and sent to the Operations Captain/Lieutenant for approval and assignment to the appropriate hobby shop supervisor. Department of Corrections employees are not permitted to negotiate with inmates on the pricing for special orders;

(b) All special orders will be picked up within thirty days of being placed in the Curio Store. If not picked up in thirty days, special orders must be placed for sale in the Curio Store or mailed out at the inmate's expense;

(c) Recordkeeping is under the supervision of the institution specific Activities Manager or designee. Articles presented for sale shall be tagged and will bear the inmate's name and institution number, description of the article, and one price for each article. The article will bear the inmate's name and institution number when displayed in the Curio Store;

(d) Sales procedures other than through the Curio Store:

(A) Items fabricated in the hobby shop may be disposed of through any agent in the community. All items must leave the Penitentiary through the Oregon State Penitentiary mail room with all postage or delivery charges being paid by the inmate. All items being sent out will be inspected and approved by the hobby shop supervisor who will deliver them to the mail room with a signed Withdrawal Request (CD 28D) for postage or delivery charges;

(B) Inmates may only send out items which they have personally fabricated;

(C) It is the responsibility of the inmate(s) to check the firm(s) they deal with before entrusting their merchandise to them and to fully understand and agree to the terms proposed by the respective merchants;

(D) The Penitentiary or the State of Oregon will in no way be responsible for losses incurred by any inmates in his dealing(s) with private vendors. Funds from the sale of hobby shop merchandise which are mailed to the Department of Corrections will be handled the same as all inmate funds.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.142, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.405, 421.142, 423.020, 423.030 & 423.075

Hist.: CD 12-1991, f. & cert. ef. 5-15-91; CD 17-1994, f. 8-17-94, cert. ef. 9-1-94

291-121-0055

Quarters Handiwork Activity

(1) Mill Creek Correctional Facility: No type of hobby activity is permitted in any inmate living unit or area.

(2) Oregon State Correctional Institution:

(a) No hobby shop handiwork or tools will be allowed in the living units unless approved by the Security Manager;

(b) Inmates may buy art supplies from the canteen for use in the cell/bed area (drawing pencils, pens, colored pencils, erasers, smudge sticks, and drawing paper).

(3) Oregon State Penitentiary: No type of hobby shop activity will be permitted in an inmate's living unit.

(4) Oregon Women's Correctional Center:

(a) All handiwork activity permitted in inmate cells shall be approved by the Recreation Supervisor after consultation with the Security Manager. The Recreation Supervisor shall give written authorization to inmates to do handiwork in their cells by completing the Recreation Property Transaction Form (CD 252);

(b) The inmate is required to keep the written authorization on her cell bulletin board until the handiwork is completed;

(c) Upon completion of the handiwork, the inmate shall return the written authorization and the handiwork to the Recreation Supervisor;

(d) The Recreation Supervisor shall complete and file the written authorization;

(e) The Recreation Supervisor shall assure the inmate disposes of the handiwork in conformance with requirements.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Stats. Implemented: ORS 179.040, 421.142, 423.030, 423.075 & 423.020

Hist.: CD 12-1991, f. & cert. ef. 5-15-91

DIVISION 123

HYGIENE, GROOMING AND SANITATION (INMATE)

291-123-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to set forth standards governing the personal appearance, personal hygiene, clothing, and sanitation of inmates confined in a Department of Corrections facility.

(3) Policy: It is the policy of the Department of Corrections that each inmate be allowed to maintain his/her appearance within the guidelines established by these rules. It is also the policy of the Department of Corrections that safety and security considerations be given priority over individual choices.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 25-1978, f. 9-13-78, ef. 9-15-78; CD 17-1981(Temp), f. & ef. 6-30-81; CD 40-1981, f. & ef. 10-30-81; CD 17-1985, f. & ef. 8-2-85; CD 5-1987, f. & ef. 1-20-87; CD 17-1990, f. & cert. ef. 9-17-90; CD 22-1993, f. 9-15-93, cert. ef. 10-1-93; DOC 12-2013, f. & cert. ef. 11-1-13

291-123-0010

Definitions for OAR 291-123-0005 through 291-123-0015

(1) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(2) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of program services or coordination of program operations.

(3) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(4) Proper Hygiene Standards: Practicing a level of personal cleanliness and grooming necessary to maintain good health and to avoid body odor or bad breath.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 25-1978, f. 9-13-78, ef. 9-15-78; CD 17-1981(Temp), f. & ef. 6-30-81; CD 40-1981, f. & ef. 10-30-81; CD 17-1985, f. & ef. 8-2-85; CD 5-1987, f. & ef. 1-20-87; CD 17-1990, f. & cert. ef. 9-17-90; CD 22-1993, f. 9-15-93, cert. ef. 10-1-93; DOC 12-2013, f. & cert. ef. 11-1-13

291-123-0015

Procedures

(1) Personal Appearance:

(a) A new identification photograph will be taken whenever an inmate's appearance substantially varies from the current photograph.

(b) Fingernails will be neatly trimmed and clean and will not be of a length that presents a hazard to safety and security. When looking at the hand palm side up, the fingernails will not extend past the fingers and shouldn't be visible from that view or otherwise.

(c) Inmates will not tattoo themselves or others; pierce theirs or others' ears, noses, or other body parts.

(2) Personal Hygiene:

(a) Head and facial hair must be maintained daily in a clean and neat manner.

(b) If a hair search needs to be conducted by staff, it may be necessary to require that the inmate unbraid, loosen, or cut the hair to complete the search.

(c) Inmates who work with machinery and whose hair length, in the judgment of staff, poses a safety or health problem must wear protective hair covering when performing their job assignment in conformance with OSHA guidelines.

(d) Haircuts and styles which draw undue attention to an individual or group will not be allowed.

(e) The only hair styling items permitted shall be those purchased through the commissary or issued by the supervisor of the Barber/Cosmetology Program. Hair styling items will only be used in the inmate's assigned cell/bunk housing area or the Barber/Cosmetology area.

(f) Eyebrows will not be removed or their appearance altered in a manner that draws undue attention to an individual.

(3) Showers:

(a) Inmates will be afforded the opportunity to shower at least three times weekly unless security staff availability, space limitations, or safety considerations dictate otherwise as authorized by the functional unit manager. Facility standards may require more frequent showering for inmates on specific program or work assignments. Shower schedules and instructions for use will be posted at each institution.

(A) Inmates shall maintain proper hygiene standards. Inmates who fail to maintain proper hygiene standards may be directed by staff to correct deficiencies in order to maintain a minimally acceptable level of personal hygiene and to protect the health and safety of the inmate, other inmates, and staff.

(B) Inmates with medical conditions may require more or less frequent showering than the rest of the inmate population based upon documented medical need and directive or Behavioral Health Services need and directive.

(b) Towels and shower caps will be worn only in the shower area or assigned cell/bunk area.

(4) Personal Hygiene Supplies:

(a) Toiletry items for showering and other personal hygiene requirements will be issued to each inmate.

(b) Inmates will be permitted to possess personal hygiene items authorized for purchase from the commissary.

(c) Information regarding provision of supplies will be provided to inmates at each institution.

(5) Clothing:

(a) Inmates will be issued DOC clothing that is properly fitted, durable, presentable, and suitable for the activity in which the inmate may be involved.

(b) Inmates must be properly attired outside their cell/bunk area as stated in the inmate handbook.

(c) Inmates may be permitted to wear department-approved personally owned or other non-uniform civilian type clothing as approved by the functional unit manager.

(A) Non-uniform clothing designated for release will be maintained by the institution in the receiving and release area as determined by each facility.

(B) Upon return to department custody, the inmate will change into institutional uniform clothing and enter population.

(d) Any clothing that is associated with an unauthorized organization will not be permitted.

(e) All clothing must be worn in a manner for which it was designed.

(f) Clothing will not be altered unless authorized by the functional unit manager/designee.

(g) Inmates shall ensure their clothing is in good repair and neat appearance.

(h) Information regarding issue, exchange, repairs, and proper wearing will be provided to inmates at each institution.

(6) Sanitation:

(a) Cleaning activities will be supervised at all times. Each inmate is responsible for maintaining an acceptable level of sanitation of his/her living area.

(b) Any condition conducive to harboring or breeding insects, rodents, or other vermin will be referred immediately to the safety manager for immediate corrective action. Licensed pest control professionals will be used when necessary to clean or fumigate the facility.

(c) Liquid and solid wastes will be collected, stored, and disposed of in a manner that will avoid nuisance and hazards and protect the health and safety of inmates and staff in accordance with the requirements in the Department of Corrections policy on Hazard Communications (20.6.8) and other appropriate department directives.

(d) Provisions will be made for at least weekly exchange of linen. A cleaning schedule for linen and bedding will be published in inmate newsletters as appropriate. Each facility will ensure the issue of bedding and linen is sufficient to provide comfort under existing temperature conditions.

(e) A cleaning or exchange schedule for linens will be established for each institution.

(f) All areas will be inspected daily by those responsible to ensure that the work performed is consistent, proper and thorough, and the equipment and supplies are not wasted.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 25-1978, f. 9-13-78, ef. 9-15-78; CD 17-1981(Temp), f. & ef. 6-30-81; CD 40-1981, f. & ef. 10-30-81; CD 17-1985, f. & ef. 8-2-85; CD 5-1987, f. & ef. 1-20-87; CD 17-1990, f. & cert. ef. 9-17-90; CD 22-1993, f. 9-15-93, cert. ef. 10-1-93; DOC 9-2001, f. & cert. ef. 3-21-01; DOC 12-2013, f. & cert. ef. 11-1-13

DIVISION 124

HEALTH SERVICES (INMATE)

291-124-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to:

(a) Specify the level of healthcare services to be provided to inmates under the custody of the Department of Corrections; and

(b) Establish department policies and procedures for reimbursement to those hospitals and community based healthcare professionals providing inpatient and outpatient services to inmates.

(3) Policy: It is the policy of the Department of Corrections to:

(a) Provide essential and important healthcare services that support the health status of inmates during incarceration, including end of life care.

(b) Deliver constitutionally mandated healthcare using an efficient managed care system in support of the mission of the department.

(c) Ensure there is an organized system in place to provide inmates with access to care to meet their serious medical, dental, and mental health needs.

(d) Conduct procedures in a clinically appropriate manner using appropriately credentialed personnel in an appropriate setting consistent with the standards for similar care provided in the community.

(e) Death with Dignity Act: It is the policy of the department not to participate in or allow other health care providers to participate on its premises in the Death with Dignity Act (ORS 127.800 to 127.897). Consistent with this policy, inmates will not be permitted to access end of life counseling or drugs under the DWDA. However, the department will continue to offer inmates medically appropriate end of life care, including counseling, hospice and palliative care, through Health Services.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; CD 6-1996(Temp), f. 6-28-96, cert. ef. 7-1-96; CD 19-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0010

Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Employee: Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections; any person employed under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department-sanctioned special assignment to provide services or support to department programs within any Department of Corrections facility.

(3) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director or an administrator and has responsibility for the delivery of services or coordination of programs.

(5) Healthcare Provider: Any professional who is licensed or certified to provide health care services, including physicians and hospitals (and the various entities/forms in which they do business), and public, quasi-public and private organizations and entities that contract with direct service providers to furnish health care services, such as insurance companies and managed care organizations.

(6) Inmate: Any person under the supervision of Department of Corrections who is not on parole, probation, or post-prison supervision status.

(8) Treating Practitioner: Any Health Services employee who by licensure is authorized to prescribe treatment, including but not limited to, physicians, dentists, nurse practitioners, optometrists and physician assistants.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-1998, f. & cert. ef. 7-1-98; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0016

Delivery of Inmate Healthcare

(1) The Health Services administrator is responsible for directing inmate healthcare services in the Department of Corrections. These activities include:

(a) Developing standards for the organization, coordination and delivery of inmate healthcare;

(b) Ensuring the organization and delivery of inmate healthcare meets established standards; and

(c) Ensuring the operation of all areas of inmate healthcare, including medical, dental, mental health care and pharmacy services, comply with appropriate professional standards, statutory requirements, and administrative rules and policies of the department.

(2) The Health Services clinical director is responsible for professional oversight of clinical healthcare providers. The clinical director has authority for all decisions requiring medical judgment and directly affecting outcomes of clinical practice. The clinical director shall appoint a chief medical officer to provide oversight for professional clinical services to inmates for each DOC institution.

(3) The Pharmacy and Stores administrator is responsible for the overall organization and delivery of Pharmacy services.

(4) The Behavioral Health Services administrator is responsible for the overall organization and delivery of mental health services to inmates. The chief psychiatrist shall have clinical oversight of the professional services of behavioral health practitioners.

(5) The administrator for Clinical Operations is responsible for the overall organization and delivery of institutional clinical care.

(6) The administrator for Business Operations is responsible for the overall organization and coordination of business functions, including fiscal management and organizational development.

(7) The Dental Program director, a licensed dentist, is responsible for the overall organization, delivery, and professional oversight of dental services.

(8) Health Services administration shall appoint a Medical Services manager to organize and coordinate delivery of healthcare services to inmates for each DOC institution.

(9) Inmates are prohibited from performing any healthcare duties reserved for licensed or certified health professionals. Inmates may be assigned to assist other inmates with activities of daily living as are commonly done in the community by family or friends.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0017

Professional Credentials

(1) Treating practitioners who provide medical, dental, mental healthcare or pharmacy services to inmates shall be appropriately licensed to practice in their respective professions. Specialists providing healthcare, mental healthcare or dental services shall be board certified in the specialty field or recognized as specialists in the medical community.

(2) All other employees of Health Services requiring licensure, registration or certification shall be licensed, registered, or certified to practice as stipulated by the regulatory agency of their respective discipline.

(3) Employees providing health services shall practice within the scope defined by statute and administrative rule of the respective regulatory professional licensing or certification board.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0020

Facilities and Equipment for Provision of Health Care

(1) Space, Equipment and Supplies:

(a) Sufficient space, equipment, and supplies will be available to provide the level of healthcare designated at each state operated correctional facility.

(b) Health Services administrators are responsible for evaluation of the adequacy of space allocated, review of major equipment purchases, and the system for distribution of healthcare services and supplies within their individual scope of authority.

(2) Level of Service at Each Facility:

(a) The assigned Medical Service managers is responsible for coordinating inmate access to healthcare services either at the site, in the community, or at another correctional facility.

(b) Healthcare services at correctional facilities shall at a minimum include instruction and supervision of self care, ambulatory care, emergency care, and referrals for specialty services.

(c) Inpatient infirmary beds, on site dental clinics, optometry clinics and mental health treatment are not available at each correctional facility. Inmates needing these services may be transferred to

the most appropriate correctional facility to receive the needed service.

(d) Inmates with complex medical conditions who cannot be referred to providers in the immediate community may be transported to a correctional facility in another geographic area to receive medically necessary care and treatment.

(e) At correctional facilities with patients occupying inpatient infirmary beds, healthcare staff shall be on duty 24 hours per day with a physician on call 24 hours per day. At correctional facilities without 24 hour on duty coverage, a registered nurse and a treating practitioner shall be designated and on call to provide 24 hours per day coverage.

(f) Health Services staff will be make provisions for hospital access and specialty care as necessary for the healthcare of the inmate.

(g) Each health services program shall have a written plan and maintain readiness to provide basic emergency healthcare services to anyone in emergency situations. This plan shall be in accordance with the emergency response plan for the facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0030

Health Evaluation and Screening

(1) During the admission process each inmate shall receive a baseline medical, dental, and mental health evaluation.

(a) The medical evaluation shall consist of a physical examination and medical history including a review of available information and verification of any medication, care or treatment requirements. The evaluation should occur within seven days of admission.

(b) The dental baseline evaluation shall be completed within one month of admission to include review of the dental history, examination of the oral cavity, and diagnostic X-rays, if necessary. If there is documented evidence of an examination of the inmate's dental condition within the previous six months, a dental exam is not required unless determined to be clinically necessary by the treating dentist. If treatment is recommended based upon the baseline dental examination, a treatment plan shall be written and the recommendations reviewed with the inmate.

(c) The mental health evaluation will include a screening for the presence of mental illness and suicide history. Inmates who have a history of mental illness and suicide attempts or who report current suicidal ideations will be referred for further evaluation by a mental health treatment provider. Inmates with mental illness will be housed in a facility with services appropriate for their treatment needs.

(d) A clinical record will be initiated at the time of initial admission into the Department of Corrections.

(e) If the inmate has a documented baseline evaluation from the department within the previous 90 days, the prior evaluation and health record is reviewed and updated as clinically necessary.

(f) Inmates will be informed of relevant recommendations based on the baseline health evaluations and will be provided with self care instruction.

(2) Health Screening at Transfer:

(a) A brief health screening shall be completed on all inmates received on intra-department transfers by healthcare staff at the receiving facility. This shall include review of medical, dental and mental health records information transferred with the inmate and verification of any care or treatment requirements prearranged by the sending facility Medical Services manager.

(b) This information will be used to determine disposition of the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0035

Emergency Services

(1) Health Services employees will be trained to respond to health emergency situations involving inmates, employees, visitors, and others on the facility's premises or worksites.

(2) Health Services will work with the Department Emergency Response Command Structure in declared emergencies.

(3) Each facility Medical Services manager shall assure that healthcare employees are trained and prepared to provide emergency medical assistance.

(4) Emergency medical care exceeding the scope or capacity of the facility or staff will be supplemented by emergency medical response agencies in the community.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0041

Healthcare and Treatment

(1) Health care and treatment is authorized and provided according to priorities established by the clinical director and is subject to peer review.

(a) Level 1:

(A) Medically mandatory is care and treatment that is essential to life and health, without which rapid deterioration may be an expected outcome and where medical/surgical intervention makes a very significant difference.

(B) Level 1 care and treatment shall be routinely provided to all inmates by the department. Any DOC licensed health professional may authorize care and treatment of Level 1 conditions.

(b) Level 2:

(A) Presently medically necessary is care and treatment without which an inmate could not be maintained without significant risk of either further serious deterioration of the condition or significant reduction in the chance of possible repair after release or without significant pain or discomfort.

(B) Level 2 care and treatment may be provided to inmates subject to periodic utilization review by the chief medical officer. Any treating practitioner may authorize care and treatment of Level 2 conditions.

(c) Level 3:

(A) Medically acceptable but not medically necessary is care and treatment for non-fatal conditions where intervention may improve the quality of life for the inmate.

(B) Level 3 care and treatment may or may not be authorized based upon review of each case. Only the clinical director and as delegated, the chief medical officer, may authorize or deny care and treatment of Level 3 conditions.

(d) Level 4: Of limited medical value is care and treatment which may be valuable to a certain individual but is significantly less likely to be cost effective or to produce substantial long term improvement. Level 4 care and treatment will not be routinely provided to inmates by the department.

(2) Infirmary care shall be made available to provide limited medical, dental, and nursing services.

(a) Infirmary services may include, but are not limited to, isolation, observation, first aid, postoperative care, short or long term nursing care, treatment of minor illnesses, sheltered living, convalescence, and end of life care.

(b) Infirmary care shall not be used as an alternative to hospital level acute care. Only appropriately licensed health service employees shall admit and discharge inmates from medical infirmary care.

(3) Therapeutic diets may be ordered by a treating practitioner for an inmate with a medical condition requiring nutritional adjustment that is not obtainable from the regular food services menu. Diets to achieve weight loss are the responsibility of the individual inmate.

(4) Health Services will screen inmates for work limitations at the assignment supervisor's request. Ongoing daily review of inmate workers for symptoms of illness that would interfere with

the work assignment is the responsibility of the on site work supervisor.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 1987 OL, Ch.

486

Hist.: CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-

19-10

291-124-0055

Health Education

(1) Each facility health services program shall provide inmate

health education, including information on self care.

(2) Inmates with chronic diseases will be provided with infor-

mation designed to increase their ability to monitor and manage

their health status.

(3) Material provided by community health education groups,

public health departments, or developed by other correctional facil-

ities may be used with appropriate citation.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-

95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0060

Transfer, Travel, or Release Arrangements

(1) Transfers Between Oregon Department of Corrections Facilities:

(a) Information about an inmate's health status shall be provided to Office of Population Management to consider for institution assignments and continuity of care of inmates.

(b) Health Services staff shall provide instructions to the Transport Unit regarding any inmate that requires medication or medical care during transport or any other special precautions that are recommended during transport.

(c) The inmate's healthcare record shall be transferred in a confidential manner to the health services program responsible for health care at the receiving facility simultaneously with the inmate.

(2) Coordination of medical and mental healthcare for release:

(a) Prior to release, the facility Medical Services manager or Behavioral Health Services manager shall identify inmates with severe medical or severe mental health conditions that will require ongoing treatment in the community.

(b) Designated staff may assist with referrals to agencies, programs or practitioners in the community to facilitate continuity of care and on going treatment of inmates with severe medical or mental health conditions.

(c) The department is not responsible for medical evaluations or diagnostic workups that are required for admission to treatment facilities in the community.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: OL 433, ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0065

Communicable Disease Control

(1) The department shall have a communicable disease screening program.

(2) Management of communicable diseases shall be in accordance with Oregon Health Division recommendations and department administrative rules and policies.

(3) Standard precautions shall be made known and available to correctional employees working in department facilities to prevent transmission of communicable diseases. Health service employees shall provide specific instructions if additional precautions are necessary for a particular inmate.

(4) Communicable disease control precautions as required by OR-OSHA or recommended by the Oregon Health Division shall be followed.

(5) Information about communicable disease prevention shall be provided to inmates as part of health education.

(6) Immunization and preventative treatment shall be made available to inmates as medically indicated.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0070

Management of Pharmaceuticals

(1) Pharmacy services shall be provided under the professional direction of registered pharmacists.

(2) A central pharmacy(ies) shall be established in accordance with the Oregon Board of Pharmacy regulation for the appropriate and secure purchase, packaging, labeling and distribution of medications needed for inmate healthcare.

(3) Medications shall be made available for the treatment of inmate patients;

(a) Upon prescription by appropriately licensed staff or

(b) From non-prescription stock made available for such purposes.

(4) An organized and regulated system shall be in place in each institution for the secure receipt, storage, accounting and distribution of prescription and non-prescription medications.

(5) Medications shall be administered by appropriately trained healthcare personnel in accordance with professional standards and the laws and regulations governing drug administration.

(6) Psychotropic medications shall be prescribed only when clinically indicated and as one facet of a treatment program in accordance with the department's rule on Informed Consent to Treatment with Psychotropic Medication (OAR 291-064)

(7) Inmates may be allowed to administer their own medication:

(a) As part of a self-care program;

(b) When the medication is on an approved self medication list;

(c) When in the opinion of the health services professional, the inmate is appropriately able to manage his/her own medication; and

(d) In conformance with institutional security practice.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0075

Healthcare Records

(1) A healthcare record shall be established for each inmate received at a DOC facility.

(2) Inmate healthcare records shall be maintained separately from the inmate's custody file.

(3) The healthcare record shall be transferred at the time an inmate is transferred to another Department of Corrections facility.

(4) Personally identifiable confidential health information contained in the healthcare record may be released to other parties only according to ORS 179.495 through 179.505 and other Oregon statutes relevant to medical confidentiality.

(5) Inactive healthcare records shall be retained in accordance with the authorized retention schedules established in accordance with OAR 166-030.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.495-505, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0080

Patient Rights

(1) Medical Research: The use of inmates for medical, psychiatric, or psychological experimentation or research is prohibited as stipulated in ORS 421.085.

(2) Informed Consent:

(a) The inmate's written informed consent or refusal shall be obtained prior to an invasive healthcare procedure with major adverse health risks or prior to beginning non emergent mental health or medication services. An inmate may change their informed consent or refusal.

(b) Informed consent shall include providing the inmate with information about:

(A) The nature, purpose, and benefits of the procedure or treatment;

(B) The risks, if any, of the procedure or treatment; and

(C) Any alternative procedures or methods of treatment that are available.

(c) Informed consent is not required in:

(A) A medical emergency if the inmate is unable to give or to refuse consent and there is an immediate threat to the life of, or irreversible bodily harm to, the inmate;

(B) A psychiatric emergency if the inmate does not have the mental capacity to make an informed decision; and

(C) Certain public health matters.

(3) Confidentiality:

(a) The inmate's healthcare record, which includes medical, dental, and mental health information obtained by health service employees, is confidential and shall not be released except as provided in ORS 179.495 through 179.509, and other Oregon statutes.

(b) Health Services employees shall communicate to correctional employees pertinent information that has a direct impact on

the safety and security of the facility or is relevant to the inmate's ability to function.

(4) Inmates may use the inmate grievance system as outlined in OAR 291-109 for health related issues.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0085

Charges for Elective Care or Treatment

(1) An inmate may request approval to purchase healthcare from a healthcare provider in the community. The department will only approve those requests that in the department's judgment are medically appropriate and are otherwise consistent with the department's concerns for institution security and order, public safety, and sound correctional practice.

(a) The inmate's trust account must have sufficient funds to pay for the purchase of care BEFORE the treatment is scheduled, unless other financial arrangements have been made. Cost of care includes expenses associated with providing the treatment, including follow-up care, as well as all costs associated with transport and security.

(b) The chief medical officer of the facility must review and approve follow-up care and treatment recommended by community practitioners.

(3) Prosthetics and Self Care Items:

(a) An inmate is required to pay for prostheses or other devices that become the personal property of the inmate.

(b) The inmate must sign a withdrawal request (CD28) before the service is provided. The inmate's trust account will be charged for the estimated or actual cost of the device.

(c) Upon delivery of the device, any variance from the actual cost will be indebted or credited to the inmate's trust account accordingly.

(d) An inmate shall not be denied prostheses or other devices that are medically necessary because of lack of funds. However, the inmate may incur debt if his/her trust account does not have sufficient funds to cover the cost of the device.

(e) Items for self care are available on the commissary list. An inmate may be advised to purchase a particular self care item by health services employees. Such advice is intended as education in self care and is not a directive that the item is considered medically necessary.

(3) Expenses for Medical Care for Inmates on Escape, Transitional Leave, Parole, Post-Prison Supervision, or Emergency Leave:

(a) Expenses incurred for healthcare of offenders on parole or post-prison supervision are the responsibility of the offender.

(b) Expenses incurred for healthcare of inmates on escape status are not the responsibility of the department.

(c) Expenses incurred for healthcare of inmates on short term transition leave are the responsibility of the inmate.

(4) Refusal of Medical Appointments:

(a) Any inmate who willfully refuses to keep a prearranged medical appointment in the community may have his/her trust account charged or indebted.

(b) A decision under this section to charge or indebted an inmate's trust account is subject to the administrative review process in the rule on Trust Accounts (Inmate) (OAR 291-158).

(5) Destruction of Property: Any inmate who willfully destroys or misuses health services equipment or supplies is subject to disciplinary action in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 3-1990, f. & cert. ef. 1-29-90; CD 18-1995, f. 9-25-95, cert. ef. 10-1-95; DOC 16-2010, f. & cert. ef. 11-19-10

291-124-0090

Reporting and Evaluation

Health Services shall prepare a report each quarter listing the deaths which have occurred in Department of Corrections facilities,

including the age of the deceased, cause of death, and disposition of remains. This report shall be submitted to the President of the Senate and the Speaker of the House of Representatives according to ORS 179.509 by the 30th of the month following the end of the quarter.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 16-2010, f. & cert. ef. 11-19-10

291-124-1000

Purpose and Policy

(1) Purpose: The purpose of these rules OAR 291-124-1000 through -1040 is to establish standards for the Department of Corrections to certify employees that provide mental health services to inmates in DOC facilities as qualified mental health professionals or qualified mental health associates.

(2) Policy: It is the policy of the Department of Corrections that employees providing mental health services to inmates meet the standards established in these rules and be certified accordingly by the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333

Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1010

Definitions for Rules OAR 291-124-1000 through 291-124-1050

(1) Behavioral Health Services Administrator: The person responsible for the overall organization and delivery of mental health services to inmates.

(2) Behavioral Health Services (BHS): A Health Services unit with primary responsibility for the assessment and treatment of inmates with mental illness and developmental disabilities.

(3) Case Management: Delivery of mental health services to inmates. Case management activities include:

(a) Identifying, screening and evaluating inmates to determine their eligibility for services;

(b) Implementing individualized service plans, assistance in applying for financial benefits;

(c) Coordinating release planning services with other agencies and resources,

(d) Participating in case staffing;

(e) Providing emotional support and counseling;

(f) Crisis intervention for immediate safety concerns; and

(g) Daily structure, support, supervision, and skills training;

(4) Clinical Director: The person responsible to monitor clinical operations statewide who reports to the Behavioral Health Services Administrator. The clinical director must have a minimum of eight years of experience providing mental health services, a Master's degree, two years of post graduate clinical supervision and licensure in the State of Oregon.

(5) Clinical Supervisor: The Behavioral Health Services program manager that supervises mental health treatment services provided by mental health specialists to inmates. The clinical supervisor must meet the requirements of a qualified mental health professional and have a minimum of five years of experience providing mental health services, with at least one year that includes supervision of staff.

(6) Crisis: An urgent or emergency situation that occurs when an inmate's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent serious deterioration or self injury.

(7) Diagnosis: A diagnosis consistent with the current "Diagnostic and Statistical Manual of Mental Disorders (DSM)" published by the American Psychiatric Association.

(8) Mental Health Assessment: A process in which an inmate's need for mental health services is determined through an evaluation of the inmate's strengths, goals, needs, and current level of functioning.

(9) Mental Status Examination: An overall assessment of an inmate's mental functioning and cognitive abilities.

(10) Mental Health Specialist: A Behavioral Health Services employee responsible for the delivery of mental health services to inmates.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1020

Credentialing and Certification Process

(1) The clinical director is responsible for credentialing employees hired as mental health specialists.

(2) A mental health specialist must meet the requirements established in OAR 291-124-1030 as a qualified mental health associate (QMHA) or qualified mental health professional (QMHP).

(3) The clinical director shall review the employee's education, experience and competencies to determine if the employee can be certified as meeting the professional standards of a qualified mental health associate or qualified mental health professional.

(4) Personnel Documentation: A copy of transcripts, academic degrees, licenses, certifications, and a verification form used to record the credentialing and certification information shall be retained in the employee's personnel file.

(5) The employee will be provided with a position description that includes a description of duties that a qualified mental health associate or qualified mental health professional are certified to provide.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1030

Qualified Mental Health Associate and Qualified Mental Health Professional Standards

(1) A qualified mental health associate (QMHA) must meet the following minimum qualifications:

- (a) Bachelor's degree in a behavioral sciences field; or
- (b) A combination of at least three years relevant work, education, training or experience; and

(c) Demonstrate the competency necessary to communicate effectively; understand mental health assessment, treatment and service terminology and apply these concepts; provide psychosocial skills development; implement interventions as assigned on an individual plan of care; and provide behavior management and case management duties.

(2) A qualified mental health professional (QMHP) is a licensed medical practitioner or any other person who holds any of the following educational degrees and meets the following minimum qualifications:

- (a) Graduate degree in psychology;
- (b) Bachelor's degree in nursing and licensed by the State of Oregon;

- (c) Graduate degree in social work;
- (d) Graduate degree in a behavioral science field;
- (e) Graduate degree in recreational, music, or art therapy
- (f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(g) Whose education and experience demonstrate the competency to identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services and criminal justice contacts; assess family, social and work relationships; conduct a mental status examination; document a multi-axial DSM diagnosis; write and supervise an individual plan of care; conduct a mental health assessment and provide individual, family or group therapy within the scope of their training.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1040

Supervision of Qualified Mental Health Associates and Qualified Mental Health Professionals

(1) A qualified mental health associate shall deliver mental health services to inmates under the direct supervision of a qualified mental health professional.

(2) A qualified mental health professional shall deliver mental health services to inmates under the direct supervision of a clinical supervisor.

(3) Clinical Supervisor: A clinical supervisor shall demonstrate the competency to oversee and evaluate the mental health treatment services provided by qualified mental health professionals and qualified mental health associates.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1050

Variances

(1) The Behavioral Health Services Administrator has the authority to grant a variance to the criteria used to determine the status of a qualified mental health professional or a clinical supervisor.

(2) The clinical director must document the reason for the variance and propose a timeline for the duration of the variance.

(3) Signed documentation from the Behavioral Health Services Administrator indicating support of the proposed variance shall be retained in the employee's personnel file.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

DIVISION 127

VISITING (INMATE)

291-127-0200

Authority, Purpose and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish Department policy and procedures regarding inmate visitation, and the administration of visitation programming in Department of Corrections facilities. The Department encourages productive relationships between families and inmates and sees inmate visitation as a positive means to strengthen ties and increase the likelihood of success upon release.

(3) Policy:

(a) Visiting is an integral component of facility management, inmate habilitation and community safety. Visiting can improve public safety, encourage responsible familial relationships and reduce the risk of future criminal behavior.

(b) Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections to permit, promote, facilitate, and encourage approved visitation by inmates with their families, friends, and others in Department of Corrections facilities.

(c) When authorized, visitation in a Department of Corrections facility is permitted neither as a matter of right nor as a privilege of the inmate or the inmate's visitor; rather, visitation in Department of Corrections facilities is permitted by the Department when it furthers the inmate's correctional planning and the Department's correctional goals and mission and is consistent with the safe, secure and orderly management and operation of the facility.

(d) The Department may structure visiting in its correctional facilities as an incentive program for inmates to encourage good institutional conduct.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0210

Definitions

(1) **Accompanied Visit:** A type of visitation authorized by the Department of Corrections in its correctional facilities in which an inmate is permitted to visit with a minor child who remains in the company of an approved adult visitor with the written consent of the custodial parent or guardian.

(2) **Basic Visiting:** A type of visitation authorized by the Department of Corrections in its correctional facilities in which an inmate and an approved visitor are permitted to see and talk with each other on a scheduled basis for a reasonable period of time with no physical contact. Basic visiting may be authorized by the Department to take place in person, or through the use of videoconferencing technology.

(3) **Caregiver:** The person primarily responsible for caring for an inmate's minor child(ren).

(4) **Co-Defendant:** A person who has been convicted of a crime in which the inmate had some involvement in the same criminal incident(s) which gave rise to the conviction, or who is currently the subject of a criminal prosecution for the same criminal incident(s) involving the inmate.

(5) **Conspiracy:** An agreement between an inmate and one or more persons to engage in, cause, or conceal a rule violation or criminal activity.

(6) **Contraband:** Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, or which the inmate is not specifically authorized to obtain or possess or which the inmate alters without authorization.

(7) **Contractor:** Any person working or providing services in a Department of Corrections facility under a contractual arrangement to provide services to the Department, or any person employed by private or public sector agencies who is serving under Department-sanctioned special assignment to provide services or support to the Department programs.

(8) **Department of Corrections Facility:** Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(9) **Disrespect:** Where a visitor directs hostile, sexual, abusive, or threatening language or gestures, verbal or written, towards or about another person.

(10) **Disturbance:** Conduct or activity which unnecessarily interferes with visitation operations, or which advocates, encourages, promotes or otherwise creates or poses a threat to the safety, security, health and good order of the facility, or the safety and security of inmates, staff, visitors, contractors or the community. A visitor commits a disturbance if he/she advocates, creates, engages in, maintains or promotes an annoying condition or disorder characterized by unruly, noisy, violent conduct which disrupts the orderly administration of the visiting process.

(11) **Domestic Partner:** An individual joined in a domestic partnership.

(12) **Domestic Partnership:** A civil contract entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon, which has been filed with the County Clerk and entered in the domestic partnership registry.

(13) **Employee:** Any person employed full-time, part-time or on temporary appointment by the Department of Corrections.

(14) **Excessive Contact:** Prolonged or frequent contact between a visitor and an inmate which exceeds the brief embrace and kiss upon meeting and leaving, hand-holding, or holding of children specifically allowed. Excessive is not casual contact, but rather a pattern of contact beyond rule limits.

(15) **Holiday:** A day recognized and announced annually as a holiday. If the actual and generally recognized holiday differs from the day recognized by the Department of Administrative Services, the holiday recognized for purposes of this rule is the date indicated on the calendar.

(16) **Immediate Family Member:** Spouse, domestic partner, parent, sibling, child, aunt, uncle, niece, nephew, grandchildren and grandparents, including foster, in-law, and step relationships. Immediate family also includes the caregiver of the inmate's minor child(ren).

(17) **Inappropriate Relationship:** A personal relationship between an inmate or offender and any employee, contractor, or volunteer of the Department of Corrections that developed during the course of employment/contract work/volunteering or as a result of same.

(18) **Inmate:** Any person under the supervision of Department of Corrections who is not on parole, post prison supervision, or probation status.

(19) **Intake Status:** That period of time following delivery of an inmate to the custody of the Department of Corrections in which the Department conducts its intake processing of the inmate including, but not limited to, the conduct of medical and mental health assessments, custody classification, and identification of programming needs and assignments.

(20) **Privileged Visiting:** A type of visitation authorized by the Department of Corrections in its correctional facilities in which an inmate and an approved visitor are permitted to see and talk with each other on a scheduled basis for a reasonable period of time with limited physical contact, consisting of a brief embrace and kiss upon meeting and leaving, hand holding, and holding of children.

(21) **Reasonable Suspicion:** An apparent state of objective facts and rational inferences drawn there from which would permit a reasonable and experienced correctional staff person to conclude that an individual or set of circumstances poses a threat to the safety, security, health and good order of the facility, and/or the safety and security of inmates, staff, visitors, contractors or the community, including, but not limited to, committing a crime or rule violation or conspiring or attempting the same.

(22) **Search:** A close inspection, including touching in an impartial manner, of a person, vehicle, possessions, or other property, or buildings or premises. For purposes of entering a correctional institution, searches often require the removal and separate inspection of shoes, belts, jackets, and other accessories during processing. Types of searches include the following:

(a) **Consent:** Inspection of a person or their property conducted with prior permission of the person being searched, or of a person who owns or has in his/her possession that property which is searched.

(b) **Frisk:** To search a person for something by running the hands over the clothed person, through the hair, inspecting pockets and cuffs, and other items in his/her possession.

(c) **Skin:** A search procedure wherein the person being searched removes all of his/her clothing and is visually examined and clothing removed is carefully inspected before return and redressing, for the purpose of detecting contraband.

(23) **Sexual Activity:** Sexual contact including, but not limited to sexual intercourse, kissing, fondling, and/or manipulation of the genitalia, buttocks, and breasts of another person, or of oneself, in a manner which produces or is intended to produce sexual stimulation or gratification.

(24) **Sex Crime Involving a Minor Child:** Any conviction (including juvenile adjudications) of a sexual crime committed, attempted or conspired in which a minor child was involved, victimized, or the intended victim.

(25) **Special Visiting:** Those visits listed below:

(a) A type of visitation authorized by the Department of Corrections in its correctional facilities in which an inmate is permitted to visit with a person who is not on the inmate's approved visiting list;

(b) An extra visit by an inmate and a person who is on the inmate's approved visiting list that is permitted beyond the limits on the number of visits established by these rules and the facility; and

(c) A visit that is permitted at an hour or place at which visits are not normally permitted.

(26) Spouse: A person who is legally married to an inmate.

(27) Termination of Visiting: The end of visiting privileges for the day by order of the visiting area staff or other authorized staff.

(28) Victim: A person who was subjected to direct physical or psychological harm or injury as a result of the criminal conduct of the inmate, past or present, as identified in records or in information available to the Department of Corrections.

(29) Video Visiting: A type of visiting authorized by the Department of Corrections in which an inmate and an approved visitor are permitted to see and talk with each other on a scheduled basis through the use of videoconferencing technology. Video visitation may be used for basic visiting or as a supplement to on-site contact visiting.

(30) Volunteer: An approved person(s) who donates time, knowledge, skills and effort to enhance the mission, activities and programs of the Department (includes practicums and interns). Volunteers serve at the pleasure of the Department and are not considered employees. Volunteers are subject to the provisions of the Department of Corrections rule on Volunteers and Students Interns (OAR 291-015).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 8-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 24-2008, f. & cert. ef. 9-26-08; DOC 17-2009, f. & cert. ef. 10-20-09

291-127-0220

Inmate Eligibility

(1) All inmates, except those inmates in intake status or as specifically provided in these rules, are eligible to apply for visits while confined in a Department of Corrections facility.

(2) Inmates Convicted of Sexual Crimes Involving Minor Children:

(a) Inmates who have a current or prior conviction for a sexual crime involving a minor child are ineligible to visit with any minor child, other than their own biological child. Inmates who have a current or prior conviction for a sexual crime involving their biological, step or foster child, or who have a documented history of sex abuse with a member of their immediate family are ineligible to visit with any minor child, including their own biological child.

(A) The inmate shall provide or have provided verification that the child is his/her biological child; e.g., birth certificate.

(B) An adopted child is considered a biological child.

(b) An inmate who is ineligible to visit with a minor child under the provisions of this rule may request reconsideration to apply for such visits by writing to the Chief of Inmate Services. The Chief of Inmate Services or designee may authorize such visits if he/she determines these visits will achieve a legitimate correctional objective, in furtherance of the Department's mission.

(A) The written request must include an evaluation which assesses the inmate's risk to minor children. The evaluation shall be conducted by a specialized sex offender evaluator approved by the Department. This evaluation must include a specific issue polygraph performed by a licensed polygrapher approved by the Department.

(B) The Department shall develop a list of suitable evaluators and polygraphers, which will be available to inmates. Cost of the evaluation is the responsibility of the inmate.

(C) The Chief of Inmate Services or designee may request assistance from community corrections resources in making the determination to grant or deny the request.

(D) If an exception is granted, it shall be applied consistently to all Department facilities. The Chief of Inmate Services' decision shall be final and not subject to further review.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08; DOC 17-2009, f. & cert. ef. 10-20-09

291-127-0230

Eligibility of Prospective Visitors

(1) All persons, except as specifically provided in these rules, are eligible to be considered by the Department for approval to visit an inmate confined in a Department of Corrections facility, upon application and request by the inmate.

(2) Certain Criminal Convictions/ Pending Charges: A person is ineligible to visit an inmate confined in a Department of Corrections facility if the person has been convicted of, or has criminal charges pending against him/her for, the following crimes/criminal activities:

(a) Introduction or supplying, attempting or conspiring to introduce or supply contraband as defined in ORS 162.185;

(b) Possession, control or delivery of an explosive device or substance, including attempt or conspiracy to do the same; or

(c) Assisting an inmate in an escape or unlawful departure from a correctional facility, including an attempt or conspiracy to do the same.

(3) A person who has a pending criminal charge(s) is ineligible to visit.

(4) A person convicted of a person-to-person crime, past or present, against an inmate is ineligible to visit that inmate.

(5) Inmates on Transitional Leave or Assigned to Department of Corrections Facilities: Inmates on transitional leave or who are assigned to another Department of Corrections facility are ineligible to visit an inmate in a Department of Corrections facility.

(6) A person is ineligible to visit an inmate confined in a Department of Corrections facility if the person has been determined by the Department to have introduced or conspired to introduce contraband as defined in the Department's rule on Prohibited Inmate Conduct (OAR 291-105) and the person was permanently removed from the inmate's visiting list.

(7) Crime Victims: A person is ineligible to visit an inmate confined in a Department of Corrections facility if the person is a victim of the inmate's crime(s) of conviction, past or present.

(8) Co-Defendants: A person is ineligible to visit an inmate confined in a Department of Corrections facility if the person and the inmate were or are co-defendants in any criminal prosecution, past or present.

(9) Drug-Related Crimes/Criminal Activity:

(a) A person who within the last five years has been convicted of any drug-related crime is ineligible to visit an inmate in a Department of Corrections facility.

(b) Once the five year restriction has been satisfied, an individual who has been convicted of, or has criminal charges pending for any drug-related crime as stated above will be eligible to apply for basic visiting. After being on basic visiting status for a minimum of one year, the individual may apply for privileged visiting.

(10) Present or Former Inmates of State, County or Federal Corrections Facilities:

(a) A person who is or has been sentenced and incarcerated for a felony crime in a state, county or federal corrections facility at some time in the past five years is ineligible to visit an inmate confined in a Department of Corrections facility.

(b) Once the five-year restriction has been satisfied, an individual who has been sentenced and incarcerated in a state, county or federal correctional facility as stated above will be eligible to apply for basic visiting. After being on basic visiting status for a minimum of one year, the individual may apply for privileged visiting.

(11) Persons on Probation, Parole or Post-Prison Supervision: Other than immediate family members, a person on probation, parole or post prison supervision is ineligible to visit an inmate in a Department of Corrections facility. Immediate family members who are on probation, parole or post-prison supervision will be eligible to apply for visit with the written consent of the immediate family member's parole/probation officer, or in the case of court-supervised probation, with the written consent of the supervising judge and the approval of the facility superintendent or designee.

(12) Department of Corrections Employees, Volunteers or Contractors:

(a) Current Department of Corrections employees, volunteers and contractors are ineligible to visit an inmate confined in a Department of Corrections facility unless the inmate is a member of the employee's/volunteer's/contractor's immediate family as defined in these rules.

(b) Former Department of Corrections employees, volunteers or contractors who resigned in lieu of removal from their position as a result of an inappropriate relationship with an inmate, or who were discovered after their resignation, retirement or termination to have been engaged in an inappropriate relationship with an inmate, are ineligible to visit an inmate confined in a Department of Corrections facility.

(13) Any exceptions to sections (4) to (12) must have the recommendation of the Chief of Inmate Services or designee and be authorized by the Institutions Administrator or designee.

(a) Any person who is ineligible to visit for the reasons specified above may request reconsideration by writing to the Chief of Inmate Services.

(b) The Institutions Administrator or designee will make the final decision.

(c) If the exception is granted, it must be applied consistently to all Department facilities, unless otherwise stated.

(d) The exception will be cited in the DOC Visitor Tracking System.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0240

Approval/Denial of Visiting Application; Restrictions

(1) Visiting Application:

(a) Inmates or prospective visitors must submit a completed visiting application form (CD 50D) for each prospective visitor regardless of their age.

(b) The application must be submitted to the Inmate Services Unit. Inmates shall make the final determination which approved visitors are on their visiting list.

(c) Inmates who are returned to custody in a Department of Corrections facility following an escape or a period of parole or post-prison supervision in the community shall be required to submit a new visiting application for each prospective visitor.

(2) Criminal Records Check: All prospective visitors age 15 years and older shall be subject to a criminal records check as part of the visitation approval process.

(3) Letter of Custodial Consent: If the prospective visitor is an unemancipated minor child, a notarized letter of custodial consent signed by the custodial parent or legal guardian must be submitted to the Inmate Services Unit as part of the visitation approval process. A signed letter of custodial consent is not required if the prospective visitor is an emancipated minor. Once received, signed letters of custodial consent shall be maintained in the inmate's central file.

(4) Approval/Denial of Visiting Application:

(a) Except when authorization is required from the Institutions Administrator, the Inmate Services Unit will approve or deny the visiting application following receipt of the application and any additional required documentation or requested information (e.g., criminal records check, letter of custodial consent, etc.). If the visiting application is approved, the approved visitor's name will be placed on the inmate's visiting list along with the type of visitation authorized (i.e., privileged, basic or video).

(b) Prior to approving or denying the application, Inmate Services Unit staff may:

(A) Verify information submitted in the application;

(B) Check the name of the prospective visitor against the volunteer data base;

(C) Request additional information from the inmate, the prospective visitor, law enforcement agencies, or other reliable sources; and

(D) Interview the inmate or prospective visitor.

(c) Applications to visit with prospective visitors who are eligible to visit an inmate confined in a Department of Corrections facility under these rules will generally be approved unless the Department has reasonable suspicion that permitting the visitation would jeopardize the safety, security, health or good order of the facility, or the safety and security of other inmates, staff, visitors, contractors or the community. Specific reasons for denial include, but are not limited to, the following:

(A) The inmate or prospective visitor has previously introduced contraband into a jail or other corrections facility, or there is reasonable suspicion that the inmate or prospective visitor will introduce contraband into a Department of Corrections facility through the visiting process.

(B) The inmate or prospective visitor has previously disrupted the visiting process or violated visiting rules and procedures within a jail or other corrections facility by words or acts, or there is reasonable suspicion that the inmate or prospective visitor will disrupt the visiting process or violate visiting rules and procedures within a Department of Corrections facility by words or acts.

(C) The inmate or proposed visitor has intentionally submitted false information to the Department as part of the visiting application process.

(D) There is reasonable suspicion that the inmate or prospective visitor is engaged in any form of criminal activity in the community or within a Department of Corrections facility.

(E) The prospective visitor has refused to submit to a search based upon reasonable suspicion during a prior visit to any Department of Corrections facility.

(5) A prospective visitor may not be on more than one inmate's approved visiting list at the facility where the inmate is confined, unless the prospective visitor is an immediate family member.

(6) Children Maximum Number of Approved Visitors:

(a) Inmates may be permitted a maximum of 20 approved visitors on their respective visiting lists.

(b) Under 13 Years of Age: The name of each approved visitor shall appear on the inmate's visiting list; however, persons under 13 years of age shall not be counted toward the maximum number of approved visitors, although their names must still appear on the list.

(c) Children Under 18 Years of Age: Children under 18 years of age may visit on any of the regular visiting days when accompanied by an adult visitor on the inmate's approved visiting list. Both visitors must be visiting the same inmate at the same time. Exceptions may be specifically authorized by the facility superintendent or designee.

(7) Denial for Submitting False Information: An inmate or prospective visitor who has intentionally submitted false information to the Department as part of the visiting application process will be denied visitation for at least one year, after which time the inmate may submit a new visiting application for approval in accordance with these rules.

(8) Restriction to Basic Visiting for Drug-Related Activity: An inmate who has been found in violation of the Department's rules of prohibited inmate conduct for drug-related activity, including attempt or conspiracy, may have his/her visits restricted to basic visiting as included in the sanction on the final order in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(9) Notification to Inmate of Decision on Visiting Application: After Inmate Services Unit receives the application, inmates will receive notification whether it has been approved or denied. Some applications may be deferred for further processing.

(a) If the application is approved, the notice will include a designation of the type of visiting that has been authorized (i.e., privileged or basic).

(b) If visiting is denied, the notice shall include the specific grounds for denial upon which the decision is based, and inform the inmate that he/she may request an administrative review as specified in OAR 291-127-0245.

(10) Notification to Prospective Visitor of Decision on Visiting Application/Inquiries:

(a) Inmates are responsible for informing their prospective visitor(s) whether the visiting application has been approved or denied. Copies of the Department of Corrections rule on Visiting (Inmate) will be available for review by prospective visitors at each functional unit's visiting desk or reception area and the Department's website <http://www.oregon.gov/DOC>.

(b) Inquiries by prospective visitors regarding Department decisions to approve or deny an inmate's visiting application must be in writing and directed to the Inmate Services Unit. Department of Corrections staff will not respond to telephone inquiries by prospective visitors regarding Department decisions to approve or deny an inmate's visiting application.

(11) A visitor shall be removed from an inmate's approved visiting list upon written request by either the inmate or the approved visitor. If a visitor is removed from an inmate's approved visiting list at the request of the visitor or inmate, the visitor may not appeal this decision and, the visitor shall not be eligible to again be placed on the inmate's visiting list, or on any other inmate's approved visiting list, for a minimum of 90 days.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08; DOC 4-2009, f. & cert. ef. 5-15-09

291-127-0245

Administrative Review for Denial of Visiting Application

(1) An inmate or prospective visitor may request an administrative review if the visiting application is denied by writing to the Chief of Inmate Services or designee.

(2) The Institutions Administrator or designee will issue a decision. The decision is final and not subject to further appeal. If the appeal is denied, the prospective visitor or inmate may reapply after a one year period.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0250

Limitations on Number of Visits/Number of Visitors Allowed at One Time for Inmates Assigned to General Population

(1) Limitations on Number of Visits Per Calendar Month: The number of visits approved in any calendar month for inmates assigned to general population in a Department of Corrections facility shall be limited in accordance with the following point value system:

(a) Each inmate who is permitted visiting (privileged, basic or video) shall be allocated 24 visiting points per calendar month.

(b) Visiting points shall not be deducted for a child one year of age and under, as long as the child is held during the visiting session. Visiting points shall not be deducted for visitors age 65 and older.

(c) On weekdays, one point shall be deducted for each visitor per visiting session.

(d) On weekends and holidays, two points shall be deducted for each visitor per visiting session, except in those Department of Corrections facilities with weekend visiting only, in which case one point shall be deducted for each visitor per visiting session.

(e) Based on space availability, the superintendent/designee may permit visitation periods when points are not deducted for visits with minor children.

(2) Limitation on Number of Visits on Weekends and Holidays: Inmates assigned to general population in a Department of Corrections facility may be permitted only one visiting session per visitor per day on weekends and holidays. Department of Corrections facilities shall take into consideration hours the visitors have traveled and any other extraneous situations that may warrant permitting two visiting sessions per day on weekends and holidays at the discretion of the facility superintendent or designee.

(3) Limitation on Number of Visitors Per Visit: Due to physical plant design, facilities may limit the number of visitors to no more than three or four persons at one time at the discretion of

the facility superintendent or designee. Children under the age of three shall not be counted as part of the maximum number of visitors. Those with minor children exceeding these limitations may appeal to the superintendent or designee for approval in advance of the visiting.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0260

Time, Length, and Place of Visits

(1) The time, length, and place of visits shall be posted at the visiting desk and visiting room of each Department of Corrections facility.

(2) Termination of Visits: Visits may be terminated by the facility superintendent or designated staff at their discretion at any time due to space limitations or as deemed necessary to maintain the safety, security, health and good order of the facility, or the safety and security of other inmates, staff, visitors, contractors or the community.

(3) Visitors who engage in a disturbance or other inappropriate conduct as defined in these rules, or who loiter in or about a Department of Corrections facility, shall be subject to removal from the facility by Department staff. The officer-in-charge of the facility may notify law enforcement officials for assistance if the visitor refuses to leave the facility when requested by Department staff.

(4) Except for minimum-security facilities, privileged visiting normally occurs five days per week, including state holidays. Due to physical plant design, work environment or staff level, facilities may limit or expand number of days, length, and time of visits at the discretion of the superintendent. The Oregon State Penitentiary will provide visits seven days per week.

(5) Inmates Assigned to General Population:

(a) Visitation for inmates assigned to general population shall take place during regular visiting hours.

(b) Except for minimum-security facilities, visitors will be accommodated on a first come, first serve basis. Facilities may schedule appointments for visiting.

(c) Basic Visiting:

(A) An inmate assigned to general population in a Department of Corrections facility whose visits are restricted to basic visiting shall be permitted eight visiting sessions per month, four of which must occur on weekdays.

(B) Only two visitors shall be allowed. A third person shall be permitted if he/she is under three years of age and is held on the lap. Exceptions may be specifically authorized by the superintendent or designee.

(C) Duration of visits shall be established by the facility superintendent or designee, and shall be limited to no more than one hour in length, depending upon space availability

(6) Disciplinary Segregation/Administrative Segregation:

(a) Inmates assigned to Disciplinary Segregation or Administrative Segregation may be permitted basic visiting with two visitors whom they have selected from their visiting list. The inmate's own children, as defined in OAR 291-127-0250, are exempt from the total of two visitors. The two visitors selected may be changed every six months.

(b) Visits shall be scheduled in advance, and limited to one visit per week.

(c) Duration of visits shall be established by the facility superintendent or designee, and shall be limited to no more than one hour in length, depending upon space availability.

(7) Death Row: Inmates assigned to Death Row who are approved for visiting shall be permitted two basic visits per week with approved visitors on their visiting list. The maximum length of visits is limited to two hours, depending upon space availability. Visits shall be scheduled in advance.

(8) Administrative Housing: Inmates assigned to Administrative Housing may be permitted basic visiting with approved visitors on their visiting list. The facility superintendent or designee shall

determine the duration of the visit based upon space availability. Visits shall be scheduled in advance.

(9) Mental Health Infirmary (MHI): Inmates assigned to an MHI at a Department of Corrections facility may be permitted visits with approved visitors on their visiting list in the unit or the main visiting room, subject to recommendation of a psychiatrist and with the approval of the facility superintendent/designee. The facility superintendent or designee shall direct the type of visiting permitted (privileged or basic), upon recommendation of the psychiatrist. No minor children will be permitted to visit with the inmate if the visit occurs in the unit. Visitors must call in advance to schedule a visiting appointment.

(10) Intensive Management Unit (IMU):

(a) Inmates assigned to an Intensive Management Unit or cell may be permitted basic visiting with two visitors whom they have selected from their visiting list. The inmate's own children, as defined in OAR 291-127-0250, are exempt from the total of two visitors. The two visitors selected may be changed every six months. Visits will be based on the inmate's program level.

(b) Visits will be conducted in a designated basic visiting area for IMU status inmates. Visits shall be scheduled in advance.

(11) Infirmary: Inmates assigned to the Infirmary at a Department of Corrections facility may be permitted visits as follows:

(a) Inmates who are permanently assigned to the Infirmary at a Department of Corrections facility may be permitted privileged visiting in the main visiting area with approved visitors on their visiting list, upon recommendation of Health Services staff. Visitation by inmates approved for privileged visiting in the main visiting area shall be subject to the 24 visiting point system set forth in OAR 291-127-0250.

(b) Inmates who are patients in the Infirmary, but are not permanently assigned to the Infirmary, and who are approved for privileged visiting may be permitted visits with two adult visitors whom they have selected from their visiting list in the Infirmary, except as otherwise recommended by Health Services staff or the facility superintendent or designee. The two visitors selected may be changed every six months. Visits shall be scheduled in advance.

(c) Inmates participating in a Department of Corrections Hospice program may be permitted extended visitation on a case-by-case basis, upon recommendation of Health Services staff and as authorized by facility superintendent or designee. Visitation in the Hospice program is not a part of the regular visitation program.

(d) Community Hospitalization: Inmates assigned to community hospitalization and under Department of Corrections supervision may be permitted visits as follows:

(A) Inmates assigned to general population and the Infirmary in a Department of Corrections facility prior to their current hospital admission may be permitted visiting during the course of their hospital stay, upon authorization of the facility superintendent and consent of the attending physician or hospital administration.

(i) Visits must be scheduled in advance with institution staff. Visits shall be during normal hospital visiting hours.

(ii) Duration of visits shall be determined by the superintendent/designee.

(B) Inmates assigned to the Disciplinary Segregation Unit, Administrative Segregation Unit, Administrative Housing, Mental Housing Infirmary, and Death Row prior to their current hospital admission will only be permitted visits on a case-by-case basis, upon recommendation of Health Services staff, and as authorized by the facility superintendent or designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 8-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 24-2008, f. & cert. ef. 9-26-08; DOC 31-2008(Temp), f. & cert. ef. 12-16-08 thru 6-12-09; DOC 4-2009, f. & cert. ef. 5-15-09

291-127-0280 Special Visits

(1) Inmates confined in a Department of Corrections facility may be permitted special visits at the discretion of the facility superintendent or designee in accordance with these rules.

(2) General Guidelines:

(a) Inmate requests for special visits shall be directed in writing to the facility superintendent or designated staff at least 30 days prior to the date of a requested special visit. The 30-day requirement may be waived if emergency or unusual circumstances exist.

(b) Type of Visit: Special visits shall be restricted to basic visiting if a criminal background check cannot be made.

(3) Professional and Therapeutic/Programming Visits:

(a) Visitation for nonsocial purposes by attorneys, representatives of criminal justice agencies, state or local agencies, other public or government agencies, or for therapeutic or programming purposes may be approved as business, professional, therapeutic or programming visits.

(A) Professional and therapeutic or programming visits shall be approved in advance by the facility superintendent or designee. Such visits should be made by appointment during regular visiting hours or hours as designated by the facility.

(B) Persons approved for these types of visits with an inmate must present credentials/ identification at the facility visiting desk or reception area sufficient to identify themselves. These types of visits are not subject to a point deduction.

(b) Attorneys and representatives from other criminal justice, state or local agencies may be permitted to bring necessary documents or paperwork into the visiting area for exchange with the inmate with prior approval of visiting staff. Computers, tape recorders, and other electronic devices may be permitted upon the approval of the facility superintendent or designee. All articles shall be searched for contraband.

(c) These types of visits shall be permitted with only one inmate at a time, except as otherwise authorized in advance by the facility superintendent or designee.

(4) Non-cash Incentives Program Visits:

(a) Inmates may be afforded extra visitation opportunities as part of the non-cash incentives program outlined in the Department's rule on Performance Recognition and Award System (Inmate) (OAR 291-077). Such opportunities will depend upon each institution's ability to accommodate enhanced visitation.

(b) Each institution's incentive visitation opportunities will be listed in their institution specific matrix of services and privileges.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0285

Keeping an Inmate's List of Approved Visitors Current

(1) Minimally every two years, the Inmate Services Unit will send the inmate a list of visitors who have not visited the inmate within the previous two years.

(2) If a visitor has not visited the inmate within the previous two years, the visitor will be automatically removed from the inmate's visiting list and the DOC Visitor Tracking System, unless the inmate notifies the Inmate Services Unit otherwise.

(3) A LEDS check will be conducted every two years on all visitors.

(4) Visitors are responsible for notifying the Department in writing of a change of address, or a name change. If it is a name change, the visitor must provide verification of the name change; e.g., marriage certificate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0290

Visiting Security Screening and Visiting Room Protocol

Visiting is an important component within the correctional system. In order to enhance the visiting experience, the Department has developed protocol for visitors and inmates. Visitors are encouraged to view the agency website at <http://www.oregon.gov/DOC> or contact the facility for visiting hours, number of visitors, restroom use, parking, etc.

(1) Visiting staff will make every effort to ensure that visitors have an opportunity to visit on the day they arrive.

(2) Visiting Security Screening: Visitors must be processed through a security checkpoint to access the visiting area within all ODOC facilities. Security staff will screen all visitors and search any authorized hand-carried items in accordance with the Department's rules and facility procedures.

(a) Processing may require the removal of shoes, jackets, sweaters, suspenders, belts or other accessories for closer inspection or separate processing.

(b) Areas of the body that have body piercings or undergarments with an underwire often alarm metal detectors and may delay or even prevent visiting. Visitors may be asked to remove body piercings or jewelry to expedite the screening process.

(3) For security purposes, initial screening of visitors will be done by metal detector. For most visitors, successfully completing the scan by metal detector and the related inspection of clothing and authorized personal items will preclude additional screening.

(a) At institutions equipped with a functional walk-through metal detector, all visitors must successfully pass through the detector unless a visitor has a documented medical condition or disability that would preclude the visitor from passing through the detector.

(b) At institutions or facilities without a functioning walk-through metal detector, a handwand type of metal detector may be used.

(4) Additional Screening:

(a) Additional Screening will occur when an individual sets off the alarm of the metal detector, an individual is selected for additional screening, or an individual has provided documentation to substantiate a condition that precludes successful screening by metal detector. This additional screening may include either a hand-wand inspection in conjunction with a frisk search of the visitor's body, including the torso; a frisk search alone; or a skin search.

(b) At this time, visitors should let staff know of any personal needs or concerns a visitor may have due to religious or cultural considerations, disability, or other medical concern.

(c) Additional searches will be conducted by staff of the same gender as the visitor.

(5) Hand-Wand Inspection: A hand-wand inspection helps staff to identify what may have set off the alarm on the walk-through metal detector or to confirm an alarm present during the initial screening. During the wand inspection procedure the visitor will be asked to stand with feet and legs apart and arms out to the side while the staff member passes the wand in close proximity to all areas of the visitor's body.

(6) Frisk Search: A frisk search complements the hand-wand inspection but may be performed as a stand-alone procedure, when appropriate, or to resolve alarms set off during an inspection by metal detector. In order to ensure security, this inspection may include touching sensitive areas of the body.

(7) Skin Search: A skin search is a security procedure that involves visual inspection of a person's body with all of their clothing removed and a thorough inspection of the person's clothing for the purpose of detecting contraband. No visitor will be asked to submit to a skin search except as provided in the Department's rule on Searches (Institutions) (OAR 291-041).

(8) Persons with Disabilities, Medical Conditions, or Medical Devices (or both):

(a) Medical Condition or Disability: Visitors with documentation regarding a medical condition or disability must present this information to staff to help inform staff of the visitor's situation. This documentation will not exempt the visitor from the security screening process. Visitors with proper documentation of a medical condition or disability that would preclude their passing through a walk-through metal detector or handwandering or both will be offered a frisk search as an alternative.

(b) Medical Devices:

(A) Visitors with a medical device (on the interior or exterior of their body) should check with their doctor prior to arriving at the

institution to determine if it is safe to go through the metal detector or be handwanded. Visitors that have been advised by their doctor that they should not go through the metal detector or be handwanded must provide staff with documentation of the same. A visitor with the proper documentation will be offered a frisk search as an alternative.

(B) Pacemaker, Defibrillator, Other Implanted Medical Devices, Metal Implants, and Wheelchairs:

(i) If a visitor has an implanted medical device that the visitor would like to remain private and confidential, the visitor should ask staff to please be discrete when assisting him or her through the security screening process.

(ii) Visitors with a pacemaker should carry a Pacemaker Identification Card (ID) when attempting to visit. Visitors showing staff a valid pacemaker ID will be offered a frisk search as an alternative to passing through the walk-through metal detector or being handwanded.

(iii) To expedite the processing of visitors, it is recommended (but not required) that the visitor advise staff that he or she has an implanted pacemaker, other implanted medical device, or metal implant and where that implant is located.

(iv) Staff will offer the visitor a frisk search as an alternative once it becomes known that the visitor has a metal implant or implanted medical device.

(v) If the visitor's doctor has indicated that the visitor should not go through the metal detector or be handwanded because it could affect the functionality of the visitor's device, the visitor must inform staff and provide proper documentation of the same. A visitor with the proper documentation will be offered a frisk search as an alternative.

(vi) If a visitor has an implanted bone growth stimulator or other device that operates under a specific magnetic calibration, which cannot be x-rayed because the calibration of these units cannot be disrupted, staff will offer a frisk search in combination with a physical inspection of the device as an alternative to being x-rayed.

(vii) Staff will need to resolve all alarms associated with metal implants. Most alarms will be able to be resolved during a frisk search and should not typically require the lifting or removal of clothing.

(viii) Visitors who are confined to wheelchairs will be required to present a medical card or documentation to support their need to be in the wheelchair. A modified frisk search will be used for visitors confined to wheelchairs as the reliability of handheld metal detectors is limited by the structure of the chair itself. Visitors in wheelchairs will limit their accessories and personal possessions to only those items medically necessary during the visiting session.

(c) If a visitor chooses not to submit to a frisk search, the visit may not be allowed to occur.

(d) Skin searches will only be conducted in accordance with the Department's rule on Searches (Institutions) (OAR 291-041).

(9) Should a visitor withdraw consent at any time once a search, of any kind, has been initiated, the searching officer will discontinue the search immediately. The visitor will not be allowed to visit.

(10) Within the limits of available resources, staff will be discrete when conducting all searches and inspections of visitors.

(11) Visiting staff will assign visitors locations that are appropriate for the size and make-up of the group, in conjunction with space availability.

(12) Physical Contact: Visitors who are approved for privileged visiting may briefly embrace and kiss the inmate at the beginning and end of the visits. Hand-holding and holding of small children eight years of age and under is permitted during the visit.

(13) Appropriate Clothing/Dress: In order to maintain a positive environment for all inmates and visitors, a reasonable clothing standard must be established. Visitors are encouraged to wear clothing that is conservative in nature in order to maintain a respectful visiting environment. Some types of clothing may also be prohibited to maintain the security of the facility. Children eight

years of age and under are not subject to the following clothing restrictions, other than undergarments.

(a) Visitors are not allowed to wear blue denim or clothing (blue t-shirts or blue shirts) that is similar to inmate attire. This restriction is necessary to ensure the safety of all individuals if an emergency arises. Visitors should check with the specific facility they are visiting to inquire about clothing that is prohibited because it is similar to inmate attire.

(b) Clothing that is unduly suggestive or form fitting is prohibited as it may draw undue attention.

(c) Dresses, skirts, jumpers, culottes, and shorts shall not be worn more than two inches above the middle of the kneecap. Slit dresses/skirts shall be permitted only if the slit is not more than two inches above the middle of the kneecap. Wrap around skirts are not permitted.

(d) Clothing that exposes an undue amount of flesh (e.g., exposing chest, back, thighs, or midsection) is prohibited. Examples of clothing that will be prohibited include: halter tops/dress, tube tops, see-through clothing, sheer fabrics, mini-skirts, shirts with low cut neck lines, wrap around skirts, and crop tops.

(e) Visitors are required to wear undergarments.

(f) Umbrellas, hats, outer garments such as raincoats, ski jackets and other garments that protect against rain and other inclement weather are normally prohibited within the main visiting room. Some visiting rooms require outside travel once checked in. In these cases, the institution will provide a designated area for the garment.

(g) Light-weight sweaters, jackets, and sport or suit coats are permitted, but must be worn by the visitor during the entire visiting session. Hooded sweatshirts and lined jackets or coats are permitted.

(h) Accommodations will be made on a case-by-case basis for religious head gear consistent with security practices. Where possible, arrangements should be made prior to visit.

(i) Clothing, hairstyles, insignias or other paraphernalia associated with security threat groups or that create undue attention or conflict are prohibited; i.e., camouflage clothing, slogans, suggestive, or controversial statements.

(j) Footwear must be worn.

(k) Inmates shall wear institution-issued clothing, undergarments, and footwear into the visiting area. Inmates will conform to specific institution requirements regarding appropriate attire for the visiting room.

(14) Restriction on Exchange of Objects/Articles with Inmates:

(a) Other than items from the vending machines and five non-Poloroid photographs or five sheets of photographs, visitors shall not exchange any object or article with an inmate. Photographs observed during the visit may not be given to the inmate.

(b) Paper items produced by children during the visiting session with materials provided may be taken out by the child or displayed in the visiting room.

(c) All documents and items shall be searched prior to entering or leaving the visiting room/area.

(15) Visitors shall appropriately supervise children at all times while in the visitation or play area. Visitors must ensure that children do not become disruptive to the point that they interfere with other visits, or jeopardize the security of the visiting environment. If this occurs, a visit may be ended prematurely to remove the child.

(16) Visitors shall not engage in a disturbance, as defined in this rule.

(17) Explosive devices, firearms, ammunition, alcoholic beverages, narcotics, dangerous drugs, or objects or material of any kind which might be used to compromise the safety and security of the facility are not permitted on facility grounds. Tobacco products are not permitted in the visiting area, and depending on the facility, may not be permitted on facility grounds.

(18) Any visitor who exhibits indication of the use of alcohol, narcotics, or other intoxicants shall not be permitted to visit.

(19) Items Purchased from Facility Vending Machines:

(a) All items purchased from the vending machines must be consumed or disposed of in the visiting facility, unless authorized by the superintendent/designee.

(b) Inmates shall be prohibited from handling money or tokens, and from approaching or operating the vending machines.

(20) No cash or negotiable instruments other than up to \$15 per visitor in change, tokens or other authorized cash substitute devices if applicable, shall be allowed in the visiting area. Tokens carried into the visiting area must be clearly inspected and approved by visiting room staff.

(21) Medical Devices: Medical devices; e.g., inhalers, nitro, necessary for the visitor's health may be brought into the visiting area.

(22) Loitering on facility grounds is not permitted. Visitors are expected to arrive at a reasonable time prior to the session and leave immediately afterward. Attempts to communicate with inmates from the grounds before or after the visiting session may cause review of the visitor's visiting status.

(23) Parking Guidelines:

(a) Visitors shall park and secure their automobiles in the designated visitor parking lot.

(b) Minor children or animals shall not be left unattended in cars or on institution property.

(c) Parking for visitors with disabilities will be available in designated areas.

(24) Entry to Department of Corrections Facility/Facility Visiting Area:

(a) Upon arrival at the visiting desk or reception area, the visitor shall sign a registration form and present proper identification (ID). One of the following current photo ID's will be required as identification for visitors age 16 and over to enter a Department of Corrections facility:

(A) Drivers license or state identification;

(B) Passport;

(C) State identification card (state employee or Motor Vehicle Division);

(D) Military identification;

(E) Student identification card; or

(F) Other official governmental identification.

(b) Privileged visiting shall not be permitted without the required current photo ID. However, basic visiting may be approved with at least two of the following pieces of identification:

(A) Social Security Card;

(B) Birth certificate or registration;

(C) Current identification card from service organizations (other than military) with picture and signature; or

(D) Current bankcards and signature.

(c) Children under 16 years of age may also use the following appropriate ID:

(A) Birth certificate or registration;

(B) Social security card;

(C) Oregon Health Plan medical card;

(D) Smile Safe Kids identification card;

(E) Student body card; or

(F) State identification card

(d) Lockers may be provided for visitor use to store purses, carrying cases, etc., until the visit is over.

(e) Baby-care items shall be permitted as follows per child: two diapers, one clear bottle (plastic), one single layer blanket, one pacifier, and diaper wipes (in clear plastic bag). All items shall be subject to search.

(f) Restrooms:

(A) Restrooms are available for visitor use. For the safety of the child, only an outside escort may accompany a child to the restroom.

(B) Depending on the physical plant design of the facility, a restroom(s) separate from that used by visitors may be available for inmate use. If the facility does not have a restroom available for inmate use, the visit shall be terminated if the inmate must leave to use a restroom. Inmates with a documented medical condition as

verified by Health Services staff shall be permitted restroom privileges in those facilities where inmate restrooms are not available.

(g) Once a visitor or an inmate leaves the visiting area other than to access the restroom, the visit shall be terminated.

(h) Once visitors and inmates have been assigned seating in the visiting area, changing location requires approval of the visiting room supervisor.

(i) Neither a visitor nor an inmate shall be permitted to visit with a person who is not specifically authorized for the current visit.

(j) Visitors shall not be permitted to visit twice in one visiting session.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0300

Visitors in Violation of Visiting Rules

Visitors found in violation of one or more of these rules are subject to sanctions as directed by the facility superintendent or designee as set forth in these rules. Consequences for visitors found in violation of these rules are listed in Exhibit A.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05

291-127-0310

Termination/Disallowal of Visits

(1) The facility superintendent or designee may disallow or terminate a visit at any time due to space limitations or as deemed necessary to maintain the safety, security, health and good order of the facility, or the safety and security of other inmates, staff, visitors, contractors or the community.

(a) Factors to be considered before a visit is terminated due to space limitations will be the distance visitors travel, frequency of visits, and time of arrival.

(b) Visiting room staff will maintain a log of visits terminated due to space limitations to avoid having an inmate's visits terminated consecutively.

(2) Violation of visiting room protocol by a visitor, or violation of rules of prohibited conduct by an inmate shall result, at a minimum, in disallowal or termination of the visit.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0320

Suspension/Restriction of Visits/Removal From Inmate Visiting List

(1) The superintendent or designee may suspend the inmate's visits with the visitor, or restrict visitation to basic visiting, or remove a visitor from an inmate's approved visiting list if the superintendent or designee determines that:

(a) The visitor does not qualify for visits in accordance with these rules; or

(b) There exists reasonable suspicion that continued visitation between the visitor and the inmate poses a threat to the safety, security, health and good order of the facility, and/or the safety and security of other inmates, staff, visitors, contractors or the community; or

(c) There is a court order or Board of Parole and Post-Prison Supervision action form which prohibits contact with the visitor.

(2) Notification and Decision: A written report (CD 704D) documenting the suspension shall be prepared and sent to the inmate and to the inmate's visitor within seven days of the action. The report shall contain a short and concise statement of the reason(s) for the suspension and a recommendation for the action to be taken. The recommended action may be assignment to basic visiting, restriction of visiting for a limited duration, or permanent removal.

(a) The visitor may request review of the recommended action by submitting a written review request to the superintendent/designee. A review request must be received by the superintendent/designee no later than 30 days of the date of the issuance of the notification of suspension.

(b) If the visitor does not timely submit a written review request, the recommended action contained in the written report shall be accepted by the superintendent/designee and serve as the superintendent's/designee's decision without further action.

(c) If the visitor timely submits a written review request, the superintendent/designee shall issue a final decision on the recommended action within 45 days of the receipt of the request, absent a pending administrative or criminal investigation or other extraordinary circumstance which in the sole judgment of the superintendent or designee requires or warrants additional time.

(d) The visitor may request an administrative review of the superintendent's/designee's decision as specified in OAR 291-127-0330.

(e) The provisions of OAR 291-127-0320(2) apply retroactively to notifications of visiting suspensions and decisions issued prior to, on, and after November 1, 2011.

(3) The superintendent or designee may temporarily suspend an inmate's visits for 14 days in the event of an on-going investigation. The superintendent or designee shall provide written notification of the suspension to the inmate and the inmate's visitor(s). If at the conclusion of the investigation or 14 days whichever occurs first, the superintendent or designee determines the visitor's status shall be suspended, the notification process specified in section (2) above will begin.

(4) Reconsideration: Visitors who have been permanently removed from any inmate's approved visiting list, or whose visitation with any inmate has been permanently restricted to basic visiting, may request reconsideration five years after the date of the action. Requests for reconsideration must be in writing and submitted to the Assistant Director of Operations or designee.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 183.315, 423.020, 423.030, 423.075 & 423.078

Stats. Implemented: ORS 179.040, 183.315, 423.020, 423.030, 423.075 & 423.078

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 22-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; Administrative correction, 5-25-12; DOC 8-2012, f. & cert. ef. 6-19-12

291-127-0330

Administrative Review for Removal From Visiting List or Restriction to Basic Visiting

(1) An approved visitor who has been removed from an inmate's approved visiting list, or whose visitation with the inmate has been restricted to basic visiting, may obtain an administrative review of the action by submitting a written request for administrative review to the Assistant Director for Operations or designee at the Department's Central Administrative offices. The Assistant Director or designee must receive the administrative review request within 30 days of the issuance of the superintendent's final decision, as specified in OAR 291-127-0320(2). The administrative review request must be in writing and should specify the reason(s) why the visitation action should not be sustained.

(2) Upon receipt of a timely written request for administrative review, the Assistant Director or designee will review the visitation action, and affirm, reverse or otherwise modify the action as circumstances warrant. The decision of the Assistant Director or designee shall be final. A copy of the decision shall be provided to the person requesting the administrative review, the affected inmate, and the superintendent.

(3) Administrative reviews will not be provided to visitors for inmate misconduct resulting in disciplinary sanctions imposed upon inmates in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08;

DIVISION 130

TELEPHONES (INMATE)

291-130-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish policy and procedures governing the use of the inmate telephone system.

(3) Policy: The department encourages productive relationships between inmates and their families and recognizes telephone services are a positive means to strengthen ties and increase the likelihood of success upon release.

(a) It is the policy of the Department of Corrections to allow inmates to make telephone calls in accordance with the procedures outlined in this rule.

(b) It is the policy of the Department of Corrections that video interactive phone calls are a part of the inmate telephone system, and such calls are governed by the same policy and procedures as telephone calls.

(c) Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections to permit, promote, facilitate, and encourage authorized use of telephone systems between inmates and their families, friends, and others in Department of Corrections facilities.

(d) When authorized, use of the inmate telephone system in a Department of Corrections facility is permitted neither as a matter of right nor as a privilege of the inmate or the inmate's contact party; rather, use of the telephone system in Department of Corrections facilities is permitted by the department when it furthers the inmate's correctional planning and the department's correctional goals and mission and is consistent with the safe, secure, and orderly management and operation of the facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; DOC 12-2015, f. & cert. ef. 8-31-15

291-130-0006

Definitions

(1) Access to Inmate Telephone System: An inmate's use of a personal identification number (PIN) and validated voice recognition to connect to the inmate telephone system.

(2) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations. In these rules, the functional unit manager is the superintendent of an institution or the Inspector General.

(3) Inmate Telephone System: The system authorized by the Department of Corrections to facilitate inmate telephone calls and video interactive phone (VIP) calls.

(4) Legal Telephone Calls: Telephone calls between an inmate and his/her attorney or the attorney's documented representative(s), legal aid bureaus, or other organizations as deemed appropriate by the department.

(5) Media Representatives:

(a) Persons whose principal employment is with an accredited media organization;

(b) Unaffiliated persons who produce credentials or other written documentation from an accredited media organization evidencing that the media organization has contracted with the person to purchase his/her completed work or project;

(c) Unaffiliated persons who are affiliated with a department contractor or volunteer in connection with a department program or service; or

(d) Authors of books who produce credentials or other written documentation that a commercial publisher has contracted to purchase their completed work/project.

(6) Officer in Charge: That person designated by the functional unit manager to supervise the facility and make operational decisions in accordance with policy, rule or procedure during periods when the functional unit manager or officer of the day are not readily available.

(7) Personal Identification Number (PIN): An assigned number used by an inmate to access the inmate telephone system.

(8) Prepaid Call: A telephone call placed by an inmate using funds paid in advance from a telephone account.

(9) Telephone Services: Telephone calls, VIP calls, and voice messages afforded to inmates through the inmate telephone system.

(10) Third Party VIP Call: Any VIP call wherein the original called party logs out of the established session and provides another party with a different IP address and sufficient information to log into the established VIP call. This includes any communication between the inmate and a third party utilizing the IP address.

(11) Three-Way Call: Any call that uses an intermediary call to bridge communication to a third party. This includes any communication between the inmate or the original called party with a third party not in the same location.

(12) Unaffiliated persons: Freelance writers, independent filmmakers, producers, and other persons who do not meet the definition of media representatives.

(13) Video Interactive Phone (VIP) Call: A call that has video interactive capabilities in which the parties are able to see and hear one another.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f. & cert. ef. 2-22-13; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; DOC 12-2015, f. & cert. ef. 8-31-15

291-130-0011

Operation of Inmate Telephones

(1) Inmates shall provide their personal identification number (PIN) and validated voice recognition to gain access to the inmate telephone system.

(a) Inmates are responsible to maintain the security of their access information.

(b) An inmate may not use another inmate's access information.

(c) The department is not responsible for theft, loss, or costs related to an inmate lending his/her access information or failing to provide for its safekeeping.

(d) An inmate's PIN will be terminated if it has been lost, stolen, or if in the sole judgment of the functional unit manager or his/her designee, the PIN has been used by the inmate or another person to:

(A) Engage in activity that violates department rule, state or federal law; or

(B) Engage in other activity that poses a threat or is detrimental to the security, safety, health, good order or discipline within a Department of Corrections facility, inmate rehabilitation, or that facilitates criminal activity.

(e) If an inmate's PIN is terminated, the department will issue the inmate a new PIN. The department may assess the inmate a PIN replacement fee.

(2) Prepaid Calls: The department will establish a telephone account for each inmate.

(a) Inmates may transfer funds from their trust account to their telephone account. Availability of funds in the inmate's trust account will be verified before any transfer of funds to the telephone account.

(b) An inmate shall address any issues regarding funds in his/her telephone account directly to the inmate telephone service provider.

(c) Prepaid calls will disconnect when funds in an inmate's telephone account have been depleted.

(d) Inmates may obtain their individual telephone account balance through the inmate telephone system.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f. & cert. ef. 2-22-13; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; DOC 12-2015, f. & cert. ef. 8-31-15

291-130-0016

General Provisions for Inmate Telephones

(1) All calls must be placed as collect or prepaid. Only collect or prepaid calls can be made from telephones designated for inmate use.

(2) The functional unit manager or designee has the authority to restrict telephone calls by an inmate if the safety of the public would be involved, or the security of the facility, or safety and welfare of any person would be jeopardized.

(3) Inmates shall not participate in three way calls or any form of call forwarding. An inmate may be assessed a service fee from the inmate telephone service provider if it is verified he/she has participated in a three-way call or any form of call forwarding.

(4) Inmates shall not place charges to third party numbers, motels, hotels, places of business, credit cards or to telephone company calling card numbers.

(5) If the telephone call cannot be completed because no one answers or the line is busy, the inmate shall hang up and attempt another call at another time.

(6) Inmates shall not loiter in the surrounding area where telephones are located.

(7) Only one inmate at a time shall be permitted access to a telephone. The inmate who initiates a call is the only person authorized to converse with the contact party during that call.

(8) Inmates may be required to sign up on the telephone log (CD755) to reserve a time to use a telephone in a housing unit or activity area when there are a large number of inmates who want access to a telephone and there are a limited number of telephones.

(9) A set of Oregon telephone directories for major cities shall be located in the facility library.

(10) Special Housing: Inmates in special housing may be allowed telephone services as established by the functional unit manager. Special housing includes administrative housing, disciplinary segregation, Intensive Management Unit, Death Row housing, mental health special housing, and facility infirmaries.

(a) Inmates in special housing may have restricted telephone services, and be allowed only emergency calls, legal calls as specified in OAR 291-130-0021, or other calls as authorized by the functional unit manager or designee.

(b) Inmates in mental health special housing may have limited access to telephones if the access interferes with the inmate's treatment.

(11) The department may prohibit an inmate from calling a particular person or phone number when requested by the person, or in the case of a minor child, by the child's parent or legal guardian.

(12) Telephone calls between inmates and staff, volunteers, or contractors; or calls between inmates and former staff, volunteers, or contractors are not allowed without express written authorization by the functional unit manager or designee.

(13) Other inmate telephone services or restrictions, not specifically addressed in this rule, may be implemented for safety and security reasons or as authorized by the functional unit manager.

(14) Inmates shall report all inmate phone repair issues as directed by the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-130-0010(5); DOC 7-2002, f. & cert. ef. 6-12-02; Renumbered from 291-130-0040, DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f.

& cert. ef. 2-22-13; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; DOC 12-2015, f. & cert. ef. 8-31-15

291-130-0020 [Renumbered to 291-130-026]

291-130-0021

Legal Calls

(1) The department shall maintain a list of legal telephone numbers entitled the "legal call list." Inmate calls to attorneys whose telephone numbers appear on the legal call list will not be monitored or recorded by the department. The legal call list shall include the official telephone numbers of all attorneys registered with and provided to the Oregon State Bar Association, official telephone numbers of attorneys who have requested and been added to the list as specified in subsection (2) below and business telephone numbers of other organizations as deemed appropriate by department and whose communication with inmates shall be considered confidential. The list of official numbers of attorneys registered with the Oregon State Bar will be updated twice a year.

(2) Upon request of an attorney whose official telephone number is not on the legal call list or upon request of the attorney's inmate client, the department will verify the number with the appropriate state bar and add the attorney's official telephone number to the list. However, the department will not include an attorney's home, cell or other telephone number on the department's legal call list that is not the attorney's contact telephone number provided to the appropriate state bar. Inmate calls to telephone numbers not on the legal call list will be subject to monitoring or recording by the department.

(3) An inmate with an active or pending case with an imminent court deadline of ten business days or less who does not have regular access to the inmate telephone system (e.g., the inmate is in disciplinary segregation or Intensive Management Unit) may be permitted a legal call to his/her attorney as approved by the officer-in-charge or the inmate's counselor.

(a) Use of Inmate Telephone System: Designated staff will make arrangements for the inmate to make the call.

(b) Use of Staff Phones: Designated staff will facilitate the call and verify the identity of the person called. The staff member shall leave the area where the call is taking place; however, the inmate shall be kept under observation. The call should be placed as collect, if possible. Use of staff phones for such calls shall be held to a minimum.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0025

Operation and General Provisions of VIP Calls

(1) Inmates are required to provide their personal identification number (PIN) and comply with a validation process to gain access to the inmate telephone system to make VIP calls.

(2) The same provisions that apply to telephone calls as specified in OAR 291-130-0011 apply to VIP calls (security of PIN and access).

(3) Inmates are responsible to schedule VIP calls through the inmate telephone system via kiosks located throughout each institution.

(a) Accessibility to VIP calls will differ by institution given the uniqueness of each institution.

(b) Inmates will be allowed to make VIP calls during designated times based on a first-come, first-served basis to access their accounts with staff authorization.

(4) Inmates must place VIP calls as prepaid. The inmate telephone system does not allow collect VIP calls.

(5) The functional unit manager or designee has the authority to restrict or revoke VIP calls by an inmate if the safety of the public would be involved, or the security of the facility, or safety and welfare of any person would be jeopardized.

(6) If the inmate cannot complete the VIP call because the called party is not available or for other reasons, the inmate shall terminate the call and reschedule at another time.

(7) Inmates shall not loiter in the surrounding area where kiosks are located.

(8) Only one inmate at a time shall be permitted access to a VIP call. The inmate who initiates a VIP call is the only person authorized to converse with the contact party during that call. An inmate may be assessed a fee from the inmate telephone service provider if it is verified that more than one inmate participated in a VIP call.

(9) Family VIP Calls: The functional unit manager or designee, at their sole discretion, may authorize more than one inmate to participate in a VIP call to encourage and promote responsible familial relationships.

(10) Appropriate Clothing/Dress:

(a) Inmates must be properly attired consistent with standards set forth in OAR 291-123-0015(5) and the inmate handbook.

(b) The caller or contacted party is encouraged to wear clothing that is conservative in nature; e.g., clothing that is not unduly suggestive or form fitting. The caller or contacted party shall not display male or female genitalia, the pubic area or anus, or expose the female breasts.

(11) VIP calls between inmates and staff, volunteers, or contractors; or between inmates and former staff, volunteers, or contractors are not allowed without express written authorization by the functional unit manager or designee.

(12) Special Housing: Inmates in special housing are not allowed access to VIP calls, unless authorization is given by the functional unit manager. Special housing includes administrative housing, disciplinary segregation, Intensive Management Unit, Death Row housing, mental health special housing, and facility infirmaries.

(13) The department may prohibit an inmate from participating in a VIP call with a particular person or phone number when requested by the person, or in the case of a minor child, by the child's parent or legal guardian.

(14) Inmates shall not participate in VIP calls with two or more parties using different IP addresses during the same VIP call. An inmate may be assessed a service fee from the inmate telephone service provider if it is verified he/she has participated in a VIP call with participants using more than one IP address.

(15) Inmates shall not use VIP calls for interviews with media representatives or unaffiliated persons. Media representatives or unaffiliated persons may request an interview with an inmate in accordance with the department's rules on Media Access (OAR 291-204).

(16) Inmates shall not use VIP calls as an outlet for public performances to individuals or organizations.

(17) Neither the inmate or contact party may record, re-broadcast, reproduce, duplicate, copy, sell, trade, or resell either the audio or video of the VIP call.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 12-2015, f. & cert. ef. 8-31-15

291-130-0026

Monitoring, Termination and Blocking of Telephone and VIP Calls

(1) All telephone calls and VIP calls are subject to monitoring and recording by the department except for legal telephone calls.

(a) Directly above each group of monitored telephones, a sign shall be posted stating in English and Spanish, "Phone calls are subject to being monitored and recorded."

(b) Directly above each VIP kiosk, a sign shall be posted stating in English and Spanish, "VIP calls are monitored and recorded."

(2) An inmate's use of the inmate telephone system to engage in activity that is a violation of department rules, state, or federal law may result in disciplinary action and possible restriction of telephone services.

(3) The department may block access to phone numbers used to commit a crime or violate department rules, including any attempt to place a three-way call or use any form of call forwarding. The owner of a telephone number that has been blocked for partic-

ipation in a three-way call or call forwarding may request an administrative review by writing to the Inspector General.

(4) An inmate's telephone services may be suspended by the functional unit manager or his/her designee, in his/her sole discretion, when the functional unit manager or designee has reason to believe the inmate has used or may use inmate telephone services to:

(a) Engage in activity that violates department rule, state or federal law; or

(b) Engage in other activity that poses a threat or is detrimental to the security, safety, health, good order or discipline within a Department of Corrections facility, inmate rehabilitation, facilitates criminal activity, or jeopardizes the safety and welfare of any person.

(c) The guidelines for suspension of VIP services for inmates and callers are found in Exhibit A. The functional unit manager or designee may consider mitigating or aggravating factors in administering a less or more severe sanction than indicated in the grid, including the issuance of a misconduct report for inmates.

(d) If the activity is deemed to be a severe violation by the inmate of department rules, state, or federal law, disciplinary action will result; and the inmate will be held accountable in accordance with the provisions of the inmate disciplinary rules (OAR 291-105).

(5) A "high alert" inmate under the management of the Security Threat Management Unit may have his/her telephone services or individual telephone calls suspended, restricted, or modified in accordance with OAR 291-069-0270, Management of High Alert Inmates.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-130-0010(3); DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f. & cert. ef. 2-22-13; DOC 18-2014(Temp), f. 7-7-14, cert. ef. 7-8-14 thru 12-31-14; DOC 25-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; Administrative correction, 7-24-15; Renumbered from 291-130-0020, DOC 12-2015, f. & cert. ef. 8-31-15

291-130-0030

Emergency Access

(1) All requests for emergency telephone calls from inmates, or a member of the public due to a death or serious illness of a person with a substantial relationship to an inmate may be approved by the officer-in-charge, inmate's counselor, or the chaplain upon verification of the emergency. Designated staff will facilitate the call and verify the identity of the person called. Calls shall be monitored by staff.

(2) The functional unit manager or staff specifically designated by the functional unit manager may approve other emergency calls as necessary for issues specific to the inmate. Such calls will be handled in the same manner as in section (1) above.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-130-0010(4); DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0050

Use of Institution Telephones (Inside Lines)

(1) Inmates inside a facility will not answer outside lines unless specifically authorized in writing by the functional unit manager/designee.

(2) Inmates authorized and assigned by a staff member may answer an institution telephone in an assigned area. Inmates so assigned shall answer by stating their title, last name, location, and saying, "May I help you." Example: "Inmate Jones, unit one, may I help you?"

(3) Inmates may be assigned to make telephone calls as part of their job assignment.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0060

DIVISION 131

Location of Telephones and Hours of Telephone Use

MAIL (INMATE)

(1) The functional unit manager/designee shall designate hours for inmate telephone use.

(2) Telephones located in recreational areas; i.e., yard, multi-purpose, shall normally be available during the normal hours inmates are allowed access to the respective area.

(3) Locations of telephones and hours for use of telephones shall be posted on unit bulletin boards and included in inmate admission and orientation material or in inmate handbooks at all Department of Corrections facilities.

(4) The functional unit manager may restrict the times telephones are available to inmates to conform to line movements, scheduled inmate activities, meals, and staff availability.

(5) Call durations may vary based on the physical locations of phones as established by the functional unit manager/designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93;

DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0080

Remaining Telephone Fund Balances Upon Release

Remaining funds balances received from the inmate telephone service provider will be deposited to individual inmate trust accounts as per the department's rule on Trust Accounts (OAR 291-158-0045) less a processing fee imposed by the department. Funds deposited on behalf of inmates who are indebted to the department are subject to collection as per 291-158-0065. Any remaining funds are disbursed to the inmate through the Oregon Trail card or by check.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06; DOC 10-2012(Temp), f. 8-31-

12, cert. ef. 9-1-12 thru 2-28-13; DOC 2-2013, f. & cert. ef. 2-22-13

291-131-0005

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish Department of Corrections policy and procedures governing the sending, receipt, and processing of inmate mail in Department of Corrections facilities.

(3) Policy: Within the inherent limitations of resources and the need for facility security, safety, health, order and discipline, and inmate rehabilitation, it is the policy of the Department of Corrections (DOC) to permit inmates to send and receive mail in the manner, and under the circumstances, set forth in these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 31-1981(Temp), f. & ef. 6-30-81; CD 43-1981, f. & ef. 10-30-81; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0010

Definitions

(1) Business Transaction: A transaction involving the purchase, sale, or delivery of merchandise, commodities, or services.

(2) Central Administration: The Director, Deputy Director, Assistant Directors, administrators, or other Department of Corrections officials whose offices or mail boxes are located in the central office at 2575 Center Street NE, Salem, OR 97301-4667.

(3) Confiscate: To remove the item or that portion of the item which violates these rules.

(4) Contraband: Any article or thing that an inmate is prohibited by statute, rule or order from obtaining or possessing, or which the inmate is not specifically authorized to obtain or possess, or which the inmate alters without authorization.

(5) Court Name: The inmate name as established and used by the Department of Corrections for use on the inmate's case file, identification card, medical file, etc., based on the name provided in the first judgment in the custody cycle sentencing an inmate to the Department of Corrections.

(6) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(7) Electronic Messages: Correspondence exchanged between inmates and subscribers through a department approved third-party electronic messaging vendor by means of computers equipped for internet access.

(8) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of program operations.

(9) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and who has responsibility for delivery of program services or coordination of program operations.

(10) Individual Photograph: Any image or any duplication thereof. Individual photographs include any photograph scanned and printed from the Internet or other photographs where the identity of the person is unknown to the department. Any graphic image sent with or attached to an electronic message will be considered an individual photograph.

(11) Inflammatory Material: Material whose presence in the facility is deemed by the department to constitute a direct and immediate threat to the security, safety, health, good order, or discipline of the facility because it incites or advocates physical

violence against others. No publication shall be considered inflammatory solely on the basis of its appeal to a particular ethnic, racial or religious audience. No material shall be considered inflammatory solely because it criticizes the operation, programs, or personnel of the Department of Corrections, the State Board of Parole and Post Prison Supervision, or any other government agency.

(12) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post prison supervision status.

(13) Inspection: To examine or view, including but not limited to reading, photocopying, scanning, and x-raying.

(14) Inter Agency Mail System: A system of delivering mail between or among certain state agencies and other units of government generally located in the greater Salem and Portland areas.

(15) Legal Mail: Incoming or outgoing mail to or from an attorney, court, or court official which is clearly worded "legal mail" on the addressee side of the envelope. The legal mail designation should be set apart from the return address and mailing address for ease of recognition.

(16) Mail: Incoming or outgoing mail, including electronic messages, authorized by these rules to be sent or received by an inmate and delivered by the United States Postal Service or any other carrier approved by the department including, but not limited to, parcel service enterprises or electronic messaging services.

(17) Money: Cash, money orders, personal checks, warrants, certified checks, and other remittances.

(18) Non Inmate Sender: The organization or person who is not residing at a Department of Corrections facility who sends mail to an inmate who is residing in a Department of Corrections facility. The non-inmate sender or recipient name must match the identity of the sender.

(19) Official Mail: Incoming and outgoing mail addressed to Department of Corrections officials, the Governor, the Secretary of State, Oregon's state legislators, Oregon's United States Congressional delegation, tribal governments, administrators of grievance systems, foreign embassy consulate, members of the paroling authority, and sexual abuse advocacy programs that is clearly worded "official mail" on the addressee side of the envelope. The official mail designation should be set apart from the return address and mailing address for ease of recognition.

(20) Package: A completely wrapped parcel received that is more than 1/4 inch thick regardless of other dimensions, received directly from the source with authorized postage, and legal and official mail up to three inches.

(21) Photo Company: A vendor that delivers images, bound or individual, to inmates either electronically or through the mail for a fee.

(22) Portrayal: The act or process by which an idea or message is depicted or represented, usually by written words or images.

(23) Publication: A book or single issue of a magazine or newspaper, plus such other materials addressed to a specific inmate as flyers, and catalogs, received directly from the publisher.

(24) Publisher, Distributor, or Book Vender: A business, organization, or firm that issues and makes available to the public (generally for sale and wide distribution) magazines, newspapers, new and used books, and other publications.

(25) Security Threat Group (STG): Any group of two or more individuals who:

(a) Have a common name, identifying symbol, or characteristic that serves to distinguish themselves from others;

(b) Have members, affiliates, or associates who individually or collectively engage, or have engaged, in a pattern of illicit activity or acts of misconduct that violates Department of Corrections rules; or

(c) Have the potential to act in concert to present a threat, or potential threat, to staff, public, visitors, inmates, offenders or the secure and orderly operation of the institution.

(26) Security Threat Group Paraphernalia: Any material, documents, or items evidencing security threat group involvement or activities (e.g., rosters, constitutions, structures, codes, pictures,

training material, clothing, communications, or other security threat group-related contraband).

(27) Sexual Abuse Advocacy Program: A community-based organization that offers advocacy, support, crisis intervention, information, and referrals to a victim of sexual abuse.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 31-1981(Temp), f. & ef. 6-30-81; CD 43-1981, f. & ef. 10-30-81; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 12-2001(Temp) f. & cert. ef. 6-20-01 thru 12-17-01; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0015

General

(1) The functional unit manager or designee will ensure employees responsible for mail room operations are properly trained prior to assignment.

(2) Inmates shall not send, receive, transfer, or possess mail that violates the provisions of these rules.

(3) Inmates shall not send, receive, transfer, or possess mail to or from the victim(s) of their crime(s) of conviction (both past and present), except as authorized in writing by the functional unit manager or designee.

(4) Inmates shall not conduct business transactions by mail without the prior written consent of the functional unit manager or designee.

(5) Excluding weekends and holidays, incoming and outgoing correspondence should be processed within two days of receipt; publications and packages within four days of receipt, unless the mail is being reviewed for possible violations. There are no time frames for conducting reviews.

(6) All incoming and outgoing mail is subject to inspection or examination. Legal and official mail is subject to inspection or examination as provided in OAR 291 131 0030.

(7) Each month an inmate who in the previous month has not accumulated the cost of five postage-paid envelopes (for less than one ounce) in his/her trust account, will be issued five postage paid envelopes by the facility if he/she requests.

(8) Inmate-to-Inmate Mail Restriction:

(a) An inmate may be prohibited from corresponding with another inmate when directed by the Department of Corrections facility functional unit manager or designee, and approved by the Assistant Director of Operations/designee, based on specific circumstances or information which, in their judgment, indicates that the inmate has or may use correspondence with the other inmate in order to violate provisions of law, department administrative rules, or to otherwise engage in activity that threatens or impairs the security, good order, or discipline of the facility, inmate rehabilitation, or the health or safety of inmates, staff, or the public, or to engage in other activity that threatens or is detrimental to other legitimate penological objectives.

(b) The affected inmate will be notified of the restriction through written directive. A decision to order an inmate-to-inmate mail restriction under these rules shall be final and not subject to administrative review.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0300, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 23-1998(Temp), f. & cert. ef. 12-23-98 thru 6-21-99; DOC 8-1999, f. 5-24-99, cert. ef. 6-1-99; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 16-2004(Temp), f. & cert. ef. 12-28-04 thru 6-26-05; DOC 7-2005, f. & cert. ef. 7-

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1-05; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0020 Outgoing Mail

(1) Outgoing mail must be written with lead or color pencil, pen, nontoxic markers or be typewritten or photocopied.

(2) Outgoing mail shall be enclosed in an approved Department of Corrections envelope with U.S. Postage. The envelope shall contain the inmate's court name, SID number, and return address, and the recipient's name and address on the front of the envelope free from obstruction. Official or legal mail must be labeled as such in accordance with OAR 291-131-0030. If the sender cannot be identified, the mail will be destroyed.

(3) Business mail to Department of Corrections officials in Central Administration requires the inmate's court name, SID number, and return address, and the official's name and/or title and address. Business mail sent to Central Administration may be sent through the interagency mail system.

(4) Inmates shall not send any item "prohibited from receipt by mail" as described under OAR 291 131 0035, except as authorized by the functional unit manager.

(5) Inmate-to-Inmate Correspondence:

(a) Inmates are authorized to correspond with other inmates if the correspondence is otherwise in compliance with department rules.

(A) Inmates may send only the following items to another inmate:

- (i) Correspondence;
- (ii) One drawing per envelope; and
- (ii) One photograph per envelope.

(B) Inmates shall not send newspaper or magazine clippings, photocopies, printed web pages, or any other material not listed in subsection (A) above to another inmate through the mail.

(b) All inmate-to-inmate correspondence shall be routed through the U.S. Postal Service.

(c) Inmates shall not enclose correspondence other than from the inmate sender whose name and return address appears on the front of the envelope. Inmates shall not request another inmate to forward correspondence beyond the immediate addressee.

(d) Inmates shall not send a package to another inmate.

(6) Inmates shall not send correspondence or any item to themselves through the mail.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0305, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 4-2011(Temp), f. 3-4-11, cert. ef. 4-1-11 thru 9-28-11; DOC 15-2011, f. & cert. ef. 8-15-11; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0021 Outgoing Mail Restriction

(1) The department may prohibit an inmate from sending unwanted mail to a particular person or address when requested by the person or, in the case of a minor child, by the child's parent or legal guardian.

(2) A request for outgoing mail restriction may be made by writing to the functional unit manager or designee at the Department of Corrections facility where the inmate is incarcerated. The written request should include any information that would assist the functional unit manager or designee in determining whether to order the outgoing mail restriction.

(3) The functional unit manager or designee will notify the person requesting the outgoing mail restriction of his/her decision. The decision will be final and will not be subject to administrative review. If an outgoing mail restriction is ordered, the inmate and the person requesting the outgoing mail restriction shall be

provided with a copy of the Outgoing Mail Restriction Notice (CD 618d).

(4) Inmates may not request an outgoing mail restriction.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 20-2001, f. & cert. ef. 12-17-01, Renumbered from 291-131-0020(6); DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0025 Incoming Mail

(1) Incoming mail shall have, on the front of the envelope free from obstruction, the sender's name and return address, and shall be addressed to the inmate using his/her court name and SID number.

(a) Inmates who legally change their name while in custody must verify the change and may seek approval to include their new name under the court name, labeled as a.k.a.

(b) If the inmate recipient cannot be positively identified, the mail will be returned to the sender. A reasonable attempt will be made to identify the inmate recipient.

(c) Mail with no return address shall be refused and returned to the U.S. Postal Service or other authorized mail service provider. No notice will be given to the inmate.

(d) The placement of the return address for international mail shall be in accordance with the sending country's postal regulations.

(2) Incoming mail must be in pen, lead or color pencil, nontoxic markers, or be typewritten or photocopied.

(3) Transfers and Work Crews:

(a) Incoming mail to inmates not residing in the receiving facility will be forwarded to the inmate if he/she resides at another Department of Corrections facility.

(b) Incoming mail for inmates temporarily transferred to another criminal justice agency will be held at the facility for seven consecutive days. If the inmate does not return to the facility within seven days, the facility will forward to the agency all accumulated and subsequent mail received at the facility. If the criminal justice agency refuses the forwarded mail, it will be held at the department facility until the inmate has been returned.

(c) Work Crews: Incoming first class mail for inmates temporarily residing at an off-site work location, such as a fire crew, should be held at the facility for no more than ten consecutive days. After ten days, the facility should arrange for first class mail delivery to the off-site work location.

(4) Mail received for an inmate who has been released, discharged, or has escaped shall be refused and returned to the U.S. Postal Service or other authorized mail service provider.

(5) New and used books, magazines, newspapers, and blank journals shall only be received directly from the publisher or distributor.

(a) Multiple copies of the same publication to an inmate shall be prohibited.

(b) Publications that have been previously rejected by the department and altered (i.e., offending pages removed) shall be prohibited.

(6) Inmates may receive catalogs, advertisements, brochures, promotional materials, pamphlets, sweepstakes, and contest materials solicited by the inmate provided the materials are properly addressed with the inmate's court name and SID number and are received directly at the correct address where the inmate is currently housed. These materials must conform to any content restrictions contained within this rule.

(7) Calendars shall only be received directly from a publisher or distributor. Calendars must:

(a) Be no longer than 12" wide and 24" long when unfolded;

(b) Meet the no freestanding nude or partially nude standards and have no security threat group imagery or graphic violent content; and

(c) Have a plastic or stapled binding. Wire bindings are prohibited.

(8) No notice or administrative review will be provided to the sender or intended inmate recipient for mail refused under subsections (5), (6), and (7) above of this rule.

(9) Packages, except books, magazines, and newspapers received directly from the publisher or distributor, require prior authorization from the functional unit manager or designee. The package authorization form must be attached to the outside of the package.

(10) Central Administration Review of Publications:

(a) Facility mailroom staff shall stamp approval of all accepted books, magazines, and other publications (except newspapers) on the front or inside front cover of the publication, together with the inmate's name and SID number. Books and magazines without the completed stamp on the front or inside front cover shall be unauthorized and considered contraband.

(b) Unauthorized attachments, enclosures, merchandise, or materials in publications may be removed and destroyed to allow the publication to be delivered to the intended inmate recipient if the publication is otherwise in compliance with these rules and doing so would not drastically alter/destroy the publication.

(c) If mailroom staff determine a publication contains material that is prohibited under these or other department administrative rules, the violation notice and prohibited material shall be reviewed by a designated Central Administration official, who will affirm, reverse, or otherwise modify the original rejection decision in writing.

(11) General correspondence is authorized up to 1/4 inch thickness. Legal and official mail received directly from the original source is authorized up to three inches thick. Legal and official mail in excess of three inches requires prior approval from the functional unit manager or designee through a package authorization form.

(12) Unauthorized Attachments and Enclosures:

(a) Only the canceled postage stamp, package authorization form, address label, and return address stamp (if used) attached to the front of an envelope or package shall be glued, taped, or otherwise affixed to an envelope or package or its contents.

(b) Only written correspondence, newspaper and magazine clippings, small pamphlets, photocopies, carbon copies, business cards, hand made drawings, printed web pages, and photographs that meet the content restrictions in these rules may be enclosed in the envelope.

(c) Unauthorized items with minimal monetary value (e.g., paper clips, rubber bands, uncanceled stamps, book marks, envelopes, blank paper, blank cards, or blank postcards, etc.) may be removed and destroyed, and the remaining mail sent to the inmate if the remaining contents are otherwise in compliance with department rules.

(d) Freestanding Nude or Partially Nude Images: Newspaper and magazine clippings, photocopies, printed web pages, drawings, photographs, and other media with nude or partially nude subjects, whether human or anime (i.e., cartoon) that depict or display male or female genitalia, pubic area, anus, or female areola may not be attached to or enclosed in correspondence to inmates.

(13) All images received from a photo company through first-class mail will be treated as individual photos, not publications. Such images are subject to the same content standards as described in the freestanding nude or partially nude images guidelines.

(14) The department is not responsible for the loss or damage of individual photographs.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0310, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 41-1983(Temp), f. & ef. 10-14-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 12-2001(Temp) f. & cert. ef. 6-20-01 thru 12-17-01; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 17-2008, f. 7-18-08, cert. ef.

7-21-08; DOC 4-2011(Temp), f. 3-4-11, cert. ef. 4-1-11 thru 9-28-11; DOC 15-2011, f. & cert. ef. 8-15-11; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0026

Electronic Messaging

(1) Availability and Inmate Access:

(a) The Department of Corrections may, in its sole discretion, authorize eligible inmates in certain Department of Corrections facilities to exchange electronic messages with friends and family as a non-monetary incentive, subject to the conditions and circumstances set forth in these rules and in the Performance Recognition and Award System (PRAS) rules (OAR 291-077).

(b) Inmates that are eligible to access electronic messaging may do so in accordance with these rules, contingent upon the payment of a fee to the third-party vendor.

(c) Inmates shall not use the electronic messaging system to correspond with other inmates.

(2) Processing of Electronic Messages:

(a) Except as otherwise provided in these rules, electronic messages will be processed in the same manner and be subject to the same standards established in these rules for the sending, receipt, and processing of other inmate mail. Electronic messages should be processed within two days of receipt.

(b) Incoming electronic messages will be processed by an approved third-party vendor and delivered electronically to department mail rooms. Staff will review, and when necessary, print and deliver the messages to inmates. Outgoing electronic messages from inmates will be reviewed, scanned, and processed by department mail room staff and forwarded to the approved third-party vendor for review, scanning, and posting.

(c) All electronic messages will be subject to regular mail inspection and examination. No electronic message will be afforded special processing by department staff as legal mail or official mail.

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075

Stat Impl: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0030

Examination/Inspection of Legal and Official Mail

(1) Legal or official mail shall be afforded special processing as provided in subsections (2) and (3) of this rule.

(a) To qualify for special processing, mail that otherwise qualifies as legal or official mail under OAR 291 131 0010 (14) or (18) must have affixed to the addressee side of the envelope or parcel the words "LEGAL MAIL" or "OFFICIAL MAIL", as appropriate. The "LEGAL MAIL" or "OFFICIAL MAIL" designation should be set apart from both the return address and the mailing address, and should be of sufficient size, to permit easy recognition by facility mailroom employees.

(b) Mail that otherwise qualifies as legal and official mail but lacks the proper designation shall be processed as ordinary mail (shall be subject to inspection; for example, opening, examination, reading or photocopying) outside the inmate's presence.

(2) Legal and official mail sent from or received in a Department of Corrections facility in sealed envelopes or parcels shall be opened and examined for contraband in the presence of the inmate, but shall not be read or photocopied, except as authorized in subsection (3) of this rule.

(3) Legal and official mail may be inspected (i.e., opened, examined, read or photocopied) outside of the inmate's presence only when directed by the Department of Corrections facility functional unit manager or designee, and approved by the Assistant Director of Operations or the Inspector General, based on specific circumstances or specific information indicating that an inmate or other person has or may be in the process of violating provisions of law, department administrative rules, or may otherwise be engaged in activity that threatens or impairs the security, good order, or discipline of the facility and officials, staff, or inmates.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. &

ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0035

Prohibited Mail

The following materials constitute prohibited mail that shall be confiscated or returned to the sender:

(1) Sexually Explicit Material:

(a) Sexually explicit material that by its nature or content poses a threat or is detrimental to the security, good order or discipline of the facility, inmate rehabilitation, or facilitates criminal activity including but not limited to the following:

(A) Individual photographs in which the subject is nude or exposes male or female genitalia, the pubic area, anus, or female areola.

(B) Freestanding nude or partially nude images that include clippings from newspapers and magazines, photocopies, electronic images, printed web pages, drawings, photographs, and other media. Such images, whether human or anime (cartoon), may not include nude subjects, or depict or display male or female genitalia, the pubic area, anus, or female areola.

(C) Sexual Acts or Behaviors:

(i) Portrayal of actual or simulated sexual acts or behaviors between human beings including, but not limited to, intercourse, sodomy, fellatio, cunnilingus, or masturbation.

(ii) Portrayal of actual or simulated penetration of the vagina or anus, or contact between the mouth and the breast, genitals, or anus.

(iii) Portrayal of actual or simulated stimulation of the breast, genitals, or anus.

(iv) Portrayal of actual or simulated acts or threatened acts of force or violence in a sexual context, including but not limited to forcible intercourse (rape) or acts of sadomasochism emphasizing the infliction of pain.

(v) Portrayal of actual or simulated sexual acts or behaviors in which one of the participants is a minor, or appears to be under the age of 18.

(vi) Bestiality: Portrayal of actual or simulated sexual acts or behaviors between a human being and an animal.

(D) Excretory Functions: Portrayal of actual or simulated human excretory functions including, but not limited to urination, defecation, or ejaculation.

(b) No distinction shall be made between depictions of heterosexual and homosexual activity in applying these standards.

(c) Sexually explicit material does not include material of a news or information type, for example, publications covering the activities of gay rights or gay religious groups.

(d) Literary publications shall not be excluded solely because of homosexual themes or references, except for violations of these rules.

(e) Sexually explicit material may be admitted if it has scholarly value, or general social or literary value.

(2) Material That Threatens or is Detrimental to the Security, Safety, Health, Good Order or Discipline of the Facility, Inmate Rehabilitation, or Facilitates Criminal Activity: Material that by its nature or content poses a threat or is detrimental to the security, safety, health, good order or discipline of the facility, inmate rehabilitation, or facilitates criminal activity, including but not limited to, material that meets one or more of the following criteria:

(a) It incites, advocates, aids, or abets criminal activity such as illegal drug use, or instructs in the manufacture, use, or conversion of weapons.

(b) It incites, advocates, aids, or abets escape, such as picking locks or digging tunnels.

(c) It consists of threats of physical harm to any person or threats of criminal activity.

(d) It contains or concerns sending contraband within, into, or out of the facility.

(e) It concerns plans for activities in violation of other Department of Corrections administrative directives.

(f) It contains code that directly threatens or is detrimental to the security, safety, health, good order, or discipline of the facility, inmate rehabilitation, or facilitates criminal activity.

(g) It contains information which, if communicated, would create a clear and present danger of violence and physical harm to a human being.

(h) It contains contraband material.

(i) It contains STG-related paraphernalia.

(j) It contains inflammatory material.

(k) It contains detailed maps of areas within 50 miles of correctional facilities or work stations.

(3) Credit or Deferred Billing Transactions: Mail involving credit or deferred billing (e.g., "bill me later" or "payment after delivery") transactions for the purchase of or subscription to publications (e.g., books, newspapers, magazines) or other items or merchandise is prohibited. Mail prohibited under this subsection includes:

(a) Outgoing inmate requests or purported agreements to enter into a credit or deferred billing transaction.

(b) Incoming publications or other items or merchandise, including promotional (e.g., free gift or premium) items given in exchange for purchase or subscription, received in a Department of Corrections facility that are accompanied by a billing or other statement requiring payment upon delivery or at a later date.

(4) Unauthorized Business Transactions: Mail involving a business transaction not previously approved by the functional unit manager or designee.

(5) Items Prohibited From Receipt by Mail:

(a) Any item or material that an inmate shall not possess within the Department of Corrections facility to which the inmate is assigned.

(b) Material that an inmate shall not possess within the facility or that meets one of the following criteria:

(A) Weapons or explosives;

(B) Narcotics or narcotics paraphernalia;

(C) Intoxicants or medications;

(D) Escape devices;

(E) Money, negotiable instruments, deposit and withdrawal slips, un-cancelled stamps, and stamp collections;

(F) Any item larger than 18" x 18" except subscription newspapers;

(G) Any electronic items, including batteries;

(H) Any substance that is unauthorized, including lipstick, crayon, water colors, paint, correction fluid, wax, glitter, foam etc.; or

(I) Polaroid type photographs with a chemical substance on the back of the photograph.

(6) Mail Subject to Outgoing Mail Restriction: Outgoing mail to a person or address to which the inmate has been ordered by the functional unit manager or designee not to send mail.

(7) Any other material that the department deems to pose a threat or to be detrimental to legitimate penological objectives.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18(Temp), f. & ef. 12-18-73 through 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0315, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 16-2001(Temp), f. 7-9-01, cert. ef. 7-11-01 thru 1-7-02; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 4-2011(Temp), f. 3-4-11, cert. ef. 4-1-11 thru 9-28-11; DOC 15-2011, f. & cert. ef. 8-15-11; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0037

Disposition of Prohibited Mail

(1) Mail, if not confiscated, will be returned to the U.S. Postal Service, or to the applicable mail service provider, for not meeting requirements provided in these rules.

(2) Contraband:

(a) Illegal contraband or evidence of a crime shall be confiscated and turned over to the Oregon State Police. No notice of confiscation shall be given.

(b) Non-Inmate Sender:

(A) Contraband (including unauthorized attachments or enclosures) that is not illegal or evidence of a crime shall be returned to the non inmate sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a).

(B) Unauthorized items with minimal monetary value (e.g., paper clips, rubber bands, uncanceled stamps, book marks, envelopes, blank paper, blank cards, blank postcards, etc.) may be removed and destroyed and the remaining mail sent to the inmate if the remaining contents are otherwise in compliance with department rules. No notice shall be provided to the sender or inmate recipient for the removal and destruction of minimally valued items.

(c) Inmate Sender: Any enclosures (i.e., photographs, hand-made drawings in excess of that allowed) that are not illegal or evidence of a crime, or that are otherwise not prohibited in outgoing mail under these rules shall be returned to the inmate sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a). Any item that poses a threat or is a detriment to the security, good order, or discipline of the facility, or that would encourage or instruct in criminal activity, may be confiscated and retained pending an investigation. If appropriate, the inmate may be issued a misconduct report, in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(3) Money:

(a) Cash contained in mail shall be confiscated and deposited to the Inmate Welfare Fund. Notice of the confiscation shall be provided to the sender on a Mail Confiscation Notice (CD 618b). A copy of the notice shall also be provided to the intended inmate recipient.

(A) If the cash was concealed in the mail, a written entry shall be made on the Mail Confiscation Notice (CD 618b) to document the method of concealment. If, after an administrative review of the confiscation, it is determined that the sender did not conceal the cash, the money shall be returned to the sender.

(B) Correspondence received in an envelope from which cash has been confiscated shall be delivered to the intended inmate recipient if the correspondence is otherwise in compliance with department rules.

(b) Monies other than cash (e.g., money orders, warrants, personal checks, prepaid cards, and certified checks) contained in mail shall be returned to the sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a). A copy of the Mail Violation Notice shall be provided to the intended inmate recipient. The appropriate Assistant Director or Central Office Administrator may waive this requirement and provide further instructions during the annual holiday buying period.

(A) Prior to returning the mail to the sender, the offending money item shall be photocopied together with the addressee side of the envelope or package.

(B) The photocopy shall be retained by the facility according to archive standards.

(4) Mail with unauthorized or insufficient postage shall be refused and returned to the U.S. Postal Service. Notice of the reason for the mail rejection shall be provided on a form label or stamp affixed to the outside of the envelope or package.

(5) Unauthorized Attachments or Enclosures:

(a) Mail received with unauthorized attachments affixed to the outside of an envelope or package shall remain unopened, be refused, and returned to the U.S. Postal Service or applicable mail service provider. Notice of the reasons for the mail rejection shall be provided on a form label or stamp affixed to the outside of the envelope or package.

(b) Mail received with unauthorized attachments affixed to the inside of an envelope or package, or affixed to the contents of an envelope or package, or mail received with unauthorized enclosures, except for that with minimal monetary value as described in

section (2)(b) above, shall be refused and returned to the sender with the contents of the envelope or package intact, together with a Mail Violation Notice.

(6) Correspondence and Publications: When, after opening, mail is rejected for violation of these or other department rules the following procedures shall be followed:

(a) Rejected Mail:

(A) Non-inmate sender: The sender and intended inmate recipient shall be notified of the rejection of mail, including the reasons, on a Mail Violation Notice (CD 618a) for correspondence, or a Publication Violation Notice for a publication. If the rejection is based upon written or pictorial content, the notice shall advise that an independent review of the rejection may be obtained by writing to the functional unit manager within 30 days of the date of the notice. Mail rejected based on written or pictorial content shall be returned intact to the sender. The rejected portion of the mail shall be photocopied and retained pending any administrative review. If no administrative review is requested, the photocopy shall be maintained according to archive standards.

(B) Inmate Sender: The inmate sender shall receive the same standards as the non-inmate sender. However, the intended recipient shall not be notified of the rejection for any mail sent by an inmate in a Department of Corrections facility and shall not be eligible for an administrative review.

(b) No administrative review shall be available if the rejection is based on the presence of an unauthorized attachment, substance, or enclosure on or with the mail, or if the rejection is based on any violation not related to the written or pictorial content.

(c) Confiscated Mail:

(A) Non-inmate Sender: If the mail is confiscated, notice shall be made to the sender and intended inmate recipient on a Mail Confiscation Notice (CD 618b), unless it includes plans for a discussion or commission of a crime or evidence of a crime. In such cases, no notice shall be given and the mail shall be turned over to the Special Investigations Unit of the department or the Oregon State Police. Confiscated mail not involving evidence of a crime shall be retained intact pending any administrative review. If no administrative review is requested, the mail shall be maintained according to archive standards.

(B) Inmate Sender: If the mail is confiscated, no notice shall be given to the sender or the intended inmate recipient. Mail that includes plans for a discussion or commission of a crime or evidence of a crime shall be turned over to the Special Investigations Unit of the department or the Oregon State Police. Confiscated mail that poses a threat or detriment to the security, good order, or discipline of the facility, or would encourage or instruct in criminal activity shall be retained intact pending an investigation. The inmate may be issued a misconduct report in accordance with the rules on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). Otherwise, after the investigation is completed, the inmate will be notified of the confiscation. If no administrative review is requested, the mail shall be maintained according to archive standards.

(7) Packages: When a package is rejected, the following procedures shall be followed:

(a) Packages received without prior authorization of the functional unit manager or designee, or which have unauthorized attachments affixed to the outside of the package, shall be refused and returned to the U.S. Postal Service or to the applicable mail service provider.

(b) Prior authorized packages which after opening are found to contain contraband that is not illegal (including unauthorized attachments or enclosures) or evidence of a crime or otherwise to be in violation of these or other department rules, shall be returned to the sender with the contents of the package intact, together with a Mail Violation Notice.

(c) Intended Inmate Recipient: If a prior authorized package is returned to the sender after opening, the intended inmate recipient shall be promptly notified in writing of the rejection, along with the reason for the rejection, on a Mail Violation Notice. No administrative review shall be available to the intended inmate recipient.

(d) Sender: The sender shall be notified in writing of the rejection of any package received in a Department of Corrections facility and addressed to an inmate, along with the reason for rejection, on a form label or stamp affixed to the outside of the package if the package is refused without opening, or if the package is returned to the sender after opening, on a Mail Violation Notice inserted into the package. No administrative review shall be available to the sender.

(8) Mail from vendors that repeatedly violate mail rule standards:

(a) Mail violation for vendors will be tracked in the mailroom database.

(b) Vendors that repeatedly send prohibited content to inmates after multiple violation notices informing them of mail rule standards may be restricted.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; CD 25-1994, f. 12-21-94, cert. ef. 1-3-95; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 1-2008, f. & cert. ef. 1-25-08; DOC 4-2011(Temp), f. 3-4-11, cert. ef. 4-1-11 thru 9-28-11; DOC 15-2011, f. & cert. ef. 8-15-11; DOC 9-2016, f. & cert. ef. 5-10-16

291-131-0050

Administrative Review

(1) Correspondence and Publications:

(a) Non-Inmate Sender:

(A) A non-inmate sender who has received a mail violation, publication violation, or confiscation notice for written or pictorial content may obtain an independent review of the rejection of mail by writing to the functional unit manager or designee and requesting an administrative review within 30 days of the date of the notice. The review request shall specify in writing the reason why the rejection should not be sustained and include the rejection notice. The rejected mail, if returned to the sender, must be submitted with the violation or confiscation notice along with the review request.

(B) An intended inmate recipient who has received a mail violation, publication violation, or confiscation notice for written or pictorial content may obtain an independent review by writing to the functional unit manager or designee and requesting an administrative review within 30 days of the date of the notice. The review request shall specify type of violation (mail, publication, or confiscation), date of violation, and name and issue date of any involved publication.

(b) Inmate Sender: An inmate sender who has received a mail violation or confiscation notice for written or pictorial content may obtain an independent review with the same provisions as a non-inmate sender. The intended recipient shall not be eligible for an administrative review.

(c) No administrative review shall be afforded if the rejection is based on the presence of an unauthorized attachment, substance, or enclosure on or with the mail, or if the rejection is based on any violation not related to the written or pictorial content.

(2) Packages: No administrative review shall be available to the sender or intended inmate recipient of a package.

(3) Administrative Review Process:

(a) The functional unit manager shall appoint an official or employee, other than the employee who originally rejected the correspondence or publication, to conduct the administrative review.

(b) The administrative review shall consist of an informal review of the original mail rejection decision and shall include a review of the mail or publication violation or confiscation notice, the request for administrative review, and where necessary, the rejected mail, article or material for compliance with department rules. No formal hearing shall be conducted.

(c) The functional unit manager or designee shall permit the intended inmate recipient an opportunity to review the rejected mail for purposes of administrative review, unless such review may provide the inmate with information of a nature which is deemed to pose a threat or detriment to the security, good order or discipline of the facility, or to encourage or instruct in criminal activity.

(A) The intended inmate recipient shall specify in writing the reason why the rejection should not be sustained within five days after reviewing the rejected material, or within five days of receiving notice that the inmate was not allowed to review the rejected material for the reasons stated above.

(B) If the inmate refuses to review the material, the administrative review will be considered dismissed.

(d) The official or employee assigned to review the original mail rejection decision shall deliver a written recommended decision (together with a copy of the mail or publication violation or confiscation notice, the request for administrative review, and where necessary, the rejected mail, article, and material) to the functional unit manager or designee for his/her review and approval.

(e) The functional unit manager or designee shall review the recommended decision and either affirm, reverse, or otherwise modify the original mail rejection decision in writing. The administrative review shall be completed within 45 days after receipt of the request for administrative review. A copy of the functional unit manager or designee's decision shall be provided to the party who requested the administrative review.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; CD 25-1994, f. 12-21-94, cert. ef. 1-3-95; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 23-1998, f. & cert. ef. 12-23-98 thru 6-21-99; DOC 8-1999, f. 5-24-99, cert. ef. 6-1-99; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 9-2016, f. & cert. ef. 5-10-16

DIVISION 133

MARRIAGES (INMATE)

291-133-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.285, 179.040, 423.020, 423.030, and 423.075, and 2007 Or Laws, Chapter 99.

(2) Purpose: To establish Department of Corrections policies and procedures regarding inmate marriages or solemnization ceremonies for inmates that have established a domestic partnership, conducted in a Department of Corrections facility.

(3) Policy: Within the inherent limitations of resources, and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections to permit an inmate to marry a person Department of Corrections facility, including another inmate, and to permit an inmate that has established a domestic partnership to participate in a solemnization ceremony in a Department of Corrections facility, provided that the marriage or domestic partnership is otherwise legal under Oregon law, and is not inconsistent with the safe, secure and orderly operation of a Department of Corrections facility, inmate rehabilitation, or other penological interest.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99

Hist.: CD 31-1978, f. 10-24-78, ef. 10-25-78; CD 18-1981(Temp), f. & ef. 6-30-81; CD 50-1981, f. & ef. 10-30-81; CD 58-1985, f. & ef. 8-16-85; CD 48-1986, f. & ef. 11-20-86; CD 22-1991, f. & cert. ef. 9-20-91; CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08; DOC 7-2016, f. & cert. ef. 4-20-16

291-133-0010

Definitions

(1) Applicant: For the purposes of these rules, "applicant" refers to an inmate incarcerated in a Department of Corrections facility who submits a Request for Inmate Marriage or Domestic Partnership Solemnization Ceremony form.

(2) Death Row Status: An inmate who has received a sentence of death and is assigned to Death Row Housing.

(3) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(4) Domestic Partner: An individual joined in a domestic partnership.

(5) Domestic Partnership: A civil contract entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon, which has been filed with the County Clerk and entered in the domestic partnership registry.

(6) Immediate Family Member: As defined in the DOC rule for Visiting, OAR 291-127-0210.

(7) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post prison supervision, or probation status.

(8) Solemnization Ceremony: A ceremony to celebrate the establishment of a domestic partnership.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99

Hist.: CD 31-1978, f. 10-24-78, ef. 10-25-78; CD 18-1981(Temp), f. & ef. 6-30-81; CD 50-1981, f. & ef. 10-30-81; CD 58-1985, f. & ef. 8-16-85; CD 48-1986, f. & ef. 11-20-86; CD 22-1991, f. & cert. ef. 9-20-91; CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08

291-133-0015

Marriage or Domestic Partnership Solemnization Ceremony Application, Approval, and Eligibility Requirements

(1) An inmate incarcerated in a Department of Corrections facility wishing to marry or have a domestic partnership solemnization ceremony may obtain necessary forms from designated staff.

(2) The department will not transport inmates for the purpose of participating in a marriage or domestic partnership solemnization ceremony.

(3) Marriages and domestic partnership solemnization ceremonies in a Department of Corrections facility will occur two times per year on the fourth week of April and October.

(4) A Request for Inmate Marriage or Domestic Partnership Solemnization Ceremony form (CD1396) must be submitted for approval to designated staff at least six weeks prior to the scheduled marriage or ceremony date.

(a) An inmate requesting a solemnization ceremony must also submit a certified copy of the inmate's Declaration of Domestic Partnership registered with the County Clerk's Office.

(b) Designated staff shall approve or disapprove the request within 15 working days following receipt, except that approval or disapproval may be delayed for up to 30 working days if the accuracy of the information provided on the Request for Inmate Marriage or Domestic Partnership Solemnization Ceremony form (CD1396) is in doubt.

(5) An applicant and prospective spouse, and an applicant's domestic partner, must meet the following eligibility requirements:

(a) The applicant is confined in a Department of Corrections facility at the time of the application and remains so until the marriage or domestic partnership solemnization ceremony.

(b) The applicant has no major disciplinary misconduct sanctions six weeks prior to the marriage or domestic partnership solemnization ceremony date and remains without any such sanctions until the marriage or domestic partnership solemnization ceremony.

(c) Neither the marriage applicant nor the applicant's prospective spouse is currently married, mentally incapacitated, of blood relation of first cousins or closer.

(d) Both the applicant and prospective spouse, or the applicant's domestic partner, are approved for privileged visitation under the Department of Corrections rule on Visiting (Inmate) (OAR 291-127) at the time of the application, or if not at the time of the application, at least six weeks prior to the scheduled marriage or domestic partnership solemnization ceremony date and remain so qualified until the marriage or domestic partnership solemnization ceremony date. This eligibility requirement for privileged visiting

may be waived for an applicant who is assigned to administrative housing for reasons of protective custody, or for an applicant who is on death row status.

(e) The applicant, whether indigent or not, accepts responsibility for all fees incurred related to the marriage or domestic partnership solemnization ceremony process, such as the marriage license fee and ceremony expenses.

(f) The necessary procedures for the issuance of a marriage license and performance of the marriage ceremony, or for the performance of the solemnization ceremony, is not inconsistent with the safe, secure and orderly operation of the Department of Corrections facility, inmate rehabilitation, or other penological interest.

(g) Approval may be withdrawn by the functional unit manager, or by designated staff, if the applicant later becomes ineligible.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99

Hist.: CD 31-1978, f. 10-24-78, ef. 10-25-78; CD 18-1981(Temp), f. & ef. 6-30-81; CD 50-1981, f. & ef. 10-30-81; CD 28-1983, f. & ef. 7-11-83; CD 58-1985, f. & ef. 8-16-85; CD 48-1986, f. & ef. 11-20-86; CD 22-1991, f. & cert. ef. 9-20-91; CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08; DOC 7-2016, f. & cert. ef. 4-20-16

291-133-0025

Marriage or Domestic Partnership Solemnization Ceremony

(1) Staff will arrange for the marriage or domestic partnership solemnization ceremony to be scheduled in the area designated after all necessary forms are processed and confirmations have been made.

(2) All guests (including participants) attending the marriage or domestic partnership solemnization ceremony must be approved for privileged visiting in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127) on the day of the ceremony. In accordance with OAR 291-133-0015(5)(d), this requirement may be waived for an applicant who is assigned to administrative housing for reasons of protective custody, or for an applicant who is on death row status.

(a) All guests will be processed into the institution in accordance with procedures for regular privileged visiting.

(b) A maximum of ten guests (not including the official performing the marriage or individual conducting the domestic partnership solemnization ceremony) will be permitted to attend the ceremony with the applicants.

(3) An inmate who is an immediate family member of the bride or groom or domestic partner may attend the marriage or domestic partnership solemnization ceremony only if he/she is housed at the facility where the wedding or ceremony is being held.

(4) Designated staff will notify the inmate and appropriate staff when arrangements for the marriage or domestic partnership solemnization ceremony have been finalized.

(5) No food, cameras, flowers, or special clothing may be brought into a Department of Corrections facility for inmate marriages or domestic partnership solemnization ceremonies.

(6) Inmates will be permitted to wear a plain smooth band, which shall be recorded on the inmate's personal property list.

(7) The applicant or prospective spouse or applicant's domestic partner will have the responsibility of contacting the clergy or other licensed person to perform the marriage or solemnization ceremony.

(8) The schedule of marriages or domestic partnership solemnization ceremonies will be arranged by designated staff.

(9) The designated staff member will assure that appropriate reports are submitted.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99

Hist.: CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08; DOC 7-2016, f. & cert. ef. 4-20-16

291-133-0035

Inmate-to-Inmate Marriages and Domestic Partnership Solemnization Ceremonies

(1) An applicant satisfying the eligibility requirements of OAR 291-133-0015, except subsection (5)(d), may be permitted to marry or enter a domestic partnership with another applicant provided they reside in the same facility.

(2) The department will not transport inmates for the purpose of participating in a marriage or domestic partnership solemnization ceremony.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030 & 2007 OL Ch. 99
Hist.: CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08; DOC 7-2016, f. & cert. ef. 4-20-16

DIVISION 139

LEGAL AFFAIRS (INMATE)

291-139-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish Department of Corrections policy and procedure for affording inmates reasonable access to law library or contract legal services, and to necessary supplies for the preparation and filing of legal documents with the courts and parole board authorities.

(3) Policy: Within the inherent limitations of resources and the need for facility security, safety, health and order, it is the policy of the Department of Corrections to satisfy its legal obligation to provide inmates meaningful access to the courts by affording inmates reasonable access to law library or contract legal services, and to necessary supplies for the preparation and filing of legal documents with the court and parole board authorities.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 11-1978(Temp), f. 6-20-78, ef. 6-22-78; CD 30-1978, f. & ef. 10-5-78; CD 2-1980(Temp), f. & ef. 2-20-80; CD 26-1980, f. & ef. 7-28-80; CD 8-1981, f. & ef. 4-17-81; CD 16-1985, f. & ef. 7-26-85; CD 15-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 23-1991, f. & cert. ef. 9-20-91; CD 17-1997(Temp), f. & cert. ef. 9-17-97; DOC 4-1998, f. & cert. ef. 3-13-98

291-139-0010

Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(3) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(4) Legal Assistant: An inmate assigned to work in a facility law library to assist in the provision of legal access for other inmates by consulting, legal research, and typing, as necessary.

(5) Legal Documents: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, or other necessary papers submitted to a court in connection with a legal action. For purposes of these rules "legal documents" include necessary papers submitted to the Oregon Board of Parole and Post-Prison Supervision and equivalent releasing authorities in other state and federal jurisdictions in connection with official actions and proceedings of such authorities.

(6) Library Coordinator: Department employee(s) assigned to supervise facility law libraries and law library services, including the activities of assigned legal assistants.

(7) Special Security Housing: Housing separate and apart from the general population, including facilities, units, rooms, or cells specifically designed for segregation purposes.

(8) Week: Seven-day period beginning on Sunday and ending on Saturday.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 11-1978(Temp), f. 6-20-78, ef. 6-22-78; CD 30-1978, f. & ef. 10-5-78; CD 2-1980(Temp), f. & ef. 2-20-80; CD 26-1980, f. & ef. 7-28-80; CD 35-1980(Temp), f. & ef. 12-23-80; CD 8-1981, f. & ef. 4-17-81; CD 12-1983, f. & ef. 2-18-83; CD 16-1985, f. & ef. 7-26-85; CD 15-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 23-1991, f. & cert. ef. 9-20-91; DOC 4-1998, f. & cert. ef. 3-13-98

291-139-0015

Library Coordinator and Legal Assistants

(1) Library Coordinator: The library coordinator shall supervise facility law libraries and law library services, including the activities of the assigned legal assistants. The library coordinator may not prohibit legal assistants from providing legal assistance to another inmate unless the library coordinator has reason to believe that the legal assistant has provided services to the inmate in violation of these rules.

(2) Legal Assistants:

(a) Assigned legal assistants shall assist other inmates with their legal concerns when requested by assisting inmates in the preparation and filing of legal documents with the courts through consulting, legal research, and typing, as necessary;

(b) Selection:

(A) A minimum of one full-time inmate legal assistant will be provided at the Columbia River Correctional Institution, Santiam Correctional Institution, Oregon State Correctional Institution, Eastern Oregon Correctional Institution, Oregon Women's Correctional Center, and Oregon State Penitentiary;

(B) Criteria:

(i) A GED or high school diploma and a genuine interest in helping inmates with their legal needs will be required and determined by interviews conducted by a selection committee;

(ii) Qualified applicants will be selected based on knowledge of the legal system, legal research abilities, legal writing skills, ability to communicate, typing skills and an acceptable facility record of demeanor;

(c) Awards: Assigned inmate legal assistants will be eligible to receive monthly performance awards in accordance with the Department of Corrections rule on Performance Recognition and Award System (OAR 291-077).

(d) Inmates shall not charge or receive any form of compensation from other inmates or persons for legal services.

(e) Assignment and removal of inmate legal assistants shall not be based upon retaliation for legitimate legal activities.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 11-1978(Temp), f. 6-20-78, ef. 6-22-78; CD 30-1978, f. & ef. 10-5-78; CD 2-1980(Temp), f. & ef. 2-20-80; CD 26-1980, f. & ef. 7-28-80; CD 8-1981, f. & ef. 4-17-81; CD 12-1983, f. & ef. 2-18-83; CD 16-1985, f. & ef. 7-26-85; CD 15-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 23-1991, f. & cert. ef. 9-20-91; CD 17-1997(Temp), f. & cert. ef. 9-17-97; DOC 4-1998, f. & cert. ef. 3-13-98

291-139-0020

Level 1 Law Libraries

(1) Level 1 law libraries will provide the most comprehensive level of service with expanded resource material, an effective intra- and interfacility correspondence/loan system, and employee services to provide expanded resource material and legal research services to Level 2 and Level 3 law libraries when requested. Legal resource materials may be made available using CD-ROM technology in some facilities.

(2) Level 1 law libraries will be maintained at the Oregon State Penitentiary, Oregon State Correctional Institution, Eastern Oregon Correctional Institution, and the Snake River Correctional Institution.

(3) Resource materials maintained in Level 1 law libraries are listed in **Exhibit 1**. [Exhibit not included. See ED. NOTE.]

[ED. NOTE: Exhibits referenced are available from the agency.]
 Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 11-1978(Temp), f. & ef. 6-20-78, ef. 6-22-78; CD 30-1978, f. & ef. 10-5-78; CD 2-1980(Temp), f. & ef. 2-20-80; CD 26-1980, f. & ef. 7-28-80; CD 16-1985, f. & ef. 7-26-85; CD 15-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 23-1991, f. & cert. ef. 9-20-91; DOC 21-1998(Temp), f. & cert. ef. 9-29-98 thru 3-28-99; DOC 4-1999, f. 2-25-99, cert. ef. 3-1-99

291-139-0025

Level 2 Law Libraries

(1) Level 2 law libraries will provide a second level of service with resources to provide copies of library resource material upon written request to a Level 3 law library.

(2) Level 2 law libraries will be maintained at the Santiam Correctional Institution and the Columbia River Correctional Institution.

(3) Resource materials maintained in Level 2 law libraries are listed in **Exhibit 2**. [Exhibit not included. See ED. NOTE.]

[ED. NOTE: Exhibits referenced are available from the agency.]
 Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 11-1978(Temp), f. 6-20-78, ef. 6-22-78; CD 30-1978, f. & ef. 10-5-78; CD 2-1980(Temp), f. & ef. 2-20-80; CD 26-1980, f. & ef. 7-28-80; CD 12-1983, f. & ef. 2-18-83; CD 16-1985, f. & ef. 7-26-85; CD 15-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 23-1991, f. & cert. ef. 9-20-91; CD 17-1997(Temp), f. & cert. ef. 9-17-97; DOC 4-1998, f. & cert. ef. 3-13-98

291-139-0028

Level 3 Law Libraries

(1) Level 3 law libraries will contain minimum resource material, self-help books, and necessary forms for solving simple legal issues.

(2) Level 3 law libraries will access Level 2 law libraries. If the requested materials at Level 2 law libraries are not available, Level 1 libraries may provide copies by written request.

(3) Level 3 law libraries will be maintained at the Oregon Women's Correctional Center, Powder River Correctional Facility and Shutter Creek Correctional Institution.

(4) Resource materials maintained at Level 3 law libraries are listed in Attachment 3. [Attachment not included. See ED. NOTE.]

[ED. NOTE: Attachments referenced are available from the agency.]
 Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 23-1991, f. & cert. ef. 9-20-91; DOC 4-1998, f. & cert. ef. 3-13-98

291-139-0030

Law Library Hours of Operations and Procedure Governing Use

(1) Normal law library hours of operation for each facility will be posted.

(2) Work space will be provided for inmate use in all facility law libraries.

(3) Assigned legal assistants will be provided work space, typewriter, and other supplies.

(4) Canteen items, personal property, and other items which are unrelated to legal research or preparation of legal documents will not be permitted in facility law libraries.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 11-1978(Temp), f. 6-20-78, ef. 6-22-78; CD 23-1991, f. & cert. ef. 9-20-91; DOC 4-1998, f. & cert. ef. 3-13-98

291-139-0035

Access to Law Library Services

(1) All inmates will be afforded reasonable opportunities to access law library or contract legal services as provided in these rules.

(2) Inmates will be allowed a reasonable amount of time to do legal research and to prepare legal documents in the facility law library or in the inmate's assigned cell or living unit. A special time allowance for research and preparation of legal documents in a facility law library may be granted to an inmate who demonstrates a need for access to law library services to meet an imminent court deadline.

(3) Inmates who require law library services not maintained in their assigned Department facility law library may access specific additional legal research materials maintained in other Department facility law libraries through the Department's intrafacility and interfacility correspondence/loan system.

(a) Inmates may request duplicated copies of specific reported cases, digest topics, and other specific legal research materials listed in the exhibits attached to this rule by use of the Department form "Legal Library Service Request" (CD 429D). Inmates assigned to Department facilities without a legal assistant may request legal research assistance from the legal assistant assigned to other facility law libraries by use of the same Department form.

(b) Interfacility requests for additional law library services will be processed with reasonable diligence. Interfacility requests for additional legal research materials will be returned to the facility law library. Telephone access to law library employees or inmate legal assistants assigned to other Department facility law libraries may be permitted to an inmate who demonstrates a need for access to such additional services to meet an imminent court deadline.

(4) Inmate Assigned to Special Security Housing:

(a) Inmates assigned to special security housing will be afforded access to law library services through the Department's intrafacility and interfacility correspondence/loan system, and through access to satellite law library materials provided in or near the special security housing unit. Satellite law libraries materials will consist of those resources listed in Exhibit 4. [Exhibit not included. See ED. NOTE.]

(b) Inmates assigned to special security housing may request duplicated copies of specific reported cases, digest topics, and other specific legal research materials by use of the Department form Legal Library Service Request (CD 429D). Legal research assistance may also be requested by use of the same Department form. Requests for legal research materials will be limited to five per inmate at any one time. All copies of cases and other loaned resource materials must be returned to the facility law library;

(c) Inmates assigned to special security housing will also be permitted to communicate with law library employees and inmate legal assistants concerning legal research questions via telephone on a weekly schedule to be posted.

(5) Inmates from out-of-state facilities (state and federal) will be afforded access to law library services upon the same basis as Oregon inmates. Inmates from out-of-state facilities requiring access to state legal research materials from their state of conviction will be required to access those materials from their respective state of conviction facility.

(6) Oregon inmates in out-of-state facilities (state and federal) may access Oregon legal research materials and assistance from assigned inmate legal assistants through correspondence directed to a library coordinator of an Oregon correctional facility. Requests for law library services from Oregon inmates in out-of-state facilities will be processed with reasonable diligence.

(7) Contract Legal Services: In lieu of access to law library services, inmates in certain Department of Corrections facilities may be afforded meaningful access to the courts through the services of a legal services provider under contract with the Department of Corrections, access to satellite law library materials, and through court-appointed counsel as provided in the Oregon Revised Statutes. Inmate access to law library services in these facilities will be limited to access to satellite law library materials listed in Exhibit 4. [Exhibit not included. See ED. NOTE.]

[ED. NOTE: Exhibits and Forms referenced are available from the agency.]
 Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 15-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 23-1991, f. & cert. ef. 9-20-91; CD 17-1997(Temp), f. & cert. ef. 9-17-97; DOC 4-1998, f. & cert. ef. 3-13-98

291-139-0040

Supplies, Photocopying, Mailing, and Notary Services

(1) Supplies:

(a) Facility law libraries will have supplies (e.g., pen, paper, carbon paper) available for inmates using the law library facilities. These supplies shall be used only for legal research and the preparation of legal documents;

(b) Envelopes for mailing of legal documents and other necessary supplies will be available for purchase from the facility canteen.

(2) Photocopying Services:

(a) Photocopying services will be available to inmates for duplication of legal documents at the inmate's expense;

(b) An inmate will be required to have sufficient funds in his/her trust account to cover the costs of duplication at the time of a request to obtain photocopying services. Duplication costs will be debited from the account of the inmate for whom these services are provided. Inmates receiving photocopying services will be charged at the rate of \$.10 per copy page. In those facilities with photocopying machines designated for inmate use, inmates may obtain photocopying services by use of a copycard available for purchase from the facility canteen;

(c) Inmates assigned to special security housing prisons may request photocopying services from the law librarian by use of the Department form "Photocopy Request" (CD 1186D). An inmate will be required to have sufficient funds in his/her trust account to cover the costs of duplication at the time of a request to obtain photocopying services. Duplication costs will be debited from the account of the inmate for whom these services are provided. Inmates receiving photocopying services will be charged at the rate of \$.10 per copy page.

(3) Mailing Services: Mailing services (e.g., postage, certified mail) will be available for mailing of legal documents at the inmate's expense as provided in these rules and in the Department's rule on Mail (Inmate).

(4) Notary Services: Notary services will be available for notarization of legal documents at no cost to inmates by employees who are licensed notaries on a schedule to be posted.

(5) Indigent Inmates:

(a) An inmate without sufficient funds in his/her trust account to pay for the costs of necessary supplies and mailing services will be provided such supplies and mailing services, notwithstanding the inmate's indigent status, to make required filings with the courts and parole board authorities required by law, and court and procedural rules. This does not include general correspondence with attorneys;

(b) Costs incurred by the Department in providing such necessary supplies and/or mailing services will be debited from the account of the inmate for whom these supplies and/or mailing services were provided.

(c) An inmate without sufficient funds in his/her trust account to cover the costs of duplication at the time of request will be provided supplies necessary (i.e., paper and carbon paper) to hand duplicate or type the material. The library coordinator may authorize the photocopying of exhibits or other legal documents for an indigent inmate if the inmate demonstrates the duplication cannot be accomplished by use of carbon paper and is required by the court or procedural rules.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 15-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 23-1991, f. & cert. ef. 9-20-91; DOC 4-1998, f. & cert. ef. 3-13-98

291-139-0045

Storage, Control, and Disposition of Legal Materials

(1) Each inmate will be responsible for maintaining custody of his/her own legal materials.

(2) Each inmate may retain such legal documents and materials if in accordance with the provisions in the Department's rule on Personal Property Control and Disposition (Inmate).

(3) Audio and Video Taped Hearing Records: Inmates in Department facilities will be permitted to access certified copies of audio and video cassette tape recordings of official court and

Oregon Board of Parole and Post-Prison Supervision hearings and proceedings as provided in this rule:

(a) An inmate will be required to first request and receive prior authorization to receive and access the tapes from the facility library coordinator by use of a Department form "Audio/Video Cassette Request" (CD 1227D) to obtain access to certified copies of audio and video cassette tape recordings of official court and Board of Parole and Post-Prison Supervision hearings. Authorization will be granted for only those tape recordings of court and Board of Parole and Post-Prison Supervision hearings or proceedings for which written transcripts are not available;

(b) Authorized audio and video taped hearing records will be required to be received directly from the inmate's attorney, or from the court or Oregon Board of Parole and Post-Prison Supervision. Upon receipt in the facility mail room, authorized audio and video tapes will be forwarded to the facility library coordinator who will control the inmate's physical access to the tape records. Inmates will be permitted to review authorized audio and video cassette tape records only in facility law libraries and as permitted by the facility library coordinator. Only those inmates who are:

(A) Parties to the court or Board of Parole and Post-Prison Supervision proceeding(s); or

(B) Assigned legal assistants that have been requested to assist the inmate(s), will be authorized to review the tape records.

(c) Authorized audio and video cassette tape records will be stored in a locked storage area under the control of the facility library coordinator when not in use;

(d) Disposition: The tape record(s) will be disposed of as directed by the inmate's attorney upon completion of review and use of an authorized audio or video taped hearing record. If the inmate is not represented by an attorney, the tape record(s) will be either: (1) mailed out of the facility at the inmate's expense, or (2) destroyed, as directed in writing by the inmate on the Department form "Audio/Video Cassette Request" (CD 1227D).

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 15-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 23-1991, f. & cert. ef. 9-20-91; DOC 4-1998, f. & cert. ef. 3-13-98

DIVISION 141

LIBRARY SERVICES (INMATE)

291-141-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to establish uniform guidelines for the operation of libraries and the provision for library services in each Department of Corrections facility.

(3) Policy: It is the Department of Corrections policy to maintain institution libraries for the educational reinforcement, broadening and strengthening of the rehabilitative program of each inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 34-1978, f. & ef. 11-3-78; CD 22-1981(Temp), f. & ef. 6-30-81; CD 41-1981, f. & ef. 10-30-81; CD 60-1985, f. & ef. 8-16-85; CD 49-1986, f. & ef. 11-20-86; CD 2-1995, f. & cert. ef. 1-18-95

291-141-0010

Definitions

(1) "Department of Corrections Facility." Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(2) "Inmate." Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Chapter 291 Department of Corrections

Hist.: CD 34-1978, f. & ef. 11-3-78; CD 22-1981(Temp), f. & ef. 6-30-81; CD 41-1981, f. & ef. 10-30-81; CD 60-1985, f. & ef. 8-16-85; CD 49-1986, f. & ef. 11-20-86; CD 2-1995, f. & cert. ef. 1-18-95

291-141-0015

Services

(1) Each Department of Corrections facility with a library coordinator will provide inmate library services. Those facilities without a library coordinator will provide a level and variety of leisure reading material approved by the Assistant Director of Institutions.

(2) Information regarding library services will be a part of the inmate's orientation to the Department of Corrections facility.

(3) Library staff will coordinate and supervise library services, including, assisting inmates to obtain information and reference services either from that library's own collection or from the Oregon State Library according to procedures established by the Oregon State Library for that purpose.

(4) The library coordinator will maintain a comprehensive variety of reading materials to reflect the varying interests, reading abilities, languages, and needs of inmates and will update the materials through planned acquisition.

(5) The library coordinator will accept or decline donations of material using the same criteria as described in section (4) of this rule.

(6) The library will acquire educational reading materials that supplement and support the facility's education and treatment programs, working in conjunction with designated staff from those areas.

(7) Staff assigned to the library will select, train and supervise inmates as library clerks.

(8) Materials acquired from inter-library loan shall be subject to the procedures governing facility library books and materials unless the lending library have specific requirements.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 34-1978, f. & ef. 11-3-78; CD 60-1985, f. & ef. 8-16-85; CD 49-1986, f. & ef. 11-20-86; CD 2-1995, f. & cert. ef. 1-18-95

291-141-0020

Schedule

(1) A schedule of the library's hours will be posted in areas convenient for inmate observation and notification.

(2) This schedule will afford inmates the opportunity to use the library in accordance with available space and supervision.

(3) Inmates in special housing status will be provided library services in accordance with the Department of Corrections rules on Segregation (Disciplinary) and Intensive Management Unit.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 34-1978, f. & ef. 11-3-78; CD 60-1985, f. & ef. 8-16-85; CD 49-1986, f. & ef. 11-20-86; CD 2-1995, f. & cert. ef. 1-18-95

291-141-0035

Returned, Overdue, Lost, and Damaged Library Materials

(1) Inmates who lose, damage or fail to return library materials may receive a misconduct report, be charged for the costs of the materials, and may sustain modified library privileges.

(2) Damage to or defects in library materials will be noted (on the library material) before it is re-issued.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 34-1978, f. & ef. 11-3-78; CD 60-1985, f. & ef. 8-16-85; CD 49-1986, f. & ef. 11-20-86; CD 2-1995, f. & cert. ef. 1-18-95

291-141-0040

Legal Library Services

Legal library services to inmates residing in Department of Corrections facilities will be provided in accordance with the Department of Corrections Rule on Legal Affairs (Inmate).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 34-1978, f. & ef. 11-3-78; CD 60-1985, f. & ef. 8-16-85; CD 49-1986, f. & ef. 11-20-86; CD 2-1995, f. & cert. ef. 1-18-95

291-141-0045

General

(1) The section of Prohibited Mail OAR 291-131-0035 in the Department of Corrections rule on Mail (Inmate) will be the criteria used to determine the suitability of any library materials entering the facility.

(2) The following information will be included in the library services handout at the inmate's orientation to the Department of Corrections facility:

(a) Days and times when the library is open for general use;

(b) The process involved in checking out, renewing, and returning books and materials;

(c) The maximum amount of materials that may be checked out from the library at any given time; and

(d) The length of time material may be kept before it is considered overdue.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 34-1978, f. & ef. 11-3-78; CD 60-1985, f. & ef. 8-16-85; CD 49-1986, f. & ef. 11-20-86; CD 2-1995, f. & cert. ef. 1-18-95

DIVISION 143

RELIGIOUS ACTIVITIES (INMATE)

291-143-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: To establish Department policy and procedures regarding inmate religious exercise and activities, and religious programming in Department of Corrections facilities.

(3) Policy: Within the inherent limitations of resources and the need for facility security, safety, health and order, the Department intends to:

(a) Offer inmates incarcerated in Department of Corrections facilities the opportunity to practice their religion;

(b) Provide for the orderly management of inmate religious activities through supervision by chaplains and other Department staff, and the assistance of approved religious volunteers;

(c) Seek methods to encourage and foster understanding and respect for the diversity of religious beliefs and practices of Department of Corrections inmates and staff; and

(d) Ensure that Departmental practices with regard to religious programming are consistent with relevant provisions of the state and federal constitutions, statutes and regulations.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 28-1978, f. 9-13-78, ef. 9-15-78; CD 19-1981(Temp), f. & ef. 6-30-81; CD 47-1981, f. & ef. 10-30-81; CD 20-1985, f. & ef. 8-2-85; CD 2-1987, f. & ef. 1-5-87; CD 19-1992, f. 8-12-92, cert. ef. 8-20-92; CD 17-1995, f. 8-30-95, cert. ef. 9-11-95

291-143-0010

Definitions

(1) Administrator of Religious Services: The chaplain assigned responsibility for administering religious programming and services for the Department of Corrections.

(2) Chaplain: A person employed full time or contracted by the Department of Corrections to provide religious programming and services to inmates in Department of Corrections facilities.

(3) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, Deputy Director, an Assistant Director or administrator and has responsibility for delivery of program services or coordination of program operations.

(5) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(6) Religious Activity: Any rite, ceremony, event or program that is customarily associated with the practices of a religion, including but not limited to, corporate gatherings of adherents of a religion for purposes of worship, prayer, meditation, teaching or sharing.

(7) Religious Representative: A member of the clergy, medicine person, Imam, Rabbi, spiritual advisor, or other person qualified to provide authoritative information to the Department of Corrections regarding their religion. For purposes of this rule, a religious representative shall not be an inmate or on probation, parole or post-prison supervision, or otherwise disqualified from acting as a volunteer in a Department of Corrections facility under Department rules and policies.

(8) Religious Volunteer: A member of the clergy, medicine person, Imam, Rabbi, spiritual advisor, or other religious authority qualified to direct, lead or conduct others in the rites, ceremonies or other practices of a religion who has been approved by the Department of Corrections to assist inmates in requested religious activities in Department of Corrections facilities. Before acting as a religious volunteer to inmates in a Department of Corrections facility, the volunteer shall have received:

(a) Appropriate training in accordance with the Department's rule on Volunteers/Student Interns (OAR 291-015); and

(b) A Department of Corrections identification card in accordance with the Department's policy on Identification Cards, #20.5.15.

(9) Special Housing: Housing for an inmate whose assignment is administrative segregation, disciplinary segregation, Special Management Unit, Intensive Management Unit, infirmary or Death Row.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 28-1978, f. 9-13-78, ef. 9-15-78; CD 19-1981(Temp), f. & ef. 6-30-81; CD 47-1981, f. & ef. 10-30-81; CD 20-1985, f. & ef. 8-2-85; CD 2-1987, f. & ef. 1-5-87; CD 19-1992, f. 8-12-92, cert. ef. 8-20-92; CD 17-1995, f. 8-30-95, cert. ef. 9-11-95; DOC 14-2006(Temp), f. & cert. ef. 12-18-06 thru 6-15-07; Administrative Correction, 6-16-07; DOC 6-2007, f. & cert. ef. 8-17-07

291-143-0070

Chaplains/Religious Volunteers

(1) A chaplain or designee in each Department of Corrections facility shall be responsible for coordination, facilitation and supervision of inmate religious activities.

(2) Chaplains/designees shall attend to the religious/spiritual requests of each inmate, regardless of the inmate's religious belief or affiliation.

(3) When a chaplain or designee is not qualified according to the tenets of a particular religion to conduct an approved religious activity requested by an inmate, the chaplain or designee will, with the assistance of the Administrator of Religious Services or others as needed, seek out and invite a qualified individual from the community to conduct the religious activity as a religious volunteer.

(4) Inmates incarcerated in Department of Corrections facilities shall not be permitted to direct, lead or conduct other inmates in religious activities. If neither the chaplain or designee, nor a qualified religious volunteer, are available to conduct an approved religious activity requested by an inmate, the inmate's request will be denied until such time as a qualified religious volunteer becomes available to do so.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 17-1995, f. 8-30-95, cert. ef. 9-11-95

291-143-0080

Religious Activities

(1) Inmates should have the opportunity for reasonable access to religious activities which include, but are not limited to, the following:

- (a) Regular religious services and ceremonies;
- (b) Special ceremonies, holiday services, and/or sacraments;
- (c) Individual and group pastoral counseling (in native language where possible);
- (d) Inmate religious/spiritual group meetings; and

(e) Religious moral instruction.

(2) Dietary accommodations will be made within the context of the Food Services cyclical menu to satisfy requirements of an inmate's religion.

(3) An inmate whose religious expression includes odor or smoking producing substances (e.g., tobacco, sage, sweet grass, and incense) may be authorized to burn small amounts of these substances as part of an approved religious activity and in a manner consistent with facility security, safety, health and order.

(4) Inmates Assigned to Special Housing: An inmate assigned to special housing may be authorized to participate in an approved religious activity and in a manner consistent with facility security, safety, health and order. An inmate assigned to special housing shall not be permitted to participate in group religious activities with other inmates.

(5) Visual Expression:

(a) An inmate may be authorized to visibly express his/her religious customs and beliefs in appropriate ways consistent with facility security, safety, health and order, including:

(A) Participating in individual and group religious activities;

(B) Observing religious requirements relating to head and/or facial hair consistent with the Department's rule on Hygiene and Grooming (Inmate); and

(C) Wearing or carrying a religious emblem, medal, medallion or other religious item (e.g., medicine pouch, religious medal, rosary, prayer feather).

(b) Inmates Assigned to Special Housing: An inmate assigned to special housing, except **Administrative Segregation and Death Row**, shall not be permitted to wear a religious emblem, medal, medallion or other religious item around his/her neck, but may possess such in his/her special housing cell.

(6) Each Department of Corrections facility will post a current schedule of religious activities available in the facility. The schedule will be posted in designated religious activities area(s) and other appropriate areas readily accessible to inmates.

(7) Inmate Requests to Participate in Religious Activity:

(a) Religious Activity Currently Available in the Facility: An inmate desiring to participate in a religious activity that is currently available in the facility where he/she is confined may obtain information on the scheduled activity, and how to participate in it, by submitting his/her request to the facility chaplain or designee using an Inmate Communication form (CD 214) ("kite").

(b) Religious Activity Not Current Available in the Facility: An inmate desiring to participate in a religious activity not currently available in the facility where he/she is confined may request to do so by submitting to the facility chaplain or designee a completed Inmate Communication form (CD 214) ("kite") with the following information:

(A) The name of the religion;

(B) The title of religious activity requested;

(C) A brief description of the religious activity including:

(i) The significance of the activity in the practice of the religion;

(ii) How often or under what circumstances the religious activity would be held if it were taking place within the community;

(iii) Minimum time and any physical requirements within which the religious activity may take place, including those of any defined segments of the activity;

(iv) Any materials which are required for the religious activity and their purpose or use, including a list of any items associated with the religious activity which the inmate would retain in his/her personal possession, if any; and

(v) The title (if any), function, and eligibility requirements for participants in the activity.

(c) Any additional information necessary to an understanding of the nature or function of the religious activity; and

(d) The name, address and phone number of a recognized religious representative of the religion who can authoritatively verify the above information.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Chapter 291 Department of Corrections

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 17-1995, f. 8-30-95, cert. ef. 9-11-95; CD 3-1997(Temp), f. & cert. ef. 2-12-97; CD 15-1997, f. & cert. ef. 9-4-97

291-143-0090

Religious Activity Areas

(1) Religious Activity Areas: The functional unit manager of each facility shall designate an area or areas appropriate the conduct of approved religious activities.

(2) Access to Religious Activity Areas: The use of religious activities areas within the facility will be scheduled by the chaplain or designee. In scheduling designated religious activities areas, the chaplain or designee will seek to accommodate individual religious beliefs, including those that call for particular times, and calendar or lunar dates.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 17-1995, f. 8-30-95, cert. ef. 9-11-95

291-143-0100

Provisions of Religious Items for Conduct of Religious Activities

Items required for the conduct of a religious activity may be purchased and supplied by the Department of Corrections, or donated by a religious representative, religious volunteer or other approved source at the discretion of the Department. Items must be approved by the chaplain and are subject to search. Items not approved shall be considered contraband and subject to confiscation.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 17-1995, f. 8-30-95, cert. ef. 9-11-95

291-143-0110

Inmate Religious Items

(1) Approved religious emblems, medallions, symbols or other items authorized for inmates to possess in a Department of Corrections facility shall be purchased from the facility canteen. Specific approved religious items not available for purchase from the canteen (e.g., medicine bag, eagle feather) may be provided by a religious representative or religious volunteer with approval of the facility chaplain or designee.

(2) Inmates may obtain religious reading and study materials (including correspondence courses through the mail in accordance with the Department's rule on Mail (Inmate)).

(3) As space allows, reasonable, accessible, secure and separate storage space for group religious objects/symbols will be maintained or provided upon request.

Stat. Auth.: ORS 179.040, 423.023, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 17-1995, f. 8-30-95, cert. ef. 9-11-95

291-143-0120

Searches of Religious Activity Areas/Religious Items

All designated religious activity areas and religious items shall be subject to search conducted in accordance with the Department's rule on Searches (Institutions), and in a manner that reflects an awareness of and sensitivity to individual religious beliefs, practices, and respect for the objects/symbols used in the religious practice.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 17-1995, f. 8-30-95, cert. ef. 9-11-95

291-143-0130

Restriction of Religious Activity/Items

(1) An inmate's participation in approved religious activities and possession of approved religious items may be restricted by the Department of Corrections when deemed necessary to maintain facility security, safety, health and order, or to further inmate rehabilitation or other penological interest, consistent with applicable legal standards.

(2) If, in the opinion of the Department, denying or otherwise limiting an inmate's participation in approved religious activities or possession of approved religious items would substantially

burden the inmate's religious exercise, the Department must use the least restrictive means necessary in the functional unit manager's or designee's judgment to protect facility concerns.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 17-1995, f. 8-30-95, cert. ef. 9-11-95; DOC 14-2006(Temp), f. & cert. ef. 12-18-06 thru 6-15-07; Administrative Correction, 6-16-07; DOC 6-2007, f. & cert. ef. 8-17-07

291-143-0140

Religious Exercise Dispute Resolution

(1) Issues of a religious nature (e.g., the significance of a requested religious item or activity to the practice of a particular religion, etc.) will be resolved by the facility chaplain or designee, in consultation with the Administrator of Religious Services, to ensure consistency of interpretation and application of Department policy and procedures regarding inmate religious exercise and religious programming, consistent with applicable legal standards.

(2) The Administrator of Religious Services will consult with appropriate religious representatives or other authorities as needed to clarify issues of religious doctrine and practice.

(3) The functional unit manager or designee shall determine whether the requested religious activity or item in question is consistent with the maintenance of facility security, safety, health or order, inmate rehabilitation or other penological interests, including budgetary or other administrative concerns.

(4) Whenever there is a conflict between a legitimate religious exercise request and a facility interest relating to security, safety, health or order, inmate rehabilitation or other penological interests, including budgetary and other administrative concerns, the matter will be resolved by the functional unit manager in consultation with the Assistant Director for Operations and Administrator of Religious Services, consistent with legal standards.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 17-1995, f. 8-30-95, cert. ef. 9-11-95; DOC 14-2006(Temp), f. & cert. ef. 12-18-06 thru 6-15-07; Administrative Correction, 6-16-07; DOC 6-2007, f. & cert. ef. 8-17-07

DIVISION 145

GROUP ACTIVITIES (INMATE)

291-145-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: To define guidelines for the delivery and access to inmate group activities programs within Department of Corrections facilities.

(3) Policy: It is the policy of the Department of Corrections to involve as many inmates, staff, volunteers, outside agencies, and community resources as practical in the correctional process as it relates to group activities. In order to accomplish this, it is necessary that definite guidelines be established to govern and evaluate the merit of all inmate group activities. No person shall be denied the opportunity to participate in group activities on the basis of race, color, religion, national origin or handicap.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 23-1978, f. 9-13-78, ef. 9-15-78; CD 61-1985, f. & ef. 8-16-85; CD 10-1988, f. & cert. ef. 5-26-88; CD 23-1992, f. 11-16-92, cert. ef. 12-1-92

291-145-0010

Definitions

(1) "Club": An approved inmate group that represents a significant segment of an inmate population with a common social or cultural interest.

(2) "Functional Unit Manager": Any person within the Department of Corrections who reports to either the Director, an assistant director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(3) “Religious Group”: An approved inmate group with a common purpose to pursue their preferred religious practice.

(4) “Special Interest Group”: An approved inmate group with a specific educational interest and a common goal.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 23-1978, f. 9-13-78, ef. 9-15-78; CD 61-1985, f. & ef. 8-16-85; CD 10-1988, f. & cert. ef. 5-26-88; CD 23-1992, f. 11-16-92, cert. ef. 12-1-92

291-145-0015

Recognition and Control

(1) All inmate group activities will be under the administrative control and responsibility of the Department of Corrections staff. The functional unit manager or designee must approve *all* groups and activities of groups.

(2) Before any group activity is approved, the sponsoring group or person must submit a brief written statement to the functional unit manager or designee describing the particulars of the proposed activity. All proposed group activities must outline the intended goals and objectives, the planned number of inmates involved, frequency and time of meetings, equipment (whether provided or needed), estimated space and furnishings, funding requirements, qualifications for membership, anticipated special events, and publications related to the proposed activity. If the group is requesting to be a club, a proposed constitution must be submitted.

(3) Any groups designated as a club must meet the following criteria:

(a) Furthers the facility’s interest in safety and security;

(b) If interaction with the public is approved, it must be in accordance with the purpose of the club;

(c) All constitutions of clubs must be annually approved by the functional unit manager or designee, and follow a format that includes:

(A) Name;

(B) Community affiliation (if any);

(C) Purpose;

(D) Membership qualifications: Inmates will not be denied permission to participate on the basis of race, color, religion, national origin, age or handicap;

(E) Government structure;

(F) Officer’s duties;

(G) Elections: All inmates elected to club offices must have the approval of the functional unit manager or designee. All elections will be held by secret ballot. An assigned staff will be present during all elections and supervise the counting of all ballots;

(H) Committee;

(I) Rules and regulations; and

(J) Proposed constitutional amendments: The functional unit manager will have final approval on all requested constitutional amendments.

(4) Any group designated as a special interest group must not exceed available facilities and staff constraints.

(5) Any group designated as a religious group will be consistent with the Department of Corrections rules on Religious Activities.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 23-1978, f. 9-13-78, ef. 9-15-78; CD 61-1985, f. & ef. 8-16-85; CD 10-1988, f. & cert. ef. 5-26-88; CD 23-1992, f. 11-16-92, cert. ef. 12-1-92

291-145-0020

Membership, Meetings, and Activities

(1) A waiting list may be maintained for the groups with limited membership. The functional unit manager or designee may deny, revoke, or suspend individual or group activities for inmate conduct that is disruptive to group activities or institutional operations. Group activities must follow an agenda approved by designated staff. Inmate group activities will conform to planned agenda and/or activities. Inmate social visiting will not be permitted.

(2) Inmates nominated to club offices must have approval of the functional unit manager or designee. An inmate will not be a

group officer of more than one group, and will not be permitted to be a member of more than three groups at a time.

(3) Group officer elections will be conducted by secret ballot. The assigned designated staff will be present during all elections and will supervise the counting of all ballots.

(4) An inmate is considered a “member in good standing” of a group if the inmate has been a member of the group for at least two months and has attended at least 50 percent of the available meetings since becoming a member.

(5) The functional unit manager or designee may approve a group trust account to receive contributions and make expenditures. Operations of the trust account must be in accordance with the Department of Corrections rule on Trust Account (Inmate). If the group is terminated or is inactive for more than one calendar year, unobligated funds will be transferred to the Inmate Welfare Fund.

(6) The functional unit manager or designee must approve all group donations. Group donations will become property of the Department of Corrections and will be properly recorded and tagged in accordance with the Department of Corrections rule on Inventory and Property Control.

(7) Inmate groups may be permitted by the functional unit manager to use a monitored telephone for approved group business. These calls will be monitored and recorded by assigned staff. All phone costs incurred by groups will be paid by the specific group on a monthly basis. Calling card systems may be established to regulate billing and monitoring systems. Inmates placing calls for a group must be approved by the functional unit manager or designee.

(8) A schedule for group meetings will be adopted by designated staff and made available to the inmate population.

(9) Attendance records will be maintained for all group meetings by designated staff. Failure to attend general meetings may result in loss of membership.

(10) All group activities must be specifically approved annually by the functional unit manager or designee.

(11) All incoming and outgoing materials must have the approval of the functional unit manager or designee. All materials entering the facility become the property of the Department of Corrections which does not assume any responsibility for materials damaged, lost or destroyed.

(12) Annual awards banquets may be allowed to groups:

(a) Award banquets provide the inmate group members the opportunity to acquaint their approved visitors with the aims and goals of the group. Group functions are to provide opportunities to experience new social relationships through group participation;

(b) An inmate who participates in an awards banquet must be a member in good standing. Each member may invite one personal guest from his/her visiting list upon approval of the functional unit manager or designee;

(c) All food items for banquets must be obtained through the functional unit’s Food Services Section.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 23-1978, f. 9-13-78, ef. 9-15-78; CD 61-1985, f. & ef. 8-16-85; CD 10-1988, f. & cert. ef. 5-26-88; CD 23-1992, f. 11-16-92, cert. ef. 12-1-92

291-145-0025

Volunteers, Guests, and Sponsors

(1) Persons working with groups may be given volunteer status in accordance with the Department of Corrections rules on “Volunteer Services.”

(2) All guests at institution group functions must be approved in advance by the functional unit manager or designee for each meeting and supervised at all times.

(3) A speaker, guest, or volunteer escort for all institution group functions may not be a relative of or on an inmate’s visiting list, unless specifically exempted by the functional unit manager or designee, or according to the provisions in the Department of Corrections rules on “Visiting (Inmate).” Ex-felons or persons currently under Department of Corrections supervision are not permitted on facility premises without prior *written authorization* from the functional unit manager or designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 23-1978, f. 9-13-78, ef. 9-15-78; CD 61-1985, f. & ef. 8-16-85; CD 10-1988, f. & cert. ef. 5-26-88; CD 23-1992, f. 11-16-92, cert. ef. 12-1-92

DIVISION 149

WORK RELEASE PROGRAMS

291-149-0100

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 144.260, 144.410-144.525, 179.040, 421.440, 423.020, 423.030, 423.075, OR Const., Article I, Section 42, and 1997 OR Laws, Chapters 313, 851 & 852.

(2) Purpose: To establish Department of Corrections policy and procedures relating to the establishment, operation and administration of Department of Corrections work release programs.

(3) Policy:

(a) It is the policy of the Department of Corrections to establish and administer work release programs in which inmates are released from confinement in a Department of Corrections facility or are authorized to leave other assigned quarters for the purpose of:

(A) Participating in an inmate work program approved by the Director of the Department of Corrections, including work with public or private agencies or persons, with or without compensation;

(B) Obtaining in this state additional education, including but not limited to vocational, technical and general education;

(C) Participating in alcohol or drug treatment programs;

(D) Participating in mental health programs;

(E) Participating in specific treatment programs designed to develop independent living skills.

(b) No inmate will be assigned to participate in work release activities outside the state of Oregon.

Stat. Auth.: ORS 144.260, 144.410-144.525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0110

Definitions

(1) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(2) Program Staff: Any Department of Corrections employee, contractor (and contractor's employees/staff), or volunteer who works with inmates in a Department approved program which includes work release.

(3) Work Release: A component of a Department of Corrections treatment or workforce development program in which inmates are released from confinement in a Department of Corrections facility or are authorized to leave other assigned quarters to work, attend school or participate in other educational offerings, and/or participate in specific treatment programs, in a community setting. A work release program may include inmates assigned to work under the supervision of public or private agencies or persons pursuant to written agreement with the Department of Corrections.

(4) Work Release Approval Authority: The superintendent or other functional unit manager in each Department of Corrections facility designated by the Director to approve and assign inmates to work release programs administered from the facility.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0120

Work Release Program Approval

(1) The Assistant Director for Corrections Programs will recommend for approval to the Director those Department programs which shall be designated to include work release as a program component.

(2) In making his/her recommendation, the Assistant Director for Corrections Programs will review work release proposals submitted by program administrators. Each proposal shall contain:

(a) The purpose and goals of the program which are consistent with inmate participation in transitional work release assignments;

(b) The specific activities permitted under this rule which will be part of that program's work release component;

(c) An outline of the general program requirements and time frames prerequisite to an inmate being considered for specific work release activities;

(d) A plan for program staff deployment adequate to supervise specific work release program activities;

(e) A description of training for program staff, appropriate to manage inmates assigned to work release;

(f) A description of facility resources adequate to maintain a work release program consistent with the facility's mission.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0130

Inmate Eligibility, Screening and Assignment

(1) Any eligible inmate may be considered by program staff and the work release approval authority for assignment to a Department of Corrections' work release program.

(2) Program staff, in their discretion, may initiate the review of an inmate's eligibility and suitability for assignment to a Department of Corrections work release program, utilizing the criteria set forth in these rules. Based on their review, program staff will forward inmate assignment recommendations to the work release approval authority for decision.

(3) The work release approval authority, in his/her sole discretion, may assign an inmate to a work release program. The work release approval authority may specify conditions for the inmate's assignment and participation in the work release program.

(4) Eligibility Criteria:

(a) To be considered for assignment and participation in a Department of Corrections work release program, an inmate must:

(A) Be enrolled and successfully participating in an approved Department of Corrections treatment or workforce development program for a minimum of 20 hours per week; and

(B) Be classified as minimum custody under the Department's rule on Classification (Inmate), OAR 291-104.

(b) An inmate will not be considered for assignment and participation in a Department of Corrections work release program if the inmate:

(A) Is ineligible to participate in a Department of Corrections work release program under one or more provisions of law, including, but not limited to, the following:

(i) ORS 137.635 (Ballot Measure 4);

(ii) ORS 137.700 or 137.707 (Ballot Measure 11), or after April 1, 1995, commits and is convicted of Manslaughter II (163.125), Assault I (163.185), Assault II (163.175), Kidnapping II (163.225), or Robbery II (164.405);

(iii) On or after October 4, 1997, commits and is convicted of Using a Child in a Display of Sexually Explicit Conduct (ORS 163.670) or Compelling Prostitution (167.017);

(iv) On or after April 1, 1995, commits and is convicted of Assault II as defined in ORS 163.175(1)(b) (Intentionally or knowingly causes physical injury to another by means of a deadly or dangerous weapon), Kidnapping II (163.225), or Robbery II (164.405), unless the sentencing court, notwithstanding 137.700

and 137.707, has imposed a lesser sentence pursuant to 1997 OR Laws, Chapter 852;

(v) ORS 161.610 (Gun Minimum) (until minimum term, less any reduction in the incarceration term granted under ORS 421.120 or 421.121 has been served);

(vi) ORS 163.105 (Aggravated Murder); or

(vii) ORS 163.115 (Murder) (until minimum term, less any reduction in the incarceration term granted under 421.120 or 421.121 has been served).

(viii) No inmate who is convicted of a crime committed on or after December 5, 1996, may be considered for participation in a Department of Corrections work release program except upon order of the sentencing court appearing in the judgment (OR Const, Article I, Section 42 (Ballot Measure 40), and 1997 OR Laws, Chapter 313).

(B) Has pending felony charges, or unserved consecutive sentences requiring more than 60 days additional incarceration.

(C) Has a history of escape from a correctional facility in which force or violence was used, or a history of escape without the use of force or violence within the past three years. "Escape" includes an unauthorized absence or walking away from a work crew or work release assignment.

(D) Has a current Immigration and Naturalization Service (INS) detainee;

(E) Has any other legal impediment(s) that in the judgment of the Work release approval authority would prohibit or otherwise interfere with the inmate's successful participation in a Department of Corrections work release program or specific work release activities.

(c) An inmate who receives more than a six-day segregation sanction as a result of misconduct will not be eligible for work release assignment until 90 days after the date of the misconduct;

(d) Additional Screening Criteria: In addition to the eligibility criteria set forth in OAR 291-149-0130(4)(a) through (c) above, designated program staff and the Work release approval authority may consider additional screening criteria in determining whether to recommend and/or approve an inmate for assignment to a Department of Corrections work release program, specifically including, but not limited to, the following:

(A) Whether the inmate's physical and mental condition are suitable to obtain and maintain work in the community, participate in education programs, and/or participate in treatment programs, as authorized by the Department;

(B) Whether the inmate has achieved satisfactory compliance with goals and guidelines established by the treatment or workforce development program in which the inmate is considered for work release assignment;

(C) The recommendation of the sentencing court, where applicable, pursuant to ORS 421.170;

(D) Whether the inmate's criminal history includes crimes which resulted in serious injury or death to victims, or involved acts of force or random violence, the circumstances of which may indicate that the inmate may not be suitable for assignment to specific work release activities;

(E) Whether the inmate's criminal history includes crimes which may be cause for significant community concern, the circumstances of which may indicate that the inmate may not be suitable for assignment to specific work release activities;

(F) Whether the inmate performed satisfactorily while assigned to institution work programs and/or outside work crews;

(G) Whether the inmate's disciplinary history includes any pattern of conduct, the circumstances of which may indicate that the inmate may not be suitable for assignment to specific work release activities;

(H) For inmates classified minimum custody due to an override pursuant to the Department's rule on Classification (Inmate), OAR 291-104, whether any concern exists which may indicate that the inmate may not be suitable for assignment to specific work release activities.

(5) Notwithstanding OAR 291-149-0130(4)(a) through (c) above, the work release approval authority may waive any

eligibility criteria specified therein unless the inmate is ineligible to participate in a Department of Corrections work release program under one or more provisions of law.

(6) Inmates approved for assignment and participation in a Department-approved work release program will be notified in writing of the approval, and of any conditions of participation specified by the work release approval authority.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0140

Release Notification

Pursuant to ORS 144.260, the work release approval authority shall ensure that the proper authorities and persons are notified of an inmate's impending release to participate in work release activities.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0150

Inmate Status

(1) Inmates participating in a Department-approved work release program shall comply with all Department of Corrections administrative rules, and with any special conditions of participation or standards of conduct established by the work release approval authority, program staff and/or housing facility.

(2) Inmates participating in a Department of Corrections work release program retain their legal status as an inmate and are subject to all laws and Department of Corrections administrative rules pertaining to inmates, including, but not limited to, the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions, OAR 291-105.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0160

Performance Awards

Inmates participating in a Department of Corrections work release program, except those inmates who are provided compensation by the Department for their participation in an inmate work program, may be considered at the discretion of the Department for a monthly performance award in accordance with the Department of Corrections rule on Performance Recognition and Award System (Inmate), OAR 291-077.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0170

Compensation for Inmates Engaged in Federally-Certified PS/PIE Work Programs

Inmates participating in a Private Sector/Prison Industries Enhancement Program (PS/PIE) work project as part of a Department-approved work release program shall be paid compensation as determined and established by the Director in accordance with the Department of Corrections rule on Private Sector/Prison Industries Enhancement Program, OAR 291-081.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0180

Program Participation

(1) An inmate participating in a Department of Corrections work release program may be released from confinement in a Department of Corrections facility or authorized to leave other assigned quarters to:

- (a) Search for authorized work in the community;
- (b) Participate in authorized work in the community;
- (c) Participate in a Department-approved educational or vocational program; and
- (d) Participate in a Department-approved treatment program, including programs for alcohol or drug treatment, mental health treatment, and for treatment to develop independent living skills.

(2) Escort/Transport:

(a) The work release authority may require that inmates participating in a Department of Corrections work release program be escorted to and from specific activities by program staff. The mode of transportation must be approved in advance by the work release approval authority;

(b) Program staff may escort an inmate into the community for the following purposes:

(A) Attend Alcoholics Anonymous, Narcotics Anonymous, Cocaine Anonymous or other self-help group meetings;

(B) Appointments with community-based alcohol or drug treatment providers;

(C) Meet with community corrections staff prior to release, when appropriate;

(D) Interviews or meetings to secure transitional housing;

(E) Participate in mental health programs;

(F) Participate in independent living skills programs;

(G) Participate in vocational or job readiness programs;

(H) Trips to obtain clothing, tools, credentials or other items required for authorized work or other approved work release program activities;

(I) Trips to submit job applications, or interview for jobs;

(J) Trips to the state employment office, union hiring halls, or other recognized employment assistance programs; and

(K) Trips to undergo a required physical exam or other job-related testing.

(c) Except as otherwise directed by the work release approval authority or program staff, an inmate assigned to participate in a Department of Corrections work release program may be authorized to leave his/her place of confinement/assigned quarters without escort if:

(A) The inmate has secured authorized work in the community approved by the Department or has enrolled in an education or treatment program approved by the Department; and

(B) Program staff have verified all aspects of the work release assignment, including, where applicable, the Department/employer written agreement, schedule for departure to and return from work release assignment, and transportation.

(3) An inmate authorized to participate in a Department-approved work release program will be required to pay additional costs associated with that program, including clothes, tools, transportation or other costs necessary to secure and maintain placement in that work release assignment.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0190

Program Staff Responsibilities

(1) Program staff, in their discretion, may initiate review of an inmate's eligibility and suitability for assignment to a Department of Corrections work release program, utilizing the mandatory and additional screening criteria set forth in these rules. Based on their

review, program staff will forward assignment recommendations to the work release approval authority for decision.

(2) Program staff will assist inmates in locating authorized work in the community, education or treatment as appropriate to their situation/need.

(3) Assignment to specific work release activities will be subject to individual case management decisions made by program staff and must be approved in writing by the work release approval authority.

(4) Program staff will contact the public or private agency or person with whom the inmate has secured authorized work in the community, and complete the required Department/employer written agreement. Program staff will verify the work assignment, rate of pay, hours of work and ensure that they are in conformance with Department of Corrections administrative rules. Program staff will also ensure that the work is of a type that is suitable for the inmate and his/her success in the program.

(5) Program staff will verify each inmates' attendance and compliance with their work release program assignment on a daily basis.

(6) Program staff will develop and establish a schedule for each participating inmate that details the dates and times when the inmate is authorized to be absent from the Department of Corrections facility or other assigned quarters in order to participate in the inmate's approved work release assignment in the community. In establishing the schedule, program staff will allow sufficient time for the inmate's transportation to and from the place of his/her work release assignment in the community. However, no additional activities or stops will be authorized without the prior approval of the work release approval authority.

Stat. Auth.: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410-525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0200

Program Suspension/Termination

(1) The work release approval authority, program staff, or other Department of Corrections staff may, in their sole discretion, cause an inmate to be temporarily removed from his/her work release assignment and returned to secure custody, at any time.

(2) An inmate's work release assignment will be immediately suspended whenever the work release approval authority, program staff, or other Department of Corrections staff believe that:

(a) The inmate has violated any law, Department of Corrections administrative rule, or any specific condition of program participation prescribed by the Department applicable to the inmate;

(b) The inmate's continued participation in the work release program poses an imminent threat to staff, other inmates, or to the general public; or

(c) The inmate's continued participation in the work release program is otherwise not in the best interest of the inmate or of the community.

(3) Unauthorized Absences:

(a) An inmate participating in a Department of Corrections work release program who is determined to be absent without written permission from authorized work in the community, education or treatment, or a designated housing facility, will be immediately suspended from the work release program; and

(b) An unauthorized absence constitutes an escape from a correctional facility under ORS 162.135(5), and shall be reported as an escape in accordance with the Department's procedure on All Points Bulletins (APBs) and Arrest Warrants (Issuance of).

(4) Termination: Upon suspension of an inmate from a Department of Corrections work release program, the manager of the work release program will review the circumstances surrounding the inmate's suspension. After reviewing the matter, the program manager may either terminate or reinstate the inmate to a work release program assignment, as the program manager deems appropriate under the circumstances. Affected inmates will be notified in

writing of the program manager's decision. If the decision is made to terminate the inmate from the work release program, the notice of termination will contain a statement of the reason(s) for the program manager's decision.

(5) Administrative Review:

(a) An inmate who is terminated from a Department of Corrections work release program may obtain review of his/her termination by writing to the work release approval authority and requesting administrative review of the program manager's decision. The request for administrative review should contain a statement by the inmate specifying the reason(s) supporting the inmate's request for reinstatement to the Department's work release program, together with any supporting documentation;

(b) In order to obtain review, the request for administrative review must be received by the work release approval authority no later than five calendar days following the date of issuance of the written notice of the program manager's decision. Upon receiving a timely request for administrative review, the work release approval authority will independently review the circumstances leading to the program manager's decision. The work release approval authority may either affirm the program manager's decision, or reinstate the inmate to the work release program. The work release approval authority's decision on administrative review shall be final.

Stat. Auth.: ORS 144.260, 144.410 - 144.525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410 - 144.525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0210

Security Precautions for Work Release Program Staff

Program staff acting as escorts for inmates going to or returning from work release activities in the community will:

(1) Have received Department of Corrections training on basic security practices;

(2) Be familiar with the Department of Corrections procedure on Escorting of Inmates; and

(3) Carry an institution cell phone or radio.

Stat. Auth.: ORS 144.260, 144.410 - 144.525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410 - 144.525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

291-149-0220

Written Agreements with Public and Private Agencies/Persons

No inmate will be assigned to work in the community without a written agreement between the Department of Corrections and the public or private agency or person with whom the inmate has secured authorized work. The agreement will set forth the nature and scope of the work to be performed by the inmate, and any terms or conditions of the inmate's assignment and participation required by the Department. Any agreement will specifically set forth the payment which the Department will receive for the inmate's labor and/or services, and for the costs of staff supervision (as applicable). Any agreement will also contain a provision requiring the public or private agency or person with whom the inmate has secured authorized work to furnish to the Department a regular accounting of the inmate's work performance, behavior, and location.

Stat. Auth.: ORS 144.260, 144.410 - 144.525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Stats. Implemented: ORS 144.260, 144.410 - 144.525, 179.040, 421.440, 423.020, 423.030, 423.075 & 1997 OL, Ch. 313, 851 & 852

Hist.: DOC 2-1998(Temp), f. & cert. ef. 2-10-98 thru 8-9-98; DOC 18-1998, f. & cert. ef. 8-6-98

DIVISION 153

ACCESS TO BOARD OF PAROLE AND POST-PRISON SUPERVISION HEARINGS

291-153-0005

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 144.123, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose:

(a) The purpose of these rules is to establish policies and procedures governing access to Board of Parole and Post-Prison Supervision hearings held within Department of Corrections facilities.

(b) A person's physical access to a Department of Corrections facility is subject to the Department of Corrections rules on Facility Access (OAR 291-016), Visiting (Inmate) (OAR 291-127), and may be prohibited or restricted by the functional unit manager or designee of the facility in which the hearing is being conducted when deemed necessary or advisable to maintain the health, safety and security of staff, inmates, or the public, or to maintain the safe, secure, and orderly operation and management of the facility.

Stat. Auth.: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 9-1990, f. & cert. ef. 5-29-90; CD 12-1993, f. 4-21-93, cert. ef. 5-1-93; DOC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-10-04; DOC 14-2004, f. & cert. ef. 11-2-04; DOC 8-2013, f. & cert. ef. 8-29-13

291-153-0020

Inmate Accompaniment to Board of Parole and Post-Prison Supervision Hearing

(1) Inmates are permitted to have a person accompany them in hearings before the Board of Parole and Post-Prison Supervision in accordance with ORS 144.123. This rule establishes jointly with the Board of Parole and Post-Prison Supervision policies and procedures governing who may accompany an inmate before the Board.

(2) When appearing before the Board of Parole and Post-Prison Supervision in a hearing, an inmate may be accompanied at the Department of Corrections facility in which the inmate is confined, subject to the prior approval of the facility functional unit manager or designee, by:

(a) A person who has been approved for privileged visiting in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127);

(b) An assigned inmate legal assistant, selected in accordance with the Department of Corrections rule on Legal Affairs (Inmate) (OAR 291-139) from the Department of Corrections facility where the inmate is confined; or

(c) The inmate's attorney.

(3)(a) In addition to those persons specified in subsection (2) of this rule, the inmate may be accompanied at the hearing via telephone or videoconference by such other person or persons, other than another inmate, as the Board of Parole and Post-Prison Supervision, in its discretion, may approve by prior arrangement.

(b) The inmate may select one person to speak on his/her behalf. The statement shall not exceed 15 minutes. The presiding Board member may grant the support person additional time upon finding that further testimony is likely to be relevant to the Board's decision. The presiding Board member may exclude or limit irrelevant, immaterial or unduly repetitious testimony and evidence.

(4) The Department of Corrections, if requested by the inmate or the Board, will assign an approved inmate legal assistant from the Department of Corrections facility where the inmate is confined to accompany an inmate at a Board hearing. The selection of the inmate legal assistant shall be governed by the policies and rules of the Department of Corrections.

Stat. Auth.: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-10-04; DOC 14-2004, f. & cert. ef. 11-2-04; DOC 8-2013, f. & cert. ef. 8-29-13

291-153-0025

Attendance at a Board of Parole and Post-Prison Supervision Hearing

(1) A person who may attend a Board of Parole and Post-Prison Supervision hearing in person at a Department of Corrections facility is subject to the approval of the functional unit manager or designee of the facility in which the hearing is being conducted.

(2) A person who attends a Board of Parole and Post-Prison Supervision hearing in a Department of Corrections facility is subject to the rules of conduct and the terms and conditions set forth in the department's rules on Facility Access (OAR 291-016) and Visiting (Inmate)(OAR 291-127).

(3) Who May Attend/Appear at a Board Hearing:

(a) The inmate and inmate accompaniment as specified in OAR 291-153-0020;

(b) Victim or his/her representative;

(c) District attorney from the committing jurisdiction or his/her representative;

(d) Public: Members of the public may attend, but not participate in, Board of Parole and Post-Prison Supervision hearings;

(e) Media Representatives: Approved media representatives may attend, but not participate in, Board of Parole and Post-Prison Supervision hearings;

(f) Department of Corrections Employees, Volunteers, and Contractors: Department of Corrections employees, volunteers, and contractors may attend, but not participate in, Board of Parole and Post-Prison Supervision hearings except as requested or approved by the Board in order to provide testimony in the hearing; and

(g) Other persons as identified by the Board.

Stat. Auth.: ORS 144.123, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.123, 179.040, 423.020, 423.030, & 423.075

Hist.: DOC 8-2013, f. & cert. ef. 8-29-13

DIVISION 156

WELFARE FUND (INMATE)

291-156-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 179.510 through 179.530, 421.068, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of this rule is to establish general Department of Corrections policy and procedures governing deposits to and expenditures from the Inmate Welfare Fund account established pursuant to ORS 421.068.

(3) Policy: It is the policy of the Department of Corrections, pursuant to ORS 421.068, to establish an account with the State Treasurer dedicated to provide monies to benefit the general inmate population and enhance inmate activities and programs, including education programs. This dedicated account shall be known as the Inmate Welfare Fund. Subject to legislative and executive department authorization through the normal budgeting and appropriation process, funds from the Inmate Welfare Fund account will be allocated to Department of Corrections facilities for a variety of programs, services and activities benefiting the general inmate population and enhancing inmate activities and programs, including capital construction and improvement projects in support of such programs, services and activities.

Stat. Auth.: ORS 179.040, 179.510-530, 421.068, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.510-179.530, 421.068, 423.020, 423.030 & 423.075

Hist.: CD 19-1990, f. & cert. ef. 9-28-90; CD 4-1994, f. 2-17-94, cert. ef. 3-1-94

291-156-0010

Definitions

(1) "Department of Corrections Facility": Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) "Donated Funds": Monies received by the Department for the express purpose of benefiting the general inmate population and enhancing inmate activities and programs, including education programs.

(3) "Inmate": Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(4) "Inmate Welfare Fund": An account established with the State Treasurer pursuant to ORS 421.068, dedicated to provide monies to benefit the general inmate population and enhance inmate activities and programs, including education programs.

Stat. Auth.: ORS 179.040, 179.510-530, 421.068, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.510-530, 421.068, 423.020, 423.030 & 423.075

Hist.: CD 19-1990, f. & cert. ef. 9-28-90; CD 4-1994, f. 2-17-94, cert. ef. 3-1-94

291-156-0015

Inmate Welfare Fund Sources

Revenue, less operating expenses, from the following sources shall be deposited into the Inmate Welfare Fund account:

(1) Operation of canteens in Department of Corrections facilities, including operation of copying machines made available for inmate use through the facility canteens;

(2) Operation of the vending machines in the inmate visiting areas of Department of Corrections facilities;

(3) Operation of inmate telephones in Department of Corrections facilities;

(4) Funds confiscated from inmates under existing disciplinary procedures; and

(5) Donated funds as defined in these rules.

Stat. Auth.: ORS 179.040, 179.510-530, 421.068, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.510-530, 421.068, 423.020, 423.030 & 423.075

Hist.: CD 19-1990, f. & cert. ef. 9-28-90; CD 4-1994, f. 2-17-94, cert. ef. 3-1-94

291-156-0020

Specific Uses of Funds

The Department may, with legislative and executive department authorization, use Inmate Welfare Fund monies to fund a variety of programs, services and activities benefiting the general inmate population and enhancing inmate activities and programs, including capital construction and improvement projects in support of such programs, services and activities. Specific uses of the fund may include, but are not limited to, operation, support or enhancement of the following programs, services and activities:

(1) Education programs;

(2) Alcohol and drug treatment and education programs;

(3) Department of Corrections facility canteens, including copying machine made available for inmate use through the facility canteens;

(4) Inmate trust accounting system;

(5) Provision of postage-paid envelopes for indigent inmates;

(6) Provision of nonprescription, over-the-counter health aids made available for inmate use in inmate housing units in Department of Corrections facilities;

(7) Department of Corrections facility libraries designated for inmate use;

(8) Department of Corrections facility visiting room equipment, supplies and services; and

(9) Inmate activities programs, including:

(a) Equipment for television viewing;

(b) Visiting music/entertainment groups;

(c) Music equipment and supplies;

(d) Activities equipment, supplies and services;

(e) Repair of equipment purchased from the Inmate Welfare Fund;

(f) Food or supplies for food for special occasions;

(g) Inmate awards for the purpose of providing umpires, referees, and maintaining activity equipment and apparel;

(h) Inmate tournaments and holiday events;

(i) Inmate club activities; and

(j) Entertainment equipment, supplies and services.

Stat. Auth.: ORS 179.040, 179.510-530, 421.068, 423.020, 423.030 & 423.075

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Stats. Implemented: ORS 179.040, 179.510-530, 421.068, 423.020, 423.030 & 423.075
Hist.: CD 4-1994, f. 2-17-94, cert. ef. 3-1-94

DIVISION 157

RELEASE SUBSIDIES

291-157-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: To assure inmates have access to basic financial support for release.

(3) Policy: It is the policy of the Department of Corrections to establish a program to provide releasing inmates with financial assistance to meet minimum release needs, in accordance with the requirements set by ORS 421.125(2)(b), and within funds appropriated for this purpose.

Stat. Auth.: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Hist.: CD 17-1979(Temp), f. & ef. 8-30-79; CD 21-1979, f. & ef. 11-29-79; CD 14-1981(Temp), f. & ef. 5-20-81; CD 32-1981, f. & ef. 6-30-81; CD 20-1983, f. & ef. 5-2-83; CD 42-1983(Temp), f. & ef. 10-14-83; CD 5-1984, f. & ef. 4-9-84; CD 5-1985(Temp), f. & ef. 6-17-85; CD 62-1985, f. & ef. 8-16-85; CD 19-1986(Temp), f. & ef. 6-30-86, ef. 8-15-86; CD 28-1986, f. & ef. 8-20-86; CD 20-1988, f. & cert. ef. 11-18-88; CD 14-1994, f. 7-19-94, cert. ef. 8-1-94; DOC 20-2009(Temp), f. & cert. ef. 11-13-09 thru 5-12-10; DOC 5-2010, f. & cert. ef. 4-6-10

291-157-0010

Definitions

(1) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(2) Release Subsidy: Financial assistance allocated to a releasee by the county for the purpose of purchasing essential goods or services related to release needs.

(3) Release Counselor: A person employed by the Department of Corrections charged with release planning for inmates.

(4) Incidental Funds: Funds not to exceed \$25 allocated to a releasee by the Department of Corrections for immediate financial assistance upon release.

(4) Releasee: Any inmate that is being released to or has been released to the community on parole, post-prison supervision, or discharge status.

(5) Trust Account Funds: Those monies deposited to an inmate's trust account which may be used by the inmate to purchase authorized items or services during his/her incarceration or be assessed by the functional unit to pay any indebtedness incurred while under supervision of the Department of Corrections.

Stat. Auth.: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Hist.: CD 17-1979(Temp), f. & ef. 8-30-79; CD 21-1979, f. & ef. 11-29-79; CD 14-1981(Temp), f. & ef. 5-20-81; CD 32-1981, f. & ef. 6-30-81; CD 20-1983, f. & ef. 5-2-83; CD 42-1983(Temp), f. & ef. 10-14-83; CD 5-1984, f. & ef. 4-9-84; CD 5-1985(Temp), f. & ef. 6-17-85; CD 62-1985, f. & ef. 8-16-85; CD 19-1986(Temp), f. & ef. 6-30-86, ef. 8-15-86; CD 28-1986, f. & ef. 8-20-86; CD 20-1988, f. & cert. ef. 11-18-88; CD 14-1994, f. 7-19-94, cert. ef. 8-1-94; DOC 7-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 20-2009(Temp), f. & cert. ef. 11-13-09 thru 5-12-10; DOC 5-2010, f. & cert. ef. 4-6-10

291-157-0015

Procedures

(1) Notice to Inmates: Each inmate is responsible for saving money for release purposes. All monies received in the trust account during his/her incarceration will be tallied and the total figure may be the basis for approval or denial of release subsidies in accordance with ORS 421.125.

(2) Administration: The Assistant Director for Transitional Services or designee is responsible for the administration of the release subsidy program. However, eligibility for release subsidies and coordination of payments for releasees shall be determined by the local county director of community corrections or designee.

(3) Twenty percent of the total allocation of subsidy monies will be retained by the Transition and Release administrator for institution release purposes and may be used towards incidental funds.

(4) The balance of allocated subsidy monies will be distributed to all counties via the community corrections work load formula. Counties will receive subsidy funds through the quarterly allotment process.

Stat. Auth.: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Hist.: CD 17-1979(Temp), f. & ef. 8-30-79; CD 21-1979, f. & ef. 11-29-79; CD 14-1981(Temp), f. & ef. 5-20-81; CD 32-1981, f. & ef. 6-30-81; CD 20-1983, f. & ef. 5-2-83; CD 42-1983(Temp), f. & ef. 10-14-83; CD 5-1984, f. & ef. 4-9-84; CD 5-1985(Temp), f. & ef. 6-17-85; CD 62-1985, f. & ef. 8-16-85; CD 19-1986(Temp), f. & ef. 6-30-86, ef. 8-15-86; CD 28-1986, f. & ef. 8-20-86; CD 20-1988, f. & cert. ef. 11-18-88; CD 14-1994, f. 7-19-94, cert. ef. 8-1-94; DOC 7-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 20-2009(Temp), f. & cert. ef. 11-13-09 thru 5-12-10; DOC 5-2010, f. & cert. ef. 4-6-10

291-157-0021

Distribution and Processing of Incidental Funds

(1) The inmate's release counselor will:

(a) Interview the releasee to determine specific needs.

(b) Review the inmate's trust account history and inmate support system in the community.

(c) Determine if the releasee is in need of incidental funds based on the information gathered.

(2) If it is determined that the releasee is in need of incidental funds, the release counselor will notify Central Trust.

(3) Upon receipt of notification from a release counselor that incidental funds are needed, Central Trust will issue funds to the inmate via a check or by placing the funds on the inmate's Offender Debit Card.

Stat. Auth.: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Hist.: DOC 20-2009(Temp), f. & cert. ef. 11-13-09 thru 5-12-10; DOC 5-2010, f. & cert. ef. 4-6-10

291-157-0035

Appeal Process

Appeal Rights: An inmate or releasee may appeal decisions in the application of this rule by using the process outlined in the Department of Corrections rule on Grievance Review System (Inmate) (OAR 291-109).

Stat. Auth.: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 421.125, 423.020, 423.030 & 423.075
Hist.: CD 20-1983, f. & ef. 5-2-83; CD 5-1985(Temp), f. & ef. 6-17-85; CD 20-1985, f. & ef. 8-16-85; CD 19-1986(Temp), f. & ef. 6-30-86, ef. 8-15-86; CD 28-1986, f. & ef. 8-20-86; CD 20-1988, f. & cert. ef. 11-18-88; CD 14-1994, f. 7-19-94, cert. ef. 8-1-94; DOC 7-1998, f. 3-26-98, cert. ef. 4-1-98; DOC 20-2009(Temp), f. & cert. ef. 11-13-09 thru 5-12-10; DOC 5-2010, f. & cert. ef. 4-6-10

DIVISION 158

TRUST ACCOUNTS (INMATE)

291-158-0005

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish Department of Corrections policies and procedures for the establishment and administration of inmate trust accounts, and the safeguarding of inmate funds for use for authorized expenditures and assessments during incarceration and to assist in offsetting the costs of the release plan.

(3) Policy:

(a) It is the policy of the Department of Corrections to restrict the use of inmate funds for authorized purposes. The Department will control and safeguard inmate funds utilizing accepted accounting procedures. Monies received which are not in accordance with these rules will be considered contraband and will be placed in the

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Inmate Welfare Fund. Every person who is charged with processing inmate money or trust funds shall follow these rules.

(b) It is the policy of the Department of Corrections to assess an inmate's account for court-ordered costs and fees in judicial review proceedings, in habeas corpus and post-conviction cases, in tort actions against a public body, and in other proceedings as authorized or required by law. The Department intends that its rules authorizing assessments against an inmate's account for these purposes apply retroactively to assessments made by the Department prior to, on, and after the effective date of these rules.

Stat. Auth.: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030 & 423.075

Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93; DOC 16-2008(Temp), f. & cert. ef. 7-1-08 thru 12-26-08; DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

291-158-0010

Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Designated Funds: Funds sent to any inmate for a specific service or item authorized by the functional unit manager.

(3) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(5) Garnishment: A statutory proceeding whereby an inmate's property, money, or credits in possession or under control of or owned by another are applied to payments of former debt to a third party by proper statutory process against the debtor or garnishee.

(6) Incidental Monies: Financial assistance allocated to an inmate upon release, for the purpose of purchasing essential goods or services related to release needs, based upon trust account history, as determined by the functional unit manager.

(7) Inmate: Any person under the supervision of the Department of Corrections for whom the Department has created and maintained a trust account administered by the Department's Central Trust Unit.

(8) Inmate Welfare Fund: An account established to provide monies to enhance programs and activities that benefit the general inmate population.

(9) Money: Cash, money orders, personal checks, warrants, certified checks, and other remittances.

(10) Photo Identification: Any government-issued photo identification that contains a current home address.

(11) Receipts: Official Department of Corrections money receipts which are used to record receipt of money on behalf or for the use of inmates.

(12) SID Number: A unique State Identification Number (SID) assigned to each inmate reported to the Oregon State Police Identification Services Section.

(13) Signature Authorization Form (CD 1465): The official form designated by Central Trust that contains the signatures of each staff member authorized by their specific functional unit manager or designee to approve completed withdrawal request forms (CD-28) for designated inmate expenditures.

(14) Trust Account Funds: Those monies deposited to an inmate's trust account which may be used by the inmate to purchase authorized items or services during his/her incarceration, or be assessed by the functional unit to pay any indebtedness incurred while under the supervision of the Department of Corrections.

(15) Trust Funds: Inmate money in the care and custody of the Department of Corrections that is deposited with the State Treasurer and managed by the Department of Corrections.

Stat. Auth.: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030, 423.075

Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 16-1992(Temp), f. 7-31-92, cert. ef. 8-3-92; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93; DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

291-158-0015

Trust Accounts

(1) The Department of Corrections Central Trust Unit will establish one trust account for each inmate which corresponds to the SID number issued. The account will accrue interest at a rate determined by applicable statutes. All monies received for an inmate that are authorized for receipt in accordance with the provisions of these rules shall be credited to the inmate's trust account.

(2) The Department of Corrections may assess an inmate's trust account for sanctions resulting from the inmate's disciplinary hearings; garnishment actions determined by the courts; court-ordered costs and fees in judicial review proceedings, in habeas corpus and post-conviction cases, in tort actions against a public body, or in other proceedings as authorized or requirement by law; damages or destruction caused by willful misconduct; costs associated with the facility, release, and programs; copies; postage; medically required services including prostheses or other devices; authorized self-elected activities; or to correct illegal and erroneous transactions. Inmates who are indebted to the Department shall have their trust account debited and funds disbursed in accordance with the provisions of OAR 291-158-0065.

(3) Records of all monies received in the trust account during incarceration will be tallied and the total figure may be the basis for approval or denial of incidental monies in accordance with ORS 421.125 and the Department of Corrections rule on Release Subsidies (Inmate) (OAR 291-057)

(4) Central Trust shall send each inmate with an active trust account a monthly trust statement that reflects the transactions for the monthly period.

(a) If an inmate has any questions regarding the statement, he/she must submit those questions in writing within 30 days of the statement issue date. Questions regarding account balances or whether transactions have been posted must be submitted to the institution business office. Questions regarding the accuracy of the transactions must be submitted to Central Trust.

(b) Each inmate shall be responsible for retaining his/her own trust statement. Additional copies of the monthly trust statement shall be available for purchase by inmates from Central Trust at a cost of \$.50 per page.

(5) Funds held in an inmate's trust account shall be disbursed to the inmate upon release from a Department of Corrections facility, unless the funds are subject to setoff by the Department in accordance with the provisions of OAR 291-158-0065. An inmate approaching release shall not be allowed to initiate a withdrawal request within seven days of the scheduled release.

(6) Any monetary transaction made on behalf of one inmate for the benefit of another is prohibited.

(a) Transfer of funds from one inmate's trust account to another inmate's trust account, including transfers that are made or facilitated by a person who is not under the supervision of the Department of Corrections or by a financial institution, is prohibited.

(b) Funds received by the Department for an inmate that become the subject of an investigation by Central Trust or the Department's Special Investigations Unit may be held by the Department in the inmate's miscellaneous reserve account pending the outcome of the investigation.

(7) Any funds held in an inmate trust account that remain unclaimed two years after the inmate's release from custody of the Department of Corrections or death shall be reported to the Division of State Lands for proper disposition.

(8) Any stale dated checks processed from trust funds that are two years old shall be reported to the Division of State Lands for proper disposition.

Stat. Auth.: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 24-1990(Temp), f. & cert. ef. 11-2-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 10-1991(Temp), f. & cert. ef. 4-22-91; CD 24-1991, f. & cert. ef. 10-8-91; CD 16-1992(Temp), f. 7-31-92, cert. ef. 8-3-92; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93, Former sections (7), (8), (9), (10), (11) & (12) renumbered to 291-158-0025, 291-158-0035, 291-158-0045, 291-158-0055, 291-158-0065 & 291-158-0075; DOC 16-2008(Temp), f. & cert. ef. 7-1-08 thru 12-26-08; DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

291-158-0025

Designated Funds

(1) An inmate may receive and expend funds designated for a specific purpose only as authorized by the functional unit manager or designee. No designated funds may be received or expended by an inmate unless the sender provides a verifiable name and address.

(2) The functional unit manager or designee may authorize an inmate's receipt and expenditure of designated funds for optical, medical or dental services, or emergency trips, irrespective of whether the inmate's trust account is indebted.

(3) The functional unit manager or designee may authorize an inmate's receipt and expenditure of designated funds for other approved purposes only if the inmate's trust account is not indebted.

(4) If an inmate has unused designated funds in excess of \$10, the funds shall be returned to the sender. Unused designated funds in an amount of \$10 or less shall be applied first to the inmate's indebtedness, if any, and then credited to the inmate's trust account.

Stat. Auth.: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 24-1990(Temp), f. & cert. ef. 11-2-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 10-1991(Temp), f. & cert. ef. 4-22-91; CD 24-1991, f. & cert. ef. 10-8-91; CD 16-1992(Temp), f. 7-31-92, cert. ef. 8-3-92; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93, Renumbered from 291-158-0015(7); DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

291-158-0035

Interest Accruals

Interest on all inmate accounts which accrues from investments made by the State Treasurer will be credited monthly to each inmate's trust account.

Stat. Auth.: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030 & 423.075
 Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 24-1990(Temp), f. & cert. ef. 11-2-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 10-1991(Temp), f. & cert. ef. 4-22-91; CD 24-1991, f. & cert. ef. 10-8-91; CD 16-1992(Temp), f. 7-31-92, cert. ef. 8-3-92; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93, Renumbered from 291-158-0015(8); DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

291-158-0045

Authorized Receipts

(1) The Department of Corrections will accept and process authorized money items received by Central Trust only in the form prescribed by and in accordance with the provisions of these rules, OAR 291-158-0005 to 291-158-0075.

(a) Authorized money items must be made payable to the Department of Corrections, and must include the name and SID number of the inmate, and the name and current address of the sender, on the face of the remittance.

(b) Only one inmate trust account may be credited per remittance. Authorized money items should be mailed directly to the Department of Corrections, Central Trust, PO Box 14400, Salem, OR 97309-5077. Any remittance mailed to the Department must contain the sender's name and current residence address on the envelope.

(c) The Department's Central Trust Office will provide an inmate with a receipt for authorized money items received and credited to the inmate's trust account. Central Trust will retain a copy of the original remittance in accordance with the State Archivist retention schedule.

(d) The Department of Corrections may require that a photo ID be submitted along with any remittance. Photo ID maybe photocopied to be used for documentation purposes.

(2) Monies received in the form of a cashier's check, money order, or other remittance received in accordance with these rules may be credited to the inmate's account.

(3) Monies received in the form of federal or state government checks, insurance claim, or other checks or remittance in settlement of a legal action shall be processed in the same manner as a cashier check or money order.

(a) Checks requiring the inmate's endorsement will be sent to the appropriate functional unit to obtain the inmate's endorsement, and once obtained will be returned to Central Trust for processing.

(b) Checks made payable jointly to the inmate and a second party will be returned to the sender.

(4) No Cash or Personal Checks Permitted: Monies received in the form of cash and personal checks shall not be credited to an inmate's trust account.

(a) Cash received in the mail shall be confiscated and deposited to the Inmate Welfare Fund. Notice of the confiscation shall be provided to the sender. A copy of the notice shall be provided to the intended inmate recipient. If the cash was concealed, the method of concealment will be documented. If, after an administrative review of the confiscation, it is determined that the sender did not conceal the cash, the money shall be returned to the sender. Only the sender may request an administrative review.

(b) Cash confiscated via the disciplinary process will be deposited in the Inmate Welfare Fund, unless otherwise directed by the hearings officer.

(c) Personal checks shall be returned to the sender with the envelope and its contents along with a Mail Violation Notice and explanation for the return of the items. A photocopy of all the items shall be retained by Central Trust for at least six months.

(5) Unidentifiable Funds:

(a) Any remittance that is intended to be credited to an inmate's trust account that lacks sufficient information for the Department of Corrections to identify the inmate or to return the remittance to the sender will be placed and held by the Department in a special account for unidentifiable funds for up to two years.

(b) Any unclaimed funds which have been held by the Department for two years shall be turned over to the Division of State Lands for disposition.

(6) Restitution:

(a) An inmate may be required to pay restitution to the Department of Corrections or to an individual or other third party for damages incurred as a result of the inmate's misconduct in accordance with the Department's rule of Prohibited Inmate Conduct (OAR 291-105).

(b) Restitution payments may be ordered paid from the inmate's trust account, or from any other inmate's trust account over which the Department has exercised control pending a decision regarding disposition of confiscated funds.

(7) Central Trust Processing of Non-Money Items:

(a) Non-money items (e.g., correspondence, notes, photographs, etc.) intended for an inmate must be mailed directly to the inmate at the Department of Corrections facility where the inmate is incarcerated in accordance with the Department's rule on Mail (Inmate) (OAR 291-131).

(b) Non-money items received by Central Trust, except those received from a government agency, will not be forwarded to the inmate, and will be discarded unless the item(s) has an obvious and apparent monetary (as opposed to sentimental) value, in which case the item(s) will be returned to the sender together with a Mail Violation Notice (CD 618a).

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 24-1990(Temp), f. & cert. ef. 11-2-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 10-1991(Temp), f. & cert. ef. 4-22-91; CD 24-1991, f. & cert. ef. 10-8-91; CD 16-1992(Temp), f. 7-31-92, cert. ef. 8-3-92; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93, Renumbered from 291-158-0015(9); DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

291-158-0055

Authorized Expenditures

(1) Authorized Purchases, Payments and Disbursements: An inmate may authorize the Department's Central Trust to withdraw funds from his/her trust account for authorized purchases or payments.

(a) Inmates desiring to make authorized purchases or payments must submit a completed Request for Withdrawal of Funds form (CD28) for each transaction. The Request for Withdrawal must include the inmate's signature and the signature of an authorized staff member as approved by the functional unit manager on the Signature Authorization form (CD 1465).

(b) The Department, in its sole discretion, may require that inmates first accumulate sufficient funds in their trust account to cover the entire cost of a requested purchase or payment before authorizing the transaction.

(2) Purchases:

(a) Inmates may use their trust account funds to purchase authorized personal necessities, commissary items, photocopies, postage, Board of Parole and Post Prison Supervision materials, and such other items as authorized for inmate purchase by the Department of Corrections.

(b) Requests to purchase materials from the Board of Parole and Post Prison Supervision must be sent directly to the Board prior to submitting a completed withdrawal request, to determine if the materials are available and may be disclosed.

(3) Payments:

(a) Support Payments, Court Orders, and Judgments: Inmates may use their trust account funds to make payments for child, spouse or family support (whether court ordered or self-elected), and to satisfy court orders and judgments (e.g., restitution orders, garnishment orders, judgments for filing fees and courts costs).

(b) Self-Elected Programs, Services and Assistance: Inmates may use their trust account funds to make payments for self-elected programs, services, assistance and Private Sector Prison Industries Program, as authorized by the Department (e.g., education programs, inmate hair salon services, etc.).

(c) Disbursement of Excess Funds: Inmates who are not indebted to the Department of Corrections, may request Central Trust to disburse a portion of their trust account funds in excess of their personal needs, and that of their dependents, to a third party (other than a Department of Corrections inmate or family member of another Department of Corrections inmate) for legitimate and verifiable purposes. Requests must be directed in writing to the facility functional unit manager or designee for approval.

(4) Processing of Withdrawal Requests: Each inmate expenditure from the individual trust account will require the inmate to submit a completed withdrawal request (CD 28). The inmate must sign the withdrawal request form in the presence of Department staff before sending the form to the functional unit manager or designee for approval.

(5) Only a withdrawal request with the authorized employee signature will be recorded on the inmate trust account. If funds are not available to cover the withdrawal request, the form will be returned to the inmate marked with an explanation.

(a) If the Department requires that an inmate first accumulate sufficient funds before authorizing a requested purchase or payment, and the inmate lacks sufficient funds, the withdrawal request form will be returned to the inmate, together with a brief statement on the form explaining the reason(s) for its return.

(b) Transactions will be recorded on the inmate's monthly trust account statement by referencing only the withdrawal request, and transaction date.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030, 423.075

Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 24-1990(Temp), f. & cert. ef. 11-2-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 10-1991(Temp), f. & cert. ef. 4-22-91; CD 24-1991, f. & cert. ef. 10-8-91; CD 16-1992(Temp), f. 7-31-92, cert. ef. 8-3-92; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93, Renumbered from 291-158-0015(10); DOC 16-2008(Temp), f. & cert. ef. 7-1-08 thru 12-26-08; DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

291-158-0065

Indebted Funds

(1) An inmate who is indebted to the Department of Corrections for whatever reason shall be permitted to spend on commissary during the calendar month one half of the first \$60 (up to \$30) of funds that have been received and posted for that inmate during the calendar month.

(a) The remainder of the funds received by the inmate during the calendar month shall be applied to the inmate's debt until such indebtedness is satisfied, in accordance with the procedures provided in these rules.

(b) Any unused funds remaining in an inmate's trust account at the end of the last business day of the calendar month shall be applied to the inmate's indebtedness. Any changes to this scheduled date will be communicated by Central Trust.

(2) Each calendar month, Central Trust shall notify each affected inmate through the monthly statement that the Department has applied some or all of the funds received in the prior calendar month to the inmate's indebtedness. The notice shall advise the inmate that he or she may obtain an administrative review of the proposed collection of debt as indicated in section (3) below.

(3) Administrative Review:

(a) An inmate who has received a notice of proposed collection of debt from the Central Trust Unit may obtain an administrative review by writing to the Central Trust Unit on an Inmate Communication form (CD 214). The request must state the specific reason(s) why the inmate believes an error(s) had occurred in the proposed collection of debt. Requests for administrative review must be received by the Central Trust Unit no later than 30 days after the date of the notice to be valid.

(b) If an inmate submits a timely request for administrative review of the Department's proposed collection of debt, the Central Trust technician shall examine the relevant records maintained by the Department to determine whether the proposed collection of debt is proper. After review of the relevant records, the Central Trust Manager or designee will issue the final decision in writing to either allow or disallow, in whole or in part, the proposed collection of debt within 30 days after receipt of the request for administrative review. A copy of the final decision letter shall be provided to the requesting inmate.

(4) Annual Holiday Period: During one annual holiday period, the Assistant Director of Operations or Institution Administrator may allow a standard increase in the amount of funds an inmate may spend from their trust account designated for the purchase of gifts or other approved items. The standard increase and holiday period will be the same for all functional units and will be exempt from collection for an inmate's Department of Corrections debt. Any unused funds remaining to an inmate's trust account at the end of the designated period will be applied to the inmate's indebtedness.

[ED. NOTE: Forms referenced are available from the agency]

Stat. Auth.: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 30.643, 34.365, 34.370, 138.590, 144.335, 179.040, 423.020, 423.030, 423.075

Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 24-1990(Temp), f. & cert. ef. 11-2-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 10-1991(Temp), f. & cert. ef. 4-22-91; CD 24-1991, f. & cert. ef. 10-8-91; CD 16-1992(Temp), f. 7-31-92, cert. ef. 8-3-92; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93, Renumbered from 291-158-0015(11); DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

291-158-0075

Receipting, Securing, and Transferring Funds

(1) All receipting, securing, and transferring of inmate funds will be processed in accordance with the provision of the Department of Corrections policy on Receipting, Securing, and Depositing Funds, #30.1.3.

(2) Uniform accounting procedures will be required for all Departments of Corrections employees handling funds.

(3) All money received will be receipted and photocopied, with the photocopy of the remittance retained according to the State Archivists retention schedule.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 6-1985(Temp), f. & ef. 6-17-85; CD 63-1985, f. & ef. 8-16-85; CD 20-1990(Temp), f. 9-28-90, cert. ef. 10-12-90; CD 24-1990(Temp), f. & cert. ef. 11-2-90; CD 9-1991, f. & cert. ef. 4-3-91; CD 10-1991(Temp), f. & cert. ef. 4-22-91; CD 24-1991, f. & cert. ef. 10-8-91; CD 16-1992(Temp), f. 7-31-92, cert. ef. 8-3-92; CD 1-1993, f. 1-25-93, cert. ef. 1-28-93, Renumbered from 291-158-0015(12); DOC 32-2008, f. 12-24-08, cert. ef. 12-26-08

DIVISION 163

PURCHASING — WORK PROGRAMS

291-163-0010

Authority and Purpose

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040(1)(d), 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030, and 423.075(5)(d).

(2) Purpose: The Department of Corrections is subject to the Department of Administrative Services purchasing rules unless otherwise excepted or exempted. ORS 421.438 provides that “ORS Chapter 279 and 291.021 do not apply” to certain prison operations and programs, as defined in OAR 291-163-0020(6). Additionally, Article I, Section 41(9) of the Oregon Constitution provides that “prison industry work programs shall be exempt from statutory competitive bid and purchase requirements.” Accordingly, the purpose of these rules is to set forth guidelines for the:

(a) Purchase of property and services for such inmate work programs;

(b) Disposal of surplus property for an inmate work program;

(c) Sale of inmate products and inmate services produced or provided under Corrections Inmate Work Programs; and

(d) Process to establish certain contractual relationships between Corrections Industries and private entities to generate and establish such inmate work programs.

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075

Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

291-163-0020

Definitions

(1) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director or administrator and has responsibility for delivery of services or coordination of operations.

(2) Industries: Department of Corrections, Corrections Industries.

(3) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(4) Inmate Product: Forming anew or transforming (e.g., creating, producing, manufacturing, or mining) of a tangible item by an inmate, and to which the inmate has added substantial value.

(5) Inmate Service: Labor or other services rendered directly by inmates that does not result in adding substantial value to the production of a tangible item, and which may include certain restoration activities, packaging, handling, dismantling, and incidental processing.

(6) Prison Operations and Programs: Inmate work programs, forest and work camps, farm and agricultural operations and programs, food services operations and programs, facility or property maintenance operations, and programs and vocational or work training programs defined as follows:

(a) Inmate Work Programs: The Department’s programs that sell inmate services or inmates products to other Department programs, other state agencies, local governments, private entities or the general public;

(b) Forest and Work Camps: Forest camp operations that are established and subject to the provisions of ORS 421.450 to 421.480, and work camp operations established under 421.490;

(c) Farm and Agricultural Operations and Programs: Operations and programs for the production, processing, packaging, sale, distribution or disposal of the Department’s agricultural products or by-products;

(d) Food Services Operations and Programs: Operations and programs for the purchase, distribution, preparation and delivery of food and food services to the Department’s institutions and facilities;

(e) Facility or Property Maintenance Operations and Programs: Operations and programs for the maintenance, janitorial, carpentry, landscaping and repair services for the Department’s administration buildings, institutions, offices and warehouses;

(f) Vocational or Work Training Programs: Programs for the education or occupational training of inmates.

(7) Private Entity: Person, corporation, partnership or other business or private party recognized by law.

(8) Property: Personal property, including inventory, goods or equipment. Property does not include real property.

(9) Purchase: Acquisition of property or services with cash or a cash equivalent, or an exchange of surplus property, inmate products, or inmate services. Purchase includes acquisition by true lease, but does not include acquisition by lease purchase or other financing agreements unless:

(a) The Director or his/her designee, in consultation with the Department of Justice, determines such financing agreement is lawful; and

(b) The financing agreement is approved, when necessary, by the Department of Administrative Services and the Prison Industries Board.

(10) Sale or Sell: Includes, but is not limited to a sale, transfer, lease, disposition, grant or other conveyance of inmate products, the provision of or leasing of inmate services, or the surplus property of a program.

(11) Services: Labor or services performed by an independent contractor for temporary labor, trade-related activities or in such contractor’s professional capacity.

(12) Surplus Property: All personal and real property, vehicles, and titled equipment excess to the state agency’s needs and available for sale. Surplus property does not include inmate products.

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075

Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

291-163-0030

Authority and Approval of Purchases and Sales for Programs

(1) Functional unit managers or their designees have authority to effect and must approve the purchase of property and services, sale of inmate products and inmate services, and the sale of surplus property in accordance with Department of Administrative Services rules governing such transactions and the Department of Corrections rule on Purchasing.

(2) The Inmate Work Programs Administrator or his/her designee has authority to effect and must approve the purchase of property and services, the sale of inmate products and inmate services, and the sale of surplus property for prison operations and programs in accordance with these rules.

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

291-163-0040

Purchases

(1) Solicitation: The Inmate Work Programs Administrator or the Fiscal Services Administrator, as appropriate, or their designees must obtain no fewer than three quotes from vendors, contractors, manufacturers, owners or suppliers of the subject purchase or class of purchases, unless they make written findings stating:

(a) There is insufficient time to obtain three or more quotes without negatively affecting the ability of a program to provide timely services; or

(b) Obtaining three or more quotes may negatively affect the value of the property or increase the cost of the services; or

(c) The property or services are only practicably available from one vendor, or a specific vendor is preferred due to availability, capacity, experience, reputation, performance history or other stated reasons; or

(d) The selection of the particular vendor, contractor, manufacturer, owner, or supplier will help achieve public policy objectives including, but not limited to the promotion of emerging small, disadvantaged, minority-owned and/or women-owned businesses and qualified rehabilitation facilities as defined in ORS 279.835;

(e) The requirement to obtain no fewer than three competitive quotations, unless exempted based upon criteria stated in (a) through (d) above, shall apply to purchases with cost estimates equal to or exceeding the minimum dollar values specified by the then current Department of Administrative Services Purchasing rule as requiring three or more competitive quotations.

(2) Negotiation: The Inmate Work Programs Administrator or functional unit manager, as appropriate, or their designees may acquire property or services by negotiation. Upon identification of one or more potential vendors, contractors, manufacturers, owners, or suppliers, the Inmate Work Programs Administrator or functional unit manager, or their designees, may negotiate and execute a contract setting forth the substance, terms, and conditions of the purchase, subject to approval by the Prison Industries Board, where appropriate. (See OAR 291-163-0070).

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

291-163-0050

Sales

(1) Offer: The Inmate Work Programs Administrator or functional unit manager, as appropriate, or their designees may offer for sale or exchange personal property, equipment, inventory, or inmate services or inmate products. Offer for sale or exchange may take place through retail, wholesale, barter, auction, private treaty, or by any other lawful means.

(2) Negotiation: The Inmate Work Programs Administrator or functional unit manager, as appropriate, or their designees may sell surplus property or inmate products or inmate services by negotiation. Upon identification of one or more potential purchasers, the Inmate Work Programs Administrator or functional unit manager, as appropriate, or their designees may negotiate an agreement setting forth the substance, terms, and conditions of the sale, subject to approval by the Prison Industries Board, where appropriate. (See OAR 291-163-0070)

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

291-163-0060

Surplus Property

(1) Property is only "surplus property" when designated in writing as such by the Inmate Work Programs Administrator or Fiscal Services Administrator, or their designees who will also make written findings that such property is no longer useable by or useful to a program.

(2) Trade: The Inmate Work Programs Administrator or Fiscal Services Administrator, as appropriate, or their designees may dispose of surplus property by trading in such property to purchase like property of comparable function. The Inmate Work Programs Administrator or functional unit manager, as appropriate, or their designees may negotiate and execute an agreement for trade setting forth the substantive terms and conditions of the trade.

(3) Sale: The Inmate Work Programs Administrator or Fiscal Services Administrator, as appropriate, or their designees may dispose of surplus property by sale of such property. Sale of surplus property shall be conducted so as to provide the highest sale price possible given market conditions and the value of the surplus property to be sold. The Inmate Work Programs Administrator or functional unit manager, as appropriate, or their designees may negotiate and execute an agreement for sale setting forth the substantive terms and conditions of the sale.

(4) Dedicated Funds: To the extent dedicated funds are used for the purchase of property, the Inmate Work Programs Administrator or Fiscal Services Administrator, as appropriate, or their designees will take steps to ensure that any property, cash or cash equivalent received for such surplus property by trade or sale shall remain in the program for which such surplus property was purchased.

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

291-163-0070

Prison Industries Board Approval

Under Article I, Section 41 of the Oregon Constitution, "agreements with private enterprise as to state prison work programs must be approved by the Prison Industries Board." All such agreements obtained, negotiated, and executed under these rules (OAR 291-163-0010 through 291-163-0090) are subject to approval by the Prison Industries Board.

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

291-163-0080

Agreements With Private Enterprise

The Department will make efforts to establish contractual relationships with private entities to create, establish, and expand its inmate work programs. Any contractual relationship between the Department and a private entity to jointly produce, create, mine, manufacture, or use inmate products or inmate services in a manner that is reasonably designed and managed to achieve either net cost savings in maintaining the State of Oregon's government operations, or a net profit for the Department's private sector activities will be an agreement for purposes of its private enterprise program. Subject to approval by the Prison Industries Board, the Inmate Work Programs Administrator or his/her designee shall have authority to negotiate, approve, and execute a contract or agreement with a private entity under its private enterprise program.

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Stat. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075
 Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

291-163-0090

Application of Federal Law

Notwithstanding any provisions in these rules, the applicable federal laws, rules, and regulations shall govern if federal funds are used in the transaction and such laws, rules, or regulations conflict with these rules.

Stat. Auth.: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.460, 421.305(1), 421.310(1), 421.440, 423.020, 423.030 & 423.075

Hist.: CD 6-1997(Temp), f. & cert. ef. 4-10-97; CD 13-1997, f. 7-23-97, cert. ef. 8-1-97

DIVISION 164

PURCHASING

291-164-0005

Authority, Purpose, and Policy

(1) Authority: The authority for the rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 279A.050, 421.438, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to:

(a) Ensure that supplies, equipment, and trade services are purchased in compliance with applicable statutes and regulations governing state agency purchasing practices; and.

(b) Ensure that food products and food equipment are purchased in compliance with the requirements of statutes and regulations governing Department purchasing.

(3) Policy: It is the policy of the Department of Corrections that advance planning is an inherent management responsibility which is essential to the maintenance of a cost-effective and efficient purchasing program.

(a) The Department's purchasing program will comply with the Department of Administrative Services rules governing the purchasing process (OAR chapter 125, division 246 through 249) as applicable and on all mandatory price agreements.

(b) The Department's purchasing program will comply with the Department of Justice Model Rules (OAR chapter 137, divisions 045 through 047) for all institution purchases exempting food services supplies, which will comply with Food Service Operations & Program Procurement rules (OAR 291-164-0100 through 291-164-0140).

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Hist.: CD 22-1987, f. & ef. 4-3-87; CD 3-1991(Temp), f. & cert. ef. 1-17-91; CD 17-1991, f. & cert. ef. 7-11-91; DOC 4-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 22-2008, f. & cert. ef. 8-29-08

291-164-0010

Definitions

(1) Emergency Purchase: Immediate acquisition of goods or services to alleviate an emergent situation. The criteria and standards applicable to emergency purchases as set forth in this rule.

(2) Emergent Situation: A situation that could not have been reasonably anticipated that present a clear and imminent danger to life, health, safety, security, interruption of services or loss to public property. The situation presents an immediate threat to the safety and security of inmates, Department's staff and general public and immediate action must be taken to ensure the good order of the facility.

(3) Food Equipment or Services: All materials, equipment, products and other personal property, and services required for the handling, preparation, delivery, serving and storage of food products.

(4) Food Product: Any foodstuff that will be prepared for and consumed by the Department's inmate population.

(5) Fragmenting: Artificially dividing a procurement to constitute a small procurement or to circumvent the Department of Justice legal sufficiency requirements.

(6) Invitation to Bid (ITB): All documents, whether attached or incorporated by reference, used for soliciting bids. Written request for prices, rates or other conditions under which a potential bidder would provide.

(7) Offer: Written or oral response to a request for quote.

(8) Offeror: The person who submits an offer in response to a request for quote.

(9) Purchasing Unit: The unit within the Department responsible for conducting the procurement process resulting in an executed contract utilizing a purchase order or contract.

(10) Request Order: Automated requests directed to the General Services Fiscal Services Purchasing Unit and approved by appropriate authority, which fully describes the item or service requiring issuance of a purchase order or contract.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Hist.: CD 22-1987, f. & ef. 4-3-87; CD 3-1991(Temp), f. & cert. ef. 1-17-91; CD 17-1991, f. & cert. ef. 7-11-91; DOC 4-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 22-2008, f. & cert. ef. 8-29-08

291-164-0015

General

(1) Managers within each functional unit shall review inventory stock levels and usage rates available through the Department's computerized perpetual inventory system prior to submitting a purchase request to increase inventory levels of stock item(s).

(2) Requests for similar commodities will be consolidated to be efficient in order to gain the economic advantage of volume purchasing and to avoid fragmenting.

(3) All goods, supplies, and services purchased by the Department will be received and inspected at authorized receiving points which include institution warehouses, regional offices, and the Fiscal Services Section for General Services.

(4) Managers identifying a specific vendor or product by brand name shall be aware that products of approved equal specification and alternate vendors may be substituted as a result of competitive bidding.

(5) Expediting purchase orders shall be limited to items which are critical to the function of a program and need for the good, supply, or service could not have been reasonably anticipated. If the good, supply, or service is not purchased promptly, an emergent situation will develop resulting in imminent danger to life, health, safety, security or loss to public property.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Hist.: CD 22-1987, f. & ef. 4-3-87; CD 3-1991(Temp), f. & cert. ef. 1-17-91; CD 17-1991, f. & cert. ef. 7-11-91; DOC 4-2008(Temp), f. & cert. ef. 3-4-08 thru 8-29-08; DOC 22-2008, f. & cert. ef. 8-29-08

291-164-0100

General

(1) Solicitations for similar commodities will be consolidated if consolidation would gain an economic advantage with volume purchasing. Procurement may not be artificially divided or fragmented so as to circumvent the legal sufficiency approval requirement set forth in ORS Chapter 291.

(2) Solicitations must comply with Disadvantaged, Minority, Women and Emerging Small Business Enterprises, ORS 200.035, to provide timely notice and information to the Advocate for Minority, Women and Emerging Small Business.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075

Hist.: DOC 22-2008, f. & cert. ef. 8-29-08

291-164-0110

Small Procurements

Any procurement of food product or food equipment or service not exceeding \$25,000 may be awarded without a competitive process. The Department may award a contract in any manner deemed practical or convenient by the Department, including by

direct selection or award. A procurement may not be artificially divided or fragmented so as to constitute a small procurement under this rule.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: DOC 22-2008, f. & cert. ef. 8-29-08

291-164-0120

Solicitation Procedures

(1) Process and Criteria:

(a) The Department will issue a written ITB for intermediate solicitations exceeding \$25,000 which will include:

(A) A time, date and place where bids must be submitted.

(B) The name and pertinent contact information of the Department's single point of contact.

(C) A complete description of the specifications of the food product or food equipment or services being requested.

(D) A statement that the Department may cancel the solicitation or procurement, or reject any or all bids in whole or in part, when the cancellation or rejection is in the best interest of the Department as determined by the Department. The reason for cancellation or rejection will be made part of the solicitation file.

(E) All contractual terms and conditions applicable to the procurement.

(F) For formal solicitations over \$150,000, the ITB may include language specifying the time and manner a prospective bidder may file a protest. If protests are permitted for that particular solicitation, the Department will issue a decision in the form of an addenda or notice on the protest as specified in the ITB.

(G) The ITB will set forth the evaluation criteria to be used, that may include, but are not limited to, inspection, testing, quality, availability and suitability for intended use or purpose. No criteria may be used in an evaluation that is not set forth in the ITB.

(b) The Department will give public notice of solicitations, other than small procurements or emergency purchases, using the Oregon Procurement Information Network (ORPIN) system for a minimum of five calendar days before the solicitation closing date. If a shorter notice period is in the public's interest and will not substantially affect competition, the Purchasing Unit will document in the file as to why a lesser time was used.

(c) Review and Evaluation of Bids:

(A) The Department will open bids at the time, date and place designated in the ITB.

(B) The Department will not consider bids received after the time and date indicated in the solicitation for opening.

(C) The amount of a bid, the name of the bidder and other relevant information will be recorded by the Department. The record shall be open to public inspection in accordance with public record law.

(D) The Department will evaluate all bids received as specified in the ITB.

(E) The Department will award the contract to the lowest responsive and responsible bidder whose bid substantially complies with the requirements and criteria set forth in the ITB; or if the ITB specifies or authorizes the award of multiple contracts, to the responsive and responsible qualified bidder(s) whose bid(s) best serve the interests of the Department as determined by the Department.

(d) One unanticipated amendment may be made to a contract without additional competitive process by any party. The designated procurement officer must give written approval of the unanticipated amendment after determination that the change is still within the scope of the original ITB.

(2) Documentation. The Department will keep a written record of the sources of the bids received for all solicitations in accordance with Secretary of State Archiving rules.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: DOC 22-2008, f. & cert. ef. 8-29-08

291-164-0130

Emergency Purchases

(1) Intent: The intent of this section is to provide a method for emergency purchases of food products, food equipment and services, or any combination.

(2) Condition: To procure food products or food equipment and services as an emergency purchase, an emergent situation must exist as determined by the Director or the applicable institution's functional unit manager or their designee.

(3) Process:

(a) The Purchasing Unit or appropriate institution staff will make the immediate purchase.

(b) The Department shall award the contract to the bidder whose bid will best serve the interests of the Department and to alleviate the emergent situation.

(c) Purchasing Unit will document the file with justification for the emergency purchase in accordance with Secretary of State Archiving rules.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: DOC 22-2008, f. & cert. ef. 8-29-08

291-164-0140

Alternative Procurement Methods

(1) The Department reserves the right to use an alternative procurement method if that method will be more likely to:

(a) Achieve the specific business objective or business objectives of the procurement; or

(b) Aid the Director in fulfilling the statutory mandate to operate and administer the Department.

(2) Alternative procurement methods may include, but are not limited to, specialized vendor prequalification, multistep bids or proposals, single proposer negotiations, competitive negotiations between two or more proposers, brand name solicitations, and cooperative procurements. The Department shall conduct the alternative procurement method in accordance with the process set forth in the applicable solicitation document.

Stat. Auth.: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 279A.050, 421.438, 423.020, 423.030 & 423.075
Hist.: DOC 22-2008, f. & cert. ef. 8-29-08

DIVISION 167

JAIL INSPECTIONS

291-167-0005

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of Department of Corrections in accordance with ORS 169.070, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: To provide coordinated state services to local governments with respect to local correctional facilities and juvenile detention facilities within the State of Oregon.

(3) Policy: It is the policy of the Department of Corrections to designate staff within the state to:

(a) Provide technical assistance to local governments in planning and operation of county correctional facilities.

(b) Inspect local facilities for compliance with standards established in ORS 169.070, 169.076 to 169.078, 169.740, 419A.052, 419A.061 and 419B.180.

(c) Take appropriate action to insure compliance as provided in ORS 169.080;

(d) Review plans of new construction or major renovation of local correctional facilities, temporary holds, lockups and juvenile detention facilities providing advisory recommendation on safety and security as provided in ORS 169.085.

(e) Develop, publish, distribute, and maintain a manual of recommended guidelines for the operation of local correctional facilities, lockups, temporary holds, and juvenile detention facilities as provided in ORS 169.090.

Stat. Auth.: ORS 169.070, 179.040, 423.020, 423.030 & 423.075

Chapter 291 Department of Corrections

Stats. Implemented: ORS 169.070 - 169.750, 179.040, 419A.052, 419A.061, 419B.180, 423.020, 423.030 & 423.075
Hist.: CD 13-1986(Temp), f. 6-30-86, ef. 8-15-86; CD 31-1986, f. & ef. 9-19-86; DOC 5-2001, f. & cert. ef. 2-7-01; DOC 3-2016, f. & cert. ef. 2-29-16

291-167-0010

Definitions

- (1) Detainee: A person held with no criminal charges.
- (2) Juvenile Detention Facility: A facility as described in ORS 419A.050 and 419A.052 and which includes local correctional facilities and lockups where juveniles are detained.
- (3) Local Confinement Facility: Any facility operated by local government entity for the purpose of holding or lodging prisoners, detainees, or juveniles.
- (4) Local Correctional Facility: A jail or prison for the reception and confinement of prisoners that is provided, maintained, and operated by a county or city and holds persons for more than 36 hours.
- (5) Lockup: A facility for the temporary detention of arrested persons held up to 36 hours, excluding holidays, Saturdays and Sundays, but the period in lockup shall not exceed 96 hours after booking.
- (6) Major Renovation: A plan to alter a local confinement facility to the extent that security, supervision of prisoners, or general operation is changed. Major renovation is the restructure, or adding to any portion of a building which is designed and used for confinement, that equals 50 percent of the total value of that area, or 50 percent of the total square feet of space.
- (7) Prisoner: A person held with criminal charges or sentenced to the facility.
- (8) Temporary Hold: A facility, the principal purpose of which is the temporary detention of a prisoner or detainee for four or less hours while awaiting court appearance or transportation to a local correctional facility.

Stat. Auth.: ORS 169.070, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 169.070 - 169.750, 179.040, 419A.052, 419A.061, 419B.180, 423.020, 423.030 & 423.075
Hist.: CD 13-1986(Temp), f. 6-30-86, ef. 8-15-86; CD 31-1986, f. & ef. 9-19-86; DOC 5-2001, f. & cert. ef. 2-7-01; DOC 3-2016, f. & cert. ef. 2-29-16

291-167-0015

Procedures

The state jail inspector shall provide technical assistance, inspection of facilities, review renovation and new construction plans for all confinement facilities within the state and take appropriate action to insure the compliance with standards established in ORS 169.076 to 169.078, 419A.052 and 419B.180.

- (1) The state jail inspector will respond to requests for assistance from county commissioners, sheriffs, county legal counsel, mayors, chiefs of police, and city attorneys within a reasonable time frame agreed upon with the requesting parties.
- (2) The state jail inspector will routinely inspect local confinement facilities and report his findings with respect to the appropriate statutory standards to the authorities responsible for the facility's operation and control.
 - (a) County adult confinement facilities reports will be forwarded to the facility director, county commissions, and sheriff of the county.
 - (b) Juvenile confinement facility reports will be forwarded to the chair of the county commissioners, juvenile court director and/or facility manager.
 - (c) City confinement facility reports will be forwarded to chief of police, mayor and/or city manager.
- (3) The state jail inspector will establish and maintain a file for each of the confinement facilities within the state and for those contracted out of state which contains:
 - (a) Most recent inspection report;
 - (b) Fire Marshall inspection report;
 - (c) Health and Sanitation inspections;
 - (d) Other pertinent correspondence and information germane to the facility.
- (4) Local confinement facilities which are found not to be in compliance with the appropriate standards, the state jail inspector will:

(a) Notify the appropriate authority responsible for the facility's operation in writing, stating the violation and/or condition of non-compliance. The notification should give a reasonable time for compliance.

(b) If compliance is not met, the state jail inspector will notify the Director of the Department of Corrections who shall refer the matter to the Attorney General for action as authorized by ORS 169.080.

(5) The state jail inspector will review new construction and major renovation plans submitted by local government and make appropriate recommendation to the local government agency within 45 days of submission of the plans.

Stat. Auth.: ORS 169.070, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 169.070 - 169.750, 179.040, 419A.052, 419A.061, 419B.180, 423.020, 423.030 & 423.075
Hist.: CD 13-1986(Temp), f. 6-30-86, ef. 8-15-86; CD 31-1986, f. & ef. 9-19-86; DOC 5-2001, f. & cert. ef. 2-7-01; DOC 3-2016, f. & cert. ef. 2-29-16

DIVISION 180

INTERSTATE COMPACT

291-180-0106

Authority, Purpose, Policy, and Applicability

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 144.600, 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: These rules establish Oregon's participation in the Interstate Compact for Adult Offender Supervision (ICAOS) and the processing and management of offenders transferring into or out of Oregon under the provisions of this compact. They provide guidance to county community corrections agencies and Department of Corrections institutions regarding the transfer and management of offenders sent or received from other states under this compact.

(3) Policy: It is the policy of the Department of Corrections to fully participate in the Interstate Compact for Adult Offender Supervision in accordance with ORS 144.600 and comply with rules lawfully promulgated by the National Interstate Commission within the inherent limitations of resources.

(4) Applicability: These rules apply to all offenders relocating to other states, applying for or receiving interstate compact services under the Interstate Compact for Adult Offender Supervision.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 2-2005, f. & cert. ef. 2-24-05

291-180-0252

Standards for Interstate Transfer of Adult Offenders

The Department of Corrections adopts by this reference standards for the interstate transfer of adult offender supervision set out in the official ICAOS rules, published by the Interstate Commission for Adult Offender Supervision, as updated to reflect amendments to the rules effective March 1, 2016. The rules may be viewed at the ICAOS website at www.interstatecompact.org.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 25-2011, f. 12-5-11 cert. ef. 12-7-11; DOC 2-2016, f. 2-29-16, cert. ef. 3-1-16

291-180-0262

Travel Permits

(1) No offenders shall relocate to another state except as provided by the ICAOS rules. Travel Permits may be issued for up to 30 days, with a subsequent extension of 15 days in emergency situations. Offenders shall be transferred pursuant to ICAOS rules if their need exceeds 45 consecutive days in another state. The offender shall return and remain in Oregon pending the Interstate Compact transfer process. No person shall be allowed to travel out of state for treatment or programming purposes that exceeds 45 consecutive days unless they have been accepted through the Interstate Compact transfer process.

(2) This rule applies retroactively to all offenders relocating to other states, applying for or receiving interstate compact services

under the Interstate Compact for Adult Offender Supervision, on or after August 31, 2011.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 25-2011, f. 12-5-11 cert. ef. 12-7-11

291-180-0265

Fugitives from Justice

Transfer investigations shall not be requested or accepted on offenders with outstanding warrants who are non-residents of the receiving state. Fugitive status is inconsistent with a proper “valid plan of supervision” and compliance with conditions of supervision. Exceptions may be granted by the Compact Administrator or their designee.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2005, f. & cert. ef. 2-24-05

291-180-0274

Application Fee for Interstate Compact Transfers

(1) Payment of NonRefundable Application Fee Required:

(a) Offenders on probation, parole, or post-prison supervision who request transfer of their supervision to another state under the compact must submit a nonrefundable application fee of \$50 to the supervisory authority. The fee must be received by the supervisory authority before the Department of Corrections will process the offender’s transfer request.

(b) Payment of an additional application fee will not be required of offenders for processing revised or subsequent requests for transfer of their supervision to the same state. However, offenders who request transfer of their supervision to the same state after being returned to Oregon from the receiving state from a previous compact transfer, and offenders that make a subsequent request for transfer of their supervision to a different state must pay a new application fee.

(2) The supervisory authority shall collect the application fee and forward it to the Governor’s Office for deposit in the Arrest and Return Account as defined in ORS 133.865.

(a) The fee shall be paid and collected in the form of a bank money order or cashier’s check made payable and mailed to “State of Oregon, c/o Director of Extradition Services, Governor’s Office, Room 160 State Capitol Building, Salem, OR 97310”

(b) The payment should be identified as an Interstate Compact Application fee and include the offender’s name and SID number.

(3) The application fee is not subject to waiver; however, upon the recommendation of the supervisory authority, the Department of Corrections may reduce the amount of the fee by up to 50%. In determining if a fee reduction is warranted, the supervisory authority shall consider:

(a) The offender’s financial resources;

(b) The burden the application fee will impose in light of the offender’s overall obligations;

(c) The rehabilitative effect of the application fee and compact transfer; and

(d) The community’s interests in the transfer of the offender.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.030

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.030

Hist.: DOC 1-2010(Temp), f. & cert. ef. 1-4-10 thru 7-3-10; DOC 7-2010, f. & cert. ef. 6-10-10

291-180-0275

Retaken Offenders

(1) An offender who was previously retaken and returned to this state from another state at cost to the State of Oregon, whether by formal or informal means, shall not be approved by the Department of Corrections for an interstate compact supervision transfer under these rules until such time as the offender repays to the State of Oregon all costs incurred by the State of Oregon in effecting the offender’s return to this state. Limited exceptions may be granted by the Compact Administrator or designee based on individual circumstances.

(2) This rule applies to all offenders applying for a transfer of their supervision to another state under the Interstate Compact for

Adult Offender Supervision (ICAOS) before, on or after January 1, 2012, whose applications have not been previously approved by the Department of Corrections.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2005, f. & cert. ef. 2-24-05; DOC 1-2012(Temp), f. & cert. ef. 1-10-12 thru 7-8-12; DOC 6-2012, f. & cert. ef. 5-24-12

DIVISION 200

PRISON ADVISORY COMMITTEE

291-200-0010

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish Department of Corrections policy and procedures for the establishment and operation of prison advisory committees (PACs) for Department of Corrections facilities.

(3) Policy: It is the policy of the Department of Corrections to establish and facilitate operations of prison advisory committees (PACs) for Department of Corrections facilities in accordance with the mission, vision and values of the department, and these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-1999(Temp), f. & cert. ef. 6-15-99 thru 12-12-99; DOC 15-1999, f. 9-23-99, cert. ef. 10-1-99; DOC 11-2013, f. & cert. ef. 11-1-13

291-200-0020

Definitions

(1) Affected Communities: Those cities and counties in which a Department of Corrections facility is sited or exists, or which due to their proximity to a Department of Corrections facility commit extensive resources to the ongoing operation of the facility.

(2) Facility: An institution or facility operated by the Department of Corrections which physically houses inmates.

(3) Superintendent: Any person within the Department of Corrections who reports to the Assistant Director for Operations Division or Institutions Administrator and has the responsibility for the delivery and coordination of program operations in a s p e c i f i c facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-1999(Temp), f. & cert. ef. 6-15-99 thru 12-12-99; DOC 15-1999, f. 9-23-99, cert. ef. 10-1-99; DOC 11-2013, f. & cert. ef. 11-1-13

291-200-0030

General

(1) The Department of Corrections, in cooperation with affected communities, may establish prison advisory committees for each Department of Corrections facility.

(2) The Department of Corrections may establish a single prison advisory committee for more than one Department of Corrections facility sited or operating in the same locale when deemed necessary or desirable by the affected facility superintendents. A decision to establish a single prison advisory committee for multiple Department of Corrections facilities must be approved by the Department of Corrections Assistant Director(s) — Institutions or the Assistant Director(s)’ designee.

(3) Each prison advisory committee shall be identified using the name of the Department of Corrections facility(ies) for which it was established (e.g., “Two Rivers Correctional Institution Advisory Committee”).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-1999(Temp), f. & cert. ef. 6-15-99 thru 12-12-99; DOC 15-1999, f. 9-23-99, cert. ef. 10-1-99; DOC 11-2013, f. & cert. ef. 11-1-13

291-200-0040

Function and Purposes

(1) When established, prison advisory committees shall:

(a) Serve as a citizen advisory group to the facility superintendents and designated Department of Corrections representatives regarding correctional issues, activities and practices affecting their community(ies).

(b) Promote open and effective communication between affected community(ies) and Department of Corrections officials during the life of the facility, from siting through operation and utilization to inmate closure.

(c) Serve as a community-based conduit through which information is disseminated to and received from the public.

(d) Work in cooperation with the superintendent or other designated Department of Corrections staff to address specific issues that develop during the life of the facility.

(e) Assist the superintendent or other designated Department of Corrections staff in developing and promoting safe opportunities for the utilization of inmate labor.

(f) Work in cooperation with the superintendent or other designated Department of Corrections staff to promote, support, and communicate the mission, vision, and values of the department.

(2) Prison advisory committees shall not establish Department of Corrections policies, rules, internal management directives or procedures.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-1999(Temp), f. & cert. ef. 6-15-99 thru 12-12-99; DOC 15-1999, f. 9-23-99, cert. ef. 10-1-99

291-200-0050

PAC Bylaws

(1) Prison advisory committees shall adopt and operate in accordance with the model bylaws developed by the Department of Corrections to govern committee activities. A copy of the department's model bylaws for prison advisory committees is attached hereto as Exhibit A and is incorporated as a part of division 200 of OAR 291. The model bylaws address the following subject areas:

- (a) Establishment;
- (b) Name;
- (c) Purpose;
- (d) Membership;
- (e) Orientation and training;
- (f) Term of Membership;
- (g) Officers;
- (h) Committee operation;
- (i) Resources and services;
- (j) Conflict of interest; and
- (k) Amendments.

(2) Prison advisory committees may amend and make additions to the model bylaws and adopt procedures to govern their activities, as they deem necessary or advisable, to the extent that they are consistent with these and other Department of Corrections policies, internal management directives and procedures, and state and federal laws, regulations, and administrative rules.

(3) Before taking effect, bylaws and procedures, and amendments thereto, shall require the written approval of the facility superintendent or designated Department of Corrections representative.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-1999(Temp), f. & cert. ef. 6-15-99 thru 12-12-99; DOC 15-1999, f. 9-23-99, cert. ef. 10-1-99

291-200-0060

PAC Membership Standards, Number, Selection and Terms

(1) Prison advisory committee member eligibility, numbers, selection and terms of service shall be determined by each committee and established in the committee's bylaws in accordance with these rules.

(2) Member Eligibility: Any adult individual, residing or working within an affected community, may be a member of a prison advisory committee unless he or she has been convicted of a felony crime in the past five years. Ex-offenders are eligible to

serve as members of prison advisory committees if they have been off supervision for a minimum of five years, are nominated and selected and meet all other criteria for membership. Prison advisory committees may adopt additional eligibility requirements consistent with their communities and operational needs.

(3) Voting Member Appointment: The superintendent or designated Department of Corrections representative, in cooperation with either the mayor, county commission chair or sheriff of an affected community(ies), shall appoint the voting members of a prison advisory committee. Consistent with section (4) of this rule, appointments shall be made from among nominations forwarded by local elected officials, organizational leaders, or individual members of the affected community(ies). Also considered for appointment shall be those members of the affected community(ies) who respond to public requests for participation.

(4) Member Composition:

(a) Positions on a prison advisory committee may be filled by individuals from the categories listed below. Local elected officials shall seek representation on prison advisory committees from as many of these groups and interest areas as may be present in the affected community(ies):

- (A) Public safety agencies;
- (B) Crime victims;
- (C) Higher education;
- (D) Primary and secondary education;
- (E) Health care service providers;
- (F) Business community/Chamber of Commerce;
- (G) Social services;
- (H) Judiciary;
- (I) Ministerial association/ religious community;
- (J) Civic and community organizations;
- (K) Employment and training/economic development;
- (L) Housing/real estate;
- (M) Professional services;
- (N) Utility providers;
- (O) Media; and
- (P) Community at large.

(b) At least one-fourth of a prison advisory committee's voting members shall be selected and appointed from the community at large.

(5) Ex-Officio Member Appointment: The superintendent or designated Department of Corrections representative may appoint to the prison advisory committee as ex-officio (non-voting) members local government officials from the affected community(ies), or other persons recommended by local government officials or the prison advisory committee.

(6) Prior to being appointed to serve on a prison advisory committee, an individual shall disclose information to the superintendent or designated Department of Corrections representative concerning those issues that the superintendent or designated Department of Corrections representative determines could impact the orderly and secure operation of a facility or the work of the prison advisory committee. Such information shall include, but not be limited to, an individual's criminal history and his or her relationship(s) with persons who have been or currently are inmates within the Department of Corrections.

(7) Non-Discrimination in Appointment of Members: No person shall be excluded from serving as a member of a prison advisory committee due to affiliation with any organization or institution, or on the basis of race, ethnic origin, religious affiliation, sex, age, or disability.

(8) Members appointed to a prison advisory committee shall serve at the pleasure of the Department of Corrections.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-1999(Temp), f. & cert. ef. 6-15-99 thru 12-12-99; DOC 15-1999, f. 9-23-99, cert. ef. 10-1-99

291-200-0070

Specific Responsibilities

(1) The Department of Corrections, acting through the facility superintendent or designated Department of Corrections representative, shall:

(a) Establish a communication process by which the prison advisory committee is informed of decisions and rationales concerning matters forwarded to the superintendent or designated Department of Corrections representative by the committee;

(b) Attend all prison advisory committee meetings as an ex-officio member;

(c) Inform the prison advisory committee of operational changes at the facility or within the department when disseminating such information does not compromise the safe, secure and orderly management and operation of facility or the department;

(d) Keep minutes of prison advisory committee meetings and distribute copies to all prison advisory committee members and members of the Oregon Department of Corrections executive management team;

(e) Publish notice of prison advisory committee meetings in accordance with the requirements of the public meetings law. In the event that a prison advisory committee complies with the public meetings law as a matter of policy only, the superintendent or designated Department of Corrections representative may refrain from publishing notice of a meeting when the superintendent or designated Department of Corrections representative determines that necessity or convenience so requires;

(f) Provide necessary training and orientation to prison advisory committee members, including but not limited to the following subject areas:

(A) Department of Corrections mission, vision and goals;

(B) Department of Corrections administrative rules, policies and procedures;

(C) Visitation, tours, and orientation to facilities operations and programs;

(D) Lobbying restrictions; and the;

(E) Department of Corrections Code of Ethics.

(g) Approve reasonable prison advisory committee operating and training expenses, and provide for payment thereof within the limits of the Department of Corrections resources and consistent with the function and purposes of prison advisory committees;

(h) Provide a site for prison advisory committee meetings, if necessary;

(i) Establish a protocol for the prison advisory committee members to periodically tour and orient themselves to facility operations.

(2) Prison advisory committees shall execute the duties and responsibilities set out in the model bylaws referenced in OAR 291-200-0050.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 9-1999(Temp), f. & cert. ef. 6-15-99 thru 12-12-99; DOC 15-1999, f. 9-23-99, cert. ef. 10-1-99

DIVISION 201

INMATE ASSIGNMENT MANAGEMENT

291-201-0100

Authority, Purpose and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, 423.075 and Article I, Section 41 of the Oregon Constitution.

(2) Purpose: The purpose of these rules is to establish a process for ensuring and measuring departmental compliance in meeting the requirements of Article I, Section 41 of the Oregon Constitution, while adhering to practices that promote public safety and ensure the safe, secure, and orderly operation of department facilities.

(3) Policy: It is the policy of the Department of Corrections to create and maintain work and program opportunities for all inmates

housed in its facilities, while ensuring inmates complete their Incarceration/Transition Plan and meet the requirements of Article I, Section 41 of the Oregon Constitution (Measures 17 and 49).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 21-2000, f. & cert. ef. 8-18-00

291-201-0110

Definitions

(1) Allowed Absence: An inmate absence from all scheduled hours in a Measure 17 compliant assignment; due to scheduled and unscheduled health service/mental health visits, misconduct hearings, misconduct hold-ins, medical lay-ins, assignment-related counselor callouts, or threats to the safety/security of the facility; for which no daily points are earned in accordance with the Department of Corrections rule on Performance Recognition and Award System (OAR 291-077), but full scheduled hours are credited for purposes of measuring adherence to Measure 17.

(2) Allowed Interruption: An inmate absence from some but not all scheduled hours in a Measure 17 compliant assignment; due to scheduled and unscheduled health service/mental health visits, misconduct hearings, misconduct hold-ins, medical lay-ins, assignment-related counselor callouts, or threats to the safety/security of the facility, for which full scheduled hours are credited for purposes of measuring adherence to Measure 17.

(3) Approved programming: Inmate program assignments that are in compliance with the inmate's incarceration plan and Article I, Section 41 of the Oregon Constitution.

(4) Inmate Incarceration/Transition Plan (II/TP): A process through which specific need areas of an individual inmate are identified; and institution education, work-based education, treatment, and work resources are targeted, prioritized, and scheduled to address those needs in a systematic and progressive action plan.

(5) Measure 17 Compliant Assignment: Any scheduled activity that an inmate is required to attend, and which develops inmate motivation, work capabilities, and/or cooperation; approved by the Measure 17 Policy Oversight Committee. Measure 17 compliant assignments may include, but are not limited to:

(a) Work and training assignments in which inmates perform a service, produce a product, or are otherwise engaged in activities that emulate non-prison employment.

(b) Treatment assignments that address diagnosed mental or behavioral problems that are barriers to successful employment, including but not limited to alcohol and drug treatment or mental health day treatment; and

(c) Workforce development assignments intended to remove educational barriers (e.g., Adult Basic Education or English as a Second Language) or address personal deficits (e.g. Anger Management or Basic Living Skills that impede employment).

(6) Measure 17 Compliant Inmate: An inmate who attends 40 or more hours of Measure 17 compliant assignments per week, including allowed absences, allowed interruptions, and the security allowance. No less than 20 hours must be in work assignments.

(7) Measure 17 Policy Oversight Committee (POC): A committee comprised of representatives from all divisions, chaired by the Deputy Director, that reviews and approves any practice relating to Measure 17, including security operations.

(8) Security Allowance: Time required for institution procedures that provide for the safety and security of the public, correctional staff, and inmates.

(9) Special Housing: Housing assignments segregated from the general population, including disciplinary segregation, administrative segregation, intensive management unit, special management unit, and death row.

(10) Special Needs Inmate Evaluation Committee (SNIIEC): Institution-based committees, comprised of staff appointed by the functional unit manager, that review special housing placements, special needs of inmates due to behavioral issues, and other issues as directed by each functional unit manager.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 21-2000, f. & cert. ef. 8-18-00

291-201-0120

Assignment Provisions

Once program needs, health status, and work assignment eligibility are determined, inmates will be placed in approved programming by designated staff, as space and supervision capacities allow; and will be notified of their assignment schedules when assignments are made. Assignments shall be made in an effort to maximize the number of Measure 17 compliant inmates, in accordance with Measure 17 mandates and the provisions detailed below.

(1) Upon arrival to a department facility, inmates will be assigned to admission and orientation (A&O). This time is necessary to complete intake processing, educational testing, counselor interviews, and allow the inmate to make an initial adjustment to the institutional setting. The length of A&O will not exceed 30 days. However, programming (safety training, cognitive programming, etc.) may be added to extend A&O in some circumstances, upon review and approval by the POC. In such cases, written documentation will be on file at the facility to specify the type of programming added, a summary of the program content, and length of time added to A&O. While in A&O, inmates are exempt from the provisions of Measure 17.

(2) Inmates will be placed into a review program for no more than two weeks upon return from court, release from special housing, or release from the infirmary. File reviews, counselor interviews, investigation, and other associated tasks will be completed during this time. While in the review program, inmates are exempt from the provisions of Measure 17.

(3) Inmates will be placed into a pre-release program not more than 120 days prior to their projected release date. During this time, inmates will be considered fully compliant with Measure 17, and will concentrate on release/transition programming and planning. Counselors and assignment staff will determine if the inmate will continue with current program assignments. Although new or additional program assignments will not normally be made, inmates may be allowed to continue in current assignments.

(4) Health Services staff shall determine if an inmate has any medical restrictions which may limit or prohibit the inmate from participating in work assignments. Health Services staff will notify necessary facility staff of the restriction, its duration (where indicated), and any particular work areas the inmate may not be assigned (food services, physical plant, etc.). Inmates determined to be unable to participate in work assignments may be exempt from the provisions of Measure 17.

(5) Correctional Treatment Services staff determine if an inmate has any psychological restrictions which may limit or prohibit the inmate from fully participating in work assignments. Correctional Treatment Services staff will notify necessary facility staff of the restriction. Inmates determined to be unable to participate in work assignments may be exempt from the provisions of Measure 17.

(6) Inmates assigned to the SUMMIT program are considered Measure 17 compliant inmates.

(7) Inmates located in special housing may be assigned to work or program assignments, but are exempt from the provisions of Measure 17 for the duration of the housing assignment.

(8) Some inmates may be identified as too dangerous to work, and will be exempt from the provisions of Measure 17. The SNIEC at each facility (or a committee designated by the superintendent at facilities with no SNIEC) will identify inmates eligible for this status using a process that, at a minimum:

(a) Conservatively identifies eligible inmates within the facility;

(b) Reviews inmate history (work, misconduct, programming, housing, relationships, gang affiliation, etc.), conducting interviews when necessary, prior to inmate placement on this status;

(c) Does not allow inmate participation in work assignments during the placement;

(d) Performs monthly reviews of history and progress every 4-6 weeks, beginning a month after placement; and

(e) Removes inmates once risks/concerns diminish.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 21-2000, f. & cert. ef. 8-18-00

291-201-0130

Attendance Reporting

(1) Staff who supervise inmates are responsible for enforcing attendance and documenting program participation for all inmates assigned to their supervision.

(2) Each inmate supervisor will be given an inmate attendance roster daily, listing all inmates assigned to their supervision. Inmate supervisors are responsible for filling out each roster completely, in accordance with department Inmate Attendance Reporting Guidelines.

(3) Staff will ensure that participating inmates attend Measure 17 compliant assignments for the entire duration of time scheduled, unless otherwise authorized and documented. Time missed from an assignment will negatively affect an inmate's credited hours, unless the time missed is due to an allowed absence or allowed interruption.

(4) All attendance rosters will be forwarded to the appropriate office for data entry within 24 hours.

(5) Inmate attendance information from each roster will be entered into the computer within three business days after completion of the assignment. Rosters will be retained for one year after data entry.

(6) Incomplete/Incorrect attendance rosters will be returned to the program supervisor for immediate completion or correction. These rosters will be evaluated by designated staff to determine if there is a training, performance, or systemic issue. Corrective action will be taken as appropriate.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 21-2000, f. & cert. ef. 8-18-00

291-201-0140

Assignment Changes

In accordance with department's rule on Performance Recognition and Award System (OAR 291-117), designated staff have the authority to remove an inmate from a program assignment for reasons including, but not limited to, unsatisfactory performance, misconduct/behavior, program needs, safety/security issues, and schedule conflicts.

(1) If an inmate is removed from a program, staff shall reassign the inmate appropriately, and ensure the inmate is notified of the program change.

(2) If an inmate is failed from a program (or given a daily fail), staff shall fill out an Inmate Performance Failure Record (CD118aD) and distribute all necessary copies.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 21-2000, f. & cert. ef. 8-18-00

DIVISION 202

**CHEMICAL TREATMENT OF SEX OFFENDERS,
RESIDENCE REQUIREMENTS FOR
CERTAIN SEX OFFENDERS**

291-202-0010

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 144.625, 144.627, 179.040, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to:

(a) Establish a pilot program to study the feasibility and effectiveness of treating a limited number of sexual offenders (no more than 40 to 50 each year) with hormone or antiandrogen agents, such as medroxyprogesterone acetate, as provided in 1999 Or Laws, Chapter 435.

(b) Establish Department of Corrections policies and procedures relating to the implementation and enforcement of the pilot chemical treatment program.

(c) Establish criteria to be considered in determining the permanent residence requirements for certain sex offenders upon release.

(3) Policy: It is the policy of the Department of Corrections to:

(a) Promote public safety by holding offenders accountable for their actions, and by seeking ways to reduce their risk of committing future criminal acts.

(b) Establish a pilot program for the evaluation and chemical treatment of a limited number of sexual offenders (no more than 40 to 50 each year) who are within six months of release on parole or post-prison supervision, and who are determined by the department to be most likely to benefit from chemical treatment upon their release.

Stat. Auth.: ORS 144.625, 144.627, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.625, 144.627, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2000(Temp), f. & cert. ef. 1-21-00 thru 7-19-00; DOC 19-2000, f. & cert. ef. 7-14-00; DOC 12-2002, f. & cert. ef. 8-1-02

291-202-0020

Definitions

(1) Chemical Treatment: The use of hormone or antiandrogen agents, such as medroxyprogesterone acetate, under the supervision of a physician, to reduce the sex drive of sexual offenders who are referred for treatment in accordance with these rules.

(2) Community Practitioner: A physician or other licensed medical practitioner who treats sexual offenders who are referred for chemical treatment in accordance with these rules.

(3) Consulting Physician: A physician or other licensed medical practitioner who, at the request of the Department of Corrections, evaluates sexual offenders for suitability for participation in the department's pilot chemical treatment program.

(4) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(5) Offender: Any person under the supervision of the Department of Corrections who is on parole, post-prison supervision or probation status.

(6) Sex Crimes: Those sexual offenses listed in ORS 181.594(2), and public indecency as defined in ORS 163.465.

Stat. Auth.: ORS 144.625, 144.627, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2000(Temp), f. & cert. ef. 1-21-00 thru 7-19-00; DOC 19-2000, f. & cert. ef. 7-14-00; DOC 1-2011, f. & cert. ef. 1-28-11

291-202-0030

Procedures

(1) Evaluation Process:

(a) The Department of Corrections will screen inmates convicted of sex crimes who are eligible for release within six months on parole or post-prison supervision to determine their suitability for participation in the department's pilot chemical treatment program in accordance with these rules.

(b) The department may refer to a consulting practitioner for evaluation a limited number of inmates who satisfy the following criteria:

(A) Inmate has a current or past conviction of a sex crime;

(B) Inmate is within six months of release on parole or post-prison supervision; and

(C) Inmate's present incarceration is for a second conviction of a sex crime, inmate lacks intellectual capacity for impulse control, or inmate has demonstrated that he or she has excessive sex drive.

(c) The consulting practitioner will prepare and submit to the department's mental health administrator or designee, a report setting forth the practitioner's evaluation and recommendation concerning the inmate's suitability for chemical treatment upon release. The consulting practitioner's evaluation will typically include, at a minimum, a review of the inmate's corrections file, an interview with the inmate, the completion of a psychosocial history, and a diagnostic summary. The consulting practitioner may conclude that an inmate is not a suitable candidate for chemical

treatment upon release, and provide to the department his or her report, without first completing a full evaluation of the inmate.

(d) Inmates who are determined by the department's mental health administrator or designee, in consultation with the consulting practitioner, to be suitable candidates for chemical treatment upon release will be informed of the effects of the chemical treatment, including any side effects that may result, and will acknowledge in writing, on a form drawn by the department, their receipt of this information.

(2) Referral to Community Physician for Chemical Treatment:

(a) The department will refer for chemical treatment a limited number of inmates (no more than 40 to 50 each year) who are determined by the department's mental health administrator or designee to be suitable candidates for chemical treatment upon their release in accordance with these rules.

(b) At the direction of the department's mental health administrator or designee, the consulting physician will make the direct referral of inmates to a community practitioner who will begin the chemical treatment upon the inmate's release.

(c) Upon referral, the inmate's assigned counselor will transmit all necessary information to the Board of Parole and Post-Prison Supervision and the supervising county community corrections agency.

(3) Monitoring Offender's Compliance With Chemical Treatment: The supervising county community corrections agency will adopt and implement the following procedures to monitor the offender's compliance with chemical treatment:

(a) A community practitioner providing chemical treatment to an offender upon a referral under these rules will promptly notify the offender's assigned parole officer of any failure by the offender to comply with the chemical treatment program;

(b) The community practitioner will oversee the administration of the chemical treatment and will maintain control of the medication between doses; and

(c) The community practitioner will test the offender's blood at least once every three months to monitor whether the offender is complying with the chemical treatment. The community practitioner will increase the frequency of testing when relapse warning signs are present.

Stat. Auth.: ORS 144.625, 144.627, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.625, 144.627, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 6-2000(Temp), f. & cert. ef. 1-21-00 thru 7-19-00; DOC 19-2000, f. & cert. ef. 7-14-00

291-202-0040

Residence Requirements for Certain Sex Offenders Upon Release

The criteria in sections (1) through (4) of this rule shall be considered in determining the residence requirements of certain sex offenders. (Reference Board of Parole and Post-Prison Supervision administrative rule OAR 255-060-0009.)

(1) A sex offender classified as a sexually violent dangerous offender (ORS 137.765) or a predatory sex offender (181.765) may not reside near locations where children are the primary occupants or users.

(2) This prohibition applies to permanent housing and not to transitional housing. For purposes of this rule, transitional housing means housing intended to be occupied by a sexually violent dangerous offender or a predatory sex offender for 45 days or less immediately after release from custody.

(3) Exceptions to this prohibition may be made by the supervising parole/probation officer if it is determined that there is sufficient information to support this placement in terms of public safety and the rehabilitation of the offender. In making this determination, the following factors must be considered:

(a) Other residential placement options pose a higher risk to the community; or

(b) An enhanced support system that endorses supervision goals and community safety efforts is available at this residence; or

(c) Enhanced supervision monitoring will be in place (e.g. electronic supervision, curfew, live-in-care provider, along with community notification); or

(d) This residence includes 24-hour case management; or

(e) The offender is being released from prison unexpectedly and more suitable housing will be arranged as soon as possible.

(f) If any of these factors apply to the offender and the residence under review, an exception to the permanent residence prohibition may be allowed.

(4) If a supervising officer makes an exception under this rule, the supervising officer must inform the community affected by this decision about the reasons for the decision prior to the offender's release from custody.

Stat. Auth.: ORS 144.642, 144.644, 144.646, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.642, 144.644, 144.646, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 12-2002, f. & cert. ef. 8-1-02

291-202-0100

Offenders Eligible for Sexually Violent Dangerous Offender Designation

(1) "Sexually violent dangerous offender" is a person who is being released from custody after serving a sentence of incarceration as a result of conviction for an offense listed in subparagraph (a) of this paragraph, who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the State Board of Parole and Post-Prison Supervision or local supervisory authority finds presents a substantial probability of committing an offense listed in subparagraph (a) of this paragraph.

(a) The offenses to which this rule applies are:

(A) Rape in the first degree and sodomy in the first degree if the victim was:

(i) Subjected to forcible compulsion by the person;

(ii) Under 12 years of age; or

(iii) Incapable of consent by reason of mental defect, mental incapacitation or physical helplessness;

(B) Unlawful sexual penetration in the first degree; and

(C) An attempt to commit a crime listed in (A) or (B) of this subparagraph.

(b) "History of sexual assault" means that a person has engaged in unlawful sexual conduct that:

(A) Is not related to the crime for which the person is currently on parole or post-prison supervision; and

(B) Seriously endangered the life or safety of another person or involved a victim under 12 years of age.

(2) Every six months the Department of Corrections will provide the Board of Parole and Post-Prison Supervision with a list of inmates or offenders who have a history of sexual assault as defined in (1)(b) above, are serving a sentence of incarceration as a result of conviction for an offense listed in (1)(a) above, and who are within six months of release from custody.

(3) When any inmate or offender convicted as a "dangerous offender" under ORS 161.725 and 161.735 is granted a firm release date by the Board of Parole and Post-Prison Supervision or is otherwise within six months of release from custody, Board of Parole and Post-Prison Supervision staff will screen the inmate or offender to determine if the inmate's or offender's record reveals that the inmate or offender was convicted of an offense listed in (1)(a) and has a history of sexual assault as described in (1)(b).

(4) If Board staff determines that an inmate or offender has the qualifying conviction and history of sexual assault, the Board of Parole and Post-Prison Supervision will make a finding that the inmate or offender is eligible for designation as a sexually violent dangerous offender.

Stat. Auth.: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075

Hist.: DOC 1-2011, f. & cert. ef. 1-28-11

291-202-0110

Sexually Violent Dangerous Offender Designation

(1) The Board may designate an inmate or offender as a sexually violent dangerous offender only if the inmate or offender:

(a) Participated in or refused to participate in a psychological evaluation ordered by the Board of Parole and Post-Prison Supervision; and,

(b) Requested an evidentiary hearing in accordance with these rules or waived entitlement to such a hearing.

(2) An inmate or offender who has been identified as eligible for designation as a sexually violent dangerous offender designation will receive notice of the inmate's or offender's eligibility for designation and of the inmate's or offender's right to request a hearing before the Board of Parole and Post-Prison Supervision to present evidence why the sexually violent dangerous offender finding should not be made.

(3) The Board of Parole and Post-Prison Supervision will provide the inmate or offender with a copy of the SVDO-1, Notice of Rights, prior to the evidentiary hearing. Upon receipt of the Notice of Rights the inmate or offender may request an evidentiary hearing or waive his or her right to the hearing.

(4) The Board of Parole and Post-Prison Supervision must receive and review the signed SVDO-1 Notice of Rights before an evidentiary hearing is conducted or waived to determine a SVDO finding. A refusal to participate in the hearings process shall also constitute a waiver of the right to a hearing.

(5) The Board of Parole and Post-Prison Supervision will consider any written objections to the psychological evaluation that are submitted by the inmate or offender. An inmate or offender may elect to waive the right to submit written objections.

Stat. Auth.: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075

Hist.: DOC 1-2011, f. & cert. ef. 1-28-11

291-202-0120

Sexually Violent Dangerous Offender Evidentiary Hearing

(1) The purposes of the evidentiary hearing are to:

(a) Determine whether the inmate or offender meets the criteria of a sexually violent dangerous offender as defined in OAR 291-202-0100(1)(a) & (b), and;

(b) Determine if there is a substantial probability of inmate's or offender's committing one of the offenses listed in OAR 291-202-0100(1)(a).

(2) At the conclusion of the evidentiary hearing, the Board of Parole and Post-Prison Supervision will determine whether the inmate or offender should be designated as a sexually violent dangerous offender. A finding that an inmate or offender is a sexually violent dangerous offender may be made by two Board of Parole and Post-Prison Supervision members, except in the case of an inmate or offender who has been sentenced to life imprisonment or convicted of a crime involving the death of a victim, pursuant to ORS 144.054.

(3) When an inmate or offender eligible for designation as a sexually violent dangerous offender has waived the right to an evidentiary hearing, the Board of Parole and Post-Prison Supervision will make the determination whether to designate the inmate or offender a sexually violent dangerous offender based on all the information in the record, including any psychological evaluations.

(4) A finding that an inmate or offender is a sexually violent dangerous offender will be contained in the inmate's or offender's original order of supervision or an amended order of supervision.

Stat. Auth.: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075

Hist.: DOC 1-2011, f. & cert. ef. 1-28-11

291-202-0130

Sexually Violent Dangerous Offender Community Supervision

The community corrections agency supervising an inmate or offender found to be a sexually violent dangerous offender shall subject the inmate or offender to intensive supervision as defined in OAR 255-005-0005(26).

Stat. Auth.: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 144.635, 144.637, 423.020, 423.030 & 423.075
 Hist.: DOC 1-2011, f. & cert. ef. 1-28-11

DIVISION 203

COST OF CARE REIMBURSEMENT (INMATE)

291-203-0010

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 179.640, 179.770, 423.020, 423.030, and 423.075.

(2) Purpose: An inmate and the personal estate of an inmate, or a decedent's estate are liable for the full cost of care. The purpose of these rules is to establish guidelines for:

(a) Determination of ability to pay;

(b) Notification to the inmate of his/her obligation to pay for the cost of care; and

(c) Appeal rights and process.

(3) Policy: Within the inherent limitation of resources, the efficient and orderly administration of the Department and its facilities, it is the policy of the Department of Corrections to investigate and pursue reimbursement from inmates for the costs of their incarceration and care in accordance with the criteria and procedures established in these rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075

Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03; DOC 11-2003, f. & cert. ef. 8-6-03

291-203-0020

Definitions

(1) Assets: The total value of an inmate's (subject to the provisions of ORS 179.640(5)) equity in real and personal property of whatever kind or nature. Assets include, but are not limited to, the inmate's stocks, bonds, cash, accounts receivable, moneys due, or any other interests, whether they are self-managed, or held by the individual's authorized representative, or by any other individual or entity on behalf of the inmate. Assets held in trust are subject to laws generally applicable to trusts.

(2) Authorized Representative: An individual or entity appointed under authority of ORS Chapter 125, as guardian or conservator of an inmate, who has the ability to control the inmate's finances, and any other individual or entity holding funds or receiving benefits or income on behalf of the inmate.

(3) Cash Assets/Liquid Reserves: Cash and cash equivalents, accounts receivable, temporary investments such as CDs or Treasury Bills, money market accounts, and bonds that can be cashed at any time.

(4) Charges: The amount the Department has determined that the inmate is required to pay toward the cost of care.

(5) Cost of Care: All services including medical care, room, board, administrative costs and other costs not otherwise excluded by law.

(6) Custody of the Department: The court ordered sentence of an inmate to the Department of Corrections to imprison in a Department operated correctional facility or contracted housing through a county, other state, or other jurisdiction.

(7) Dependents: The individuals for whom an inmate has a legal duty to support.

(8) Distrain Warrant: A warrant or document issued by the Department directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property which is subject to satisfaction of the recoupment lien.

(9) Fair Market Value: The cash price a capable and diligent individual could obtain in a reasonable amount of time for an asset.

(10) Income: All funds received by an inmate, or for an inmate by an authorized representative from any source, whether earned or unearned, after making applicable deductions for state

and federal income taxes. Income includes benefits from life insurance, income protection insurance, or any other form of award to the inmate except as prohibited by ORS 179.620(5)(a).

(11) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(12) Personal Estate: All assets including cash, liquid reserves, stocks, bonds, accounts receivable, moneys due, or any other interests, whether they are self-managed, or held by the individual's authorized representative. Personal estate also includes benefits from income protection insurance, governmental retirement or disability insurance, such as Social Security, Veterans, state, federal, and railroad retirement benefits and benefits from life insurance or any other form of award except as prohibited in ORS 179.610(5)(a) and (5)(b).

(13) Primary Automobile: The automobile, if the person has more than one, which the person would choose to keep if required to sell all but one. If the person has only one, it is the primary personal automobile.

(14) Primary Person Residence: The home the inmate owns, or is purchasing, and in which the inmate lived prior to entering the custody of the Department, or in which the inmate will live after leaving the custody of the Department.

(15) Recoupment Liens: A charge or security or encumbrance upon real or personal property that can be used to satisfy the amount due for the inmate's cost of care.

(16) Support for Dependents: The cash necessary to meet the reasonable needs of the dependents, less the amount the dependent receives from any other source. Support for dependents excludes administratively or judicially ordered child and/or spousal support.

Stat. Auth.: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030, 423.075

Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03; DOC 11-2003, f. & cert. ef. 8-6-03; DOC 13-2004, f. & cert. ef. 10-21-04; DOC 5-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; DOC 19-2009, f. 11-10-09 cert. ef. 11-11-09

291-203-0030

Requirements for Obtaining Financial Information

(1) The department may require the inmate and/or the inmate's representative to submit financial information on forms provided by the department.

(2) The department may obtain financial information regarding the inmate from other sources the department considers reliable. These sources may include, but are not limited to, the Social Security and Veterans Administration, Oregon Department of Revenue, and other State of Oregon agencies.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075

Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03; DOC 11-2003, f. & cert. ef. 8-6-03

291-203-0040

Ability to Pay Order

(1) An inmate and the personal estate of an inmate, or a decedent's estate, is liable for the full cost of care as established in ORS 179.701. The Department may collect charges in advance for inmates with determinate sentences.

(2) The Department shall make a determination of the inmate's ability to pay which is set forth in the Ability to Pay Order. The two types of Ability to Pay Orders are: determination of charges and a modification of charges. Each order shall be given one of these titles to identify the type of determination it sets forth, based on the factors and criteria described in the following sections.

(3) The inmate's ability to pay will be investigated and an Ability to Pay Order may be issued when the Department is aware of an inmate or the inmate's representative with cash assets or liquid reserves in excess of the current biennial cost of care or \$55,000 whichever is greater. This Ability to Pay threshold is applicable only to the determination of who will be reviewed for an Ability to Pay Order. (ORS 179.640(1)(b)).

(4) The determination of the ability to pay may be assessed at intake or any time during the inmate's sentence, based on notification by sources the Department considers reliable. These sources include, but are not limited to, the District Attorney's Office, the Social Security and Veterans Administration, Oregon Department of Revenue, State of Oregon agencies, or any other sources the Department deems credible.

(5) When determining an inmate's ability to pay, in addition to other relevant factors, the Department will consider the inmate's personal estate, the inmate's need for funds for personal support after release, and the availability of third-party benefits such as, but not limited to, Medicare or private insurance.

Stat. Auth.: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030, 423.075
 Hist.: DOC 11-2003, f. & cert. ef. 8-6-03; DOC 5-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; DOC 19-2009, f. 11-10-09 cert. ef. 11-11-09

291-203-0050

Determination of Charges

(1) The amount determined by the Department to be the inmate's charges shall not exceed the full cost of care for the dates covered by the Ability to Pay Order, less payments and/or credits from any other sources the Department has received, or reasonably anticipates receiving.

(2) Charges will be assessed using the inmate's equity in all assets whether the asset is controlled by the person, or by the person's authorized representative.

(a) Any asset may be liquidated in a lump sum to pay charges assessed the inmate in the Ability to Pay Order.

(b) Equity in each asset will be determined from the fair market value of the asset less any bona fide encumbrance against the asset.

(c) When assets are used as the basis for ongoing charges, the Department will estimate the length of time the assets are expected to last. During the final 60 days of that time period, the Department will review the inmate's financial circumstances for modifying the inmate's charges.

(3) Charges will be assessed using the total amount of all income received either by the inmate or for the inmate by the inmate's authorized representative.

(4) Charges may be assessed using the inmate's equity in a primary personal residence only if:

(a) The inmate is sentenced to death or to life without possibility of parole; and

(b) None of the following individuals reside in the residence:

(A) The inmate's spouse.

(B) The inmate's child or children under age 21, or blind or disabled children over 21.

(C) The inmate's sibling or siblings who own an interest in the residence, and who lived in the residence for at least one year immediately prior to the inmate becoming the custody of the Department.

(D) The inmate's parents or emancipated children who are unable to work to maintain themselves as declared in ORS 109.010.

(5) Charges may be assessed using the inmate's equity in an automobile only if it is not the inmate's primary personal automobile.

(6) Deductions: The Department may allow a deduction from the inmate's assets and income for the following:

(a) Legal Obligations: Legal obligations, other than administratively or judicially ordered child or spousal support, as determined by the Department.

(A) Funds set aside as legal obligations may not be accumulated by, or on behalf of the inmate, or used for purposes other than that for which it was approved.

(B) The inmate must have demonstrated an intent to pay the obligation. The Department may request verification of actual payments.

(C) Any deduction allowed for the financial support of dependents must be used to provide current support. It may not be accumulated by, or on behalf of the inmate, and it may not be used for other purposes.

(b) Personal Support Following Release: Based on a showing of need, the Department may allow a deduction for the inmate's transitional support following his/her release from an ODOC institution for reasonable expenses to live in the community for six months, including rent, utilities, food, public transportation, supervision fees, and miscellaneous expenses.

(c) Personal Support While in Custody of the Department:

(A) Based on a showing of need, the Department may allow a deduction for an inmate's miscellaneous personal expenses while in the custody of the Department that are not provided by the Department and are available for purchase from the institution commissary. These include, but are not limited to, expenses for personal grooming and hygiene items; books, newspapers, or other publications; or snacks or refreshments.

(B) When a deduction is made by the Department for this purpose, the Department shall establish an allowance to reflect a reasonable monthly spending limit for the inmate for purchase from the institution commissary, consistent with the Department's rule on Trust Accounts (Inmate), OAR 291-158.

Stat. Auth.: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030, 423.075
 Hist.: DOC 11-2003, f. & cert. ef. 8-6-03; DOC 5-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; DOC 19-2009, f. 11-10-09 cert. ef. 11-11-09

291-203-0060

Modification of Charges

A modification of charges sets forth, in a new Ability to Pay Order, a change to the inmate's charges established by a prior Ability to Pay Order. When issuing a modification to charges, the department will consider the same factors as described in OAR 291-203-050. A modification to charges may be made to reflect:

(1) A change in the inmate's financial circumstances that affects the inmate's ability to pay ongoing monthly charges; or

(2) A reduction in the cost of care amount due to a change in the previously scheduled release date.

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075
 Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

291-203-0070

Notice of Ability to Pay

The department shall provide actual notice to the inmate and any authorized representative, where known, of the inmate's ability to pay.

(1) The notice shall include the inmate's full liability, a description of the person's appeal rights under a contested case hearing, the date those rights terminate, and the address where a request for hearing may be mailed or delivered.

(2) If the inmate has an authorized representative, the original Ability to Pay Order shall be delivered to the representative, and a copy shall be delivered to the inmate. Any Ability to Pay Order delivered to an authorized representative shall include an explanation of the department's right to demand payment of the charges assessed by the order, and the consequences to the authorized representative of failing to comply, as provided by ORS 179.653(3).

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075
 Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

291-203-0080

Waiver of Collection Action

The department may issue a waiver to the collection of all or part of an inmate's unpaid charges based upon the best interest of the inmate or the department. Charges may be reassessed at a later time by a new Ability to Pay Order if the basis for waiver under this section ceases to exist.

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075
 Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075
 Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

291-203-0090

Hearing/Appeal Rights, Effect of Final Order

(1) If an inmate or the inmate's authorized representative disagrees with any Ability-to-Pay Order issued by the department, the inmate or the inmate's authorized representative may request a contested case hearing. The request must be postmarked within 60 days from the date of the mailing of the Ability-to-Pay Order.

(2) If the inmate or the inmate's authorized representative makes a timely request for a contested case hearing, the hearing and any appeal of the final hearing order shall be governed by ORS 183.413 to 183.497. If the inmate or the inmate's authorized representative fails to make a timely request for a contested case hearing, the Ability-to-Pay Order shall be final and not subject to judicial review, except as subsequently modified by the department as provided in 179.640(5).

(3) On appeal, regardless of other information presented, payment of the full cost of care may be ordered if the inmate or the inmate's authorized representative refuses to produce financial information that the hearings officer determines is relevant and must be produced.

(4) Effect of Order on Authorized Representatives:

(a) An authorized representative who has not had an opportunity to request a contested case hearing, either because the authorized representative was not appointed at the time of the Ability-to-Pay Order became final, or was not given notice of the Ability-to-Pay Order as required by ORS 179.640(4), shall not be bound by the department's order. To bind the authorized representative, the department must reissue the Ability-to-Pay Order and provide notice to the authorized representative as required by 179.640(4).

(b) The authorized representative shall have the same appeal rights as if the order had originally been issued to the authorized representative.

(c) After the order becomes final, the authorized representative shall be bound by the order as provided in ORS 179.653.

(d) The department will not issue an execution of a lien or foreclose against property held by or in the control of the authorized representative until the authorized representative is bound by the department's order as provided in ORS 179.653.

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075

Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

291-203-0100

Enforcement of Lien

If an inmate refuses to pay for the cost of care, the unpaid amount plus interest shall be a lien in favor of the State of Oregon. The lien shall be upon the title to and interest in the real and personal property of the personal estate.

(1) If any amount due the department for the cost of care of an inmates is not paid within 30 days after it becomes due, and no provision is made to secure the payment by bond, deposit or otherwise, pursuant to these rules, the department may enforce its recoupment lien created by ORS 179.653 by issuance of a Dstraint warrant in the manner provided in 179.655.

(2) Any warrant issued by the department pursuant to ORS 179.655 shall clearly provide that the sheriff or other person executing the warrant shall not levy upon and sell any real or personal property that would be exempt under Oregon law from execution pursuant to a judgment. However, the department shall not issue a warrant pursuant to 179.655 where:

(a) The amount due the department for the cost of care of an inmate is not at least 30 days over due;

(b) Provision has been made to secure the payment by bond or deposit or otherwise in conformation with this rule;

(c) The inmate has exercised the right to appeal the Ability to Pay Order pursuant to OAR 291-203-0090;

(d) Sixty-one days have not passed since the issuance of the Ability to Pay Order; or

(e) The inmate or the inmate's authorized representative has not been given at least ten days prior notice that the department intends to issue such a warrant.

(3) Securing Satisfaction of Ability to Pay Order:

(a) The issuance of a warrant to the sheriff to enforce collection of delinquent money will be stayed either by paying the amount due and accrued interest after it becomes due or by securing payment of that amount by bond or deposit.

(b) The bond given by the inmate to an inmate's authorized representative must be for an amount not less than the amount due, plus interest for a reasonable period of time as determined by the department.

(A) The bond must be executed by a surety company that is registered with, and under the supervision of, the insurance commissioner of the State of Oregon.

(B) The department may allow more than two sureties to justify several amounts less than that expressed in the undertaking, if the whole justification is equivalent to that of two sufficient undertakings.

(C) Any one of the following items or combination of items acceptable to the department, equal to the amount due, plus accrued interest thereon, may be deposited with the department:

(i) A deposit of money;

(ii) A certified check or checks on any state or national bank within the State of Oregon payable to the department;

(iii) Satisfactory bonds negotiable by delivery, or obligations by the U. S. Government negotiable by delivery; or

(iv) Any other security satisfactory to the department.

(c) The department may require additional security whenever, in its opinion, the value of the security pledged is no longer sufficient to adequately secure the payment of the amount due, plus accrued interest thereon.

(d) Release of Tax Lien and Clouds on Title: When such a warrant is not in fact a lien on title to the real property, but merely a cloud on the title, a request for release of a warrant shall include the reason why the warrant does not constitute a lien and a copy of the current title report. The department may require other documentary proof showing the present condition of the title to the property in question.

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030 & 423.075

Hist.: DOC 11-2003, f. & cert. ef. 8-6-03

DIVISION 204

MEDIA ACCESS

291-204-0010

Authority, Purpose, and Policy

(1) The authority for these rules is granted to the Director of the Oregon Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: This purpose of these rules is to establish Department policies and procedures governing access by media representatives to Department of Corrections facilities, programs, staff and inmates.

(3) Policy:

(a) The Department acknowledges the public's concern and interest in the Department's public safety role.

(b) In recognition of the media's role in reporting matters of public interest, and within the inherent limitations of resources and the need for facility security, safety and inmate rehabilitation, it is the policy of the Department to permit and facilitate access by media representatives to Department facilities, programs, inmates and staff for the purposes stated above.

(c) Interviews with designated Department inmates may be permitted with their consent. When authorized, an interview with a designated inmate is permitted neither as a matter of right nor as a privilege of the inmate or the media; rather, an interview may be approved when it is consistent with the Department's mission and goals and the safe, secure and orderly management and operation of the facility, and is not inconsistent with the inmate's correctional planning and rehabilitation.

(d) There are inherent risks associated with entering a prison. Consequently, media representatives enter Department of Corrections facilities at their own risk, and are required to comply with all security and control measures of the facility and the directions of Department staff.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
 Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

291-204-0020

Definitions

Definitions for OAR 291-204-0010–291-204-0080:

(1) Accredited Media Organization:

(a) A newspaper that qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of “general circulation” if it circulates among the general public and if it publishes news of a general character of general interest to the public such as news of political, religious, commercial or social affairs. A key test to determine whether a newspaper qualifies as a “general circulation” newspaper is to determine whether the paper qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes.

(b) A magazine that has a national circulation and is sold by newsstands and by mail subscription to the general public.

(c) A national or international wire service.

(d) A radio or television program whose primary purpose is to report news, of a station holding a Federal Communications Commission license.

(e) A corrections trade publication that reports on industry practices.

(f) An Internet Web site affiliated with the organizations described in sections (a)–(e) above.

(2) Credentials: Identification of an individual and his/her media affiliation.

(3) Department of Corrections (DOC) Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director or an Administrator and has responsibility for the delivery of program services or coordination of program operations. In a correctional facility, the functional unit manager is the superintendent.

(5) Identifiable Inmates: With relation to photography, an inmate who is a focal or primary subject of a photograph/video. An inmate is not considered an identifiable inmate if he or she is incidental to the photo or part of a group shot.

(6) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(7) Unaffiliated persons: Freelance writers, independent filmmakers, producers, and other persons who do not meet the definition of “media representatives” in subsection (12) below.

(8) Offenders: Any person under the supervision of the Department of Corrections who is on parole, post-prison supervision, or probation status.

(9) Oregon Accountability Model: A plan that is designed to strengthen the department’s ability to hold inmates and offenders accountable for their actions and Department staff accountable for achieving the mission and vision of the Department.

(10) Public Information Officer (PIO): The person designated as the official spokesperson for a DOC facility.

(11) Media Representatives:

(a) Persons whose principal employment is with an accredited media organization;

(b) Unaffiliated persons who produce credentials or other written documentation from an accredited media organization evidencing that the media organization has contracted with the person to purchase his/her completed work or project;

(c) Unaffiliated persons who are affiliated with a Department contractor or volunteer in connection with a Department program or service; or

(d) Authors of books who produce credentials or other written documentation that a commercial publisher has contracted to purchase their completed work/project.

(12) Special Housing: Areas of facilities where inmates with special needs or custody concerns may be housed (e.g., intake, Administrative Segregation Unit, Disciplinary Segregation Unit, Special Management Unit (psychiatric), Death Row, infirmary and Intensive Management Unit). For the purposes of these rules, inmates pending assignment to special housing are considered the same as inmates already assigned to special housing.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
 Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

291-204-0030

General Provisions Governing Media Access

(1) Media Access to Facilities and Programs: Consistent with the Department’s policy, media representatives are encouraged to visit and tour facilities and programs for the purpose of professional enhancement, observation and reporting.

(2) Media Access to Designated Inmates: Media representatives who desire contact with a designated inmate may seek to do so through correspondence, telephone or visiting. Media representatives may request a special visit to interview the inmate consistent with the provisions set forth in Media Access to Designated Inmates (OAR 291-204-0060).

(3) Media Access to Staff: Media representatives who desire access to a DOC facility to interview a staff member will generally be accommodated if the staff member and the functional unit manager consent.

(4) Media Access in the Event of an Emergency: Media may be restricted from access to facilities for security purposes, during emergencies or when access would be a disruption of operational activities. In accordance with the Department’s rules on Release of Public Information (OAR 291-039), the Department may designate a news media center.

(5) Media Coverage of Executions: Media access to DOC facilities and staff in connection with media coverage of an execution is set forth in the Department’s rules on Capital Punishment (Death by Lethal Injection) (OAR 291-024).

(6) Media Coverage to Board of Parole and Post-Prison Supervision Hearings: Media access to Board hearings is set forth in the Department’s rules on Access to Board of Parole and Post-Prison Supervision Hearings (OAR 291-153) and the Board’s rule on Who May Appear at a Board of Parole and Post-Prison Supervision Hearing (OAR 255-030-0026).

(7) Media Access Regarding Matters that are the Subject of Pending or Anticipated Litigation: Media access for the purpose of reporting about matters that are the subject of pending or anticipated litigation is not permitted, except under OAR 291-204-0040.

(8) The Department has a responsibility to:

(a) Provide accurate and timely answers to questions that may be raised during a tour or a visit;

(b) Understand the deadline pressures of the media;

(c) Be accommodating and cooperative; and

(d) Inform media representatives of facility access safety and security procedures to ensure that visits proceed smoothly.

(9) When appropriate, the PIO may make available to the media representative(s) a staff member knowledgeable on the subject matter at hand who can provide additional background information.

(10) Upon request, the PIO will identify an appropriate inmate(s) to be interviewed if the interview is consistent with the provisions of these rules.

(11) Notwithstanding these provisions, the Department may initiate contact and provide access to media representatives or unaffiliated persons to report on its activities that further its mission, goals and the Oregon Accountability Model.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
 Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
 Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

291-204-0040

Writing, Telephoning and Visiting an Inmate

(1) Media representatives may contact an inmate by mail. All mail must comply with the Department's rules on Mail (Inmate) (OAR 291-131).

(2) Inmates may request that media representatives be placed on their personal call list. Phone calls may be collect. All phone calls must comply with the Department's rules on Telephones (Inmate) (OAR 291-130).

(3) Inmates may request that media representatives be placed on their approved visiting list. Visits must comply with the Department's rules on Visiting (Inmate) (OAR 291-127).

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

291-204-0050

Requesting Access to Facilities and Programs

(1) The Department will accommodate requests by media representatives for access to Department facilities and programs if the access is consistent with the Department's policies and procedures set forth in these rules. The decision whether to approve a request for media access is committed to the sole discretion of the functional unit manager.

(2) Generally, the Department requires at least 24-hour advance notice to accommodate requests for access.

(3) The Department will accommodate requests for access only during normal business hours. When a program or newsworthy event occurs outside normal business hours, access will be dependent on availability of a PIO or staff escort designed by the functional unit manager.

(4) Media representatives may arrange for tours of Department prisons in accordance with the Department's rules on Tours (OAR 291-009).

(5) Requests for media access that, in the judgment of the functional unit manager, may jeopardize the safety and security of the facility, staff, visitors or inmates will be denied.

(6) Process to Request Access: Media representatives who desire to access a DOC facility shall contact the appropriate PIO or Public Affairs Manager. The media representative will be provided with a "Media Access Request" form (CD 204) to complete.

(7) If a request for access is authorized, the media representative(s) must submit the following information for a security check:

- (a) Full name;
- (b) Date of birth;
- (c) Driver license number; and
- (d) List of cities and states lived in over the past five years.

(8) Once approved, the PIO will discuss with the media representative the appropriate date, time, clothing and equipment allowed in facilities and any other pertinent information.

(9) Entering the Facility: Media representatives must bring credentials and valid photo identification to be temporarily surrendered at the facility visiting desk in exchange for Department identification.

(10) Media representatives are subject to the same facility security screening policies and procedures (e.g., metal detectors) as are visitors, as set forth in the Department's rule on Visiting Security Screening and Visiting Room Protocol (OAR 291-127-0290).

(11) Media equipment is subject to Tools of the Trade (OAR 291-204-0070) and the Department's rules on Facility Access (OAR 291-016).

(12) The PIO or other designated staff will escort media representatives through the facility and be present at all times during the visit or tour.

(13) If, at any time before or during a media visit or tour, the Department determines that a potential threat to safety or security exists, the visit or tour will be suspended and the media representative(s) must comply with direction of their staff escort.

(14) Access to special housing units or sensitive areas generally will not be permitted. Exceptions may be made by the

functional unit manager, in his or her sole discretion, in extraordinary circumstances.

(15) Photographs or other recordings made in a DOC facility or on other Department property requires prior authorization. Taking photographs or video of control centers or electronic security equipment is strictly prohibited.

(a) Identifiable inmates who consent to appearing in a photograph or other recordings will be required to sign a media consent form CD 297 prior to the taking of the photograph or video.

(b) Children participating in a program may be interviewed or photographed only with appropriate written consent of a parent or legal guardian.

(16) Impromptu, unscheduled interviews, video and audio recordings, or photographs of staff, inmates and others may be permitted if the individuals consent and the functional unit manager or facility PIO determine that the interview or photo opportunity would not:

- (a) Unduly delay a tour;
- (b) Be overly disruptive of facility or program operations;
- (c) Compromise inmates' correctional plans or rehabilitation; and
- (d) Would not present safety or security concerns.

(17) Any attempt by a media representative to disregard the conditions for access or directions of staff may result in immediate termination of access to the facility.

(18) Access is limited to one media outlet at a time unless the functional unit manager determines otherwise. In the event of news of great public interest, the Department encourages media to pursue pool arrangements.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

291-204-0060

Media Access to Designated Inmates

(1) Interviews with designated Department inmates requested by the media may be approved by the functional unit manager, with the inmate's consent, if in the judgment of the functional unit manager the interview is consistent with the Department's mission and goals and the safe, secure and orderly management and operation of the facility, and is not inconsistent with the inmate's correctional planning and rehabilitation.

(2) Media interviews of designated Department inmates will be treated as special visits in accordance with the Department's rule on Special Visits (OAR 291-127-280).

(3) Interviews of Special Status Inmates:

(a) Media interviews with the following inmates generally will not be permitted:

- (A) Inmates who are assigned to special housing units;
- (B) Inmates who are the subject of an internal or external investigation;
- (C) Inmates who are on intake status;
- (D) Inmates who are on basic visiting status; and
- (E) Inmates under 18 years of age.

(b) Exceptions may be made by the functional unit manager, in his or her sole discretion, in extraordinary circumstances.

(c) Media requests to interview a designated inmate who is assigned to a Special Management Unit or an Infirmary may be approved by the functional unit manager only if the interview is also approved by the Department's attending physician, facility Correctional Treatment Services Manager or facility Health Services Manager. If approved, the interview will be conducted in a manner that protects the privacy interests of the designated inmate and other inmate patients.

(4) Interstate Compact boarders are subject generally to the media access rules, policies and directives of the sending state.

(5) Department inmates in the physical custody of the Oregon Youth Authority are subject to the media access rules, policies and directives of the Oregon Youth Authority.

(6) A media representative who desires to interview a designated Department inmate must submit an interview request in the same manner provided for requesting access to Department

facilities set forth in OAR 291-204-0050 (Requesting Access to Facilities and Programs).

(7) Before an approved interview of a designated inmate is permitted to take place, the inmate must sign a media consent form (CD 297).

(8) Conduct of the Interview:

(a) The interview will take place in a designated area unless other arrangements are made in advance.

(b) The PIO may set reasonable limits for the length of the interview.

(c) Requests for interviews to be broadcast live will not be permitted.

(d) Requests for inmates to take part in a taped audience participation show generally will not be permitted. Exceptions may be made by the functional unit manager, in his or her sole discretion, in extraordinary circumstances.

(e) Other facility, program or staff access that is separate from the interview may be granted with prior approval of the PIO.

(9) Inmates may not accept compensation or remuneration for agreeing to an interview or participating in a media-related activity.

(10) Inmates may not use the media or enter into agreements with the media to pass along messages or otherwise communicate with their families, victims, coconspirators or any person other than a general reading/viewing/listening audience.

(11) Media representatives may not accompany an inmate visitor, an attorney or others on an inmate visit. Exceptions may be made by the functional unit manager, in his or her sole discretion, in extraordinary circumstances.

(12) Media representatives may not attend depositions of Department inmates conducted in a DOC facility.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

291-204-0070

Tools of the Trade

(1) Media representatives granted access to a DOC facility generally will be permitted to use “tools of the trade” with the exception of privileged and basic visiting. However, the Department may limit the number and type of tools of the trade that media representatives may bring into a facility to make still and video pictures and audio recordings.

(a) All approved equipment will be searched and inventoried prior to accessing the facility. Inventories of all media equipment taken into a facility will be completed prior to access.

(b) Notebooks and writing implements will be allowed. They may be provided by the facility.

(2) Use of Electronic Communication Devices: Media representatives will not be allowed to bring into a DOC correctional facility a cell phone, pager, personal data assistant or other electronic communication device.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

291-204-0080

Access by Unaffiliated Persons

(1) Unaffiliated persons may request a tour of a facility in accordance with the Department’s rules on Tours (OAR 291-009).

(2) Requests to interview designated inmates made by unaffiliated persons will not be permitted. Unaffiliated persons may contact an inmate by mail, receive telephone calls from an inmate, or be placed on the inmate’s visiting list as provided in Writing, Telephoning and Visiting an Inmate (OAR 291-204-0040).

(3) In extraordinary circumstances the Department may, in its sole discretion, grant unaffiliated persons access to DOC facilities and programs for a specific project when, in the judgment of the Department, the requested access will substantially further the interests of the State of Oregon or the Department’s mission and goals; is consistent with the safe, secure and orderly management and operation of the facility; and is not inconsistent with inmates’ correctional planning and rehabilitation.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 8-2006, f. & cert. ef. 8-1-06

DIVISION 205

VICTIM SERVICES PROGRAM

291-205-0010

Authority, Purpose and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to further the Department of Correction’s mission, vision and core values by establishing policy and procedures for the operation and administration of the Department’s Victim Services Program.

(3) Policy:

(a) The objective of the Department’s Victim Services Program is to benefit and assist people who have been harmed by crime and to help inmates make amends or restitution for the harm caused by their crime.

(b) Within the inherent limitations of resources and the need to maintain facility security, safety, discipline, health and good order, it is the policy of the Department of Corrections to:

(A) Provide crime victims and survivors and concerned members of the general public with timely information about any changes in the incarceration status of Department inmates, including an inmate’s physical release from a Department of Corrections facility, through the Victim Information and Notification Everyday Program (VINE);

(B) Permit victim-initiated facilitated dialogues between victims or survivors of serious and violent crimes and inmates in Department of Corrections facilities through the Facilitated Dialogue Program (FDP);

(C) Provide other general services to crime victims and survivors and to inmates who are working to make amends and restitution for their crimes through the Department’s Victim Services Program; and

(D) Collaborate with other agencies, people, and community organizations to assist crime victims and survivors, and inmates.

(c) Facilitated dialogues can promote justice and healing for crime victims or survivors and aid inmates in the process of their rehabilitation. When authorized by the Administrator of Religious Services or designee within the Victim Services Program, a facilitated dialogue is permitted neither as a matter of right nor as a privilege of a crime victim or survivor or an inmate. Rather, a facilitated dialogue is permitted by the Administrator of Religious Services or designee, in his or her sole discretion, when he or she judges the facilitated dialogue may further the correctional goals and mission of the Department, and the healing process for crime victims or survivors. Such dialogues must always be consistent with the safe, secure, and orderly management and operation of the Department’s correctional facilities.

(d) In order for the Facilitated Dialogue Program to be successful, all the participants must be able to speak openly and honestly about the crime and its impact, knowing that what they communicate will not be shared with other people or used against them later, except as required by law. Accordingly, it is the policy of the Department of Corrections to maintain all Facilitated Dialogue Program communications as confidential to the maximum extent permitted by law.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0020

Definitions

(1) Crime Victim or Survivor:

(a) Any person who was subjected to direct harm or injury from a crime for which an inmate has been convicted, past or

present, and is identified as a victim or survivor in records or information available to the Department of Corrections.

(b) Any spouse, significant other, domestic partner, parent, grandparent, guardian, sibling, child or other immediate family member, or any member of the household, or any other person who was impacted by the consequences of an inmate's crime even though they were not directly or immediately harmed or injured by the inmate's criminal conduct.

(c) Any person subjected to harm or injury from a crime for which an inmate has not been prosecuted or convicted, whereby the crime victim or survivor reported the crime to law enforcement or there is other information available to the Department of Corrections to identify the person as a crime victim of the inmate.

(2) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(3) Facilitated Dialogue Meeting: One or more meetings between a crime victim(s) or survivor(s) and an inmate(s) during which the crime victim(s) or survivor(s) and the inmate(s) have the opportunity to dialogue about the crime and its impact with the support of trained facilitators.

(4) Facilitated Dialogue Process: A facilitated dialogue relating to a specific crime victim or survivor, inmate, and serious and violent crime.

(5) Facilitated Dialogue Program (FDP): A Department of Corrections program operating under the Victim Services Program that seeks to promote justice and healing for victims or survivors of serious and violent crimes and provide them with a safe and struc-

tured process to discuss the crime and its impact with the inmates that victimized them. The program also seeks to aid inmates in the process of their rehabilitation and as a way of increasing public safety. For the purposes of OAR 205-0010 to 205-0110 and unless specified otherwise, references to decisions, determinations or approvals of the Facilitated Dialogue Program shall mean a decision by the Administrator of Religious Services or his/her designee.

(6) Facilitated Dialogue Program Communications: FDP communications include, but are not limited to, all memoranda, work products, documents, records, phone calls, phone messages and other materials made in the course of or in connection with a facilitated dialogue process, to a facilitator, the Department of Corrections, a crime victim or survivor, an inmate, or any other person present. A Facilitated Dialogue Communication does not include a private written, audio, or other communication between a crime victim or survivor and an inmate that is transmitted through the FDP and that has been expressly authorized by the Administrator or designee. Disclosure of facilitated dialogue communications are governed by a Confidentiality Agreement entered into by the participants, facilitators, and the Department of Corrections, and by all applicable statutes, administrative rules and regulations, and Department of Corrections' policies.

(a) A facilitated dialogue process begins with the first contact by a crime victim or survivor with the FDP staff expressing interest in participation in the program. The process includes assessments and screening of the crime victim or survivor and inmate and all contacts and communications between any program staff, advisory